


<p align="center">JOHNSON COUNTY DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURES</p>	<p align="center">PAGES 4</p>
 <p align="center">ADULT SERVICES Residential</p>	<p>POLICY EFFECTIVE DATE: 12/4/17</p>
	<p>Authorized By: _____ Antonio Booker, Director of Adult Services</p>
<p>CHAPTER Prison Rape Elimination Act (PREA)</p>	<p>SUBJECT Sexual Assault – Investigations, Outcomes, and Discipline</p>

POLICY

It is the policy of the Adult Residential Center (ARC) to ensure that all reports to the facility of sexual abuse and harassment are investigated to ensure the safety and security of the staff and clients in the facility. In cases of client-on-client sexual abuse, the victim may or may not choose to make an outside report to law enforcement

DEFINITIONS

Substantiated – Allegation that was investigated and determined to have occurred.

Unsubstantiated – Allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Unfounded: Allegation that was investigated and determined not to have occurred.

Preponderance of the evidence – There is a greater than 50 percent chance that, based on all of the reasonable evidence, the event occurred or did not occur.

PROCEDURE

I. Law Enforcement

- A. Staff shall assist law enforcement as needed or requested during immediate responses and subsequent criminal investigations.
- B. For alleged abuse committed in the community or at other facilities, jurisdiction shall need to be determined in order to contact the appropriate law enforcement agency.
 - 1. The Johnson County Sheriff’s Office may be contacted for referral assistance.

- C. The ARC shall cooperate with the Johnson County Sheriff's Office investigators and endeavor to remain informed about the progress of the investigation, investigation findings, and case referrals for prosecution.

II. Investigations

- A. An administrative or criminal investigation may be initiated for allegations of sexual abuse and/or sexual harassment.
- B. Any employee shall immediately report allegations of sexual abuse and sexual harassment, including third-party reporting and anonymous reports, to the Director of Adult Residential Center (DARC) or Deputy Director of Adult Residential Center.
- C. Allegations of sexual abuse or sexual harassment may be referred to the Johnson County Sheriff's Office.
 - 1. All criminal investigations shall be handled by the Johnson County Sheriff's Office in accordance with its policies and procedures.
 - a. The Security and Investigation Specialist shall be the designated contact staff person between the Sheriff's Office and the Adult Residential Center.
 - 2. All allegations shall be documented.
 - 3. Substantiated allegations of conduct that appear to be criminal may be referred for prosecution.
 - 4. The ARC shall retain all written reports for as long as the alleged accused abuser is incarcerated or employed by the ARC, plus five (5) years.
- D. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as client or staff.
 - 1. The ARC shall not require a client who alleges sexual abuse to submit to polygraph examination or other truth-telling devices as a condition for proceeding with the investigation of such an allegation.
- E. Inquiry into the investigative procedures of the Johnson County Sheriff's Office and JCDOC should be made through either websites or direct telephone contacts.
- F. The departure of the abuser or victim from the employment or control of ARC shall not provide a basis for terminating an investigation.
- G. The ARC shall not terminate an investigation solely because the source of the allegation recants the allegation.

III. Criminal Investigations

- A. Sexual abuse, as outlined below, shall be referred to the Sheriff's Office for investigation:
 - 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.

- B. Sexual abuse, as outlined below, shall be forwarded to the DAR Center or designee for referral to the Director of Corrections for internal investigation.
 - 1. Intentional touching, either directly or through clothing, of genitals, breasts, inner thigh, or buttocks (excluding contact incidental to a physical altercation).
- C. If at any time the information gathered from the investigation reveals additional information that is potentially a criminal action, the Security Investigation Specialist shall contact the Sheriff's Office.
- D. The Security Investigation Specialist shall be the contact staff between the Sheriff's Office and the ARC.

IV. Administrative Investigations

- A. Sexual harassment, as outlined below, shall be referred to a supervisor for investigation although the Sheriff's Office may be contacted at the request of the victim:
 - 1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive nature by one client, or client directed toward another and repeated verbal comments or gestures of a sexual nature to a client 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.
- B. The supervisor shall meet with the alleged victim, perpetrator and witness(es), if any, to gather information regarding the incident.
 - 1. The supervisor shall offer advocacy, mental health, and/or medical services to the victim.
- C. The supervisor shall review any other resources available (i.e., camera recordings) to obtain additional information.
- D. Based on the information gathered and preponderance of the evidence, the supervisor shall determine the incident to be substantiated, unsubstantiated, or unfounded.
 - 1. If at any time, the information gathered from the investigation reveals additional information that is potentially a criminal action or staff misconduct issue, the supervisor shall contact the Director of Adult Residential Center or designee.
 - 2. Upon substantiation of aggression, the supervisor shall contact mental health staff to refer perpetrator for assessment.
- E. The supervisor shall issue disciplinary action as necessary.
- F. The supervisor shall complete the PREA Administrative Investigation form and forward to COR-PREA ARC.

V. Reporting to Clients

- A. Following an investigation, the ARC shall inform the client as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
 - 1. If the investigation was completed by the Johnson County Sheriff's Office or another law enforcement agency, the ARC shall request all relevant information in order to inform the client.
- B. Following a client's allegation that a staff member has committed sexual abuse against the client, the ARC shall subsequently inform the client (unless the agency has determined that the allegation is unfounded) whenever:

1. The staff member is no longer posted within the client's housing unit;
 2. The staff member is no longer employed at the facility;
 3. The ARC learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 4. The ARC learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- C. Following a client's allegation that he/she has been sexually abused by another client, the ARC shall subsequently inform the alleged victim whenever:
1. The ARC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility;
 2. The ARC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility; or
 3. The ARC confirms the perpetrator is no longer residing at the facility.
- D. All notifications and attempted notification shall be documented.
- E. If the victim is released from the ARC, he/she shall be provided with contact information to inquire about the investigation outcome/status.

VI. Discipline

- A. Clients shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the client engaged in client-on-client sexual abuse or following a criminal finding of guilt for client-on-client sexual abuse.
- B. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the client's disciplinary history, and the sanctions imposed for comparable offenses by other clients with similar histories.
- C. The disciplinary process shall consider whether a client's mental disabilities or any mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed.
- D. If mental health staff offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the ARC shall consider whether to require the offending client to participate in such interventions as a condition of access to programming or other benefits.
1. The ARC may require participation in such interventions as a condition of access to the level behavior management system or other behavior-based incentives, but not as a condition to access general programming or education.
- E. The ARC may discipline a client for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- F. 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.
1. The ARC may discipline a client for filing a grievance related to alleged sexual abuse only where the facility demonstrates that the client filed the grievance in bad faith.

- G. All sexual activity between clients shall be prohibited and discipline shall be enforced for clients whom engage in such activity.
 - 1. The ARC may not deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

FORMS REQUIRED

None

APPENDICES

None

APPLICABLE STANDARDS

PREA 115.221f
PREA 115.222

REVIEW DATES

10/28/13
11/14/14
7/7/15
7/6/16
11/13/17
9/24/18