

<b>FRANKLIN COUNTY COMMUNITY BASED CORRECTIONAL FACILITY</b>	<b>CBCF POLICY #: SUP12</b>
<b>SECTION: Supervision</b>	<b>DRC #: 37</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>REVISION DATE: N/A</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</b>
<b>APPROVED BY: Molly Robbins</b>	<b>PAGE #1 OF 8</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 Franklin County 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 Franklin County CBCF Deputy 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 Franklin County 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.

**Nonconsensual Sexual Act:** Contact of any person without his or her consent, or of a person who is unable to consent or refuse; AND contact between the penis and the vagina or the penis and the anus including penetration, however slight; or contact between the mouth and the penis, vagina, or anus; OR penetration of

the anal or genital opening of another person by a hand, finder, or other object.

**Sexual Abuse:** Any actual, attempt, or request of a physical sexual act(s) (including touching) between a resident and a) another resident(s); b) staff member, c) contractor or volunteer, if the victim does or does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse.

**Sexual Harassment:** 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, 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.

**Sexual Misconduct:** Any behavior or act of a sexual nature directed toward a resident by an employee, volunteer, contractor, or other agency representative. Sexual relationships of a romantic nature between staff and residents are included in this definition. Consensual or nonconsensual sexual acts including intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire; or completed, attempted, threatened, or requested sexual acts; or occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.

**Substantiated:** The event was investigated and determined to have occurred.

**Transgender:** A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

**Unfounded:** The event was determined not to have occurred.

**Unsubstantiated:** Evidence was insufficient to make a final determination.

**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 Basic Training, 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 Franklin CBCF as well as outside the CBCF. Third party reporting to include anonymous reports is also available. All types of reports will be investigated (PREA 115.233).

II. Assessment

- A. The CBCF Intake Case Facilitators are 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 characteristics of a potential victim exist. When assigning rooms to new residents, the Intake Case Facilitator will take into consideration the characteristics of both the sexually aggressive resident and the characteristics of residents who may be targeted as potential sexual victims.
- B. A follow up assessment is completed by the permanent Case Facilitator within 30 days.
- C. A resident will be 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 may not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked.
- E. The CBCF will disseminate 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 will be encouraged to report all acts of sexual misconduct. Information regarding how to report such allegations is contained in the

Resident Handbook, which is discussed during Basic Training, 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 shall inform the Director. In the absence of the PREA Coordinator, the report is to be made immediately to the 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 sexual abuse or sexual harassment investigations from retaliation by other residents or staff.

1. If necessary, housing changes or transfers for resident victims or abusers will be made, alleged staff or resident abusers will be removed from contact with victims, and emotional support services will be provided for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
  2. The CBCF will continue to monitor the conduct and treatment of residents or staff who reported the sexual abuse and of 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 shall act promptly to remedy any such retaliation.
  3. If any other individual who cooperates with an investigation expresses a fear of retaliation, the CBCF will take appropriate measures to protect that individual against retaliation.
  4. The obligation to monitor will terminate if the allegation is determined to be unfounded (PREA 115.267).
- F. Should a resident disclose, while he/she is a resident of the CBCF, that he/she was sexually abused while confined in another facility, this disclosure is to be immediately reported to the PREA Coordinator who will immediately report such disclosure to the Director. The Director will have the PREA Coordinator contact and report same to the head of the facility in which this abuse allegedly occurred. This contact is to be 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 shall ensure an administrative investigation is completed for all allegations of sexual abuse and sexual harassment (PREA 115.222, PREA 115.271). CBCF staff that conduct sexual abuse investigations receive 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 Director will determine 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. Should the allegation be against a staff member, the Director will determine whether or not the staff member shall be 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 ~~whether onsite or~~ 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 the final disposition that the allegation(s) has been substantiated, unsubstantiated, or unfounded, the Director shall determine the next course of action (PREA 115.271, PREA 115.272).
- B. If the allegation is unfounded, the Director may completely dismiss the incident.
- C. If the allegation is unsubstantiated, the investigation will be 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 Director will determine 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 Director shall proceed with termination from the facility per policy and procedure. The Director will also report the allegations to the Franklin County Sheriff's Office.
- F. If the allegation against a staff member is substantiated, the Director will follow disciplinary action as cited in CBCF Policy# HR13: Staff Disciplinary, Appeal, & Grievance Procedures (PREA 115.276). The Director will also report 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 or 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 submits a written report regarding any inappropriate sexual behavior to the DRC Bureau of Community Sanctions within two (2) business days of the time the incident occurred or was reported (DRC 37).

V. Data Collection

- A. The CBCF collects data for every allegation of sexual abuse using a standardized instrument and set of definitions. The data includes information necessary to complete the Survey of Sexual Violence conducted by the Department of Justice and is compiled by June 30<sup>th</sup> of every year. The information collected includes:
  - 1. Resident-on-resident sexual violence
  - 2. Staff sexual misconduct and harassment
  - 3. Outcome of the investigations (PREA 115.287).
- B. The CBCF shall retain all written reports for as long as the alleged is incarcerated or employed by the agency plus five years.