

Hampshire Sheriff's Office

Jail & House of Correction

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ACA: **6C-02, 4D-22-2, 4D-22-6M**
CMR: **943.08**
NCCHC: **J-D-07, J-F-06 (E)**
DPH:
PREA: **115.21 (a)-1)-(a)-3), (b)-1)-(b)-3), (c)-1)-(c)-8),
(d)-1)-(d)-3), (e)-1), (f)-1), 115.22, 115.71, 115.72,
115.73**

POLICY:

- A. In instances in which an inmate incarcerated at the Hampshire Jail and House of Correction is alleged to have committed any act covered by criminal law, including sexual assault, the case is referred to appropriate law enforcement officials for investigation and possible prosecution. **6C-02 943.08 (1)**
- B. An investigation is conducted and documented whenever a sexual assault or threat is reported. **4D-22-2 / 115.22** The medical and psychological trauma of a sexual assault is minimized as much as possible by prompt and appropriate health intervention. **J-F-06 (E)**
- C. Referral to Outside Facility **4D-22-6 M**
1. Victims of sexual assault are referred under appropriate security provisions to a community facility for treatment and gathering of evidence. If these procedures are performed in-house, the following guidelines are used:
 - a. A history is taken by health care professionals who conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated. With victims consent, the examination includes collection of evidence from the victim, using a kit approved by the appropriate authority.
 - b. Provision is made for testing for sexually transmitted diseases (for example: HIV, gonorrhea, hepatitis and other diseases) and counseling as appropriate.
 - c. Prophylactic treatment and follow-up for sexually transmitted diseases are offered to all victims, as appropriate.
 - d. Following the physical examination there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up.
 - e. A report is made to the facility or program administrator or designee to assure separation of the victim from his or her assailant.
- D. Responsive Planning **115.21**
1. Evidence protocol and forensic medical examinations:
 - a. To the extent the HJHC is responsible for investigating allegations of sexual abuse, the HJHC shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. **115.21 (a)-1)**

- b. The protocol shall be developmentally appropriate for youth where applicable, **115.21 (b)-1** and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violence Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011. **115.21 (b)-2**
- c. The HJHC shall offer all victims of sexual abuse access to forensic medical examinations, **115.21 (c)-1** whether on-site or at an outside facility, without financial cost, **115.21 (c)-2** where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. **115.21 (c)-3** If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. **115.21 (c)-4** The HJHC shall document its efforts to provide SAFEs or SANEs. (Refer to [Disorder Management Reaction Plan #15 Sexual Assault/Abuse Response Plan](#)) **115.21 (c)-5**
- d. The HJHC shall attempt to make available to the victim a victim advocate from a rape crisis center. **115.21 (d)-1** If a rape crisis center is not available to provide victim advocate services, the HJHC shall make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member. **115.21 (d)-3** The HJHC will document efforts to secure services from rape crisis centers. **115.21 (d)-2** For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. The HJHC may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.
- e. As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. **115.21 (e)-1**
- f. To the extent the HJHC itself is not responsible for investigating allegations of sexual abuse, the facility shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section. **115.21 (f)-1**
- g. The requirements of paragraphs (a) through (f) of this section shall also apply to:
 - i. Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and
 - ii. Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.
- h. For the purposes of this section, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

2. Policies to Ensure Referrals of Allegations for Investigations **115.22**

- a. The HJHC shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. **115.22 (a)-1**
- b. The HJHC shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. **115.22 (b)-1** The HJHC shall publish such policy on its website or, if it does not have one, make the policy available through other means. **115.22 (b)-2** The HJHC shall document all such referrals. **115.22 (b)-3**

- c. If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity. **115.22 (c)**
- d. Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations. **115.22 (d)**
- e. Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations. **115.22 (e)**

E. Criminal and Administrative Agency Investigations **115.71**

- 1. When HJHC conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. **115.71 (a)-1)**
- 2. Where sexual abuse is alleged, the HJHC shall use investigators who have received special training in sexual abuse investigations pursuant to [HSO 7.2.17 Specialized Training PREA Investigators \(115.34\)](#). **115.71 (b)-1)**
- 3. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. **115.71 (c)-1)**
- 4. When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. **115.71 (d)-1)**
- 5. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No agency shall require an inmate 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. **115.71 (e)-1)**
- 6. Administrative investigations: **115.71 (f)-1)**
 - a. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
 - b. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- 7. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. **115.71 (g)-1)**
- 8. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. **115.71 (h)-1)**
- 9. The agency shall retain all written reports referenced in sections 6 and 7 of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. **115.71 (i)-1)**
- 10. The departure of the alleged abuser or victim from the employment or control of the HJHC shall not provide a basis for terminating an investigation. **115.71 (j)-1)**
- 11. Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. **115.71 (k)-1)**

12. When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. *115.71 (l)-1*

F. Evidentiary standard for administrative investigations *115.72*

1. The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. *115.72 (a)-1*

G. Reporting to inmates *115.73*

1. Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the HJHC shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. *115.73 (a)-1*

2. If the HJHC did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate. *115.73 (b)-1*

3. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the HJHC shall subsequently inform the inmate (unless the HJHC has determined that the allegation is unfounded) whenever: *115.73 (c)-1*

a. The staff member is no longer posted within the inmate's unit;

b. The staff member is no longer employed at the facility;

c. The HJHC learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

d. The HJHC learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

4. Following an inmate's allegation that he or she has been sexually abused by another inmate, the HJHC shall subsequently inform the alleged victim whenever: *115.73 (d)-1*

a. The HJHC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

b. The HJHC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

5. All such notifications or attempted notifications shall be documented. *115.73 (e)-1*

6. An agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody. *115.73 (f)-1*

PROCEDURES:

A. Criminal and Administrative Investigations:

1. Staff members shall:

a. Immediately notify the Shift Supervisor through the Officer in Command of the Area when he/she believes an inmate has committed an offense covered by statutory law.

b. Complete a Disciplinary Report form.

- c. Preserve any evidence according to procedures set forth in the Searches and Suspected Crime Sections of the Policy and Procedures Manual.
 - d. In the event the misconduct is sexual in nature, i.e. sexual assault or abuse the staff member shall: ***115.11/115.22/HSO 1.3.5M***
 - i. Separate the alleged victim and the alleged abuser and remove inmate(s)/victim(s) from the immediate area.
 - ii. Under no circumstances shall the inmate/victim be allowed to wash, shower, use the bathroom, eat, or drink. If the inmate/victim must utilize the bathroom, ensure they use a sterile wipe. Place the sterile wipe in a paper evidence bag along with a chain of custody form (HSO Chain of Evidence).
 - iii. Secure the alleged crime scene and immediately notify the Shift Supervisor.
 - iv. If the allegation is made due to an assault that occurred prior to incarceration, the staff person receiving such complaint will immediately notify the Shift Supervisor.
2. The Shift Supervisor shall:
- a. Follow procedures in accordance with the Searches and Suspected Crime Sections of the Policy and Procedures Manual.
 - b. In the event the misconduct is sexual in nature, i.e. sexual assault or abuse the Shift Supervisor shall: ***115.11/115.22*** / Refer to [Disorder Management Reaction Plan #15 Sexual Assault/Abuse Response Plan](#)
 - i. Provide medical care as necessary.
 - ii. Assign a staff member to ensure control of the alleged crime scene and to prevent unauthorized person(s) from entering the alleged crime scene.
 - iii. Ensure the collection of evidence. The inmate(s)/victim(s) will be taken to the Health Services Unit for collection of evidence utilizing the Sexual Assault PREA Response Kit ([HSO Sexual Response Kit Check-list](#)) located in the Captain's Office. The evidence collection should be done by the Facility's Sexual Assault Investigator, if available.
 - iv. Ensure that the alleged inmate/victim(s) is offered access to forensic medical examinations.
 - v. Ensure that if the alleged inmate(s)/victim(s) request a forensic medical examination that the alleged inmate(s)/victim(s) shall be taken to Cooley Dickinson Hospital for treatment provided by Sexual Assault Nurse Examiners (SANE) and the Rape Crisis Center (RCC).
 - vi. Ensure that if the alleged inmate(s)/victim(s) refusal of a forensic medical examination is deemed either medically or through evidence, necessary, that the inmate be taken to Cooley Dickinson Hospital for treatment provided by Sexual Assault Nurse Examiners (SANE) and the Rape Crisis Center (RCC).
 - vii. If the inmate does not speak English, arrangements for interpreter services prior to, but without delaying, transportation of the inmate/victim to the hospital.
 - viii. Ensure that the staff person receiving the initial allegation of sexual assault or victimization of sexually abusive behavior, shall file a confidential incident report. This information is not to be discussed with any other staff with the exception of the Shift Supervisor and the facility Sexual Assault Investigator.
 - c. The Shift Supervisor shall notify personnel, through the chain of command. The facility shall then follow the notifications procedures below: Refer to [Disorder Management Reaction Plan #15 Sexual Assault/Abuse Response Plan](#)

- i. Sheriff
 - ii. Assistant Superintendent
 - iii. Assistant Deputy Superintendent for Security
 - iv. Shift Supervisor
 - v. HJHC Health Services Unit
 - vi. Facility Investigator (when appropriate)
 - vii. Cooley Dickinson Hospital and SANE personnel (when appropriate)
- d. Notify the Sheriff or his designee if it has been determined that a statute has been broken. The Sheriff or his designee will determine if it should be turned over to the Hampshire County District Attorney's Office.

B. Findings and Reporting:

1. Evidentiary Standard for Administrative Investigations: *115.72*

- a. The HJHC shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. *115.72 (a)-1*

2. Administrative Investigations: *115.71*

- a. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and *115.71 (f)-1 (1)*
- b. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. *115.71 (f)-1 (2)*
 - i. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. *115.71 (g)-1*
 - ii. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. *115.71 (h)-1*
 - iii. The HJHC shall retain all written reports referenced in paragraphs (2.a. & b.) and (2.b.i) of this section for as long as the alleged abuser is incarcerated or employed by the HJHC, plus five years. *115.71 (i)-1*
 - iv. The departure of the alleged abuser or victim from the employment or control of the HJHC shall not provide a basis for terminating an investigation. *115.71 (j)-1*
 - v. Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. *115.71 (k)-1*
 - vi. When outside agencies investigate sexual abuse, the HJHC shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. *115.71 (l)-1*

3. Reporting to Inmates: *115.73*

- a. Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the HJHC shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. *115.73 (a)-1*
- b. If the HJHC did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate. *115.73 (b)-1*

- c. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the HJHC shall subsequently inform the inmate (unless the HJHC has determined that the allegation is unfounded) whenever: *115.73 (c)-1*
 - i. The staff member is no longer posted within the inmate's unit;
 - ii. The staff member is no longer employed at the facility;
 - iii. The HJHC learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - iv. The HJHC learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- d. Following an inmate's allegation that he or she has been sexually abused by another inmate, the HJHC shall subsequently inform the alleged victim whenever: *115.73 (d)-1*
 - i. The HJHC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - ii. The HJHC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- e. All such notifications or attempted notifications shall be documented. *115.73 (e)-1*
- f. An agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody. *115.73 (f)-1*