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REFERENCE: <b>PREA - Prison Rape Elimination Act</b>	SUBJECT: <b>Prison Rape Elimination Act (PREA) - General</b>	
ISSUED BY: <b>Chief Frank J. Apisa</b>	APPROVED BY: <b>Warden Paul Kaminsky</b>	

**Purpose:** The purpose of this policy is to establish the Somerset County Jail as a “zero tolerance” facility that prohibits harassment and sexual abuse in an effort to provide staff with key definitions, prohibited acts and general information regarding the prevention, detection and investigation of sexual harassment and sexual abuse in the facility.

**Policy:** The Somerset County Jail is a correctional facility with a “zero tolerance” for harassment and sexual abuse in accordance with the Prison Rape Elimination Act (PREA) of 2003 and the final PREA Standards adopted by the U.S. Attorney General in 2012. All allegations of harassment and sexual misconduct will be thoroughly investigated. Inmates who have consensual sex with another inmate will be strongly disciplined. Inmates who engage in non-consensual sex will be referred for criminal prosecution. Employees who engage in sexual abuse of inmates will be terminated from employment and referred for criminal prosecution. **PREA Standard 115.11** these policies shall include:

- Generally accepted correctional practices consistent with state statute;
- Standard developments which prevent, detect, eliminate, and respond to sexual abuse and sexual harassment;
- Collection and dissemination of information on sexual abuse and sexual harassment; and
- Any new contract or contract renewal entered into by the Somerset County Jail for the confinement of its inmates with outside entities must be obligated to contractually adopt and comply with the final PREA Standards as set forth by the U.S. Attorney General. The outside entity shall establish “full compliance” with the PREA Standards within the timeline set forth in §§115.401-405 **except for *de minimis* violations. (115.12)**
- Compliance shall be based upon the last known audit conducted by a certified auditor licensed by the U.S. Department of Justice to conduct PREA audits. This provision may be waived on a case-by-case basis for one-to-one trade of a Somerset County Jail inmate to another facility or to transfer individual inmates to another facility for their safety and security. The transfer shall last no longer than necessary to ensure the inmates’ safety and security. Court orders of inmate transfers shall not apply.

I. General Procedures

- A. It is the responsibility of agency personnel within the Somerset County Jail to safeguard inmates from both sexual abuse and sexual harassment whether it is by another inmate or any type of staff member employed by the Somerset County Jail.
- B. The Somerset County Jail mandates a zero-tolerance policy for inmate-on-inmate and staff-on-inmate sexual abuse and sexual harassment.
- C. Any knowledge, suspicion, or information regarding an incident of sexual abuse shall be reported immediately to the Shift Commander / Shift Supervisor and investigated promptly, thoroughly, and objectively. Where an incident has been alleged that involves an inmate who was previously confined in another facility where a sexual abuse incident occurred, the Warden shall notify the facility administrator of that entity within 72 hours.
- D. The Somerset County Jail mandates that all allegations of sexual abuse between inmates, allegations of staff misconduct or knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment are reported immediately to the Shift Commander/Shift Supervisor whether those reports are made verbally, in writing, anonymously or by a third party, and that retaliation for such reporting by an individual, including those who are not victims but are solely cooperating with investigations, is strictly prohibited.
- E. A training program shall be administered to all new employees that provide them with the knowledge and training sufficient to handle reports of sexual abuse. All current employees shall receive training in a timely manner of the effective date of the Somerset County Jail PREA policy; thereafter, those employees shall be given refresher training every two years to ensure they know and understand the Somerset County Jail current sexual abuse policies and procedures.
- F. The Somerset County Sheriff's Office Detective Bureau and Somerset County Prosecutor's Office shall be the investigating authority for all allegations of sexual abuse whether inmate-on-inmate or staff-on-inmate.
- G. The Shift Commander/Shift Supervisor shall ensure preservation of a crime scene and a timely response on all reports regarding allegations of any form of sexual abuse. Determinations shall be made as to the role of each person involved in the incident and the extent of the nature of the allegation.

- H. Inmates who are limited in the use of the English Language shall be afforded the opportunity to report sexual abuse and sexual harassment to staff directly or through the Somerset County Language Line services which does not require inmate interpreters, absent exigent circumstances. Inmates, who are deaf, visually impaired, or otherwise disabled will be afforded the opportunity to report sexual abuse through other reporting methods including but not limited to phone and American Sign Language interpreters. The Somerset County Jail will not rely on inmate interpreters, inmate readers or other types of inmate assistants except in circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under **PREA standard 115.64**, or the investigation of the inmates.
- I. Apart from reporting to designated supervisors or appropriate officials, staff shall not reveal any information related to a sexual abuse report to anyone other than the extent necessary to make treatment, investigation and other security and management decisions.
- J. The Somerset County Jail does not house inmates under the age of 18. If an inmate's age is discovered to be under the age of 18, they are to be immediately removed from the area with adult inmates. The youthful inmate shall have no contact with adult inmates including sight, sound or physical contact and are not permitted the use of shared dayrooms, common areas, shower areas and sleeping quarters. Transfer must be made to an appropriate facility as soon as possible. **(115.14)**

## II. Supervision and Monitoring

- A. The Somerset County Jail has a staffing plan in place which is documented and makes its best effort to comply on a regular basis with that plan to provide adequate levels of staffing and the use of video monitoring to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, the facility has taken into consideration:
  - 1. Generally accepted correctional practices;
  - 2. Any judicial findings of inadequacy;
  - 3. Any findings of inadequacy from Federal investigative agencies;
  - 4. All components of the facility including blind-spots or areas where staff or inmates may be located;
  - 5. The composition of the inmate population;
  - 6. The number and placement of supervisory staff;
  - 7. Institution programs occurring on a particular shift;
  - 8. Any applicable state or local laws, regulations, or standards;

9. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
  10. Any other relevant factors
- B. Documentation and justification for noncompliance with the staffing plan or any such deviations from the staffing plan shall be made by the facilities administration. **(115.13)**
  - C. Annually, the facility administration shall consult with the (PREA) Coordinator to assess, determine, and document whether the resources, staffing plan, or video monitoring system needs adjusting. **(115.13)**
  - D. Shift Commander and Shift Supervisor shall make daily unannounced rounds in order to identify and deter staff sexual abuse and sexual harassment. The Supervisor who is assigned to oversee a respective shift during their regular tour of duty shall make unannounced rounds in every inmate housing unit of the facility at least once during their regular tour of duty. Custody staff shall be advised by supervisory personnel, preferably during role call that they are not permitted to surreptitiously warn or alert other staff when a supervisor is on a floor making rounds unless the announcement is related to the legitimate operational functions of the facility. Unannounced supervisory rounds shall be documented accordingly in the unit logbook. **(115.13)**

### III. Preliminary Screening of Inmates for Risk of Sexual Victimization and Sexual Abuse

- A. All inmates shall be assessed during an intake screening for their risk of being sexually abused by other inmates or being sexually abusive toward other inmates. A risk assessment form will be completed accordingly, and classification will make all determinations as to housing. **(115.41)**
- B. Inmate screening shall ordinarily be conducted within seventy-two (72) hours of an inmate's arrival at the facility using an objective screening instrument. **(115.41)**
  1. Except when, "Exigent Circumstances", exist, the Risk Assessment form will be completed in the processing area. This will be conducted in a professional and dignified manner by an officer of the same gender.
- C. The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: **(115.41)**
  1. Whether the inmate has a mental, physical, or developmental disability;
  2. The age of the inmate;
  3. The physical build of the inmate;
  4. Whether the inmate has previously been incarcerated;

5. Whether the inmate's criminal history is exclusively nonviolent;
6. Whether the inmate has prior convictions for sex offenses against an adult or child;
7. Whether the inmate is or is perceived to be Gay, Lesbian, Bisexual, Transgender, Intersex or Gender nonconforming;
8. Whether the inmate has previously experienced sexual victimization;
9. The inmate's own perception of vulnerability; and
10. Whether the inmate is detained solely for civil immigration charges.

D. The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses and history of prior institutional violence or sexual abuse, as known to the department, in assessing inmates for risk of being sexually abusive. **(115.41)**

E. Should the inmate be at risk of sexual victimization as a result of the Risk Assessment Screening Process, a copy of the form utilized for this purpose will be made and forwarded to Classification and the Medical Department for review. The inmate is to remain in New Admission Lock Up until a follow-up process is completed by classification.

F. Inmates shall be reassessed within the first thirty (30) days upon their arrival at the facility for their risk of victimization or abusiveness if any additional information was received since their initial intake screening was conducted in accordance with the ten enumerated criteria outlined above; **(115.41)**

1. An inmate's risk level shall be reassessed when warranted due to a referral, request, and incident of sexual abuse or upon facility staff receiving any information that bears on the inmate's victimization or abusiveness.
2. Inmates may not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked in accordance with this policy. The refusal shall be documented and filed appropriately.
3. In order to ensure that the dissemination of responses to screening questions is not exploited to the inmate's detriment by staff or other inmates, files will be safeguarded within the inmate's Medical Record.

#### IV. Disciplinary Sanctions for Staff Members and Removal of Staff under Investigation for Sexual Abuse or Sexual Harassment

A. Staff members shall be subject to disciplinary sanctions up to and including termination for violating the Somerset County Jail policies on sexual abuse or sexual harassment. **(115.76)**

- B. Termination shall be the presumptive disciplinary sanction for staff who engaged in sexual abuse. **(115.76)**
- C. Disciplinary sanctions for violations of the Somerset County Jail policies on sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed the staff member's disciplinary history and the sanctions imposed for comparable offenses by other staff with similar histories. **(115.76)**
- D. All terminations for violations of the Somerset County Jail policies on sexual abuse and sexual harassment, or resignations by staff that would have been terminated if not for their resignation shall be reported to law enforcement agencies unless the activity was clearly not criminal. For the purpose of this provision, the Somerset County Prosecutor's Office shall serve as the law enforcement agency that shall be notified. **(115.76)**
- E. Any staff member who violates the Somerset County Jail policies on sexual abuse or sexual harassment, or any staff member who has been alleged to have committed violations of said policies shall result in the removal of the staff member from any contact with the inmate victim or alleged victim until an investigation concludes that the alleged incident was unsubstantiated or unfounded.
- F. Staff shall be subject to discipline in accordance with agency policies and any laws or regulations of the state of New Jersey for not reporting any incidents of sexual abuse where inmates have confided in the staff member to report the incident. The Office of Professional Standards shall render an opinion to the Warden on whether or not the allegations of a cover-up by the staff occurred prior to any disciplinary proceedings.
- G. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. **(115.77)**
- H. The facility shall take appropriate remedial measures and shall consider whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer. **(115.77)**
- V. Disciplinary Sanctions for Inmates
  - A. Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate: **(115.78)**

1. Engaged in inmate-on-inmate sexual abuse; or
  2. Following a criminal finding of guilt for inmate-on-inmate sexual abuse
- B. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. **(115.78)**
- C. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. **(115.78)**
- D. 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. **(115.78)**
- E. Any sexual activity between inmates shall result in disciplinary action being taken against the inmates who engaged in such conduct; however, the sexual activity shall not constitute sexual abuse if the activity was deemed not to be coerced. **(115.78)**
- F. Inmates shall be disciplined for sexual contact with a staff member only upon a finding that the staff member did not consent to such contact. **(115.78)**
- G. As a condition of access to programming or other benefits within the institution, inmates who have been sexually abusive shall be required to undergo intervention in the form of counseling or therapy in order to address any motivations or reasons for committing sexual abuse. **(115.78)**

## VI. Facility and Technology Assessment

- A. Periodic assessments of the facility shall be made by the facility administration to ensure the overall safeguarding of inmates. When designing, modifying, or expanding an area of the Somerset County Jail, the agency shall consider how the effects of the modifications/expansions impact the ability to protect inmates from sexual abuse. **(115.18)**
- B. Blind spots and other areas of isolation shall be included in the assessment to determine whether these areas have contributed to higher incidents or allegations of sexual abuse or sexual harassment. This will be considered when evaluating the facility's technological needs such as installing or updating video monitoring system, electronic

surveillance system, or other monitoring technology. The Somerset County Jail shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse. **(115.18)**