

 <p>Scott Scott County Community Corrections Juvenile Alternative Facility</p> <p>PREA Policy & Procedure</p>	Chapter 1: Administration – Final REVIEW	
	Effective date: 08/01/16	Policy # JAF - 110
	Review /revise date: 09/19/2016	Pages: 14 Pages
References: 115.311, 115.313, 115.318, 115.341, 115.331, 115.351, 115.362, 115.354	Subject: Zero Tolerance	
	Distribution: All manual holders	
Authority: Prison Rape Elimination Act: Juvenile Standards 2012	Approved by: Scott County Community Corrections Director Tim Cleveland	

PURPOSE & SCOPE: The purpose and scope of this policy is to ensure the Scott County Juvenile Alternative Facility is in compliance with the Prison Rape Elimination Act (June 2012): Juvenile Standards, while meeting the needs of its residents in a safe and therapeutic environment which utilizes an evidenced based / best practices approach to care and services.

POLICY: The Scott County Juvenile Alternative Facility has zero tolerance with regard to sexual abuse, sexual misconduct or sexual harassment in the facility and will take appropriate affirmative measures to protect all inmates from sexual abuse and harassment and to promptly and thoroughly investigate all allegations of sexual abuse and sexual harassment.

RESPONSIBILITY:

Supervisory Responsibility:

The Scott County Juvenile Alternative Facility Supervisors are expected to administer this policy as indicated above.

Employee Responsibility:

Scott County Juvenile Alternative Facility Staff are responsible to conduct themselves in accordance with this policy.

DEFINITIONS: See Administrative Definitions

POLICY – JAF - 010

Zero Tolerance -115.311

1. The Scott County Juvenile Alternative Facility will not hire, promote, assign or transfer any staff, contractor or volunteer to a position that may allow contact with residents if the member has:
 - A. Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution as defined in 42 USC 1997.
 - B. Been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.
 - C. Been civilly or administratively adjudicated to have engaged in the activities described in this section.

Authority: 28 CFR 115.17

2. Before hiring new employees who may have contact with residents, the Scott County Juvenile Alternative Facility will:
 - A. Conduct a criminal background record check
 - B. Consistent with federal, state, and local law, makes its best effort 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.
3. A criminal background record check will be completed before enlisting the services of any contractor or volunteer who may have contact with residents.
4. The Scott County Juvenile Alternative Facility will consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor who may have contact with residents.
5. The Scott County Juvenile Alternative Facility will conduct criminal background record checks at least every five years on current employees, contractors, or volunteers who may have contact with residents. All applicants and employees who may have direct contact with residents will be asked about previous conduct described in this section in written applications or interviews for hiring or promotion, and in any interviews or written self-evaluation conducted as part of reviews of current employees. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

6. The Scott County Juvenile Alternative Facility will ensure that any contract for the confinement of Scott County Juvenile Alternative Facility residents includes the requirement to adapt and comply with the PREA standards including obtaining incident based and aggregated data, as required in CFR 115.187.
7. The Scott County Juvenile Alternative Facility (JAF) will not enter into or renew any collective bargaining agreement or other agreement that limits the JAF's ability to remove alleged staff sexual abusers from contact with any resident pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

PREA Coordinator – 115.311 B

The Facility Manager will appoint an upper level manager to be responsible for the implementation and oversight of compliance with PREA standards. The PREA Coordinator will review facility policies and practices and make appropriate compliance recommendations to the Facility Manager.

Sexual victimization screening – 115.341, 115.381

During the intake process, residents will be screened for risk of sexual victimization using the following criteria:

- A resident's mental, physical or developmental disability
- Age
- Physical build of the youth
- History of the youth
- Level of emotional and cognitive development
- Whether the youth has prior convictions for sexual offenses against children or adults
- Whether the youth is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming.
- Whether the resident has previously experienced sexual victimization.
- The resident's perception of their vulnerability
- Prior acts of sexual abuse, prior convictions for violent offenses, and the history of prior institutional violence or sexual abuse as known by the facility.

Resident Education - 115.333

During the intake process, and prior to being assigned to their wing, all residents will be provided with information about the JAF's zero-tolerance policy on sexual abuse and sexual harassment and how to report such incidents.

This information will be provided to residents verbally, in a language they understand, as part of a video or personal orientation by staff. Written information, in a language understood by the resident, will also be provided in the resident orientation book.

The JAF will provide every 30 days (typically on the first weekend of the monthly) a comprehensive educational group to residents either in person or through video regarding their rights to be free from sexual abuse, sexual harassment and to be free from retaliation for reporting such incidents, and regarding JAF policies and procedures for responding to such incidents.

The JAF will provide resident education in formats accessible to all residents, and parents including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills.

The JAF will ensure that key information is continuously and readily available or visible to resident through posters, resident handbooks or other written formats.

The JAF will maintain documentation of resident participation in these education sessions via Juvenile Adult Information Management System (JAIMS)

The JAF will ensure that the following are published on the Scott County Juvenile Alternative Website or by other means:

- JAF Policy governing investigations of allegations of sexual abuse and sexual harassment or the referral of such investigations of sexual abuse or sexual harassment, unless the allegations does not involve potentially criminal behavior.
- Information on how to report sexual abuse and sexual harassment on behalf of an inmate.

Reporting Sexual Abuse and sexual harassment - 115.351, 115.362, 115.354

1. Any employee, agency representative, volunteer or contractor who becomes aware of an allegation of an incident of sexual abuse, sexual harassment or retaliation against residents or staff will immediately notify a supervisor, who will forward the matter to a sexual abuse investigator (28 CFR 115.61).
2. All staff will immediately report to a supervisor any staff neglect or violation of responsibilities that may have contributed to an incident.
3. Apart from reporting to designated supervisors or officials and designated state or local services agencies to the extent necessary to make treatment, investigation, and other security management decisions, staff are prohibited from revealing any information related to a sexual abuse report to anyone else .

4. The JAF will provide information to all visitors or third parties on how they may report any incident of sexual abuse and sexual harassment and the limits of their confidentiality at the initiation of services.
5. Residents may report sexual abuse, sexual harassment, or retaliation incidents in writing, anonymously or from third parties to any staff member they choose. Staff will accommodate all resident requests to report allegations of sexual abuse or harassment. All verbal reports will be documented in an incident report and forwarded to a supervisor by the end of the shift.

Reports by Health Care Professionals -115.335, 115.361, 115.362, 115.354

1. Unless otherwise precluded by Federal, State, or local law, medical and mental health care professionals will be required to report immediately and according to JAF policy and procedure any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility.
2. It is the duty of Health Care Professionals to inform residents of their duty to report incidents of sexual abuse and sexual harassment and the limits of their confidentiality at the initiation of services.

Reports by Residents – 115.351

1. The JAF will not impose a time limit on when a resident may report sexual abuse.
2. The JAF will not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
3. Third parties, staff members, family members, attorneys and outside advocates, will be permitted to assist residents in filing requests for administrative remedies related to allegations of sexual abuse, and will also be permitted to file such requests on behalf of residents.
4. If a third party files such a request on behalf of a resident, the JAF may require as a condition of processing the requests 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.
5. If the resident declines to have the request processed on his or her behalf, the JAF will document the residents decision.
6. The JAF may discipline a resident for filing a report related to alleged sexual abuse only where the JAF demonstrates that the inmate filed the report in bad faith.
7. The JAF will ensure that:
 - a. A resident who alleges sexual abuse may submit a report without submitting it to the staff member who is the subject of the complaint.

- b. A report of sexual abuse is not referred to a staff member who is the subject of the complaint.

Reporting to other facilities - 115.363

1. If there is an allegation that an resident was sexually abused while he or she was confined at another facility, the Facility Manager will notify the head of that facility as soon as possible but not later than 72 hours after receiving the allegation. The facility manager will ensure that the notification has been documented. (Notification on a form- part of a form or stand-alone form, for notifying external agencies on PREA incidents).
2. Unless prohibited by law, the Scott County Juvenile Alternative Facility will provide information on substantiated allegations involving former employees upon receiving a request from an institutional employer for whom the employee has applied to work.

Reports from Other facilities and agencies - 115.363

If another correctional facility or agency reports an allegation that a resident was sexually abused while he or she was confined at the Scott County Juvenile Alternative Facility will be investigated as outlined:

1. Report if not taken by PREA Compliance Manager (PCM) or designee: a JAF PREA Incident Report shall be completed and forwarded to the PREA Compliance Manager
2. PCM shall determine appropriate course of action of internal/external investigation.
3. Investigation shall follow accepted and standardized investigative practices.

Retaliation Prohibited - 115.367

1. All residents and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations will be protected from retaliation.
2. Any resident who allegedly retaliates against another resident or staff member will be referred to an administrative investigation.
3. All staff will immediately report to a supervisor any staff neglect or violation of responsibilities that may have contributed to retaliation. -
4. If any other individual who cooperates with an investigation expresses a fear of retaliation, the JAF will take reasonable measures to protect that individual against retaliations (28 CFR 115.67).

Protective Measures - 115.367, 115.362

The Scott County Juvenile Alternative Facility may employ protective measures to prevent retaliation for staff and residents who report or cooperate with sexual abuse or sexual harassment investigations. These include but are not limited to:

- Housing changes
- Removal of alleged staff or resident abusers from contact with victims
- Administrative reassignment of staff.
- Emotional support services for residents or staff who fear retaliation.

Monitoring - 115.3, 115.367

The Juvenile Facility Manager or the authorized designee will assign a supervisor to monitor, for a minimum of 90 days, the conduct and treatment of residents or staff who report sexual abuse or sexual harassment and residents who were reported to have suffered sexual abuse to determine if there is any possible retaliation. Monitoring will be extended beyond 90 days if the initial monitoring indicates a continuing need. Monitoring will consist of administrative review of incidents, youth daily logs and behavior Chrono's, conducting direct observations and through conversation with youths or staff.

Disciplinary sanctions for Staff – 115.376

1. Termination will be the presumptive disciplinary sanction for staff members who engage in sexual abuse.
2. Disciplinary sanctions for violations of this policy (other than actually engaging in sexual abuse) will 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.
3. All terminations for violations of sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies (28 CFR 115.76).

Disciplinary sanctions for Residents -115.352, 115.362

1. Residents will be subject to disciplinary sanctions following a formal disciplinary process and administrative finding that the resident engaged in resident on resident sexual abuse, or following a criminal finding of guilt for resident-on-resident sexual abuse.
2. Sanctions will be imposed according to the Resident Disciplinary policy. The nature and circumstances of the abuse committed, the resident's disciplinary history, and

- the sanctions imposed for comparable offenses by other residents with similar histories will be considered when imposing sanctions.
3. This disciplinary process will consider whether an resident mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
 4. The Scott County Juvenile Alternative Facility will discipline a resident for sexual contact with a staff only upon finding that the staff member did not consent to such contact.
 5. A report of sexual abuse made in good faith and based upon a reasonable belief that the alleged conduct occurred, will not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
 6. The Scott County Juvenile Alternative Facility prohibits all sexual activity between residents and will discipline residents for such activity. However, such activity will not constitute sexual abuse if an investigation determines that the activity was not coerced. However, investigation doesn't rule out other actions required by federal, state, and municipal laws.

Sexual Abuse by a contractor or volunteer -115.377

The Scott County Juvenile Alternative Facility shall ensure any contractor or volunteer who engages in sexual abuse is prohibited from contact with residents and reported to law enforcement agencies (unless the activity was clearly not criminal) and relevant licensing bodies, where applicable.

If a volunteer or contractor is found to have violated the Scott County Juvenile Alternative Facility sexual abuse or sexual harassment policy, the facility shall take the following remedial measures:

- i. The contractor/volunteer shall be escorted out of the facility by staff; reported to the contracted or volunteers organization.
- ii. The contractor/volunteer will not be allowed back on facility grounds and further contact with the JAF or its residents will be prohibited until cleared through an investigation.

Data Reviews - 115.387, 115.388, 115.389

The JAF will conduct an annual review of collected and aggregated incident-based sexual abuse data. The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and responses Policies, Practices and Training by:

- Identifying problem areas
- Identifying corrective actions taken

- Recommending corrective actions
- Comparing current annual data and corrective actions with those from prior years.
- Assessing the offices progress in addressing sexual abuse

The reports will be approved by the Facility Manager and made available through the office website. Material may be redacted from the reports when publication would present a clear and specific threat to safety and security of the facility. However, the nature of the redacted material will be indicated (28 CFR 115.88).

Records

1. All case records and reports associated with a claim of sexual abuse and sexual harassment, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluations findings, and recommendations for post-release treatment or counseling, will be retained in accordance with privacy laws.
2. The Juvenile Alternative Facility will retain all written reports from administrative and criminal investigations pursuant to this policy, at a minimum, for as long as the alleged abuser is held or employed by the Community Corrections, plus five years (28 CFR 115.17)
3. All other data collected pursuant to this policy will be securely maintained for at least 1- year after the date of the initial collection, unless federal, state or local law requires otherwise (28 CFR 115.89).

Training on Prevention and Detection of Sexual Abuse - 115.331, 115.332, 115.334

All employees, volunteers and contractors who may have contact with residents will receive Community Corrections approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The PREA coordinator will be responsible for developing and administering this training as appropriate, covering at a minimum:

- The JAF zero-tolerance policy and residents rights to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- How to fulfill responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.
- The dynamics of sexual abuse and harassment in confinement settings, including which residents are most vulnerable.
- The right of residents and employees to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.

- How to detect and respond to signs of threatened and actual abuse.
- How to communicate effectively and professionally with all residents, including gay, lesbian, bisexual, transgender, intersex and gender nonconforming residents.
- How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
- The common reactions of sexual abuse and sexual harassment victims.
- How to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible consistent with security needs.

PREA Training for Employees/Volunteers/Contractors/Investigators (28CFR 115.131)

The JAF will maintain documentation that employees, volunteers, contractors, and investigators have completed required training and that they understand the training. This understanding will be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with residents will be trained within one year of the effective date of the PREA standards. The JAF will provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

Specialized Medical Training- 115.335

All qualified health care and mental health professionals who work regularly in the facility will receive all of the member training listed above, as well as training that includes:

- How to detect and assess signs of sexual abuse and sexual harassment
- How to preserve physical evidence of sexual abuse
- How to respond effectively and professionally to victims of sexual abuse and sexual harassment.
- How and to whom to report allegations or suspicions of sexual abuse.

(28 CFR 115.35)

The JAF will maintain documentation that the facilities health care and mental health professionals have received the training referenced above, either from this office or elsewhere.

Specialized Investigative Training - 115.333, 115.334, 115,335

The JAF will ensure any staff used in an investigative role shall complete the online National Institute of Corrections IC PREA Investigator Training, along with specialized investigative training for investigators. Any such training shall include a uniform evidence protocol to maximize potential for obtaining useable physical evidence; 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 referral for prosecution (28 CFR 115.21; 28 CFR 115.34).

Additional Scott County Policies

Reference:

SCER - Employee Discipline - Minn. Stat. 364.03, 375.56-375.71, RES 84048, 96191

A County employee may be subject to disciplinary action by departmental or administrative authority for willful or negligent failure to fulfill job duties and responsibilities. All disciplinary action shall be for just cause and shall be subject to review through the grievance procedure.

SCER – Respectful Workplace – RES 2011-219

Scott County is committed to maintaining an inclusive, professional, and productive workplace where diversity is valued and all employees are treated with dignity and respect. This policy is intended to provide and establish guidelines about conduct that is and is not appropriate or acceptable in the Scott County workplace and the actions the County will take to address issues of unlawful workplace discrimination and or harassment.

SCER – Definitions – REV. 12.13.2005

SCER – Anti-Violence Policy – Res 97072

Scott County is committed to maintaining a respectful environment that is safe and secure and free of violence for employees, clients, volunteers, citizens and public patrons of Scott County. The county will provide timely response to any violence or threat of violence at any county work site. Complaints of violence shall be investigated and appropriate action shall be taken. All employees share the responsibility of maintaining a safe and violent-free environment.

Violence shall be defined as intentional acts of intimidation or harassment and/or the threatened or actual use of force which results in or has a high likelihood of causing hurt, fear, or injury to a County employee or County patron's person or property.

Community Corrections – Mandated Reporting – FO-035

Scott County Community Corrections (SCCC) staffs are mandated reports and will report instances of suspected abuse or endangerment of children or vulnerable persons as outlined in MN 626.556, MN 626.557, and MN 244.057. SCCC staffs are considered mandated reporters during and outside of regular work hours.

SCER – Grievance Procedure – Minn Stat. 375.56-375.71, RES 84048, 91064, 96191

A grievance is a dispute or disagreement raised by an employee or group of employees against the County and/or the department manager because of an alleged violation of these policies.

SCER – Termination of Employment Policy – Minn. Stat. 375.56-375.71m, RES 84048, 96191, 2006-030

Employees of the County may be separated from County service due to retirement, resignation, dismissal for cause, reduction of work, or lack of funds.

Prison Rape Elimination Act: Juvenile Standards 2012