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| JJC PROCEDURE MANUAL | POLICY NUMBER | PAGES |
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| CHAPTER<br>Prison Rape Elimination Act of 2003 | STANDARDS<br>PREA: 115.371, 115. 372, 115.373; Recommendations for Administrators of Prisons, Jails, and Community Confinement Facilities for Adapting the U.S. Department of Justice's A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents |
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| SUBJECT<br>Investigations | APPROVED/DATE<br>M. Davis 07-11-23 |
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**POLICY:**

It is the policy of the Kane County Juvenile Justice Center (JJC) to ensure that all allegations of sexual abuse or sexual harassment are promptly, thoroughly and objectively investigated by designated JJC or law enforcement personnel.

This policy also requires that residents who allege sexual abuse or sexual harassment are informed of the outcome of the investigation.

**PURPOSE:**

The purpose of this policy is to provide for the safety of residents and to describe the procedures and practices in response to allegations of sexual abuse or sexual harassment.

**PROCEDURE:**

**I. Criminal Investigations (PREA 115.371 (a))**

- A. The JJC does not conduct criminal investigations of sexual abuse allegations. The Kane County Sheriff's Office (KCSO) shall be the investigating agency for all allegations of sexual abuse and harassment that appear to rise to the level of criminal behavior. In the event of a sexual abuse incident or allegation requiring immediate attention, the PREA Coordinator or designee, will contact the Kane County Sheriff's Office (KCSO) and request that the dispatcher send a KCSO Investigator to the crime scene. In the

event that an Investigator is not immediately available to respond to the JJC, the PREA Coordinator or designee, will also request the responding Deputy to secure the crime scene and preserve all evidence until the Investigator arrives to take control of the investigation.

- B. A Memorandum of Understanding (MOU) between the JJC and the KCSO is maintained and describes the responsibilities of each party.
- C. The JJC has requested the KCSO to comply with all elements of the PREA standards.
- D. The JJC shall fully cooperate with the KCSO criminal investigation and the KCSO investigators. The JJC shall request information regarding the progress of the investigation from the KCSO Special Victims Unit (SVU) investigators.
- E. The KCSO shall inform the court of the results of the criminal investigation. The KCSO shall provide a written report to the JJC informing the administration of the outcome of the investigation. Substantiated allegations of conduct that appear to be criminal shall be referred by the PREA Coordinator or their designee to the State's Attorney's Office for prosecution.
- F. The JJC shall retain all written reports for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless applicable law requires a shorter period of retention.

## **II. Administrative Investigations**

- A. The JJC shall conduct administrative investigations into allegations of sexual abuse and harassment of residents. Administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse (115.371(g)(1)), and whether the conduct violated JJC policy and procedure.
- B. The administrative investigation shall be conducted promptly, thoroughly and objectively for all sexual abuse and harassment allegations, including third party and anonymous reports. (115.371(a))
- C. The JJC PREA Coordinator and Mental Health Coordinator shall receive special training in juvenile victim sexual abuse investigations and they are designated as the primary administrative investigators. (115.371(b))
- D. In adapting to the U.S. DOJ's, *A National Protocol for Sexual Assault Medical Forensic Examinations, Adult/Adolescent* recommendations, JJC

investigators will:

1. Gather direct and circumstantial evidence and ensure that all evidence collection, preservation and storage follows the chain of custody;
2. Communicate with other responders as necessary to ensure optimal coordination of interventions and address issues in specific cases;
3. If not already done, request that victim(s) not take any actions that could destroy physical evidence until either after a SANE examination is conducted, or the victim decides not to have evidence collected. Inform the victim that they have the right to decide if they wish to have a SANE exam, and to have a victim advocate from the Community Crisis Center accompany them to the hospital to be present for the SANE exam. The victim advocate from the Community Crisis Center is permitted to be present during interviews with the (KCSO), with the victim's permission.
4. Seek the input of a SANE nurse at Delnor Hospital if there is a question as to whether a medical SANE examination is appropriate for a specific case;
5. Coordinate with KCSO SVU investigators and SANE nurses at Delnor Hospital to facilitate collection, documentation, preservation, and storage of forensic evidence on the victim, while maintaining the chain of custody, until the resident victim is transported to Delnor Hospital;
6. Obtain preliminary statements from victims, witnesses and suspected perpetrators;
7. Work with the KCSO SVU to request crime lab analysis regarding direct and circumstantial evidence, including forensic, physical, DNA and electronic monitoring evidence;
8. Work with JJC medical staff to review medical and lab reports;
9. Write investigative reports, considering interviews with victims, witnesses and suspected perpetrators, including a review of previous complaints and reports of sexual abuse involving the suspected perpetrator. Reports shall also include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, investigative facts and findings and an effort shall be made to determine whether staff actions or failures contributed to the

abuse;

10. When the quality of evidence appears to support criminal prosecution, the JJC primary administrative investigators shall conduct compelled interviews only after consulting with the State's Attorney's Office as to whether such interviews may be an obstacle for subsequent criminal prosecution;
  11. Inform victims of the progress and outcome of the investigation;
  12. Present cases to the Executive Director of Court Services and the JJC Superintendent for administrative hearing purposes;
  13. Refer cases for prosecution whenever evidence and documentation indicate a criminal offense occurred (115.371(i));
  14. Convene and participate in a Sexual Assault Incident Review with designated JJC multi-disciplinary team members at the conclusion of every sexual abuse investigation, unless it has been determined to be unfounded. Reviews are to be thoughtful, robust and complete and should document how final determinations were considered and arrived at.
- D. The JJC shall not terminate an investigation solely because the source of the allegation recants the allegation. (115.371(d))
  - E. The credibility of an alleged victim, suspect or witness shall be assessed on an individual bases and shall not be determined by the person's status as resident or staff. (115.371(f))
  - F. The JJC will not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. (115.371(f))
  - G. The JJC investigators shall document in written reports a description of the physical and testimonial evidence, their reasoning behind credibility assessments and investigative facts and findings. (115.371 (g)(2))
  - H. The JJC shall retain all written reports for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless applicable law requires a shorter period of retention. (115.371 (j))
  - I. The departure of the alleged abuser or victim from the employment or control of the JJC shall not provide a basis for terminating an investigation.

(115.371(k))

**III. Evidentiary Standard for Administrative Investigations (PREA 115.372)**

- A. The standard of proof necessary to substantiate an allegation of sexual abuse or harassment is a preponderance of the evidence.

**IV. Reporting to Residents (PREA 115.373)**

- A. Following an investigation by the JJC or KCSO, the JJC PREA Coordinator will inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded.
- B. The Superintendent or designee shall request the relevant information from the KCSO SVU for a criminal investigation in order to inform the resident.
- C. If the alleged abuser is an employee, the PREA Coordinator or Superintendent shall inform the alleged victim whenever:
1. The staff member is no longer posted in the resident's unit
  2. The staff member is no longer employed at the JJC.
  3. It is learned that the staff member has been indicted on a charge related to sexual abuse within the JJC.
  4. It is learned that the staff member has been convicted on a charge related to sexual abuse within the JJC.
- D. Following a resident's allegation that he or she has been sexually abused by another resident, the JJC shall subsequently inform the alleged victim whenever:
1. The JJC learns that the alleged abuser has been charged with an offense related to sexual abuse at the facility.
  2. The JJC learns that the alleged abuser has been convicted of a charge related to sexual abuse at the facility.
- E. All such notifications or attempted notifications or attempted notifications shall be documented by the JJC PREA Coordinator.
- F. The JJC's obligation to report the above information to the resident shall

terminate if the resident is released from the JJC.