

eCHARLOTTE COUNTY JAIL	EFFECTIVE DATE : 08-01-2013
PRISON RAPE ELIMINATION ACT (PREA) POLICY	APPROVED BY: T.D. JONES, SHERIFF <u>T.D. JONES</u>
AMENDS: 09-05-2014,09-08-2014,06-29-2017	

POLICY

The Charlotte County Jail (referred to as CCJ) has established standards as defined by the Prison Rape Elimination Act of 2003, (Public Law 108-79 Sept. 04, 2003). These standards are established for the reduction and punishment of sexual abuse of inmates; to address the safety and treatment needs of inmates who have been a victim of a sexual act; and to discipline and prosecute those who commit these acts upon inmates.

PURPOSE

The purpose of this procedure is to establish “Zero Tolerance” uniform guidelines and operating procedures for the jail concerning the sexual abuse of inmates in accordance with national standards as required by Public Law 108-79, The Prison Rape Elimination Act of 2003. The policy outlines the jails approach to preventing, detecting, and responding to such conduct.

PROCEDURE

It will be the procedure of the CCJ to ensure the prevention, detection and response of sexual abuse of staff on inmate, inmate on inmate, and staff sexual misconduct through training, supervision and enforcement; and the prevention of these incidents remains a top priority. Every allegation of sexual abuse, misconduct and harassment will be thoroughly investigated. Prohibited sexual conduct is subject to disciplinary action and/or criminal action.

A. GENERAL

1. The CCJ will not tolerate sexual assault, abuse, misconduct or harassment towards inmates by staff, contractors, volunteers, or other inmates. The CCJ actively works to prevent, detect, report, and respond to any violation. Every allegation of sexual assault, abuse, misconduct and harassment will be thoroughly investigated. (115.11 a)
2. The CCJ has designated an agency-wide PREA coordinator to work with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in its jail.(115.11b)
3. When the jail learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. (115.62)

B. Prevention

1. Inmate Training (115.33)

- a. New inmates will receive training during intake on the jail's "zero tolerance" policy and reporting incidents.
- b. After intake, but no later than 30 days, new inmates will receive training on their rights to be free from sexual abuse and the right to be free from retaliation for reporting.
- c. Current inmates will receive such training within one year of the PREA Standards effective date.
- d. Transfer inmates shall receive such training, as jail policies can differ.
- e. Reasonable accommodations will be made on a case-by-case basis for inmates who have limited English speaking abilities, are hearing or visually impaired and have limited reading skills, or otherwise disabled to provide effective communication to ensure equal opportunities to benefit from the jail's efforts to prevent, detect, report and respond to sexual abuse and sexual harassment. Inmate interpreters, inmate readers or other assistance by inmates will be prohibited except in limited circumstances. CCJ is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under Title II of the Americans With Disabilities Act, 28 CFR 35.164. (115.16)
- f. In addition to providing such education, the jail will ensure that key information is continuously and readily available or visible to inmates through posters and other written formats.
- g. All training will be documented confirming that the training was received and understood.

2. Staff and Contractor/Volunteer Training

- a. All staff will receive basic orientation to include at a minimum: (115.31)
 - 1. The jail's zero tolerance policy.
 - 2. Sexual abuse/assault detection, prevention, response and reporting procedures.
 - 3. Inmates and staff rights to be free from sexual abuse/assault.
 - 4. Staff and inmate's right to be free from retaliation for reporting.
 - 5. The dynamics of sexual misconduct in confinement.
 - 6. The common reactions of sexual misconduct victims
 - 7. How to detect and respond to signs of threatened and actual sexual misconduct.
 - 8. Avoiding inappropriate relationships with inmates.
 - 9. Effective and professional communication with LGBTI inmates.
 - 10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
 - 11. All staff will receive initial training and refresher training every 2 years with. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies through policy review.

12. Training will be provided to current staff within the jail and through the Central Virginia Criminal Justice Academy, and materials provided by the jail; new staff members will receive training in their Basic Jailor School.

b. All volunteers and contractors that have contact with inmates will receive training at a minimum to include the jail's zero tolerance policy and how to report incidents. Further training will be based on the services that they provide and the level of contact with inmates. Volunteers and contractors at the CCJ will be under supervision of staff at all times. (115.32)

c. All medical and mental health will receive training on the level of care provided. At minimum, medical and mental health care providers that have contact with inmates will receive training on the jail's zero tolerance policy and how to detect and report allegations of sexual abuse and sexual harassment. Mediko and Crossroads Community Service Board, by contract, will be responsible for the training of their staff. Forensic examinations will be conducted in an emergency room facility by Sexual Assault Forensic Examiners or Sexual Assault Nurse Examiners, not by medical staff at the CCJ. If SAFEs or SANEs cannot be provided, the examination can be done by other qualified medical practitioners and will be documented of efforts made. (115.35,115.21)

d. Investigative Training will include training provided to employees as well as specialized training in conducting sexual abuse investigations in confinement settings. (115.34)

e. All training will be documented confirming that the training was understood.

3. Staff, Contractor, and Volunteer Screening (115.17)

a. The CCJ will not hire or promote anyone or enlist the services of any contractor, who may have contact with inmates, that:

1. Have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution.
2. Have been convicted of engaging or attempting to engage in sexual activity in the community facilitated by overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.
3. Have been civilly or administratively adjudicated to have engaged in sexual activity.
4. The jail will consider any incidents of sexual harassment in determining whether to hire, promote or enlist services.

b. A background investigation with a criminal history record investigation (e.g. VCIN), will be conducted on prospective staff for the CCJ and on volunteers and contractors that may have contact with inmates to ensure against the hiring of any person with a history of perpetrating sexual assault, abuse, misconduct, or harassment, and will be rechecked every 5 years of those that may have contact with inmates starting in 2013 on current employees, volunteers, and contractors.

c. All applicants and staff who may have contact with inmates will be asked directly about previous misconduct in all written applications, interviews for hiring or

promotion, or during written evaluations. The CCJ will make its best effort to check with all prior institutional employers for information on allegations of sexual misconduct or sexual abuse.

d. Staff must disclose any such misconduct. Any material omission or false information regarding misconduct will be grounds for termination.

e. The jail will provide information on substantiated allegations of sexual abuse or sexual harassment involving a former staff member upon receiving a request from an institutional employer for whom such staff member has applied to work, unless prohibited by law.

4. Youthful inmates (115.14)

a. A youthful inmate will not be placed in a cell within sight, sound, or physical contact with any adult inmate through the use of a shared dayroom or other common space, shower area, or sleeping quarters.

b. Staff will provide direct supervision of youthful inmates and adult inmates when the inmates are outside of the cell areas and have sight, sound, or physical contact with adult inmates.

c. The CCJ will make the best efforts to avoid placing youthful inmates in isolation.

d. Youthful inmates will be allowed daily large-muscle exercise and access to other programs and work opportunities to the extent possible and absent of exigent circumstances.

5. Inmate Screening

a. Inmates will be assessed during intake for risk of being sexually abused by other inmates or being sexually abusive towards other inmates by using an objective screening instrument. Screening will take place within 72 hours after intake. Reassessment of risk will take place within 30 days based on additional information that is received or when warranted due to a referral, request or incident of sexual abuse. Inmates will not be punished for refusal to answer screening questions. (115.41 a,b,c,f,g,h)

b. The intake screening will consider at the minimum the following: (115.41d,e)

1. Whether the inmate has a mental, physical, or developmental disability.

2. The age and physical build of the inmate.

3. If the inmate has previously been incarcerated.

4. If the inmate has prior convictions for sex offenses.

5. If the inmate has previously experienced sexual victimization.

6. If the inmate is or is perceived to be gay, lesbian, bisexual, transgender, or intersexual.

7. The inmate's own perception of vulnerability

8. If the inmate is detained for civil immigration purposes.

9. Prior acts of sexual abuse and convictions for violent offenses.

c. The jail will use screening information to keep inmates separate that are at risk for sexual abuse from those that are a risk of being sexually abusive in cells, recreation, and

programs available. Individualized determinations will be made to ensure the safety of each inmate. (115.42 a,b)

d. Screening information for transgender and intersex inmates will be used on a case by case basis of placement in cells to ensure the health and safety of such inmates. Their own views will be taken into consideration for placement. Reassessment will be done at least twice a year to ensure safety. Inmates will be given the opportunity to shower separately from other inmates. (115.42c,d,e,f,)

e. Lesbian, gay, bisexual, transgender, or intersex inmates will not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status. (115.42 g)

f. Inmates that are at high risk for sexual victimization will not be placed in involuntary segregation unless an assessment of all other alternatives has been made and there is no other alternative. If such assessment cannot be made immediately, the inmate may be held in involuntary segregation for less than 24 hours. If segregation is arranged, it will not ordinarily exceed a period of 30 days; if so, a review will be done to determine the need to continue separation from general population. (115.43 a,c,e) Any segregation used to protect an inmate that alleged sexual abuse shall be subject to these requirements. (115.68)

1. Documentation for inmates placed in involuntary segregation will include the jail's concern for the inmate and why no alternative could be arranged. (115.43 d)

2. Inmates placed in segregation will have opportunities and privileges that are available in the jail. If any programs or privileges are restricted, documentation will be made of the reasons and duration of the limits. (115.43 b)

g. If screening indicates that an inmate has experienced prior sexual victimization or has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, then staff will offer a follow-up meeting with medical and/or mental health within 14 days of the intake screening. Information on sexual abuse that occurred in an institutional setting will be strictly limited to medical and mental health and other staff as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law. Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.(115.81)

h.If it is reported during screening or at any time after intake that a sexual allegation occurred prior to, during arrest, or at another facility, the jail will attempt to notify the other facility as soon as possible of the allegation, but no later than 72 hours after receiving the allegation and the agency shall document that it has provided such notification. The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards. (115.63)

6. Cross-gender Viewing and Searches (115.15)

- a. Employees will not conduct cross-gender strip searches or cross-gender visual body cavity searches (anal or genital opening).
- b. A staff member of the same sex will search and visually inspect every inmate upon being placed in population.
- c. **Intersex, non gender conforming and transgender** inmate searches will be done in a professional and respectful manner consistent with security needs. If an inmate has male genitalia and breast, the inmate will be searched by a male officer and done in the same manner as searching male inmates with one exception: the breast area. Pat down around and under the breast area using the back of the hand, similar to the method female officers use to pat down female inmates. **Searches may be conducted by medical staff; by asking the inmate to identify the gender of staff with whom they would feel most comfortable conducting the search ; conducted in accordance with the inmate's gender identity.**
- d. Inmates will be able to shower, perform bodily functions and change clothes without nonmedical staff of the opposite sex viewing them, unless in exigent circumstance or when such viewing is incidental to routine cell checks. Under these circumstances staff of the opposite gender will "knock and announce" their presence before entering an inmate housing unit.
- e. Physical examinations or searches of a cross-gender or intersex inmate will not be done for the sole purpose of determining the inmate's genital status. It may be determined during conversation, by viewing medical records, or by medical staff conducting an examination if the inmate's genital status is unknown.

7. Supervision and Monitoring

- a. The CCJ will develop, document, and make the best efforts to comply on a regular basis with a staffing plan that provides adequate levels of staffing to protect inmates against sexual abuse. If the staffing plan is not complied with, it will be documented and justified for all deviation from the plan. (115.13 a,b)
- b. Annually the CCJ will assess, determine, and document whether adjustment are needed to the staffing plan, the video monitoring system and the resources that the jail has available to commit to the staffing plan. (115.13c)
- c. Unannounced and irregular rounds through the jail will be made by the Jail Sergeant, Lieutenant, or Captain and will occur on day shift as well as night shift to identify and deter staff sexual abuse and sexual harassment. Jail staff is prohibited from alerting other staff members of these rounds unless it is related to operational functions. These rounds are to be documented in the Jail Daily Log. (115.13d)

C. Detection and Reporting

1. Inmates Responsibilities

- a. Inmates may report sexual assault/abuse, misconduct or retaliation by other inmates or staff. Reports of staff neglect or violation of responsibilities that may have contributed to such misconduct may be reported by inmates. Inmates can report such conduct in writing, anonymously, verbally to staff, by a third party, and shall be promptly documented or by calling a toll free number provided for that purpose.

Staff will accept reports made to them verbally, in writing or by third parties. Any staff member can privately report sexual abuse or sexual harassment of inmates to any supervisor or the Jail Captain. Inmates may report abuse or harassment to a public or private entity or office by using the mailing address provided that is not part of the jail and that is able to receive and immediately forward such reports to facility officials allowing the inmate to remain anonymous upon request. Inmates that are held solely for immigration purposes will be provided information on how to contact relevant officials and officials of the Department of Homeland Security. (115.51)

b. Disciplinary action will be prohibited for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurs, even if an investigation does not establish evidence enough to substantiate the allegation. (115.78f)

d. Information will be posted in the lobby of the CCJ to provide contact information on how to report sexual abuse and sexual harassment on behalf of an inmate, as well as the jail's zero tolerance. (115.54)

2. Staff Responsibilities

a. Any staff member, volunteer, or contractor will immediately report to his or her supervisor any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred or any retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. All reports received, including anonymous and third party reports, will be given to the investigator. (§115.61a,e) Staff can privately report any incident to the Jail Captain. (115.51d)

b. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to sexual abuse reports to anyone other than the extent necessary to make treatment, investigation, and other security and management decisions. Any information related to sexual abuse reports will only be given to medical, investigations, mental health other security or management as necessary. (115.61b)

c. Medical and Mental Health is required to report sexual abuse and is required to inform inmates of staff's duty to report, and the limitations of confidentiality. (115.61c)

d. If the alleged victim is under the age of 18 or is considered a vulnerable adult under state or local vulnerable person statute, the agency will report the allegation to the designated agency. (115.61d)

D. Response

1. The CCJ will ensure that an investigation be done on all allegations of sexual abuse and sexual harassment. Allegations involving potentially criminal behavior will be turned over to the Charlotte County Sheriff's Office for investigation. (115.22)

2. The jail will attempt to make available to the victim an advocate from an outside source to accompany and support the victim through the forensic medical examination process, investigatory interviews and for emotional support, crisis intervention information, and referrals through the use of a mailing address and hotline number for outside emotional support services related to sexual abuse. Reasonable communication will be allowed between inmates and an outside advocacy group in as confidential manner as possible. (115.53, 115.21d)

3. The CCJ will have a written plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health, investigators, and jail administration. (115.65) The plan is as follows:

4. Staff Responsibilities (115.64)

- a. Isolate the victim and preserve the crime scene.
- b. Segregate and isolate alleged perpetrator(s).
- c. Notify supervisor immediately of event.(if non-staff, notify staff immediately.)
- d. If the incident warrants a time frame that physical evidence could be collected, request the victim and abuser to not take action that would destroy it. (showering, eating, brushing teeth, changing clothes, urinating, defecating, smoking, or drinking)
- e. Ensure that the alleged abuser does not take actions to destroy any physical evidence. (showering, eating, brushing teeth, changing clothes, urinating, defecating, smoking, or drinking)
- f. Secure the crime scene if possible under safety, security and control of the facility.
- g. Document events by Incident Report.
- h. If no medical or mental health is on duty at the time of a report, immediately notify Medical/Mental Health "On Call" Personnel if needed. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to § 115.62 and shall immediately notify the appropriate medical and mental health practitioners. (115.82b)

5. Supervisor responding to scene shall:

- a. Ensure that the staffs' actions have been met.
- b. If the perpetrator is a staff member, he or she will be placed on administrative leave until investigated.
- c. Immediately question the victim to determine the suspect or suspects, where or when the assault occurred and if facts warrant further investigation.
- d. Ensure crime scene is preserved. Photos will be taken of the crime scene and/or victim and documentation made.
- e. Inmate 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. If there is indication of sexual assault, the victim will be transported to the local Emergency Room for further treatment, examination, documentation, collection of forensic evidence, testing for sexually transmitted diseases and access to emergency contraceptives. This treatment will be of no cost to the inmate. (115.82a,c,d)
- f. Direct staff as needed to maintain control.
- g. Notify Administration, PREA Coordinator and Investigator if the allegation involves potential criminal behavior. The investigator will ensure that to the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol shall

be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011. (115.21)

h. Obtain feedback.

i. Ensure that upon return from emergency medical services the inmate is interviewed for protective custody needs.

j. Ensure that follow-up medical and mental health service needs are arranged.

k. The Investigator responding will follow the Charlotte County Sheriff's Office Policy Manual General Orders 2-31.

6. Investigation

a. All investigations into allegations of sexual abuse and sexual harassment will be done promptly, thoroughly, and objectively. (115.22a) (115.71k)

b. No standard higher than the preponderance of the evidence will be imposed in determining whether allegations of sexual abuse or sexual harassment are substantial. (115.72)

c. An initial investigation can be conducted by the Jail Captain. Unless it is quick and definite to determine that the allegation is unfounded, the investigation should be referred to the Charlotte County Sheriff's Office. All such referrals will be documented. (115.22b) Investigators with special training in sexual abuse investigations will be used when sexual abuse is alleged. (115.71b) 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. (115.71a) Administrative investigations include an effort to determine whether staff actions or failure to act contributed to the abuse.

d. The investigator shall review the nature of the allegations received to determine if an investigation is warranted. If so, investigators will be responsible for:

1. Gathering and preserving direct and circumstantial evidence, available physical and DNA evidence, and available electronic monitoring data. The investigator will ensure that all evidence collected at the jail and from the hospital is handled in accordance with the Charlotte County Sheriff's Office Policy Manual General Orders 2-31 Appendix 2. (115.71c)
2. Interviewing alleged victims, suspected perpetrators, and witnesses. Review prior complaints and reports of sexual abuse involving the suspected perpetrator. (115.71c)
3. No compelled interviews will be conducted by the Jail until consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. (115.71d)
4. Upon notification of an alleged sexual abuse or misconduct, the investigator shall follow the Charlotte County Sheriff's Office Policy Manual General Orders 2-31. (115.22d)

e. The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as an inmate or staff. (115.71e)

f. An inmate who alleges sexual abuse will not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of alleged allegation. (115.71e)

g. All administrative and criminal investigations will be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments and investigative facts and findings. (115.71f,g)

h. Any substantiated allegations of conduct that appear criminal will be referred for prosecution. (115.71h)

i. All written reports of administrative and criminal investigations will be retained by the Jail for as long as the alleged abuser is incarcerated or is employed by the agency, plus five years. (115.71i)

j. An investigation will not be terminated just because the alleged abuser or victim departs from employment or control of the Jail. (115.71j)

k. During the investigation, the agency will cooperate with the investigators and will endeavor to remain informed about the progress of the investigation. (115.71l)

l. Reporting to inmates:

1. Following an investigation, the jail shall request the relevant information from the investigator in order to inform the inmate as to whether the allegation was determined to be substantiated, unsubstantiated, or unfounded. (115.73a,b) All such attempts and notifications will be documented. (115.73e)

2. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever:
The staff member is no longer posted within the inmate's unit;
The staff member is no longer employed at the facility;
The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. (115.73c) If the inmate is released from the jail's custody, the obligation to report this is terminated. (115.73f)

3. If inmate allegations are against another inmate, the jail will inform the inmate if the allegation is unfounded or unsubstantiated, if the inmate has been indicted or convicted on a sexual abuse charge. (115.73d) If the inmate is released from the jail's custody, the obligation to report this is terminated. (115.73f)

7. Discipline

a. Any behavior of a sexual nature between staff and inmates is prohibited. Staff is subject to disciplinary action up to and including termination for violating sexual misconduct under the Charlotte County Sheriff's Office Policy Manual Rules and

Regulations 1.7 Category III Offense, as well as criminal prosecution under the Code of Virginia.(115.76)

1. Termination shall be the presumptive disciplinary action for staff who has engaged in sexual abuse.
2. Disciplinary actions for violations of policies relating to sexual abuse or sexual harassment will be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and actions imposed for comparable offenses by other staff with similar histories.
3. All termination or resignations by staff that would have been terminated for violations of sexual abuse or sexual harassment policies will be reported to law enforcement agencies and to any relevant licensing bodies.

b. Any behavior of a sexual nature by inmates is prohibited and subject to disciplinary action per the Charlotte County Jail Standard Operating Procedures Policy: Inmate Due Process pages 28-34, as well as criminal prosecutions. (115.78)

1. Consensual sexual activity among inmates will not be permitted. If inmates engage in this type of activity ,they will be subject to disciplinary action in accordance with the Charlotte County Jail Standard Operating Procedures Policy: Inmate Due Process pages 28-34, as well as criminal prosecutions for non-consensual.Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.
2. Disciplinary actions will be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the actions imposed of comparable offenses by other inmate's with similar histories.
3. The disciplinary process will consider whether an inmate's disability or mental illness contributed to his or her behavior when determining what type of action, if any, will be taken.
4. Inmates will be disciplined for sexual conduct with staff only upon finding that the staff member did not consent to such conduct.
5. For the purpose of disciplinary action, 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.

c. Any behavior of a sexual nature between volunteers and contractors and inmates is prohibited. If a volunteer or contractor engages in such activity, they will be prohibited from having contact with inmates and will be reported to law enforcement and relevant licensing bodies. (155.77)

8. Protection against Retaliation

- a. Inmates who report sexual misconduct, or assist in the investigation of an alleged sexual misconduct violation, will be protected against retaliation from other inmates and staff. Inmate victim and abuser may be moved or transferred, and alleged staff or

inmate abuser will be removed from contact with the victim if the victim fears retaliation. Segregation may be used if there are no other means to ensure the safety of the victim. The jail staff shall monitor the treatment and conduct of inmates and staff involved in allegations for a period of 90 days for possible retaliation and will act promptly to any retaliation. The jail will continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. If the allegation is unfounded, any monitoring will be terminated. (115.67)

9. Ongoing Medical and Mental Health Care (115.83)

a. The jail will offer medical and mental health evaluation and treatment, consistent with the community level of care, as needed to inmates that have been sexually abused, in the form of follow-up services, treatment plans, testing for sexually transmitted infections and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

b. Female victims that were vaginally penetrated will be offered a pregnancy test. If pregnancy results from sexual abuse, then the victim will receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services. 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. The jail will attempt to conduct a mental health screening on all known inmate on inmate abusers within 60 days of learning that abuse history exist and offer treatment when deemed appropriate by mental health.

E. Data Collection

1. A sexual abuse incident review will be conducted within 30 days after the conclusion of every sexual abuse investigation unless the allegation has been determined to be unfounded. The review will be conducted by supervisors, the Jail Captain, investigator, and mental and medical health. The review team will consider the following information: (115.86)

a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

b. If the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, perceived status, gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

c. The area in the jail where the alleged incident occurred to assess whether physical barriers in the area may permit abuse.

d. The adequacy of staffing levels in that area during different shifts.

e. Whether monitoring technology should be deployed or augmented to supplement supervision by staff.

f. The review team will prepare a report of the findings, determinations, and any recommendations for improvement and submit the report to the Captain and the PREA Coordinator.

g. The jail will implement the review team's recommendations for improvements, or will document the reasons for not doing so.

2. The jail will collect accurate, uniform data for every allegation of sexual abuse using a standardized instrument and set of definitions. The jail will collect this data annually, and at a minimum, include the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. This information will come from the jail review and collection of all available incident reports, investigation files and sexual abuse incident reviews. (115.87a,b,c,d,)

3. Upon request, the jail will provide all such data from the previous calendar year to the Department of Justice no later than June 30. (115.87f)

4. The data will be used to access and improve the effectiveness of its sexual abuse prevention, detection and responsive policies, practices and training, by identifying problem areas, taking corrective actions and preparing an annual report of its findings and actions made. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse. The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means. The agency 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. (115.88)

5. The agency shall 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 or, if it does not have one, through other means. The jail will ensure that all sexual abuse data collected pursuant to § 115.87 is securely retained for at least 10 years after the date of the initial collection unless federal, state, or local law requires otherwise. (115.89)

F. Facility Upgrades (115.18)

1. If the CCJ in the future acquires a new jail or any substantial expansion or modification of the existing jail, it will be taken into consideration the effects of the design, acquisition, expansion or modification the jail's ability to protect inmates from sexual abuse.

2. If the CCJ installs or updates a video monitoring system, electronic surveillance system, or other monitoring technology, it will take into consideration how such technology may enhance the jails ability to protect inmates from sexual abuse.

G. Preservation of Ability to Protect Inmates from Contact with Abusers.

1. The CCJ does not recognize employee organizations whose purpose is collective bargaining.

DEFINITIONS RELATED TO SEXUAL ABUSE (115.6)

For purpose of this part, the term-

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, and 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
- (8) Voyeurism by a staff member, contractor, or volunteer.

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

Sexual harassment includes-

- (1) Repeated and unwelcome sexual advances, request for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed towards 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.

GENERAL DEFINITIONS (115.5)

Agency-the unit of a State, local, corporate, or nonprofit authority, or the Department of Justice, with the direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate or nonprofit authority.

Agency head-means the principle official of an agency.

Community confinement facility-means a community treatment center, halfway house, community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

Contractor-means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Detainee-means any person detained in a lockup, regardless of adjudication status.

Direct staff supervision-means that security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.

Employee-means a person who works directly for the agency or facility.

Exigent circumstances-means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Facility-means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or a set of buildings) that is used by an agency for the confinement of individuals.

Facility head-means the principle official of a facility.

Full compliance-means compliance with all material requirements of each standard except for de minimis violations, or discrete and temporary violations during otherwise sustained periods of compliance.

Gender nonconforming-means a person whose appearance or manner does not conform to traditional societal gender expectations.

Inmate-means any person incarcerated or detained in a prison or jail.

Intersex-means a person whose sexual reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male and female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Jail-means a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

Juvenile-means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

Juvenile facility-means a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.

Law enforcement staff-means employees responsible for the supervision and control of detainees in lockups.

Lockup-means a facility that contains holding cells, cell blocks, or other secure enclosures that are:

1. Under the control of a law enforcement, court, or custodial officer; and
2. Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

Medical practitioner-means health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental health practitioner-means a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Pat-down searches-means a running of the hand over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.

Prison-means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

Resident-means any person confined or detained in a juvenile facility or in a community confinement facility.

Secure juvenile facility-means a juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.

Security staff-means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

Staff-means employees.

Strip search-means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person’s breast, buttocks, or genitalia.

Transgender-means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

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

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

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.

Volunteer-means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

Youthful inmate-means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

Youthful detainee-means any person under the age of 18 who is under adult supervision and detained in a lockup.