

<b>FRANKLIN COUNTY COMMUNITY BASED CORRECTIONAL FACILITY</b>	<b>CBCF POLICY #: SUP12</b>
<b>SECTION: Supervision</b>	<b>DRC #: Specific 7, Specific 8</b>
<b>SUBJECT: Prison Rape Elimination Act (PREA)</b>	<b>ACA #: N/A</b>
<b>EFFECTIVE DATE: July 14, 2014</b>	<b>ORC: N/A</b>
<b>LAST REVIEW/REVISION DATE: November 2020</b>	<b>PREA: 115.211, 115.221, 115.222, 115.233, 115.234, 115.235, 115.241, 115.251, 115.252, 115.253, 115.261, 115.263, 115.264, 115.267, 115.271, 115.272, 115.273, 115.276, 115.278, 115.282, 115.287, 115.288, 115.289</b>
<b>APPROVED BY: Jacki Dickinson</b>	<b>PAGE #1 OF 9</b>

### **POLICY:**

The Franklin County Community Based Correctional Facility (CBCF) complies with the Prison Rape Elimination Act (PREA) of 2003, which supports the elimination of sexual assaults within the corrections system through the prevention, detection, reduction of sexual assault and punishment for sexual assault.

The CBCF is committed to a zero tolerance of all forms of sexual abuse and sexual harassment and has an approach to preventing, detecting, and responding to such conduct by residents, staff, contractors, and volunteers. The CBCF Operations Director is the facility's PREA Coordinator (PREA 115.211).

A violation of this type by a resident shall be considered a major rule violation and grounds for immediate termination from the CBCF. A violation by staff is grounds for termination from employment. A violation by a contractor or volunteer is grounds to discontinue the services(s) of the contractor or volunteer. In addition, said violation may be reported to appropriate law enforcement and may result in prosecution.

### **DEFINITIONS:**

**Gender Nonconforming:** A person whose appearance or manner does not conform to traditional societal gender expectations.

**Intersex:** A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometime referred to as disorder of sex development.

**Sexual Abuse of a Resident by Another Resident:** 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 a Resident  
by a Staff Member,  
Contractor or Volunteer:**

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, or 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 (1)-(5) of this definition; (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a resident, and (8) Voyeurism by a staff member, contractor, or volunteer.

**Sexual Harassment:**

(1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another; and (2) Repeated verbal comments or gestures of a sexual nature to a 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.

<b>Substantiated:</b>	Investigated and determined to have occurred.
<b>Transgender:</b>	A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
<b>Unfounded:</b>	Investigated and determined not to have occurred.
<b>Unsubstantiated:</b>	Investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
<b>Voyeurism by a Staff Member, Contractor or Volunteer:</b>	An invasion of privacy of a resident for reasons unrelated to official duties, such as peering at a resident who is using a toilet to perform bodily functions; requiring a resident to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a resident's naked body or of a resident performing bodily functions.

## **PROCEDURES:**

### I. Prevention

- A. As part of the new hire orientation, all new CBCF staff is informed of the facility's zero-tolerance for sexual abuse and sexual harassment and are trained on how to avoid and report sexual abuse and/or sexual harassment. All staff receives additional training during in-service training at a minimum of every two years.
- B. As part of new resident orientation, all residents are informed of the zero-tolerance for sexual abuse and sexual harassment and are informed of how to report sexual abuse and/or sexual harassment within the CBCF as well as outside the CBCF. Third party reporting to include anonymous reports is also available. All types of reports are investigated (PREA 115.233).

### II. Assessment

- A. The CBCF Intake Facilitator or designee is responsible for reviewing each resident's history and screening each resident within 72 hours of arriving at the facility to determine if characteristics of either being sexually

aggressive or a potential victim exist. When assigning rooms to new residents, the characteristics of both the sexually aggressive resident and the residents who may be targeted as potential sexual victims are taken into consideration.

- B. A follow up assessment is completed by the permanent Case Manager within 30 days.
- C. A resident is reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual abusiveness or victimization.
- D. Residents are not disciplined for refusing to answer or not disclosing complete information in response to questions asked.
- E. The CBCF disseminates information within the facility only as needed regarding responses to questions asked during the assessment(s) in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents (PREA 115.241).

### III. Detection

- A. Residents are encouraged to report all acts of sexual harassment and/or sexual abuse. Information regarding how to report such allegations is contained in the Resident Handbook, which is discussed during new resident orientation, and on posters throughout the facility.
- B. Residents can report any incident in the following ways:
  - 1. Verbally to any staff member that they feel they can talk to about the incident.
  - 2. In writing to any staff member.
  - 3. By contacting the PREA Coordinator directly, whether in writing or by phone.
  - 4. By calling the provided third party phone number.
- C. The CBCF does not have procedures for addressing resident grievances regarding sexual abuse. Reports of sexual harassment and sexual abuse are handled immediately and not through the resident grievance process (PREA 115.252).
- D. Upon learning of an allegation that a resident was sexually abused, the staff member responds by:
  - 1. Separating the alleged victim and abuser;

2. Preserving and protecting any crime scene until appropriate steps can be taken to collect any evidence;
  3. If the abuse occurred within a time period that still allows for the collection of physical evidence, the staff member requests that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
  4. If the abuse occurred within a time period that still allows for the collection of physical evidence, the staff member ensures that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating (PREA 115.264).
  5. The staff member then notifies the PREA Coordinator, who informs the Executive Director. In the absence of the PREA Coordinator, the report is to be made immediately to the Executive Director (PREA 115.251). Staff is not to reveal any information related to a sexual abuse report to anyone unless necessary (PREA 115.261).
- E. The CBCF protects all residents and staff who report sexual abuse or sexual harassment or cooperate with such investigations from retaliation by other residents or staff.
1. If necessary, housing changes or transfers for resident victims or abusers are made, alleged staff or resident abusers are removed from contact with victims, and emotional support services are provided for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with such investigations.
  2. The CBCF continues to monitor the conduct and treatment of residents or staff who reported the sexual abuse as well as residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and acts promptly to remedy any such retaliation.
  3. If any other individual who cooperates with an investigation expresses a fear of retaliation, the CBCF takes appropriate measures to protect that individual against retaliation.
  4. The obligation to monitor terminates if the allegation is determined to be unfounded (PREA 115.267).
- F. If a resident discloses that he/she was sexually abused while confined in another facility, the disclosure is immediately reported to the PREA Coordinator, who immediately reports such disclosure to the Executive Director, and then contacts and reports the same to the head of the facility

in which the abuse allegedly occurred. This contact is made no later than 72 hours from receipt of the disclosure. The PREA Coordinator is responsible for documenting this contact (PREA 115.263).

#### IV. Investigations

- A. The CBCF completes an administrative investigation for all allegations of sexual abuse and sexual harassment (PREA 115.222, PREA 115.271). CBCF staff that conducts sexual abuse investigations receives training in conducting such investigations in confinement settings. The CBCF maintains documentation of such training (PREA 115.234).
- B. During the course of the investigation, the Executive Director determines if the alleged victim is to be separated from the general population or whether the alleged assailant should be placed in isolation until the final disposition can be made (PREA 115.251) (PREA 115.221).
- C. If the allegation is against a staff member, the Executive Director determines whether or not the staff member is placed on administrative leave pending the outcome of the investigation (PREA 115.271).
- D. The CBCF shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated (PREA 115.222, PREA 115.271).
- E. At any time that CBCF administration determines the possibility that a criminal investigation is necessary, the Franklin County Sheriff's Office is consulted.

#### V. Referrals for Treatment:

- A. The CBCF medical and mental health staff are trained in the following:
  - 1. How to detect and assess signs of sexual abuse and sexual harassment;
  - 2. How to preserve physical evidence of sexual abuse;
  - 3. How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
  - 4. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment (PREA 115.235).
- B. The CBCF offers all victims of sexual abuse access to forensic medical examinations outside the facility, without financial cost, where evidentiary or medically appropriate (PREA 115.221, PREA 115.282).

- C. The CBCF Clinical Manager makes available to the victim a victim's advocate from a rape crisis center. If a rape crisis center advocate is not available, the Clinical Manager makes available a qualified staff of a community agency that provides such advocacy. Treatment services are provided to the alleged victim without financial cost and regardless of whether the alleged victim names the abuser or cooperates with the investigation. The Clinical Manager is responsible for documenting all efforts to secure services (PREA 115.221, PREA 115.253).

#### VI. Sanctions and Discipline

- A. Upon review of the findings of the investigation and final disposition that the allegation(s) has been substantiated, unsubstantiated, or unfounded, the Executive Director determines the next course of action (PREA 115.271, PREA 115.272).
- B. If the allegation is unfounded, the Executive Director may completely dismiss the incident.
- C. If the allegation is unsubstantiated, the investigation is closed unless more information is received at a later time.
- D. If the allegation against a resident is substantiated but not a criminal law violation, the Executive Director determines how to proceed via in-house sanctioning, up to and including termination from the program (PREA 115.278).
- E. If the allegation against a resident is substantiated and is of criminal misconduct, the Executive Director proceeds with termination from the program per policy and procedure. The Executive Director or designee also reports the allegations to the Franklin County Sheriff's Office.
- F. If the allegation against a staff member is substantiated, the Executive Director follows disciplinary action as outline in CBCF Policy# HR13: Staff Disciplinary, Appeal, & Grievance Procedures (PREA 115.276). The Executive Director or designee also reports the allegations to the Franklin County Sheriff's Office. If no response is received within two weeks, the information is forwarded to the Franklin County Prosecutor's Office (PREA 115.222, PREA 115.271).

#### IV. Reporting

- A. Following the investigation, the resident is informed as to whether the allegation was determined to be substantiated, unsubstantiated, or unfounded. If CBCF staff did not conduct the investigation, the

information is requested from the investigative agency in order to inform the resident.

- B. Following a resident's allegation that a staff member committed sexual abuse against the resident, the CBCF subsequently informs the resident (unless the allegation was determined to be unfounded) whenever:
  - 1. The staff member is no longer working on the resident's living unit;
  - 2. The staff member is no longer employed at the facility;
  - 3. The staff member has been indicted or convicted on a charge related to sexual abuse within the facility.
- C. Following a resident's allegation that he/she has been sexually abused by another resident, the CBCF subsequently informs the alleged victim whenever the CBCF learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility.
- D. All such notifications or attempted notifications are documented.
- E. The obligation to report is terminated when the resident is released from the CBCF (PREA 115.273).
- F. The CBCF retains written reports regarding sexual harassment or sexual abuse for as long as the alleged is incarcerated or employed by the facility plus five years.
- G. Upon completion of a PREA investigation, all pertinent information is entered into the Intelligrants PREA Incident Report and submitted to the Bureau of Community Sanctions within 10 business days of the close of the investigation (DRC - Specific 7). Copies of PREA investigation reports requested by the Ohio Department of Rehabilitation and Correction's Community PREA Compliance Liaison are provided within 10 business days of request. All personal identifying information is redacted prior to submitting the PREA investigation (DRC – Specific 8).

## V. Data Collection

- A. The CBCF collects data for every allegation of sexual abuse using a standardized instrument and set of definitions. The data is aggregated and includes information necessary to complete the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. Upon request, the CBCF provides the data from the previous year to the Department of Justice by June 30<sup>th</sup> of every year (PREA 115.287).
- B. The CBCF prepares an annual report of its findings and corrective actions.



1. Such report includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of the facility's progress in addressing sexual abuse.
  2. The report is approved by the Executive Director and made readily available to the public through its website or other means (PREA 115.288)
- C. The CBCF maintains sexual abuse data collected for at least 10 years after the date of the initial collection (PREA 115.289).