
TITLE: SEXUAL ABUSE PREVENTION (PREA*)

ADOPTED BY THE SAN JUAN COUNTY BOARD OF COMMISSIONERS

DATE: OCTOBER 26, 2021

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POLICY:

The San Juan County Adult Detention Center shall have a zero tolerance for sexual misconduct involving detainees. The adult detention center shall provide a safe, humane and secure environment, free from sexual violence, misconduct, harassment or retaliation, by establishing definitions of prohibited conduct and maintaining a program of prevention, detection, investigation, response and tracking of all alleged and substantiated sexual misconduct.

Furthermore, sexual misconduct between staff and detainees, volunteers or contract personnel and detainees, or detainees and detainees, regardless of consensual status, is prohibited and subject to administrative discipline and/or criminal sanctions.

*Prison Rape Elimination Act (see this procedure's "Definitions")

ADMINISTRATOR'S APPROVAL:

DATE: MAY 18, 2022

DEFINITIONS:

PREA: "Prison Rape Elimination Act" (*PREA*), enacted in 2003, is the first United States federal law passed dealing with the sexual assault of prisoners and detention detainees.

Aggressor: Any person committing sexual misconduct against another. The aggressor may be the same or different gender as the victim.

Employee: Any person who is directly employed by San Juan County and assigned to the San Juan County Adult Detention Center.

Investigator: An individual(s) designated by the San Juan County Adult Detention Administrator to conduct documented internal investigations into alleged sexual misconduct in order to assess the truth of the allegations.

Non-Employee: Any volunteer, contractor, therapist, parole/probation officer, officer of the court or other non-employee individual who interacts with detainees who are in the custody of the detention facility.

PREA Coordinator: An individual designated by the Adult Detention Center Administrator who is responsible for developing, implementing and overseeing facility compliance with PREA Standards and coordinating the facility's response to allegation of sexual misconduct.

Retaliation: Any act of vengeance, covert or overt action, threat of action taken against an individual in response to their claim of sexual misconduct, sexual contact, or sexual abuse or cooperation in the reporting or investigation of sexual misconduct, regardless of the disposition of the complaint.

Examples of retaliation include:

1. Unnecessary discipline.
2. Verbal or physical intimidation or threats.
3. Unnecessary changes in housing classification.
4. Unnecessary changes in work or program assignments.
5. Unjustified denials of privileges or services.
6. Any action to compromise the victim or witness's safety, including refusal or failure to protect.

Sexual Abuse: Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes 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 detainee, or resident by a staff member, contractor, or volunteer includes 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 paragraphs (1)-(5) of this section;
7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
8. Voyeurism by a staff member, contractor, or volunteer.

Sexual Acts: Any contact between the sex organ of one person and the sex organ, mouth or anus of another person, or any intrusion of any part of the body of one person or any object into the sex organ, mouth or anus of another person.

Sexual Contact: Intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of a person other

than by staff for medical purposes or for purposes of performing legitimate policy authorized searches.

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 inmate, detainee, or resident directed toward another; and repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or 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: All forms of sexual behavior prohibited by this policy including sexual abuse, sexual harassment, sexual acts, and sexual contact regardless of whether it is consensual. Examples of sexual misconduct include:

1. Requests for sexual favors, sexual acts, or sexual contact.
2. Influencing, promising or threatening a detainee's safety, custody or security level, including recommendations for court actions, privacy, housing, privileges, work detail or program status in exchange for sexual favors.
3. Promise of protection in exchange for sexual favors.
4. Statements, comments or innuendo made directly or indirectly concerning the sexual orientation or perceived sexual orientation of any person.
5. Intimate or close relationships with a detainee defined as any relationship beyond the boundaries of a professional relationship.
6. Intimate conversation or correspondence with a detainee.
7. Exchanging letters, pictures, phone numbers, addresses, email addresses, or other personal information with detainees.
8. Unreasonable invasion of a detainee's privacy such as inappropriate viewing of any detainee.
9. Any verbal, non-verbal, or physical conduct which is sexual in nature or sexually suggestive.
10. Creating an intimidating, hostile, or offensive environment by engaging in or permitting sexually offensive behavior or language that is directed at or observable by detainees or others.
11. Kissing, hugging, fondling or other touching of an individual's breast, genital, anal or other intimate area either directly or through clothing for sexual arousal, gratification, abuse or assault of either party.
12. Rape, sexual assault, sexual intercourse, oral sex, anal sex, vaginal sex.
13. Sex or penetration with any object or body part.

Victim: Any person who has been the target of sexual misconduct.

Victim Support Person: An individual designated by the Adult Detention Center Administrator who has been specially trained to support a victim during investigation of alleged sexual acts or contact.

Voyeurism: *When committed by a staff member, contractor or volunteer,* means an invasion of privacy of an inmate, detainee, or resident for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

I. PURPOSE:

The San Juan County Adult Detention Center is committed to zero tolerance for all forms of sexual abuse and sexual harassment within the facility. The purpose of this policy is to describe the San Juan County Adult Detention Center's mandate of zero tolerance toward all forms of sexual abuse and sexual harassment; and to outline The San Juan County Adult Detention Center's approach to preventing, detecting and responding to sexual abuse and harassment.

II. ZERO TOLERANCE POLICY: [§115.11 (a)]

The San Juan County Adult Detention Center has zero tolerance for all forms of sexual abuse and sexual harassment between detainee and detainee and/or a detainee and an employee/non-employee. Sexual abuse and/or harassment perpetrated by an employee is contrary to the policies of this facility and professional ethical principles that all employees are bound to uphold. Any such conduct is cause for disciplinary action up to and including termination.

III. PREA COORDINATOR: [§115.11 (b)]

The San Juan County Adult Detention Center Administrator will designate an employee in an upper-level management position with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards at the San Juan County Adult Detention Center as the PREA coordinator. The PREA Coordinator's responsibilities and duties will consist of the following:

- A. Assist with developing, reviewing, and revising the San Juan County Adult Detention Center's policies and procedures, for the purpose of identifying, monitoring, assessing, and tracking all sexual misconduct incidents reported at the Adult Detention Center.
- B. Collect accurate uniform data for every allegation of sexual abuse at the San Juan County Adult Detention Center. [**§115.87 (a)**]
- C. Maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files and sexual abuse incident reviews. [**§115.87 (d)**]
- D. Notify detainee victims of sexual abuse and/or sexual harassment to inform them if their allegations are substantiated, unsubstantiated or unfounded; and to provide detainee victims whose allegations are substantiated with information as to the action taken against their abuser. [**§115.73 (a), (c) and (d)**]
- E. Use collected data to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training by: Identifying problem areas; Taking corrective action on an on-going basis; and preparing an annual report of its findings and corrective actions for the facility, [**§115.88 (a)**]
- F. Responsible for ensuring that data collected pursuant to §115.87 is securely retained and maintained for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise. [**§115.89 (a) and (d)**]
- G. Other duties as deemed necessary by the Adult Detention Center Administrator or PREA related standards.

IV. PREVENTING AND DETECTING SEXUAL ABUSE AND HARASSMENT:

A. Staffing Plan/Video Monitoring

- 1. The PREA Coordinator shall assist the Administrator in the process of creating and revising a staffing plan to provide for adequate levels of staffing and video monitoring to protect detainees against sexual abuse. The San Juan County Adult Detention Center will ensure that the following factors are taken into consideration: [**§115.13 (a)**]
 - a) Generally accepted detention and correctional practices;
 - b) Any judicial findings of inadequacy;
 - c) Any findings of inadequacy from Federal investigative agencies;
 - d) Any findings of inadequacy from internal or external oversight bodies;
 - e) All components of the facility's physical plant;

- f) The composition of the inmate population;
 - g) The number and placement of supervisory staff;
 - h) Programs occurring on a particular shift;
 - i) Any applicable State or local laws, regulations, or standards;
 - j) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
 - k) Any other relevant factors.
2. The San Juan County Adult Detention Center shall make its best efforts to comply with the staffing and video monitoring plan and, in circumstances where it is not complied with, shall document and justify all deviations. **[§115.13 (b)]**
 3. At least once every year, and in collaboration with the PREA Coordinator, the San Juan County Adult Detention Center will conduct an assessment to determine whether adjustments are needed to the staffing plan and the deployment of video monitoring systems and other technologies. **[§115.13 (c)]**

B. Unannounced Rounds [§115.13 (d)]

Supervisors shall conduct and document unannounced rounds covering all shifts, and all areas of the facility, to identify and deter staff sexual abuse or harassment. The San Juan County Adult Detention Center policy prohibits staff members who are aware of these rounds from alerting other staff as to when or where these rounds are occurring, unless related to the legitimate operational needs of the facility.

C. Youthful Detainees: [§115.14 (a and b)]

1. A youthful detainee (defined as any person under the age of 18 who is under adult court supervision and incarcerated or detained in jail) will not be placed in a housing unit in which they will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters.
2. In areas outside of housing units, the San Juan County Adult Detention Center shall either:
 - a) Maintain sight and sound separation between youthful detainees and adult detainees, or
 - b) Provide direct staff supervision when youthful detainees and adult detainees have sight, sound, or physical contact.

D. Cross Gender Viewing and Searches/Searches of Transgender Detainees [§115.15]***1. Searches***

- a) San Juan County Adult Detention Center staff shall not conduct cross-gender strip searches (meaning a search that requires a person to remove or arrange clothing so as to permit a visual inspection of their breasts, buttocks, or genitalia) or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except when performed by medical practitioners. All strip searches will be conducted by staff of the same sex.
- b) San Juan County Adult Detention Center staff shall not perform cross gender pat-searches. All pat searches will be conducted by staff of the same sex.
- c) San Juan County Adult Detention Center staff shall document all strip searches on the Strip Search Justification form (SJCADC-205).
- d) San Juan County Adult Detention Center staff members shall not conduct a search of a transgender or intersex detainee solely for the purpose of determining genital status. If the detainee's genital status is unknown, it may be determined by having conversations with the detainee, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

2. Viewing

- a) The San Juan County Adult Detention Center shall enable detainees to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks or dry cell protocol.
- b) All staff members of the opposite gender shall announce their presence when entering a detainee housing unit.

E. Detainees with Disabilities or Who Have Limited English Proficiency***1. Disabled Detainees [§115.16 (a)]***

- a) The San Juan County Adult Detention Center will take appropriate steps to ensure that detainees with disabilities have an equal opportunity to benefit from all aspects of San Juan County Adult Detention Center's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps will include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially.

- b) The San Juan County Adult Detention Center will ensure that written materials are provided in formats and through methods that ensure effective communication with detainees with disabilities.

2. Detainees Who Have Limited English Proficiency [§115.16 (b)]

The San Juan County Adult Detention Center will take reasonable steps to ensure meaningful access to all aspects of its efforts to prevent, detect, and respond to sexual abuse and sexual harassment to detainees who have limited English proficiency, including by providing interpreters who can interpret effectively, accurately, and impartially.

3. Use of Detainee Interpreters [§115.16 (c)]

The San Juan County Adult Detention Center will not rely on detainee interpreters, detainee readers, or other types of detainee assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise a detainee's safety, the performance of first responder duties, or the investigation of a detainee's allegations.

F. Screening of Detainees

1. Screening for Risk of Victimization and Abusiveness [§115.41]

- a) All detainees shall be assessed during an intake screening and upon transfer from another facility for their risk of being sexually abused by other detainees or sexually abusive toward other detainees.
- b) Intake screening shall ordinarily take place within 72 hours of arrival at the facility.
- c) Such assessments shall be conducted using an objective screening instrument.
- d) The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: Whether the detainee has a mental, physical, or developmental disability; The age of the detainee; The physical build of the detainee; Whether the detainee has previously been incarcerated; Whether the detainee's criminal history is exclusively nonviolent; Whether the detainee has prior convictions for sex offenses against an adult or child; Whether the detainee is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; Whether the detainee has previously experienced sexual victimization; The detainee's perception of his or her own vulnerability to sexual abuse or sexual harassment; and whether the detainee is detained solely for civil immigration purposes.

- e) The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the San Juan County Adult Detention Center in assessing detainees for risk of being sexually abusive.
- f) Within 30 days, the facility shall reassess the detainee's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.
- g) A detainee's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the detainee's risk of sexual victimization or abusiveness.
- h) Detainees may not be disciplined for refusing to answer, or for not disclosing complete information related to the intake screening.
- i) The San Juan County Adult Detention Center shall implement appropriate controls on the dissemination of responses to questions asked pursuant to this policy in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees

2. Use of Information Obtained from Screening [§115.42]

- a) The San Juan County Adult Detention Center shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those detainees at high risk of being sexually victimized from those at high risk of being sexually abusive.
- b) The San Juan County Adult Detention Center shall make individualized determinations about how to ensure the safety of each detainee.
- c) In deciding whether to assign a transgender or intersex detainee to a housing assignment for male or female detainees, and in making other housing and programming assignments, the San Juan County Adult Detention Center will consider on a case-by-case basis whether a placement would ensure the detainee's health and safety, and whether the placement would present management or security problems.
- d) Placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee.
- e) A transgender or intersex detainee's own views with respect to his or her own safety shall be given serious consideration.
- f) Transgender and intersex detainees shall be given the opportunity to shower separately from other detainees.
- g) The San Juan County Adult Detention Center will not place lesbian, gay, bisexual, transgender, or intersex detainees in dedicated housing assignments solely on the basis of such identification or status unless pursuant to a legal settlement or judgment.

3. Medical and Mental Health Screenings [§115.81]
 - a) If the screening indicates that a detainee has experienced prior sexual victimization, whether in an institutional setting or in the community, staff shall ensure that the detainee is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
 - b) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.
 - c) Medical and mental health practitioners shall obtain informed consent from detainees before reporting information about prior sexual victimization that did not occur in an institutional setting unless the detainee is under the age of 18.

G. *Protection of Detainees Facing Substantial Risk*

1. Upon Learning of Substantial Risk [§115.62]
 - a) When the San Juan County Adult Detention Center learns that a detainee is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the detainee.
2. Emergency Grievances [§115.52 (f)]
 - a) The San Juan County Adult Detention Center shall establish procedures for the filing of an emergency grievance alleging that a detainee is subject to a substantial risk of imminent sexual abuse.
 - b) After receiving an emergency grievance alleging a detainee is subject to a substantial risk of imminent sexual abuse, the San Juan County Adult Detention Center shall: Immediately forward the grievance (or any portion of it that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken; Provide an initial response within 48 hours; and issue a final decision within five (5) calendar days.
 - c) The initial response and final decision shall document the San Juan County Adult Detention Center's determination of whether the detainee is at substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

3. Protective Custody [§115.43]
 - a) Detainees at high risk for sexual victimization shall not be placed in involuntary segregated housing unless the San Juan County Adult Detention Center has assessed all available alternatives and has determined that there is no available alternative means of separation from likely abusers.
 - b) If the facility cannot conduct such an assessment immediately, the facility may hold the detainee in involuntary segregated housing for less than 24 hours while completing the assessment. Detainees placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the fullest extent possible.
 - c) If the facility restricts access to programs, privileges, education, or work opportunities, it shall document: The opportunities that have been limited; The duration of the limitation; and the reasons for such limitations.
 - d) The facility shall assign such detainees to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged. Such an assignment shall not ordinarily exceed a period of 30 days. If an involuntary segregated housing assignment is made pursuant to this section, the facility shall clearly document: The basis for the facility's concern for the detainee's safety; and the reason why no alternative means of separation can be arranged.
 - e) Every 30 days, the facility shall afford each such detainee a review to determine whether there is a continuing need for separation from the general population.

H. *Hiring and Promotion Practices* [§115.17]

1. The San Juan County Adult Detention Center shall not hire or promote anyone who may have contact with detainees, or retain the services of any contractor who may have contact with detainees, who:
 - a) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; or
 - b) Has been convicted of, or civilly or administratively adjudicated for, engaging, or attempting to engage in sexual activity in the community facilitated by force, threats of force, or coercion, or if the victim did not consent or was unable to consent.
2. The San Juan County Adult Detention Center shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to retain the services of any contractor, who may have contact with detainees.

3. Before hiring new employees, who may have contact with detainees, the San Juan County Adult Detention Center shall:
 - a) Perform a criminal background records check; and
 - b) Make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse, or any resignation during a pending investigation of an allegation of sexual abuse.
4. The San Juan County Adult Detention Center shall also perform a criminal background record check before retaining the services of any contractor who may have contact with detainees.
5. The San Juan County Adult Detention Center shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with detainees or have in place a system for otherwise capturing such information for current employees.
6. The San Juan County Adult Detention Center shall ask all applicants and employees who may have direct contact with detainees about previous misconduct described in this section, in:
 - a) Written applications and/or interviews for hiring or promotion; and
 - b) Interviews or written self-evaluations conducted as part of reviews of current employees.
7. The San Juan County Adult Detention Center shall impose on its current employees a continuing affirmative duty to disclose any of the misconduct described in this section.
8. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
9. Unless prohibited by law, the San Juan County Adult Detention Center shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

I. *Upgrades to Facilities and Technologies* [§115.18]

1. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the San Juan County Adult Detention Center shall consider the effect of the design, acquisition, expansion, or modification on its ability to protect detainees from sexual abuse.

2. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the San Juan County Adult Detention Center shall consider how such technology may enhance its ability to protect detainees from sexual abuse.

V. **RESPONDING TO REPORTS OF SEXUAL ABUSE AND SEXUAL HARASSMENT:**

To respond to reported incidents of sexual abuse, we have adopted and implemented the following processes:

A. *Procedures for Reporting Sexual Abuse and Sexual Harassment*

1. Detainee Reporting

- a) Ways for detainees to Report Incidents [§115.51 (a), (b), and (c)]:
 - (1a) The San Juan County Adult Detention Center will provide multiple internal ways for detainees to privately report sexual abuse and sexual harassment, retaliation by other detainees or staff for reporting sexual abuse or sexual harassment, and staff neglect that may have contributed to such incidents. Detainees may report concerns by:
 - Writing a letter to the San Juan County PREA Coordinator at: 871 Andrea Drive Farmington, NM 87401
 - Speak to a SJCADC supervisor or staff member
 - File a grievance on the tablet
 - (2a) The San Juan County Adult Detention Center shall also provide at least one way for detainees to report abuse, harassment, retaliation, and staff neglect to a public or private entity that is not part of the San Juan County Adult Detention Center, and that is able to receive and immediately forward detainee reports of sexual abuse and sexual harassment to agency officials, allowing the detainee to remain anonymous upon request. Detainees may report concerns by writing to: San Juan County Sheriff's Office (separate agency) at: 211 South Oliver Drive Aztec, NM 87410.
 - (3a) Staff will accept reports made verbally, in writing, and anonymously. Staff will promptly document any verbal reports.
- b) Detainee Grievances [§ 115.52 (a), (b), (c), (e) and (g)]
 - (b1) The San Juan County Adult Detention Center shall not impose a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse.
 - (b2) The San Juan County Adult Detention Center shall not require a detainee to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

- (b3) The San Juan County Adult Detention Center will ensure that:
 - A detainee who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and
 - Such grievance is not referred to a staff member who is the subject of the complaint.
 - (b4) The San Juan County Adult Detention Center shall issue a final decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. Computation of the 90-day time period shall not include time consumed by detainees in preparing any administrative appeal.
 - (b5) The San Juan County Adult Detention Center may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The San Juan County Adult Detention Center will notify the detainee in writing of any such extension and provide a date by which a decision shall be made.
 - (b6) At any level of the administrative process, including the final level, if the Detainee does not receive a response within the time allotted for reply, including any properly noticed extension, the detainee may consider the absence of a response to be a denial at that level.
 - (b7) The San Juan County Adult Detention Center may discipline a detainee for filing a grievance related to alleged sexual abuse only when it is determined that the detainee filed the grievance in bad faith.
2. Staff Reporting Rules [§115.51(d) and §115.61]
- a) Any staff member who has knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment; retaliation against detainees or staff who reported such an incident; and any staff neglect that may have contributed to such incident or retaliation, shall immediately report such incident or retaliation, in the manner specified by San Juan County Adult Detention Center policy.
 - b) Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone except as specified by San Juan County Adult Detention Center policy.
 - c) The San Juan County Adult Detention Center shall provide a method for staff to privately report sexual abuse and sexual harassment of detainees. [§115.51 (d).]
3. Rules for Third Parties to Report Abuse and to Assist Inmates with Grievances [§115.51(c), §115.52 (e), and § 115.54]
- a) The San Juan County Adult Detention Center shall establish a method to receive third-party reports of sexual abuse and sexual harassment and will distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a detainee.
 - b) Staff shall accept reports made verbally, in writing, and anonymously from third parties and shall promptly document any verbal reports.

- c) Third parties, including fellow detainees, staff members, family members, attorneys, and outside advocates, shall be permitted to assist detainees in filing requests for administrative remedies relating to allegations of sexual abuse, and will also be permitted to file such requests on behalf of detainees.
- d) If a third-party files such a request on behalf of a detainee, the facility may require, as a condition of processing the request, that the alleged victim agree to have the request filed on his or her behalf and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. If the detainee declines to have the request processed on his or her behalf, the San Juan County Adult Detention Center shall document the detainee's decision.

B. Coordinated Response [§ 115.65]

The San Juan County Adult Detention Center has developed a written plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

C. Immediate Steps After Receiving Report of Incident [§115.64 and §115.82(b)]

1. When a security staff first-responder learns that a detainee has been sexually abused, they shall take immediate action to protect the detainee. This includes:
 - a) Separate the detainee from the alleged perpetrator;
 - b) Preserve and protect any crime scene until appropriate steps can be taken to collect evidence; and
 - c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim—and ensure that the alleged abuser—not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating; and
 - d) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall immediately notify the appropriate medical and mental health practitioners. [115.82 (b)]
2. When the first staff responder is not a security staff member, they shall request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

D. Medical and Mental Health Services

1. Emergency [§115.82]
 - a) Detainee victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
 - b) Detainee victims of sexual abuse while incarcerated shall be offered timely information about, and timely access to, emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
 - c) Treatment services shall be provided to the victim—without financial cost to the victim—and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

2. Ongoing Medical and Mental Health Care [§115.83]
 - a) The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been sexually abused in a prison, jail, lockup, community corrections facility, or juvenile justice facility.
 - b) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
 - c) The facility shall provide such victims with medical and mental health services consistent with the community level of care.
 - d) Detainee victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests, as medically necessary.
 - e) If pregnancy results from the conduct described in this section, victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services, such as prenatal care and access to pregnancy termination services, where available.
 - f) Detainee victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections, as medically appropriate.
 - g) Ongoing treatment services shall be provided to the victim without financial cost to the victim and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

E. Support Services for Victims of Sexual Abuse

1. Victim Advocate [§115.21(d)(e) and (h)]
 - a) The San Juan County Adult Detention Center shall attempt to make available to the victim an advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocacy services, the San Juan County Adult Detention Center shall make available a qualified staff member from a community-based organization, or a qualified agency staff member to provide these services
 - b) When requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany the victim throughout the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.
2. Emotional Support Services [§115.53]
 - a) The facility shall provide detainees with access to outside victim advocates for emotional support services related to sexual abuse by giving ~~inmates~~ detainees mailing addresses and telephone numbers, including toll-free hotline numbers, where available, of local, State, or national victim advocacy or rape crisis organizations, and for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible.
 - b) The facility shall inform detainees, prior to giving them access to outside advocates, of the extent to which such communications shall be monitored and the extent to which reports of abuse shall be forwarded to authorities in accordance with mandatory reporting laws.
 - c) The San Juan County Adult Detention Center shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide detainees with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

F. Investigation of Incidents [§§115.21(a)(b)(c)(f) and(h) , 115.22, 115.71, 115.72, 115.73 and 115.86]

1. The San Juan County Adult Detention Center shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

2. It is the San Juan County Adult Detention Center's policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to the San Juan County Sheriff's Office or an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The San Juan County Adult Detention Center shall publish this policy on its website at www.sjcounty.net and make the policy available through other means. The San Juan County Adult Detention Center shall document all such referrals.
3. When the San Juan County Adult Detention Center 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.
4. Where sexual abuse is alleged, the San Juan County Adult Detention Center shall use investigators who have received special training in sexual abuse investigations pursuant to Section 6. A. (Employee Training) of this policy.
5. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse involving the suspected perpetrator.
6. When the quality of evidence appears to support criminal prosecution, the San Juan County Adult Detention Center shall refer the case to the San Juan County Sheriff's Office for possible criminal prosecution.
7. 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 detainee or staff. The San Juan County Adult Detention Center shall not require a detainee who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with an investigation.
8. Administrative investigations:
 - 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.
 - c) Shall be referred to the San Juan County Sheriff's Office if there are substantiated allegations of conduct that appear to be criminal.

- d) The San Juan County Adult Detention Center shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated in administrative investigations.
9. Criminal investigations: Will be referred to and investigated by the San Juan County Sheriff's Office.
10. The San Juan County Adult Detention Center shall retain all written reports required by this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.
11. The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.
12. When other agencies investigate sexual abuse, the San Juan County Adult Detention Center shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.
13. Evidence Protocol and Forensic Medical Exams [§115.21]:
 - a) To the extent the San Juan County Adult Detention Center is responsible for investigating allegations of sexual abuse, it shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.
 - b) The San Juan County Adult Detention Center shall offer all victims of sexual abuse access to forensic medical examinations, without financial cost to the victim, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs), where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The San Juan County Adult Detention Center shall document its efforts to provide SAFEs or SANEs for this purpose.
14. Following an investigation into a detainee's allegation that he or she suffered sexual abuse, the San Juan County Adult Detention Center shall inform the detainee as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
15. Following a detainee's allegation that a staff member committed sexual abuse against him or her, the San Juan County Adult Detention Center shall subsequently inform the detainee whenever:
 - a) The staff member is no longer posted within the detainee's unit;
 - b) The staff member is no longer employed at the facility;

- c) The San Juan County Adult Detention Center learns that the staff member has been charged with or indicted on a charge related to sexual abuse within the facility; or
 - d) The San Juan County Adult Detention Center learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
16. Following a detainee's allegation that he or she has been sexually abused by another detainee, the San Juan County Adult Detention Center shall subsequently inform the alleged victim whenever:
- a) The facility learns that the alleged abuser has been charged with or indicted on a charge related to sexual abuse within the facility; or
 - b) The facility learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. All such notifications or attempted notifications shall be documented. The San Juan County Adult Detention Center's obligation to report under this standard shall terminate if the detainee is released from the agency's custody. [§ 115.73]
17. Sexual abuse incident reviews [§115.86]
- a) The San Juan County Adult Detention Center shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
 - b) The review shall ordinarily occur within 30 days of the conclusion of the investigation.
 - c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
 - d) The review team shall:
 - Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - (d2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
 - (d3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - (d4) Assess the adequacy of staffing levels in that area during different shifts;
 - (d5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - (d6) Prepare a report of its findings, including determinations made pursuant to this section, and any recommendations for improvement and submit the report to the facility head and the PREA Compliance manager or agency PREA Coordinator.
 - e) The San Juan County Adult Detention Center shall implement the review team's recommendations for improvement or document its reasons for not doing so.

G. Protection from Retaliation [§115.67]

1. The San Juan County Adult Detention Center policy is to protect all detainee's and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other detainees or staff.
2. The San Juan County Adult Detention Center shall employ multiple protection measures, such as housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
3. For at least 90 days following a report of sexual abuse, the San Juan County Adult Detention Center shall monitor the conduct and treatment of detainees or staff who reported sexual abuse, and of detainees who were reported to have suffered sexual abuse. This shall be documented on the PREA Retaliation Log (SJCADC-301). The purpose of this is to determine if there are changes that may suggest possible retaliation by detainees or staff and shall act promptly to remedy any such retaliation.
4. Any use of segregated housing to protect a detainee who is alleged to have suffered sexual abuse shall be subject to the same requirements that are discussed above in Section 4.G(3).

H. Sanctions for Individuals Found to have Participated in Sexual Abuse or Harassment

1. Disciplinary Sanctions for Staff [§115.76]
 - a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.
 - b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
 - c) Disciplinary sanctions for violations of the San Juan County Adult Detention Center policies relating to sexual abuse or sexual harassment shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

2. Corrective Action for Contractors and Volunteers [§115.77]
 - a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
 - b) The facility shall take appropriate remedial measures and shall consider whether to prohibit further contact with detainees, in the case of any other violation of the San Juan County Adult Detention Center's Sexual Abuse (PREA) policy by a contractor or volunteer.

3. Disciplinary Sanctions for Detainees [§115.78]
 - a) Detainees shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the detainee engaged in detainee-on-detainee sexual abuse or following a criminal finding of guilt for detainee-on-detainee sexual abuse.
 - b) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the detainee's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.
 - c) The disciplinary process shall consider whether a detainee's mental disability or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
 - d) The San Juan County Adult Detention Center may discipline a detainee for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
 - e) For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident, even if an investigation does not establish evidence sufficient to substantiate the allegation.

- I. Notifying Other Confinement Agencies [§115.63]
 1. Upon the San Juan County Adult Detention Center receiving an allegation that a detainee was sexually abused while confined at another facility, the Administrator or his/her designee shall notify the head of the other facility or agency where the alleged abuse occurred.

 2. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

 3. The San Juan County Adult Detention Center shall document that it has provided such notification.

VI. TRAINING AND EDUCATION:

The San Juan County Adult Detention Center is committed to communicating to the detainees at its detention center, to its employees, and to contractors and volunteers, the following information through the training, education and orientation programs described in this section:

- The San Juan County Adult Detention Center's zero tolerance policy;
- The San Juan County Adult Detention Center's policy to prevent, detect, and respond to sexual abuse and sexual harassment; and
- Other rights and obligations under this policy.

A. Employee Training [§115.31]

1. The San Juan County Adult Detention Center shall train all employees who may have contact with detainees on:
 - a) Its zero-tolerance policy for sexual abuse, sexual harassment and retaliation;
 - b) How to fulfill their responsibilities regarding prevention, detection, reporting, and response to sexual abuse and sexual harassment;
 - c) detainees' right to be free from all forms sexual abuse and sexual harassment;
 - d) The right of detainees and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - e) The dynamics of sexual abuse and sexual harassment in confinement;
 - f) The common reactions of sexual abuse and sexual harassment victims;
 - g) How to detect and respond to signs of threatened and actual sexual abuse;
 - h) How to avoid inappropriate relationships with detainees;
 - i) How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees;
 - j) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
2. Security staff employees shall be trained in how to conduct cross-gender pat-down searches, and how to conduct searches of transgender and intersex detainee, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.
3. Training shall be tailored to the gender of the detainee.

4. All current employees shall receive this training, and the San Juan County Adult Detention Center shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policy and procedures. In years in which an employee does not receive refresher training, the San Juan County Adult Detention Center shall provide refresher information on current sexual abuse and sexual harassment policy.
5. Specialized Training: Investigators [§115.34]
 - a) In addition to the general training provided to all employees, the San Juan County Adult Detention Center shall ensure that, to the extent it conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.
 - b) Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
6. Specialized Training: Medical and Mental Health Professionals [§115.35]

The San Juan County Adult Detention Center shall ensure that all full and part-time medical and mental health care practitioners who work regularly in its facility have been trained in:

 - a) How to detect and assess signs of sexual abuse and sexual harassment;
 - b) How to preserve physical evidence of sexual abuse;
 - c) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
 - d) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
7. The San Juan County Adult Detention Center shall document, through employee signature or electronic verification, that employees have received and understand the training. In the case of investigators who investigate sexual abuse in the facility, it shall maintain documentation they have completed the required specialized training in sexual abuse investigations. In the case of medical and mental health practitioners, it shall maintain documentation that they have received the specialized training described in this section.

B. Detainee Orientation and Education [§115.33]

1. During the intake process, detainees shall receive information explaining the San Juan County Adult Detention Center's zero tolerance policy regarding all forms of sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

2. Within 30 days of intake, the San Juan County Adult Detention Center shall provide comprehensive education to detainees either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and San Juan County Adult Detention Center's policy and procedures for responding to such incidents.
3. Current detainees shall be educated and receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility.
4. The San Juan County Adult Detention Center shall provide detainee education in formats accessible to all detainees, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to detainees who have limited reading skills.
5. The San Juan County Adult Detention Center shall maintain documentation of detainee participation in these education sessions.
6. In addition to providing such education, the San Juan County Adult Detention Center shall ensure that key information is continuously and readily available or visible to detainees through posters, detainee pamphlets and training video on the tablet (no charge).

C. Volunteer and Contractor Training [§115.32]

1. The San Juan County Adult Detention Center shall ensure that all volunteers and contractors who have contact with detainees have been trained on their responsibilities under the San Juan County Adult Detention Center's Sexual Abuse Prevention policy and procedures.
2. The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with detainees but all volunteers and contractors who have contact with detainees shall be notified of the San Juan County Adult Detention Center zero tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents.
3. The San Juan County Adult Detention Center shall maintain documentation confirming that volunteers and contractors understand the training they have received.

VII. DATA COLLECTION AND REVIEW [§§ 115.87- 89]

A. Data Collection [§115.87]

1. The San Juan County Adult Detention Center shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
2. The San Juan County Adult Detention Center shall aggregate the incident based sexual abuse data at least annually.
3. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
4. The San Juan County Adult Detention Center shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
5. Upon request, the San Juan County Adult Detention Center shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

B. Data Review for Corrective Action [§115.88]

1. The San Juan County Adult Detention Center shall review data collected and aggregated pursuant to Section 7. A. (Data Collection) above, to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policy, practices, and training, including by:
 - a) Identifying problem area(s).
 - b) Taking corrective action on an ongoing basis; and
 - c) Preparing an annual report of its findings and corrective actions for the agency.
2. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the San Juan County Adult Detention Center's progress in addressing sexual abuse.
3. The San Juan County Adult Detention Center's report shall be approved by the San Juan County Adult Detention Center Administrator and made readily available to the public through its website or, if it does not have one, through other means.

4. The San Juan County Adult Detention Center may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility but shall indicate the nature of the material redacted.

C. Data Storage, Publication, and Destruction [§115.89]

1. The San Juan County Adult Detention Center shall ensure that data collected pursuant to Section 7. A. is securely retained.
2. The San Juan County Adult Detention Center shall make all aggregated sexual abuse data, readily available to the public at least annually through its website or, if it does not have one, through other means.
3. Before making aggregated sexual abuse data publicly available, the San Juan County Adult Detention Center shall remove all personal identifiers.
4. The San Juan County Adult Detention Center shall maintain sexual abuse data collected pursuant to (Section 7. A.) for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.