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REFERENCE: <b>PREA – Prison Rape Elimination Act</b>	SUBJECT: <b>PREA – Reporting and Protection from Retaliation</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. It is the policy of the Somerset County Sheriff’s Office – Correction Division to safeguard inmates within the institution. As part of these policies, the Somerset County Sheriff’s Office – Corrections Division have implemented policies and procedures concerning the reporting of sexual abuse and / or sexual harassment within the facility. Inmates and staff shall be protected against retaliation for reporting sexual abuse or sexual harassment or for cooperating with an investigation of same.

**Procedure:**

- I. Reporting Sexual Abuse and/or Sexual Harassment by Department Staff
  - A. It is the policy of the Somerset County Jail to safeguard inmates within the institution; therefore, it is mandatory that all employees immediately report:
    - 1. Any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility; including incidents that inmates alleged occurred during their incarceration at another facility;
    - 2. Retaliation against inmates or staff who reported incidents of sexual abuse or sexual harassment;
    - 3. Any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse, sexual harassment or retaliation; and
    - 4. All allegations of sexual abuse or sexual harassment including third-party and anonymous reports.
  - B. Medical and Mental Health shall report sexual abuse incidents to custody staff in accordance with the following procedures:

1. Upon a report by an inmate that an incident of sexual abuse occurred in the facility or will occur in the future;
2. When the medical or mental health personnel suspect any potential abuse;
3. Upon the inmate reporting any type of sexual abuse where they will be a risk to the safe and secure operations of the facility.
4. By court order; and where permitted by law to exchange information.

- C. For the purposes of *subsection B* above, the Health Insurance Portability and Accountability Act (HIPAA) will not be an obstacle for reporting purposes in accordance with the determination of the United States Department of Justice and HIPAA regulations pursuant to 45 C.F.R. § 164.512 et seq. and 45 C.F.R. § 164.501.
- D. Apart from reporting to supervisors or other designated officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation and other security and management decisions.
- E. Unless otherwise precluded by Federal, State or Local Law, medical and mental health providers shall be required to report sexual abuse pursuant to the procedures outlined in this policy and to inform inmates of the provider's duty to report, and the limitations of confidentiality, at the initial services.
- F. In order to encourage the reporting of sexual abuse or sexual harassment by custody staff agency-wide, custody staff shall be afforded the opportunity to report incidents of sexual abuse or sexual harassment to the Office of Professional Standards, the facility administration or other supervisory personnel without having to report the incident directly to their immediate supervisor. Private reporting methods by custody staff may help quell the fear of retaliation especially when custody staff members attempt to report incidents or allegations of misconduct that were committed by other staff members.

## II. PREA Hotline and Other Inmate Reporting Mechanisms.

- A. The Somerset County Jail shall provide inmates with an external means of reporting sexual abuse or sexual harassment in the form of a hotline. Inmate may also use the hotline to report staff neglect or violations of responsibilities that may contribute to sexual abuse/harassment. **(115.51)**
- B. Inmates shall be provided the opportunity to request confidentiality when reporting sexual abuse or sexual harassment through the hotline; however, anonymity shall not

automatically be granted unless specifically requested by the inmate. **(115.51)**

- C. Custody staff accepting reports from any outside entity shall notify the Office of Professional Standards upon receiving any reports. If the on-duty Shift Commander/Shift Supervisor is not directly receiving the reports from the outside entity, he/she shall be notified by the custody staff member receiving the report prior to notifying the Office of Professional Standards.
- D. The Office of Professional Standards shall utilize the information provided by the outside entity and conduct a thorough investigation into the alleged incident whether or not any identifiable information from the abuser or victim was provided. In the event that the information is not useful in identifying the suspected perpetrator, or able to provide enough identifying information to offer medical aid to the alleged victim, the facility administration will at least be alerted to potential concerns and potentially unsafe areas within the institution once the Office of Professional Standards logs a formal record of the incident.
- E. The facility administration shall be notified by the on-duty Shift Commander/Shift Supervisor when any reports of sexual abuse are received from any outside entity.
- F. The facility administration may, at its discretion, allow a secondary external reporting mechanism for inmates to report incidents of sexual abuse or sexual harassment through the use of regular mail; however, the facility administration shall make every effort to utilize the hotline as the primary method of external communication for inmates in order to offer the victim timely access to medical care, including the potential to receive a forensic medical examination within the time frame allowed for such an exam for effective evidence collection. The facility administration shall consult with the agency (PREA) Coordinator on external reporting mechanisms.
- G. In the event that the hotline is not operational for an extended period of time, the facility administrator shall authorize the use of confidential correspondence through use of regular mail as a means of external inmate reporting granted its use is not already operational.

III. Procedures for the inmate when he/she wants to report a Sexual Assault to someone not within the Somerset County Jail

- A. The inmate will pick up his/her telephone in their housing unit and dial \*9011# which will connect them directly to the Office of Professional Standards.

- B. The inmate can also dial \*7000# and be connected directly to a third party advocacy. **(115.54)**

#### IV. Third-Party Reporting **(115.54)**

- A. The facility shall accept all third-party reports and the Office of Professional Standards shall thoroughly investigate such claims with the exception that third-party reports of sexual abuse submitted on behalf of an inmate shall be denied unless the inmate victim in the case consents to have the alleged incident processed on their behalf.
- B. If a third-party files a request on behalf of an incarcerated person and processed in accordance with the policy above and shall further require the alleged victim to personally pursue any subsequent steps in the administrative remedy process pursuant to the provisions of **115.52** of the final (PREA) standards.
- C. However, should an administrative grievance be filed by a third party or an incarcerated person, with a sexual assault and/or harassment complaint, that grievance will be pulled and the investigation process will ensue. This information will be made available in the inmate rulebook.
- D. Third-party reporting can be conducted by dialing 1-855-769-7732 and leaving a message with the Office of Professional Standards. **Pamphlets/Brochures will be available for family members in the jail lobby as well as posters that provide key information for families/third parties to report an incident of sexual abuse or harassment. (115.54)**

#### V. Reporting to other confinement facilities **(115.63)**

- A. Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
- B. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The agency shall document that has provided notification. The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with the standards.

#### VI. Protection from Retaliation

- A. Inmates and staff shall be protected against retaliation for reporting sexual abuse or sexual harassment or for cooperating with an investigation of same. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation. An agency's obligation to monitor retaliation ends if the agency determines that the allegation is unfounded. **(115.67)**
- B. The Somerset County Jail shall have multiple protection measures, such as housing changes or transfers from inmate victims or abusers, removal of alleged staff or inmate abusers from having contact with the victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
- C. The Office of Professional Standards shall monitor staff members or inmates who reported sexual abuse for a period of at least ninety (90) days for any possible retaliatory acts that may be committed against them such as negative performance reviews or reassignments. Additionally, the conduct and treatment of said staff members who reported sexual abuse shall also be monitored. **(115.67)**
1. The Office of Professional Standards shall also monitor the Classification Supervisor or any other unit tasked with the responsibility of inmate housing assignments for any possible retaliatory acts that may be committed against an inmate for reporting sexual abuse. The conduct and treatment of inmates shall also be monitored as a possible form of retaliation. **(115.67)**
  2. In the case of inmates, monitoring shall include periodic status checks.
  3. In the event that an inmate victim or abuser has been deemed by the Office of Professional Standards to have been retaliated against, said Office shall file an incident report in accordance with the procedures of that Office and render an opinion to the Warden on disciplinary action.
- D. Staff members who fear retaliation shall report their suspected fears directly to their Shift Commander/Shift Supervisor or facility administration bypassing their immediate supervisor. As an additional reporting method, staff members may report their fear of retaliation to the Office of Professional Standards who shall monitor that employee's treatment for a period no less than ninety (90) days while conducting an investigation into the alleged retaliatory acts.
- E. The Office of Professional Standards shall render an opinion to the Warden upon completion of their investigation into whether or not any retaliatory acts were committed against a staff member or inmate for reporting sexual abuse. Where it has

been determined that a staff member has been retaliated against, the disciplinary process shall be initiated.

- F. Any use of less restrictive intervention to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of **PREA standard 115.43. (115.68)**

VII. Referral of Inmate Victims to Medical and Mental Health Services or Forensic Medical Examinations

- A. 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 providers according to their professional judgement. **(115.82)**
- B. If no qualified medical or mental health providers are on duty at the time a report of recent abuse was made, custody staff first responders shall take preliminary steps pursuant to this policy and shall immediately notify the appropriate medical and mental health providers. **(115.82)**
- C. Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. **(115.82/115.83)**
- D. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with the investigation arising out of the incident. **(115.82/115.83)**
- E. Medical personnel shall offer the victims of sexual abuse while incarcerated access to forensic medical examinations at a local hospital or other emergency treatment center where medically and evidentiary appropriate.
  - 1. Medical personnel at the Somerset County Jail are not permitted to conduct forensic medical examinations of inmates of sexual abuse.
  - 2. Forensic medical examinations of inmate victims shall be performed by a Sexual Assault Forensic Examiners (SAFE) or Sexual Assault Nurse Examiners (SANE) at the Robert Wood Johnson Somerset Medical Center. The Somerset County Prosecutor's Office (SCPO) will be notified to activate the Sexual Assault Response Team (SART) and to send a SANE to the hospital to attempt to conduct a forensic medical examination of the inmate victim. Once the SCPO

- has notified the SANE they will respond to the hospital.
3. If available one of the transporting officers should have SART training. Law Enforcement Officers should never be in the exam room during the exam. Security should be outside of the exam room.
  4. Custody staff shall document in an incident report any refusal of medical services by inmate victims of sexual abuse. In addition, medical personnel shall document refusals of treatment evaluation, follow-up care etc.
  5. Facility staff and/or medical or mental health personnel shall collaborate together and attempt to make available to inmate victims of sexual abuse while incarcerated, a victim advocate from a rape crisis center. The victim will be offered to have a victim advocate accompany them at the hospital. A victim advocate will also be offered upon release from the hospital at the victim's request. The victim will be provided with information and all contact numbers and addresses and offered new clothing and the opportunity to shower before leaving the hospital.
- F. The Somerset County Jail shall offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. This will include, as appropriate, follow-up services, treatments plans, and referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. **(115.83)**
- G. Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy test. If pregnancy results from the conduct described, such victims shall receive timely and comprehensive information and timely access to all lawful pregnancy-related medical services. **(115.83)**