




# Fulton County Sheriff's Office

## Jail Operations Standard Operating Procedures

<b>Effective Date:</b> December 20, 2023	<b>Number:</b> 400-12.02	<b>Pages:</b> 7
<b>Chapter:</b> Care <b>Subject:</b> PREA Investigation Procedures	<b>Distribution:</b> All Jail Operations Personnel	
<b>References:</b> ACA: 5-ALDF-4D-23, 4D-26, 4D-27, & 4D-29, <b>Related PREA Standards:</b> §115.21 through §115.22, §115.34, §115.66, §115.71 through §115.73, §115.76 through §115.78	<b>Amends/Rescinds:</b> February 6, 2023 September 8, 2023	
<b>Approving Authority Signature:</b> 	<b>Date:</b> December 19, 2023	

### I. PROGRAM OBJECTIVES

Fulton County Sheriff's Office (FCSO) mandates zero tolerance towards all forms of sexual abuse and sexual harassment in all its facilities. This procedure manual is applicable to all facilities under the governing authority of FCSO that fall within the scope of the Prison Rape Elimination Act (PREA) of 2003 and the National Standards to Prevent, Detect, and Respond to Prison Rape; Final Rule, dated, June 2012. In accordance with this procedure manual, all employees, contractors, volunteers, and interns have an affirmative duty to report all allegations or knowledge of sexual abuse, sexual harassment, romantic relationships, or sexual contact that takes place within any FCSO facility or program. Sexual conduct between staff and inmates, volunteers, contract personnel, or interns and inmates, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions. All cases of alleged sexual conduct shall be promptly, thoroughly, and objectively investigated. Upon substantiation of any allegations of sexual conduct, appropriate disciplinary actions will be taken against employees, volunteers, contractors, or interns, including possible criminal prosecution.

### II. CANCELLATION

Written policy 400-12.05 Responding to Inmate & Staff Misconduct: Reporting & Investigations

### III. GUIDELINES

#### **Policies to Ensure Referrals of Allegations for Investigations (§115.22) (§115.222) (§115.322)**

1. Each facility under the governing authority of FCSO shall have a policy in place to ensure that all allegations of sexual abuse and sexual harassment are referred to the jail investigation unit (JIU) or criminal investigation unit (CIU) for investigation. This

- policy shall be made available to the public on FCSO website or app. An investigation is conducted and documented whenever a sexual assault or threat is reported. Fulton County Jail and its annexes shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
2. If an outside agency is responsible for conducting sexual abuse investigations, Fulton County Jail and its annexes shall ensure that the outside agency has the legal authority to conduct criminal investigations, unless the allegations does not involve potentially criminal behavior.
  3. All referrals for criminal investigation of allegations of sexual abuse or sexual harassment shall be documented.
  4. If an outside agency is responsible for conducting sexual abuse investigations, Fulton County Jail and its annexes shall request documentation from the agency that it has provided such training to its investigators who conduct such investigations.
  5. If a separate entity is responsible for conducting criminal investigations, the responding agency shall agree that responding officers received proper PREA specialized training on:
    - a. Techniques for interviewing sexual abuse victims,
    - b. Proper use of Miranda and Garrity warnings; if applicable,
    - c. Sexual abuse evidence collection,
    - d. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.
  6. The JIU or CIU shall preserve and maintain the crime scene until the responding agency arrives. At such times, staff members shall cooperate fully with requests from the responding agency.
  7. Allegations of sexual abuse that include penetration or touching of the genital areas are referred for prosecution in accordance with FCSO policy and federal, state, or local laws. All referrals shall be properly documented. Each FCSO operational subsidiary, business unit, or program shall have a current policy in place to ensure that allegations of sexually abusive behavior receive prompt intervention upon report.
  8. Any State entity or Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in Fulton County Jail and its annexes shall have in place a policy governing the conduct of such investigations.

#### **Criminal and Administrative Agency Investigations (§115.71) (§115.271) (§115.371)**

1. All allegations of sexual abuse and sexual harassment, including third-party and anonymous allegations, shall receive a prompt, thorough and objective investigation.
2. When sexual abuse is alleged, Fulton County Jail and its annexes shall use investigators who have received specialize training in sexual abuse investigations pursuant to §115.34.
3. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse.
4. Administrative investigations shall be documented in written reports that include a thorough description of the physical and testimonial evidence, the reasoning behind

- credibility assessments, investigative facts, findings, and attached copies of all documentary evidence where feasible.
5. 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.
  6. FCSO specialized investigators shall gather and preserve direct and circumstantial evidence as appropriate, including any available physical and DNA evidence, any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witness; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
  7. All case records associated with claims of sexual abuse, including incident reports, investigative reports, offender's information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling are retained in accordance with an established schedule of document retention.
  8. Fulton County Jail and its annexes shall retain all written reports related to administrative and criminal investigations for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.
  9. The departure of the alleged abuser or victim from the employment or control of the department shall not provide a basis for terminating an investigation.
  10. Substantiated allegations of conduct that appear to be criminal are referred for prosecution.
  11. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff.
  12. Investigators will not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling devices as a condition for proceeding with the investigation of such an allegation.
  13. When the quality of evidence appears to support criminal prosecution, the Fulton County Sex Crimes Unit will conduct all interviews only after consulting with prosecutors as to any obstacle for subsequent criminal prosecution.

**Specialized Training: Investigations (§115.34)**

1. In addition to the PREA training designated for FCSO employees, the JIU and CIU will receive a required specialized PREA training pertaining to conducting investigations in confinement settings. The specialized training will cover:
  - a. Techniques for interviewing sexual abuse victims,
  - b. Techniques for interviewing youthful inmate sexual abuse victims,
  - c. Proper use of Miranda and Garrity warnings, if applicable,
  - d. Sexual abuse evidence collection,
  - e. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.

**Investigative Outside Entities (§115.34)**

1. When the JIU or CIU does not conduct the sexual abuse investigation, and an outside agency is responsible for investigating these types of incidents, FCSO shall request

- documentation from the agency that it has provided such training to its investigators who conduct such investigations.
2. The responding agency shall agree that responding officers received proper PREA specialized investigative training and shall have in place a policy governing the conduct of such investigations.
  3. FCSO staff shall preserve and maintain the crime scene until the responding agency arrives. At such times, staff members shall cooperate fully with requests from the responding agency by providing the requested information, including reports, documents, and video surveillance.
  4. Any necessary emergency medical treatment for victims or perpetrators, FCSO agrees to utilize Grady Rape Crisis Center.
  5. The JIU shall be the contact liaison between the agency and the facility and shall coordinate all necessary information and assistance needed by the responding agency.
  6. Responding agency shall provide and maintain contact with the JIU or CIU during the criminal investigation and provide updated information for case progression.
  7. Fulton County Jail and its annexes shall cooperate with the responding investigators and shall endeavor to remain informed about the progress of the investigation.
  8. Direct and circumstantial evidence; including any available physical and DNA evidence and any available electronic monitoring data shall be gathered and preserved.
  9. Victims, alleged perpetrators, and witnesses shall be interviewed.
  10. All related prior complaints and reports involving the suspected perpetrator shall be reviewed.
  11. Any compelled interviews shall be conducted only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
  12. Investigators shall provide Miranda or Garrity warnings per local, state, and federal laws as it pertains to the investigation.
  13. All allegations of PREA shall be investigated even if the victim withdraws his/her statement or is released from custody.
  14. The responding agency shall provide the facility with a copy of the completed investigation report in order to notify the victim of the outcome of the investigation.
  15. Responding agency shall obtain any criminal warrants if applicable and shall prosecute within the laws of the Constitution and the State of Georgia.
  16. Any State entity or Department of Justice component that conducts such investigations shall do so to the above requirements.

**Evidence Protocol and Forensic Medical Examinations (§115.21) (§115.221) (§115.321)**

1. Victims of sexual assault are referred under appropriate security provisions to a community facility for treatment and gathering of evidence. If these procedures are performed in-house, the following guidelines are used:
  - a. A history is taken by healthcare professionals who conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated. With the victim's consent, the examination

- includes collection of evidence from the victim, using a kit approved by the appropriate authority.
- b. Provision is made for testing for sexually transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases) and counseling, as appropriate.
  - c. Prophylactic treatment and follow-up for sexually transmitted diseases are offered to all victims, as appropriate.
  - d. Following the physical examination, there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up.
  - e. A report is made to Fulton County Jail and its annexes administrator or designee to assure separation of the victim from their assailant.
2. Medical care and forensic medical examinations are separate and different procedures, and inmates have the right to refuse either service. Victims should be encouraged, but not forced to consent to a forensic medical examination. Victims can refuse consent to a forensic medical examination and still consent to receiving medical care.
  3. To the extent, when investigating allegations of sexual abuse, Fulton County Jail and its annexes shall follow uniform evidence protocols that maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol shall be developmentally appropriate for youthful inmates.
  4. With consent from the victim, he/she shall have access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate.
  5. If the alleged sexual abuse is reported or discovered within 96 hours of the incident, and if determined appropriate by the medical provider and/or investigator, the alleged victim shall be transported to Grady Rape Crisis Center for a forensic medical examination and gathering of evidence.
  6. No attempt shall be made by FCSO medical staff to clean or treat the victim unless the injuries are such that not treating them would cause deterioration of the victim's medical condition; however, such visible injuries shall be documented both photographically and in writing and placed in the victim's medical record.
  7. If the alleged victim does not consent to the forensic exam, or if more than 96 hours have passed since the alleged sexual abuse was reported or alleged to have occurred, the alleged victim will be offered access to other specialized services (i.e., medical referral for sexually transmitted diseases and pregnancy testing and ongoing counseling and treatment services) as deemed appropriate by medical and mental health staff.
  8. Forensic medical examinations shall be performed by a Sexual Assault Nurse Examiner (SANE) or Sexual Assault Forensic Examiner (SAFE). A qualified medical practitioner may perform the examination if a SANE or SAFE is not available. The facility shall document its efforts to provide SANE or SAFE.
  9. Sexual abuse victims and/or alleged abusers shall be transported to Grady Rape Crisis Center, which is part of Grady Hospital. A SANE and/or SAFE is located at Grady Rape Crisis Center, which shall be the primary location for forensic medical examinations. However, if the inmate is suffering from additional injuries that require medical attention, Grady Hospital will be utilized.
  10. If requested by the victim, a victim advocate from Grady Rape Crisis Center, which is not part of the criminal justice system, shall be made available to accompany the victim

through the forensic medical examination process and investigatory interviews. The victim advocate shall also provide emotional support, crisis intervention, information, and referrals.

11. Fulton County Jail and its annexes shall attempt to make available to the victim, a victim advocate from Grady Rape Crisis Center to provide victim advocacy services; however, if a rape crisis center is not available, the facility shall utilize a qualified staff member from a community-based organization or a qualified facility staff member. All efforts to secure services from Grady Rape Crisis Center shall be documented. In such case, the staff member will not be utilized unless the following circumstances exist:
  - a. Documentation is on file that no other alternatives are available through Grady Rape Crisis Center or at any community-based organization; and,
  - b. Documentation exists that validates designated staff members have been screened for appropriateness to serve in this role and have received proper education concerning sexual assault and forensic examination issues in general.

#### **Reporting to Inmates (§115.73) (§115.273) (§115.373)**

1. At the conclusion of an investigation pertaining to sexual abuse, the victim shall be informed in writing whether the allegations have been:
  - a. Substantiated – investigation determined allegations occurred,
  - b. Unsubstantiated – investigation determined allegations may have occurred, but there was insufficient evidence to prove it,
  - c. Unfounded – investigation determined allegations did not occur.
2. This information shall be documented and provided to the inmate on a “Notification of Outcome of Allegation” form, which shall be signed by the inmate. The inmate shall receive a copy of the signed form.
3. The PREA Compliance Manager shall maintain all Notification of Outcome of Allegation forms in the corresponding investigative file.
4. If the alleged abuser is a staff member, the victim shall be informed whenever:
  - a. The staff member is no longer assigned to the victim’s housing unit,
  - b. The staff member is no longer employed with FCSO,
  - c. The staff member has been indicted on a charge related to sexual abuse within the facility, or
  - d. The staff member has been convicted on a charge related to sexual abuse within the facility.
5. If the alleged abuser is another inmate, the victim shall be informed whenever:
  - a. The alleged abuser has been indicted on a charge related to sexual abuse within the facility, or
  - b. The alleged abuser has been convicted on a charge related to sexual abuse in the facility.

#### **Disciplinary Sanctions for Staff (§115.76) (§115.276)**

1. Violation of FCSO policy on sexual abuse and sexual harassment will result in sanctions, up to and including dismissal from employment and referral for criminal prosecution.

2. Termination of employment will be the presumptive sanction for staff engaging in sexual abuse.
3. Disciplinary sanctions for violations of FCSO policy related to sexual abuse or sexual harassment (other than 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.
4. All terminations for violations of FCSO sexual abuse or sexual harassment policy, or resignations by staff that would have been terminated if not for their resignation will be reported to law enforcement agencies, unless the activity was clearly not criminal.
5. Such violations and termination will also be reported, as required, to the Georgia Peace Officers Standards and Training Council (POST).
6. The JIU or CIU shall refer all substantiated cases of nonconsensual sexual contact between inmates or sexual contact between a staff member and an inmate for criminal prosecution.

**Corrective Action for Contractors and Volunteers (§115.77) (§115.277)**

1. Any contracted staff, volunteer, or intern who engages in sexual abuse will be prohibited from contact with inmates and will be reported to enforcement, unless the activity was clearly not criminal, and to relevant licensing bodies.
2. FCSO will take appropriate remedial measures and will consider whether to prohibit further contact with inmates, in the case of any other violation of facility sexual abuse or sexual harassment policy by a contracted staff, volunteer, or intern.

**Disciplinary Sanctions for Inmates (§115.78) (§115.278)**

1. FCSO prohibits all consensual sexual activity between inmates, and such activity may be subject to disciplinary action. Consensual (noncoerced) sexual activity between inmates does not constitute sexual abuse but is considered a disciplinary issue.
2. Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or a criminal finding of guilt for inmate-on-inmate sexual abuse.
3. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.
4. The disciplinary process will consider whether the inmate's mental disabilities or mental illness contributed to behavior when determining what type of sanction, if any will be imposed.
5. Fulton County Jail and its annexes will determine if the inmate abuser could benefit from therapy, counseling, or other interventions to address and correct underlying reasons or motivations for the abuse.
6. An inmate may be disciplined for sexual contact with a staff member only upon a finding that the staff member did not consent to such contact.
7. For the purpose of a disciplinary action, a report of sexual abuse made in good faith 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 sufficient evidence to substantiate the allegation.

**Evidentiary Standard for Administrative Investigations (§115.72) (§115.272)**

1. Fulton County Jail and its annexes shall impose a standard of a preponderance of evidence when determining whether allegations of sexual abuse or sexual harassment are substantiated.
2. An investigation report shall be written for all allegations of sexual abuse and sexual harassment utilizing Fulton County Jail and its annexes investigative report template for PREA investigations.
3. All PREA investigation files with claims of sexual abuse and sexual harassment shall be maintained and retained orderly for each allegation to include at a minimum: incident report, final investigation report, witness statements (if applicable), documentation of medical and mental health assessments or documented refusals, notice of outcome, retaliation logs, and video footage (if applicable).
4. Each file shall be labeled and include a case number and a file folder checklist indicating what documents are included.
5. All investigations shall be logged and tracked upon receipt of notification.
6. Due to their confidential nature, all sexual abuse and sexual harassment investigative files shall be retained in a secure location with restricted access.
7. Because of the very sensitive nature of information about victims and their medical condition, including infectious disease testing, staff must be particularly vigilant about maintaining confidentiality and releasing information only for legitimate need-to-know reasons.

**Preservation of Ability to Protect Inmates from Contact with Abusers (§115.66) (§115.266) (§115.366)**

1. In every case where the alleged abuser is a staff member, contractor, or volunteer, there shall be no contact between the alleged abuser and the inmate victim, pending the outcome of the investigation. A Separation notice requiring a “no contact” assignment shall be properly documented and maintained by the PREA Compliance Manager in the corresponding investigative file.
2. FCSO shall not enter into or renew any collective bargaining agreement or other agreement that limits the facility’s ability to remove alleged staff sexual abusers from contact with any inmate pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.