

CLARKE COUNTY SHORT TERM JUVENILE DETENTION FACILITY

PREA POLICIES AND PROCEDURES

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| SUBJECT: Investigation Protocol S.O.P | DATE: 03/01/2018 |
| APPROVAL AUTHORITY: | |

Investigations:

A. Allegations.

1. All allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, will be promptly, thoroughly, and objectively investigated.
2. After notification of an allegation of possible sexual abuse or sexual harassment, the Clarke County Sheriff's Office Investigations Unit will start the Sexual Incident Report Investigator form.
3. If the alleged victim chooses not to provide information or participate in the investigation and/or prosecution of the suspected abuser, the Investigations Unit will document this information.
4. If a staff member is the alleged perpetrator of a sexual abuse against a juvenile, the Sheriff will be notified immediately.
 - a. The Sheriff or his/her designee may notify Human Resources.
 - b. The Sheriff, at his/her discretion, may take any or all of the following action(s) against a staff member accused of a sexual abuse against a juvenile: 1) Suspend the person or place him/her on paid/unpaid leave. 2) Ban the person from being on the premises of the facility. 3) Ban the person from having any telephone contact or written correspondence with the reported victim. 4) Ban the person from having any telephone contact or written correspondence with jail personnel.

B. Protocol for Responding to Sexual Abuse.

1. Trained security staff will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data. Staff will interview

alleged victims, suspected perpetrators, and witnesses and review prior complaints and reports of sexual abuse involving the suspected perpetrator.

2. In accordance with state law, if the sexual assault kit evidence is released to the Clarke County Sheriff's Office Investigations Unit by the health care facility performing the examination, Investigation Unit staff will follow standard protocol for handling evidence and ensure the evidence is submitted to the Alabama Department of Forensic Science within fourteen days of receiving the evidence.

3. The credibility of an alleged victim, suspect or witness will be assessed on an individual basis and shall not be determined by the person's status as juvenile or staff. Juveniles alleging sexual abuse are not required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the initial investigation of such an allegation.

4. The jail staff will follow the protocol for Sexual Abuse-First Responder Checklist form when responding to and coordinate actions taken in response to an incident of sexual abuse.

C. Administrative Investigations.

1. The Clarke County Sheriff's Office Investigations Unit will investigate all reported sexual incidents to determine:

- a. If a reported sexual incident was an act of sexual abuse or sexual harassment.
- b. If the reported act was a consensual juvenile-with-juvenile act – it is a violation of institutional rules but not a case of sexual abuse.
- c. If the reported act was non-consensual juvenile-with-juvenile act – it is a violation of institutional rules and may be a case of sexual abuse. These cases shall be referred to the District Attorney's office for a criminal prosecution.
- d. Any sexual act between staff and juveniles is non-consensual. These cases shall be referred to the District Attorney's office for criminal prosecution.

2. In addition, the Clarke County Sheriff's Office Investigations Unit or the District Attorney's Office will also determine if the reported sexual act was:

- a. Substantiated – The investigation & evidence indicated that the incident did happen.
- b. Unsubstantiated – Insufficient evidence to determine outcome.
- c. Unfounded – The investigation and evidence indicate the act did not happen.
- d. Informational – Information does not contain identified victim and/or abuser or the incident was determined to be a consensual act.

3. The Clarke County Sheriff's Office Investigations Unit will impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

4. The Clarke County Sheriff's Office Investigations Unit will refer incidents involving possible criminal violations to the District Attorney's Office for criminal prosecution.

5. The Clarke County Sheriff's Office Investigations Unit will enter the investigation information, summaries, reports, and conclusions on the MOVE database and a case file will be maintained with all information within three (3) to five (5) working days of the conclusion of the sexual incident investigation.

6. Within seven (7) calendar days of the conclusion of all sexual abuse investigations, The Clarke County Sheriff's Office Investigations Unit will send copies of the completed Sexual Incident Report and all forms and reports to the facility PREA Compliance Manager and DOC PREA Coordinator.

a. The Clarke County Sheriff's Office Investigations Unit will maintain documentation that agency investigators have concluded all sexual abuse investigations including consensual, unfounded and those with informational. 1) Documentation shall include efforts to determine whether staff actions or failures to act contributed to the abuse; and 2) Written reports that includes a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

7. The facility will retain all written reports for as long as the alleged abuser is incarcerated or employed by the Clarke County Short Term Juvenile Detention Facility, plus five years.

8. The sharing of information pertaining to the alleged sexual assault/rape and identity of the victim(s) should be limited to those who must know. Sharing information regarding the victim and/or incident shall be conducted in a manner that is in accordance with all applicable policies, state statutes, and professional licensure and ethics standards.

9. The departure of the alleged abuser or victim from the employment or custody of the Clarke County Short Term Juvenile Detention Facility will not provide a basis for terminating an investigation.

D. Criminal Referrals.

1. The Clarke County Sheriff's Office Investigations Unit will oversee the investigation of all reported sexual abuse determined by staff to possibly include criminal conduct occurring at the Clarke County Short Term Juvenile Detention Facility. The chain of custody of the evidence shall be recorded and preserved.

a. The Sheriff will determine if criminal charges will be filed. 1) Substantiated allegations of conduct that appear to be criminal will be referred for prosecution.

b. If criminal charges are filed, the Clarke County Sheriff's Office Investigations Unit will coordinate the prosecution with the Attorney General's Office and/or local county States Attorney office.

c. Staff members will fully cooperate with the investigation. 1) 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. 2) The facility shall cooperate with criminal investigators and shall endeavor to remain informed about the progress of the investigation. 3) 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.

Reaction to Incidents:

A. Protective Custody.

1. Juveniles at high risk for sexual victimization or who are alleged to suffer from sexual abuse will not be placed in involuntary protective custody unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. If such an assessment cannot be conducted immediately, the juvenile may be held in involuntary segregated housing for a period not to exceed 24 hours while the assessment is completed.

2. Juveniles placed in protective custody shall have access to approved programs, privileges, education, and work opportunities. If the juvenile's access to approved programs, privileges, education, or work opportunities are restricted, staff shall document:

- a. The opportunities that have been limited;
- b. The duration of the limitation; and
- c. The reasons for such limitations.

3. Juveniles shall be assigned to involuntary protective custody status only until an alternative means of separation from likely abusers can be arranged. Such assignment shall not ordinarily exceed a period of 30 days.

4. If a juvenile is assigned to involuntary protective custody status pursuant to paragraph (a) of this section, staff shall clearly document:

- a. The basis for staff's concern for the juvenile's safety; and
- b. The reason why no alternative means of separation can be arranged.

5. At a minimum, staff shall afford each juvenile on involuntary protective custody status a review every 30 days. The purpose of the review is to determine whether there is a continuing need for the juvenile's separation from the general population.

B. Reporting to Juveniles.

1. Following an investigation into a juvenile's allegation he or she suffered sexual abuse in the Clarke County Short Term Juvenile Detention Facility, the Clarke County Sheriff's Office Investigations Unit shall inform the juvenile as to results of the investigation into the allegation.

2. If the Clarke County Sheriff's Office Investigations Unit did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the juvenile.

3. If the incident involves a staff member committing sexual abuse against a juvenile, staff will inform the juvenile whenever:

- a. The staff member is no longer posted on the juveniles unit.
- b. The staff member is no longer employed at the facility.
- c. The staff member has been indicted on a charge related to sexual abuse within the facility.
- d. The staff member has been convicted of a charge related to sexual abuse within the facility.
- e. The Sheriff has the discretion to call any outside agency in to conduct an investigation involving a staff member.

4. If another juvenile committed the sexual abuse against a juvenile and the juvenile victim is in the Clarke County Short Term Juvenile Detention Facility custody, staff shall inform the abused juvenile whenever:

- a. Staff learns the alleged abuser has been indicted on a charge related to sexual abuse within the facility.
- b. Staff learns the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

5. All such notifications or attempted notifications shall be conducted in a timely manner and documented by the Clarke County Sheriff's Office Investigations Unit.

C. Protection against Retaliation.

1. At the completion of the investigation, the Clarke County Sheriff's Office Investigations Unit will complete the initial protection measures and contact appropriate staff for information and follow-up. All such monitoring and status checks will be documented by the Clarke County Sheriff's Office Investigations Unit.

- a. The monitoring shall begin immediately after an allegation is made and will terminate if the allegation is determined by investigation to be unfounded.

2. For a minimum of 90 days following the report of the alleged sexual abuse, the facility PREA Coordinator and the PREA Compliance Manager shall monitor juveniles or staff who report sexual abuse.

- a. The Clarke County Sheriff's Office Investigations Unit will investigate and respond to all reports of retaliation.

- b. Staff shall take appropriate measures to protect juveniles against retaliation.

D. Disciplinary Sanctions for Staff, Volunteers or Contractors.

1. If a staff member employed by the Clarke County Short Term Juvenile Detention Facility knowingly engages in an act of sexual penetration with a juvenile, they are guilty of a possible Class A felony.

2. Staff who commit sexual abuse or sexual harassment against any juvenile in violation of the Clarke County Short Term Juvenile Detention Facility policy or applicable state statutes, is subject to disciplinary actions, up to and including termination of employment.

- a. Termination shall be the presumptive disciplinary sanction for staff found to have engaged in sexual abuse.

3. Disciplinary sanctions for violations of Clarke County Short Term Juvenile Detention Facility policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) 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.

4. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

5. Any staff member or contractor or volunteer who engages in:

- a. Sexual abuse shall be prohibited from contact with juveniles and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to the relevant licensing bodies.

- b. Sexual harassment or any other violation of the Clarke County Short Term Juvenile Detention Facility sexual abuse or sexual harassment policy shall take remedial measures and shall consider prohibiting any further contact with juveniles