

Zero Tolerance

Cherry Health will provide guidelines to help prevent sexual assaults on residents of correctional programs, to address the safety and treatment needs of residents who have been sexually assaulted, and to discipline and/or prosecute those who sexually assault residents. The anticipated results of this policy are effective procedures to provide prevention information and training to prevent sexually assaultive behavior and to promote the medical, psychological, safety, and social needs of victims of sexual abuse or assault. All allegations of sexual abuse or assault will be promptly and effectively reported and investigated, and assailants, once identified, will be controlled, disciplined, and/or prosecuted.

Definitions

Resident on Resident Sexual Abuse/Assault: One or more residents engaging in, or attempting to engage in a sexual act with another resident, or the use of threats, intimidation, inappropriate touching, or other actions and/or communications by one or more residents aimed at coercing and/or pressuring another resident to engage in a sexual act. Sexual acts or contacts between residents, even when no objections are raised, are prohibited acts.

Staff on Resident Sexual Abuse/Assault: Engaging in or attempting to engage in a sexual act with any resident, or the intentional touching of a resident's genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person. Sexual acts or contacts between a resident and a staff member, even if/when no objections are raised, are always prohibited and are always illegal.

Program Coordination

The facility manager, or designee, will be responsible for the implementation and enforcement of this policy and to develop programming to prevent sexual abuse/assault, intervening when sexual abuse/assault have been alleged to have occurred, and to notify the Federal Bureau of Prisons (FBOP) when an assault allegation has been made.

The facility manager will assign the task of implementing programming to ensure residents have knowledge of this policy to the clinical supervisor. The specific elements of the program will include educating and training staff and residents, safeguarding, assessing, treating, and managing sexually assaulted residents, and the notification process to the FBOP if an alleged event has occurred.

Prevention

All staff and residents are responsible for being alert to signs of potential situations in which sexual assaults might occur.

1. All residents entering the facility will be screened through a review of their presenting history as documented by the FBOP. When a resident reports having been a victim of sexual abuse/assault and expresses a willingness to participate in treatment, staff will make sure to address the issue in their treatment plan and develop/provide resources to assist in treatment.

Presenting sexual abuse/assault also suggests that staff should attempt to identify sexually assaultive residents. In fact, care must be taken to identify and document any history of sexually assaultive behavior.

Accordingly, during intake screening procedures, staff will review available documentation (e.g., judgment and commitment orders, criminal records, pre-sentence investigation reports, file data, etc.) for any indication that a resident has a history of sexually aggressive

behavior. The results of this assessment along with any treatment recommendations and the resident's motivation to participate in treatment should be documented in the resident's file.

2. All staff will be trained to recognize the physical, behavioral, and emotional signs of sexual assault, understand the identification and referral process when an alleged sexual assault occurs, and have a basic understanding of sexual assault prevention and response techniques.

For new staff, a discussion of sexual abuse/assault prevention and intervention will be part of orientation training and should include a review of the facility's sexual abuse/assault policy and staff responsibilities to prevent and report sexual assaults. For existing staff, more extensive information about the program will be included as a part of Annual Refresher Training.

In addition to Annual Refresher Training, specialized training should be made available to staff who are likely to be most involved in the treatment or management of sexually assaulted residents.

3. As part of the orientation of residents, they will receive information about PREA and Cherry Health's expectations of how they are to conduct themselves while in Cherry Health's Residential Reentry program. Also, residents will be told how they can protect themselves from becoming victims while placed in the program, treatment options available to victims of sexual assault, and methods of reporting incidents of sexual abuse/assault.

This presentation will also include information on services and programs (counseling, sex offender treatment) for sexually assaultive or aggressive residents. Each resident will also receive an information pamphlet summarizing key elements of this presentation.

Prompt and Effective Intervention

Staff sensitivity toward residents who are victims of sexual abuse/assault is critical. Staff will take seriously all statements from residents that they have been victims of sexual assaults and respond supportively and non-judgmentally. Any resident who alleges that he or she has been sexually assaulted will be offered immediate protection from the assailant and will be referred for a medical examination as well as a clinical assessment of the potential for suicide or other related symptomatology.

1. **Referral.** Staff will provide services to victims and will report all alleged sexual assaults to the FBOP. Information concerning the identity of a resident victim reporting a sexual assault, and the facts of the report itself, will be limited to those who have a need to know in order to make decisions concerning the resident-victim's welfare and for investigative purposes.

When a staff member(s) is alleged to be the perpetrator of resident sexual abuse/assault, the facility manager will be advised immediately. The facility manager will refer the incident directly to the Federal Bureau of Prisons. The timely reporting of all incidents and allegations is of paramount importance.

- a. **During normal business hours,** staff will promptly advise the facility manager of any resident who has been, or claims to have been, sexually assaulted. The facility manager or designee will immediately provide for the resident's physical safety, and ensure that the resident is promptly referred to treatment. The facility manager will also ensure that the appropriate notifications and reports are made.

- b. **Non-business Hours.** During the evening and night shifts, when the potential for sexual assaults is greater, staff will immediately notify the program manager who will notify the facility manager. Staff will immediately provide for the physical safety (e.g., separating the assailant from the victim) of the resident who reports being sexually assaulted. On-call clinical staff will be contacted to assess the resident's needs and start the treatment process.
 - c. **Medical Report of Injury.** When an assault is reported, medical on-call will be contacted to arrange for an assessment of the resident.
 - d. **Services.** At a minimum, the following services should be available to all residents who claim to be the victim of a sexual abuse/assault during their stay in the program. These services should be provided in an environment that meets both the resident's safety and therapeutic needs.
 - **Medical.** Examination, documentation, and treatment of injuries arising from an alleged sexual assault, including testing for HIV and other Sexually Transmitted Diseases (STD).
 - **Mental Health Services.** Crisis intervention and assessment of treatment needs.
 - **Social.** Family support and/or peer support should be provided when available and appropriate. Case management staff should be sensitive to family concerns if the resident-victim notifies relatives or friends of the assault.
 - **Protective.** Staff consultation and/or action to prevent further assaults should be considered (e.g. closer supervision, protective custody with the BOP, transfer, etc.)
2. **Responsibilities.** All staff are responsible for immediately referring cases of sexual abuse/assault when they become aware of them to the appropriate staff as defined in this policy. All staff are also expected to handle allegations of sexual abuse/assault sensitively and non-judgmentally.
- a. All residential staff, particularly the assigned case manager and RCC staff, will closely monitor and supervise any resident who has been sexually assaulted. This may include closer monitoring policies, and the careful review of security and housing assignments.
 - b. Additionally, facility manager or designee will refer residents who have committed sexual assaults to the FBOP for possible sanctions including removal from the program and a return to prison.
 - c. Leadership staff will coordinate such matters as evidence and witness testimony collection and utilize the FBOP incident report process to communicate the details of the incident to the FBOP.

Response to Allegations of Sexual Abuse and Harassment

Policy:

Cherry Health will not tolerate the sexual abuse or sexual harassment of any resident in any manner or form. Sexual misconduct among residents and by staff toward a resident is strictly prohibited. All reports of alleged sexual misconduct and/or retaliation will be investigated administratively and/or criminally. A violation of the Prison Rape Elimination Act (PREA) standards by a resident can result in removal from the program. A violation by staff is grounds for termination. Upon receiving an allegation that a resident was sexually abused while confined at another institution, the PREA Coordinator will notify the appropriate agency where the allegation occurred within 72 hours.

Definitions:

- A. Sexual Harassment:** Sexual harassment includes repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by a staff member, contractor, volunteer, intern or resident directed toward another. It also includes demeaning references to gender, and sexually suggestive or derogatory comments about body or clothing.
- B. Voyeurism:** An invasion of privacy of a resident by a staff member, contractor, or volunteer for reasons unrelated to official duties such as peering at a resident who is performing bodily functions; requiring a resident to expose his or her buttocks, genitals, or breast; or taking images of all or part of a resident's naked body or of any resident performing bodily functions.

C. Sexual Abuse:

Sexual abuse of a resident by another 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.
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 resident by a staff member, contractor, intern, or volunteer includes any of the following acts, with or without consent of the 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, intern, 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, intern, 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, intern, or volunteer to engage in the activities described in paragraphs 1-5 of this section.
7. Any display by a staff member, contractor, student, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a resident.
8. Voyeurism by a staff member, contractor, intern, students, or volunteer.

Procedure:

- A. Safe and Secure:** Residents entering Cherry Health residential reentry facilities have the right to be housed in a safe and secure environment, free from harassment, abuse (physical, mental, verbal, etc.) and sexual abuse or harassment. Any staff member observing or receiving a report of any resident being subjected to any type of harassment

will immediately stop the harassing behavior. The facility manager will be informed and then staff will follow the policy and procedure outlined in occurrence reporting.

B. Reporting an Allegation: Reporting by resident, third parties, outside agencies, and staff:

1. A resident may report allegations of sexual misconduct or retaliation by another resident or staff verbally, in writing, using the toll free help line, or to a third party toll free hot line. Residents will be given the opportunity to remain anonymous during the report. Information as to how to report will be posted conspicuously throughout the facility, during orientation group, and upon intake. There is no time limit on when a resident may report sexual misconduct.
2. The facility will establish an e-mail link on the official website that allows for third party reports of sexual misconduct on behalf of a resident. Information on how to report will also be posted in all entrance areas.
3. All contractors, students and volunteers will receive training on the facility's zero tolerance policy, how to report sexual abuse and sexual harassment, the prevention and detection of sexual abuse and sexual harassment, the legal prohibition of any sexual activities with resident, and sexual assault prevention strategies.
4. All staff members will report immediately any knowledge, suspicion, or information regarding an incident of sexual misconduct to Corporate Compliance, the facility manager or designee. Staff will also report retaliation against residents or staff who report such incidents and any staff neglect or violation of responsibilities that may be contributed to an incident or retaliation. Staff can privately report sexual misconduct verbally or in writing directly to Corporate Compliance, the facility manager or designee. Corporate Compliance will ensure that the allegation is investigated and maintain a confidential file of the privately reported allegations.
5. All reports from other agencies or institutions that alleged sexual abuse or sexual harassment has occurred with a former resident will be investigated in accordance with PREA policies.

C. Reports: All reports of allegations of sexual misconduct and retaliation, including third party and anonymous reports, will be reported using the occurrence reporting process. Any information related to sexual victimization will be strictly limited to medical and mental health providers, and other staff as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as required by law. Staff will not reveal any information related to a sexual abuse report to anyone other to the extent necessary. Cherry Health will retain all written reports for as long as the alleged is incarcerated or employed by the agency plus five years.

D. Coordinated Response:

Initial Response and Protection: Upon report of an allegation of sexual abuse staff will:
First Responders:

1. Separate the alleged victim and abuser.
2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.
3. The responder will be required to request that the alleged victim not take any action that could destroy physical evidence and that the abuser not take any action that could destroy physical evidence. If staff is not the responder, the responder will notify a staff member.
4. If the resident is subject to substantial risk of imminent sexual abuse, staff will take immediate action to protect the residents at risk of victimization.

Medical Services:

1. In cases of alleged completed sexual abuse, the resident will be taken to the emergency room for a sexual assault examination, documentation, testing for sexually transmitted diseases, counseling, prophylactic treatment, follow up, and referral for mental health services.
2. The facility will make available to the alleged victim a third party rape crisis center advocate. If there is no advocate available a staff member trained in victim advocacy will offer supportive services.
3. Treatment services will be provided to the alleged victim without financial cost and regardless of whether the alleged victim names the abuser or cooperates with the investigation.
4. The medical provider will inform the resident of their duty to report, and the limitations of confidentiality, at the initiation of services.

Mental Health Services:

1. Residents referred to mental health following an allegation of sexual abuse will be seen by mental health professional at no financial cost to the alleged victim.
2. The mental health provider will inform the resident of their duty to report, and the limitations of confidentiality, at the initiation of services.
3. If resident discloses they are a victim of abuse, mental health services will be offered.

Protection:

1. The shift supervisor will ensure that the victim and aggressor are physically separated.
2. The victim will be housed in an environment that will, to the extent possible, permit the victim the same level of privileges the victim was permitted immediately prior to the sexual abuse. Any use of segregated housing to protect an resident who is alleged to have suffered sexual abuse will be subject to the following requirements:
 - a. Involuntary separation will not be utilized unless an assessment of all available alternatives has been made and it has been determined that there is no available alternative means of separation from likely abusers.
 - b. Staff will clearly document the basis for the concern for the resident's safety and the reason why no alternative means could be arranged.
 - c. Resident will have access to programs, privileges, education, and work opportunities to the extent possible. If access is restricted, staff will document opportunities that have been limited and the reason for such limitation.
 - d. Involuntary separation will only be used until alternative means of separation from likely abusers can be arranged and will not ordinarily exceed 10 days.
 - e. Every 10 days, staff will review to determine whether there is a continuing need for the separation.
- A. If the alleged abuser is an employee, immediate efforts will be made to eliminate contact between the resident and the staff member.
- B. A PREA risk assessment will be completed to document any changes in a resident's PREA classification.

E. Investigation: All allegations of sexual abuse and sexual harassment will be investigated administratively and/or criminally.

Administrative Investigation:

1. All allegations will be investigated by a trained, internal PREA investigator.
2. The investigator will include an effort to determine whether staff actions or failures to act contributed to the abuse.
3. The investigator's written report will include a description of all the evidence, the reasoning behind the credibility assessments, and investigative facts and findings.

4. The departure of the alleged abuser or victim will not provide a basis for terminating an investigation.
5. Substantiated allegations of conduct that appears to be criminal will be referred to the local sheriff's office.
6. Investigations referred to the local law enforcement will have the full cooperation of the facility and include them in the progress of the investigation.
7. The facility will impose no standard higher than a preponderance of the evidence in determining whether the allegations of sexual abuse or sexual harassment are substantiated.

Criminal Investigation, to be completed by law enforcement:

1. Will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; will interview victims, suspected perpetrators, and witnesses; and will review prior complaints and reports of sexual abuse involving suspected perpetrators.
2. Will conduct compelled interviews only after consulting with prosecutors as to whether completed interviews may be an obstacle for subsequent criminal prosecution.
3. Assess the credibility of an alleged victim, suspect, or witness on an individual basis and not to be determined by the person's status as a resident or staff.
4. Will not require an alleged victim to submit to a polygraph examination or other truth telling devices as a condition for proceeding with the investigation of such an allegation.
5. Will document in a written report a thorough description of physical, testimonial, and documentary evidence with attached copies of all documentary evidence where feasible.
6. Will refer all substantiated allegations that appear to be criminal to prosecution
7. The departure of the alleged victim or abuser from the facility will not provide a basis for terminating the investigation.

Reporting to Resident:

1. Following an investigation into a resident's allegation of sexual abuse, the agency will inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. If the agency did not conduct the investigation, Cherry Health will request the relevant information from the investigative agency in order to inform the resident.
2. Following a resident's allegation that a staff member has committed sexual abuse against the resident, Cherry Health will inform the alleged victim (unless the allegation has been determined to be unfounded) whenever:
 - a. The staff member is no longer employed at the facility.
 - b. Cherry Health learns that the staff member has been indicted or convicted on a charge related to sexual abuse within the facility.
3. Following a resident's allegation that he or she has been sexually abused by another resident, Cherry Health will inform the alleged victim whenever:
 - a. Cherry Health learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility.
4. All notifications will be documented.
5. Cherry Health's obligation to report will terminate if the resident is released from the facility.

Retaliation: All residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations will be free from retaliation by other resident or staff, volunteers, interns, contractors. Cherry Health will monitor all incidents for retaliation.

- a. Cherry Health will use housing changes, removal of alleged staff or resident abusers from contact with victims, and emotional supportive services for resident or staff that fear

retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

- b. The facility manager or designee will monitor the conduct and treatment of resident or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse for at least 90 days following a report of sexual abuse.
- c. Monitoring will include any resident disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff, and also periodic status checks of resident.
- d. If any other individual who cooperates with an investigation expresses a fear of retaliation, Cherry Health will take appropriate measures to protect that individual.
- e. Monitoring will be terminated if the allegation is determined to be unfounded.

F. Sexual Abuse Incident Reviews: The facility will have a Sexual Abuse Response Team that conducts 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. The team will prepare a report of its findings and any recommendations for improvement, and submit the report to the Director of Specialty Health Programs. The manager will implement the recommendations for improvement, or will document reasons for not doing so. Such review will:

- 1. Occur within 30 days of the conclusion of the instigation.
- 2. Review team will include the chief medical officer, the manager and Corporate Compliance Team.
- 3. Consider whether the allegation or investigation indicates a need to change policy and/or practice to better prevent, detect, or respond to sexual abuse.
- 4. 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.
- 5. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- 6. Assess the adequacy to staffing levels in that area during different shifts.
- 7. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.