

# Hampshire Sheriff's Office

## Jail & House of Correction

### Policies and Procedures

Pg. 1 of 7

Number: 6.3.2M

Supersedes Number: \_\_\_\_\_

Effective Date: November 4<sup>th</sup> 2024

Distribution: Electronically and all Authorized Manuals

Subject: Criminal and Administrative Investigations

Issued By: Superintendent

Authority:



ACA: **6C-02, 4D-23, 4D-27**

CMR: **943.08**

NCCHC: **J-F-06 (E), O-B-04**

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-23, 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), O-B-04**
- C. Referral to Outside Facility **4D-27**
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. **J-F-06 (E) 4 (a), (d), O-B-04**
    - 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. **J-F-06 (E) 5 (a), O-B-04**
    - 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. **J-F-06 (E) 5 (b), O-B-04**
    - e. A report is made to the facility or program administrator or designee to assure separation of the victim from his or her assailant. **J-F-06 (E) 5 (c), O-B-04**
- 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 uni-

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, J-F-06 (E) 2 (b), O-B-04*
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*)

- 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 Checklist) 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.

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*