

**Jail Policy and Procedures**  
**Labette County Sheriff's Department**

**Chapter 4 - SAFETY AND SECURITY**  
**Section D.29 - PRISON RAPE ELIMINATION ACT**

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## **1. PURPOSE**

The Labette County Jail (LBJ) is committed to zero tolerance of any form of sexual assault/abuse and sexual harassment in its facility and it operates directly and/or with which it holds contracts for the confinement of inmates.

The purpose of this policy is to describe Labette County's mandate of zero tolerance toward all forms of sexual assault/abuse and sexual harassment; and to outline Labette County's approach to preventing, detecting, and responding to sexual assault/abuse and harassment/misconduct.

## **2. ZERO TOLERANCE POLICY [DOJ § 115.11(a)]**

Labette County mandates zero tolerance toward all forms of sexual assault/abuse and sexual harassment. Sexual assault/abuse of an inmate and sexual harassment of an inmate are prohibited.

### **Definitions**

(1) "Inmate" means any person incarcerated or detained in the jail;

(2) "Staff" means an agency employee;

(3) "Contractor" means a person who provides services on a recurring basis pursuant to a contractual agreement with this agency; and

(4) "Volunteer" means an individual who donates time and effort on a recurring basis to enhance the activities and programs of this agency.

(5) "Consent" refers to cooperation in act or attitude pursuant to an exercise of free will and with full understanding of the nature of the act. Inmates cannot consent to sexual contact with staff members, volunteers or contractors.

### **A. Sexual Assault/Abuse**

(1) "Sexual assault/abuse" includes-

(a) Sexual assault/abuse of an inmate by another inmate; and

(b) Sexual assault/abuse of an inmate by a staff member, contractor, or volunteer.

(2) Sexual assault/abuse of an inmate by another inmate includes any of the following acts, if the victim does not consent, is coerced into such an act by overt or implied threats of violence, or is unable to consent or refuse:

(a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(b) Contact between the mouth and the penis, vulva, or anus;

(c) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

(d) 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.

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(3) Sexual assault/abuse of an inmate by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate:

- (a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (b) Contact between the mouth and the penis, vulva, or anus;
- (c) 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;
- (d) 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;
- (e) 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;
- (f) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a) through (e) of this section;
- (g) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate; and
- (h) Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate by staff 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.

#### **B. Sexual Harassment**

(1) "Sexual harassment" includes-

- (a) Sexual harassment of an inmate by another inmate; and
- (b) Sexual harassment of an inmate by a staff member, contractor, or volunteer.

(2) Sexual harassment of an inmate by another inmate includes: Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an inmate directed toward another.

(3) Sexual harassment of an inmate by a staff member, contractor, or volunteer includes: Repeated verbal comments or gestures of a sexual nature to an inmate 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.

### **3. PREA COORDINATOR [DOJ § 115.11(b)]**

#### **Definitions**

(1) "PREA Coordinator/Manager" is designated by Labette County someone with sufficient time and authority to develop, implement, and oversee its efforts to comply with the PREA standards. The PREA Coordinator will be Undersheriff or someone designated by that person, in writing. The term PREA Coordinator may also be referred to in policy as PREA Manager.

The PREA Coordinator will have:

- (a) Access to agency/facility leadership on a regular basis; and

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(b) Authority to work with other staff and supervisors to effect change. The PREA Coordinator is in the Labette County Jail chain of command-Undersheriff, Jail Administrator, Jail Shift Supervisors and/or Jail Corporal(s).

(2) "Agency head" is defined as the principal official of an agency. The Sheriff serves as the agency head for Labette County. The agency head has appointed the Undersheriff to serve as the PREA Coordinator for this agency.

(a) Effective, February 12th, 2016, Sheriff has appointed the Undersheriff as PREA Coordinator for Labette County. ([Letter on file of appointment](#))

## **4. PREVENTING AND DETECTING SEXUAL ASSAULT/ABUSE AND HARASSMENT**

### **[DOJ § 115.11]**

#### **Definitions**

(1) "Jail Management Software" (JMS)-computer software used to maintain inmate booking files, including activity logs and incident forms.

(2) "Intermediate/Mid level supervisors" (Jail Administrator and Jail Corporal).

(3) "Higher/Upper level supervisors" (Undersheriff and Sheriff).

(4) "Youthful inmate" refers to juvenile under the age of 18.

(5) "Cross-gender" refers to the search of a female inmate by male staff and the search of a male inmate by female staff.

(6) "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.

(7) "Visual body cavity searches" meaning a search of the anal or genital opening.

(8) "Pat-down searches" refer to a running of the hands over the clothed body of an inmate by an employee to determine whether the individual possesses contraband.

(9) "Transgender" means a person whose gender identity (internal sense of feeling male or female) is different from the person's assigned sex at birth.

(10) "Intersex" means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

(11) A "returning inmate" refers to a detainee who was incarcerated at the jail previously and has been rearrested. A "returning inmate" does not refer to someone who was transported away from the facility temporarily, such as for medical care or a psychiatric evaluation.

(12) An "emergency grievance" is one that alleges an inmate is subject to a substantial risk of imminent sexual abuse.

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##### A. Staffing Plan/Video Monitoring [DOJ §115.13]

(1) In the process of creating and revising a staffing plan to provide for adequate levels of staffing and video monitoring to protect inmates against sexual assault/abuse, LBJ will ensure that the following factors are taken into consideration:

- (a) Generally accepted detention and correctional practices; LBJ standard-2 officers on shift; normal schedule is 1 male & 1 female officer per shift
- (b) Any judicial findings of inadequacy will be documented if occurred
- (c) Any findings of inadequacy from Federal investigative agencies will be documented if occurred
- (d) Any findings of inadequacy from internal or external oversight bodies will be documented if occurred
- (e) All components of the facility's physical plan; Correctional officer(s) perform processing/release of inmat(s); routine cell checks; monitoring of facility via security cameras; and body cameras worn by each officer. Cell checks will be performed utilizing the Guard 1 system and downloaded by the jail administrator.
- (f) The composition of the inmate population; LBJ can house 84 inmates; females are housed separately from general population (except for exigent circumstances such as medical); juvenile inmate(s) are not housed at LBJ
- (g) The number and placement of supervisory staff; Jail Corporal on duty Mon-Fri, 12p-8p in jail. Jail Administrator on sight routinely Mon-Fri, 8a-4p and available to officer(s) for off hours contact. Jail Administrator reports to Undersheriff and/or Sheriff.
- (h) Programs occurring on a particular shift; (outside cell activity) Exercise yard during Mon-Fri, dayshift; Jail Ministry on Thursday, dayshift; Visitation on Saturday, dayshift; these activities are documented in the Jail Management Software (JMS) as an activity report
- (i) Any applicable State or local laws, regulations, or standards will be documented as needed
- (j) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; will be documented as needed, and
- (k) Any other relevant factors will be documented as needed.

(2) Labette County will 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. Any deviation from normal staffing, will be documented, ([PREA Staffing Plan](#))

(3) At least once every year, and in collaboration with the PREA Coordinator, Labette County will conduct an assessment to determine whether adjustments are needed to the staffing plan and the deployment of video monitoring systems and other technologies. ([PREA Yearly Staffing Review](#)) Labette County will review that the facility is providing for adequate levels of staffing and video monitoring to protect inmates from sexual assault/abuse.

##### B. Unannounced Rounds [DOJ §115.13(d)]

(1) Supervisors will conduct and document unannounced rounds covering all shifts, and all areas of the facility, to identify and deter staff sexual assault/abuse or harassment. Labette County 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.

(2) The PREA Coordinator for LBJ has determined unannounced rounds will be conducted twice a month on each shift (2 shifts) and documentation will be made of the rounds. The unannounced rounds will be made by an Intermediate-level supervisors (Jail Administrator); and/or higher level supervisors (Undersheriff and Sheriff). Actions by staff to alert colleagues that a supervisor is en route to conduct unannounced rounds are prohibited.

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(3) Video monitoring or surveillance is used by correctional officers to provide additional supervision. The Jail Administrator will periodically review the video monitoring to detect any staff sexual assault/abuse. The Jail Administrator will also be able to review all correctional officers body camera footage but only when a need to investigate a possible staff sexual assault/abuse has been reported.

#### **C. Youthful Inmates [DOJ §115.14]**

(1) A youthful inmate (defined as any person under the age of 18 who is under adult court supervision and incarcerated or detained in jail) is 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) For youthful inmates who are under the age of 18 and being processed as a juvenile offender;

(a) Labette County will maintain sight and sound separation between youthful inmates and adult inmates, and

(b) Labette County will provide direct staff supervision when youthful inmates are being processed into the facility during booking. Direct staff supervision means that correctional staff are in the same room with, and within reasonable hearing distance of, the youthful offender. Correctional staff means employees primarily responsible for the supervision and control of inmates and detainees in booking.

(3) The facility does not house youthful offenders under the age of 18 with adult offenders in general population.

(4) To comply with this standard, the Labette County will make its best effort to avoid placing youth in isolation.

#### **D. Cross Gender Viewing and Searches/Searches of Transgender Inmates [DOJ §115.15]**

(1) Searches

(a) Labette County does 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 in exigent circumstances or when performed by medical practitioners-a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice.

(b) This facility will not permit cross-gender pat-down searches (a running of the hands over the clothed body of an inmate by an employee to determine whether the individual possesses contraband) of female inmates, absent exigent circumstances. This facility will not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.

(c) This facility, by exigent circumstances, will document all cross-gender strip searches and body cavity searches of inmates and all cross-gender pat-down searches of female inmates. An incident will be done under the inmate booking file in the JMS.

(d) No staff member will conduct a search of a transgender or intersex inmate solely for the purpose of determining genital status. If the inmate's genital status is unknown, it will be determined during conversations with the inmate, 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. This facility will make a case-by-case determination about which gender staff would be appropriate to search a transgender inmate. Every effort will be made to consult with each transgender inmate to determine their preference for the gender of the staff member searching them, which may vary depending on their gender identity and previous experiences in detention.

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(e) Training of correctional staff on how to conduct cross-gender pat down searches, and searches of transgender and intersex inmates, is discussed below in Section 6. A. (Employee Training) and D.3 Admission.

(2) Viewing [DOJ §115.15 (d)]

(a) This facility will enable inmates 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.

(b) Staff members of the opposite gender will announce their presence when entering an inmate housing unit to allow inmates sufficient time to adjust their clothing or cover their bodies. This will be done by officers knocking on the cell door to announce their presence before opening viewing window or cell door. The prohibition against staff viewing inmates of the opposite gender includes staff members who monitor cameras. This means that no staff member may monitor a camera that is likely to view inmates of the opposite gender while they are showering, performing bodily functions, or changing clothing.

#### E. Inmates with Disabilities or Who Have Limited English Proficiency

(1) Disabled Inmates [DOJ § 115.16 (a)]

(a) Labette County will take appropriate steps to ensure that inmates with disabilities have an equal opportunity to benefit from all aspects of Labette County efforts to prevent, detect, and respond to sexual assault/abuse and sexual harassment. Such steps will include - when necessary to ensure effective communication with inmates who are deaf or hard of hearing, inmates who are blind or have low vision, inmates who are intellectually challenged or speech disabilities, inmates with serious psychiatric disorders that hinders them, and providing inmates access to interpreters who can interpret effectively, accurately, and impartially.

(b) In addition, Labette County will ensure that written materials are provided in formats and through methods that ensure effective communication with inmates with disabilities.

(2) Inmates who are deaf will be provided PREA information thru written form, i.e. [PREA guidelines](#), [Education Brochure](#) and [Video](#) with subtitles. TTY phone will be provided for inmate who is hearing impaired.

(3) Inmate who are blind or sight impaired will have an officer read them the PREA guidelines and Education Brochure; Video with subtitles. Officers will assist inmate with telephone if need arises for reporting.

(4) Inmates who are intellectually challenged or speech disabilities, will have an officer, medical staff or possibly outside staffing such as Mental Health personnel to ensure they understand the PREA guidelines, Education Brochure and Video. Officers will assist inmate with telephone if need arises for reporting.

(5) Inmates who present to medical staff of a serious psychiatric disorder, will have an officer, medical staff or possibly outside staffing such as Mental Health personnel to ensure they understand the PREA guidelines, Education Brochure and Video. Officers will assist inmate with telephone if need arises for reporting.

(6) Inmates Who Have Limited English Proficiency [DOJ § 115.16(b)]

(a) Labette County will take reasonable steps to ensure meaningful access to all aspects of its efforts to prevent, detect, and respond to sexual assault/abuse and sexual harassment/misconduct to inmates who have limited English proficiency, including by providing interpreters who can interpret effectively, accurately, and impartially.

(7) Use of Inmate Interpreters [DOJ § 115.16(c)]

(a) Labette County will not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an



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inmate's safety, the performance of first-responder duties, or the investigation of an inmate's allegations.

#### F. Screening of Inmates

(1) Screening for Risk of Victimization and Abusiveness [DOJ §115.41]

(a) All inmates will be assessed during an intake screening and upon transfer from another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. ([PREA Risk Assessment Screen](#)). Upon screening completion, the Labette County jail will make individual determination for housing to ensure the safety of the inmate.

(b) Intake screening will ordinarily take place within 72 hours of arrival at the facility.

(c) Such assessments will be conducted using an objective screening instrument; officers observation of offender; utilizing past booking charges, incidents, and using the Kansas Department of Corrections (KDOC) offender website.

(d) The intake screening will consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization:

(d1) Whether the inmate has a mental, physical, or developmental disability;

(d2) The age of the inmate;

(d3) The physical build of the inmate;

(d4) Whether the inmate has previously been incarcerated;

(d5) Whether the inmate's criminal history is exclusively nonviolent;

(d6) Whether the inmate has prior convictions for sex offenses against an adult or child;

(d7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;

(d8) Whether the inmate has previously experienced sexual victimization;

(d9) The inmate's perception of his or her own vulnerability to sexual abuse or sexual harassment; and

(d10) Whether the inmate is detained solely for civil immigration purposes.

(e) The initial screening will consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to Labette County, in assessing inmates for risk of being sexually abusive.

(f) Within a set time period of 30 days, the facility shall reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

(g) An inmate's risk level will be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. Additional information may be obtained through staff interviews, assessments and observations of the inmate, as well as information received from other agencies or sources. This reassessment will be fuller and more extensive than the initial screening conducted:

(h) Inmates may not be disciplined for refusing to answer, or for not disclosing complete information related to, (d1), (d7), (d8) and (d9) above.

(i) Labette County will 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 inmate's detriment by staff or other inmates. PREA Risk Assessment questions will be asked at booking with no other inmates present but the detainee being asked the questions to ensure privacy. After Risk Assessment has been scanned into the JMS booking file, the form will be given to the Jail Administrator, where it will remain in the PREA Risk Assessment log book that is kept in the Jail Administrator office. It is never to be posted inside the booking area and/or jail office.

(j) If the detainee's PREA Risk Assessment has been scored with a history of past sexual abuse as either an offender or victim, either institutional or non-institutional, the jail administrator will advise medical staff so that there can be a follow up during the 14 day medical assessment after intake.

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##### (2) Use of Information Obtained from Screening [DOJ §115.42]

(a) Labette County will use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

(b) Labette County will make individualized determinations about how to ensure the safety of each inmate.

(c) In deciding whether to assign a transgender or intersex inmate and in making other housing and programming assignments, Labette County will consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.

(d) Placement and programming assignments for each transgender or intersex inmate will be reassessed at least twice each year to review any threats to safety experienced by the inmate.

(e) A transgender or intersex inmate's own views with respect to his or her own safety will be given serious consideration.

(f) Transgender and intersex inmates will be given the opportunity to shower separately from other inmates.

(g) Labette County will not place lesbian, gay, bisexual, transgender, or intersex inmates in cells solely on the basis of such identification or status unless pursuant to a legal settlement or judgment.

##### (3) Medical and Mental Health Screenings [DOJ Standards § 115.81]

(a) If the screening required in Section 4. F(1) above indicates that an inmate has experienced prior sexual victimization, whether in an institutional setting or in the community, staff will ensure that the inmate 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 will 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 will obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.

(d) Labette County contracts medical services for inmates with a correctional healthcare provider; the contract provider will maintain secondary inmate medical records for the Labette County Jail.

#### **G. Protection of Inmates Facing Substantial Risk**

(1) Upon Learning of Substantial Risk [DOJ §115.62] Labette County will take immediate action to protect the inmate. The facility will act immediately to protect an inmate whenever it learns that he or she faces a substantial risk of imminent sexual assault/abuse.

Reference: Farmer v. Brennan, [511 U.S. 825 (1994)], the United States Supreme Court held that that a prison official may be liable under the Eighth Amendment of the U.S. Constitution - which prohibits cruel and unusual punishment - for acting with "deliberate indifference" to inmate health or safety if he or she: knows that an inmate faces a substantial risk of serious harm; and disregards that risk by failing to take reasonable measures to abate it.

##### (2) Emergency Grievances [DOJ §115.52 (f)]

(a) Labette County will establish procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual assault/abuse.

(b) After receiving an emergency grievance alleging an inmate is subject to a substantial

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risk of imminent sexual assault/abuse, Labette County will:

(b1) Immediately forward the grievance (or any portion of it that alleges the substantial risk of imminent sexual assault/abuse) by contacting a supervisor who will contact the PREA coordinator, to a level of review at which immediate corrective action will be taken;

(b2) Provide an initial response within 48 hours; and

(b3) Issue a final decision within five (5) calendar days.

(c) The initial response and final decision will document Labette County's determination of whether the inmate is at substantial risk of imminent sexual assault/abuse and the action taken in response to the emergency grievance.

(3) Protective Custody [DOJ §115.43]

(a) Inmates at high risk for sexual victimization will not be placed in involuntary special management (SM) housing unless Labette County 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 will hold the inmate in involuntary SM housing for less than 24 hours while completing the assessment. Inmates placed in SM 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 will be documented:

(c1) The opportunities that have been limited;

(c2) The duration of the limitation; and

(c3) The reasons for such limitations.

(d) The facility will assign such inmates to involuntary SM housing only until an alternative means of separation from likely abusers can be arranged. Such an assignment will not ordinarily exceed a period of 30 days.

(e) If an involuntary SM housing assignment is made pursuant to this section, the facility shall clearly document:

(e1) The basis for the facility's concern for the inmate's safety; and

(e2) The reason why no alternative means of separation can be arranged.

(f) Every 30 days, the facility will afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

The facility will consider separating or specially managing likely abusers, rather than likely victims.

Note: The above requirements also apply to use of special management housing to protect an inmate who is alleged to have already suffered sexual abuse. See DOJ§ 115.43 and Section 5 of this policy below.

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

(1) Labette County will not hire or promote anyone who may have contact with inmates, or retain the services of any contractor who may have contact with inmates, who-

(a) Has engaged in sexual assault/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) Labette County will 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 inmates.

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- (3) Before hiring new employees who may have contact with inmates, Labette County 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 assault/abuse, or any resignation during a pending investigation of an allegation of sexual assault/abuse.
- (4) Labette County will also perform a criminal background records check before retaining the services of any contractor who may have contact with inmates.
- (5) Labette County will conduct criminal background records checks every year of current employees and contractors who may have contact with inmates, with no more than five years between criminal record checks being done.
- (6) Labette County will ask all applicants and employees who may have direct contact with inmates about previous harassment 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 review of current employees.
- (7) Labette County will impose on its current employees a continuing affirmative duty to disclose any of the harassment described in this section.
- (8) Material omissions regarding such harassment, or the provision of materially false information, shall be grounds for termination.
- (9) Unless prohibited by law, Labette County will provide information on substantiated allegations of sexual assault/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 [DOJ §115.18]**

- (1) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, Labette County will consider the effect of the design, acquisition, expansion, or modification on its ability to protect inmates from sexual assault/abuse.
- (2) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, Labette County will consider how such technology may enhance its ability to protect inmates from sexual assault/abuse.

These requirements are self-explanatory and should be read in conjunction with the standard regarding supervision and monitoring. See Section 4. A. above and specifically DOJ §115.13 (a)(5) related to the facility's physical plant and areas where staff or inmates may be isolated, and §115.13 (a) and (c) (2) relating to video monitoring.

## **5. RESPONDING TO REPORTS OF SEXUAL ASSAULT/ABUSE AND SEXUAL HARASSMENT/MISCONDUCT**

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

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##### **Definitions**

(1) "Anonymous" means that the inmate making the report should not be required to identify him or herself. Examples of anonymous reporting include an unsigned grievance alleging sexual assault/abuse, a caller who does not identify him or herself, or an inmate disclosing suspected assault/abuse to a staff member and asking that their name not be included in the report.

(2) "Third parties" include fellow inmates, family members, attorneys, and outside advocates. As noted above in the policy, third-party reporting is distinct from outside reporting, which requires an external entity to forward reports to your agency immediately. In contrast, third-party reports are made directly to your agency.

(3) The Department of Justice (DOJ) defines "first responder" as the staff person (or persons) who first arrive at the scene of an incident.

(4) A "qualified agency staff member" or a "qualified community-based staff member" means an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

(5) A "rape crisis center" refers to an entity that provides intervention and related assistance to victims of sexual assault. For a list of community-based rape crisis centers, contact your state's sexual assault coalition.

(6) A "qualified agency staff member" or a "qualified community-based staff member" means an individual who has been: screened for appropriateness to serve in this role; and has received education concerning sexual assault and forensic examination issues in general.

(7) "Compelled interviews" refer to those interviews with staff during which an investigator would issue a Garrity warning to staff members.

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

###### **(1) Inmate Reporting**

(a) Ways for Inmates to Report Incidents [DOJ §115.51 (a), (b), and (c)]:

(a1) Labette County will provide multiple internal ways for inmates to privately report sexual assault/abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual assault/abuse or sexual harassment, and staff neglect that may have contributed to such incidents. Inmates may report concerns by:

1. Verbally in person or by phone in cell, dial 8 then 620-555-1234 and leave message
2. Written inmate request
3. Grievance form

(a2) Labette County will also provide at least one way for inmates to report assault/abuse, harassment, retaliation, and staff neglect to a public or private entity that is not part of the Labette County Jail, and that is able to receive and immediately forward inmate reports of sexual assault/abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Inmates may report concerns by:

1. Oswego Police Department, 703 5th Street, Oswego, KS 67356, 620-795-2131
2. Parsons Police Department, 217 N Central, Parsons, KS 67357, 620-421-7060
3. U.S. Immigration and Customs Enforcement, 2401 West Old Rt 66, Strafford, MO 65757 417-865-7359

(a3) Staff will accept reports made verbally, in writing, and anonymously. Staff will promptly document any

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verbal reports and notify Jail Supervisor and PREA Coordinator immediately upon receiving report.

(b) Inmate Grievances [DOJ] § 115.52 (a), (b), (c), (e) and (g)]

(b1) Labette County will not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual assault/abuse.

(b2) Labette County will not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual assault/abuse.

(b3) Labette County will ensure that-

1. An inmate who alleges sexual assault/abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and
2. Such grievance is not referred to a staff member who is the subject of the complaint.

(b4) Labette County will issue a final decision on the merits of any portion of a grievance alleging sexual assault/abuse within 90 days of the initial filing of the grievance. Computation of the 90-day time period will not include time consumed by inmates in preparing any administrative appeal.

(b5) Labette County 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. Labette County will notify the inmate in writing of any such extension and provide a date by which a decision will be made.

(b6) At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level.

(b7) Labette County may discipline an inmate for filing a grievance related to alleged sexual assault/abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.

An inmate will never be punished for reporting sexual assault/abuse in cases where the allegation is substantiated or unsubstantiated, as there is no proof in these cases that the alleged sexual violence did not happen.

For unfounded allegations, a determination of bad faith should be driven by the particular factors of the case. Jail administrators will need to consider the totality of circumstances and all the facts together to determine if an inmate was intentionally making a report or allegation that he or she knew was false.

#### **(2) Staff Reporting Rules [DOJ §115.51(d) and §115.61]**

(a) Any staff member who has knowledge, suspicion, or information regarding an incident of sexual assault/abuse or sexual harassment; retaliation against inmates or staff who reported such an incident; and any staff neglect that may have contributed to such incident or retaliation, will immediately report such incident or retaliation, by contacting the jail administrator and/or PREA Coordinator within 24 hours.

(b) Apart from reporting to designated supervisors or officials, staff will not reveal any information related to a sexual assault/abuse report to anyone except as specified by Labette County policy.

For safety and security purposes, any medical and mental health practitioners, will be mandated to report any knowledge, suspicion, or information regarding sexual assault/abuse, sexual harassment, retaliation, or staff neglect pursuant to this section. This information will be provided to inmates, in writing, at the initiation of services. They must inform inmates of this duty and any other limitations on their ability to keep information confidential. They must obtain informed consent at the initiation of services.

(c) If alleged victim is under the age of 18; reporting will be made to the Juvenile Justice Authority (JJA) and/or Department of Children and Family (DCF). If considered a vulnerable adult; such as an elderly frail adult; reporting will be made to DCF. Or a mentally challenged and/or mentally ill adult; reporting will be made to the Labette Center for Mental Health and/or DCF.

(d) Labette County will provide a method for staff to privately report sexual assault/abuse and sexual harassment of inmates [DOJ §115.51 (d)] Staff can do this by completing a narrative and/or incident submitting to the jail administrator and/or PREA Coordinator. Staff can report anonymously using [Staff Reporting Form](#).

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#### **(3) Rules for Third Parties to Report Abuse and to Assist Inmates with Grievances [DOJ §115.51 (c), § 115.52 (e), and § 115.54]**

(a) Labette County will establish a method to receive third-party reports of sexual assault/abuse and sexual harassment and will distribute publicly information on how to report sexual assault/abuse and sexual harassment/misconduct on behalf of an inmate.

(b) Staff will accept reports made verbally, in writing, and anonymously from third parties and shall promptly document any verbal reports.

(c) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, will be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual assault/abuse, and will also be permitted to file such requests on behalf of inmates.

(d) If a third party files such a request on behalf of an inmate, 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 inmate declines to have the request processed on his or her behalf, Labette County will document the inmate's decision.

#### **B. Coordinated Response [DOJ § 115.65]**

As a general guide to ensuring that the victim receives the best possible care and that investigators have the best chance of apprehending the perpetrator, the Department of Justice recommends, and does mandate, coordination of the following actions:

- (1) Assessing the victim's acute medical needs; follow medical protocols
- (2) Informing the victim of his or her rights under relevant Federal or State law; done by investigator(s) for the agency
- (3) Explaining the need for a forensic medical exam and offering the victim the option of undergoing one; referral to local hospital
- (4) Offering the presence of a victim advocate or a qualified staff member during the exam; notifying Safehouse Crisis Center
- (5) Providing crisis intervention counseling; notifying Safehouse Crisis Center and/or Mental Health Center
- (6) Interviewing the victim and any witnesses; done by investigator(s) for the agency
- (7) Collecting evidence; done by investigator(s) for the agency
- (8) Providing for any special needs the victim may have. Contacting interpreters and/or Mental Health. Non CJA members can contact Just Detention International directly for these materials.
- (9) "Unsubstantiated allegation" means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- (10) "Substantiated allegation" means an allegation that was investigated and determined to have occurred.

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(11) "Unfounded allegation" means an allegation that was investigated and determined not to have occurred.

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

(1) When a correctional staff first-responder learns that an inmate has been sexually assaulted/abused, they will take immediate action to protect the inmate. This includes:

- (a) Separate the inmate from the alleged perpetrator;
- (b) Preserve and protect any crime scene until appropriate steps can be taken to collect evidence; and
- (c) If the assault/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, smoking, drinking, or eating; and
- (d) If no qualified medical or mental health practitioners are on duty at the time a report of recent assault/abuse is made, correctional 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 correctional staff member, they will request that the alleged victim not take any actions that could destroy physical evidence, and then notify correctional staff.

#### **D. Medical and Mental Health Services**

(1) Emergency [DOJ §115.82]

(a) Inmate victims of sexual assault/abuse will 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) Inmate victims of sexual assault/abuse while incarcerated will be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis (i.e., post-incident treatment to reduce the risk of sexually transmitted diseases or pregnancy), in accordance with professionally accepted standards of care, where medically appropriate.

(c) Treatment services will 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.

In some cases, these services will be provided during the medical forensic exam (such as post-exposure prophylaxis). Therefore, all emergency medical and mental health interventions should be coordinated with the Sexual Assault Nurse Examiner (SANE) or other medical professional who administers the sexual assault forensic exam.

(2) Ongoing Medical and Mental Health Care [DOJ §115.83]

(a) The facility will offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been sexually assaulted/abused in a prison, jail, lockup, community corrections facility, or juvenile justice facility.

(b) The evaluation and treatment of such victims will 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 will provide such victims with medical and mental health services consistent with the community level of care.



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(d) Inmate victims of sexually abusive vaginal penetration while incarcerated will be offered pregnancy tests, as medically necessary.

(e) If pregnancy results from the conduct described in this section, victims will 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) Inmate victims of sexual assault/abuse while incarcerated will be offered tests for sexually transmitted infections, as medically appropriate.

(g) Ongoing treatment services will 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 [DOJ § 115.21(d)(e) and (h)]

(a) Labette County will 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, Labette County will make available a qualified staff member from a community-based organization, or a qualified agency staff member to provide these services. If no advocate is available from a rape crisis center, Labette County will document its efforts to secure one.

(b) When requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member will accompany the victim throughout the forensic medical examination process and investigatory interviews and will provide emotional support, crisis intervention, information, and referrals.

The Department of Justice suggests that the staff advocate receive the same training as that required for victim advocates in the State, which is usually a forty-hour training and is offered by many State sexual assault coalitions, usually several times throughout the year and at a reasonable cost. The qualified agency staff member may provide support to survivors at any agency facility.

A list of coalitions is available on the website of the Department's Office on Violence Against Women at <http://www.ovw.usdoj.gov/statedomestic.htm>

This agency may work with a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services. This means that Labette County cannot rely on an advocate who is affiliated with a law enforcement agency or corrections agency (such as an advocate from the Labette County Attorney's Office or through the Sheriff's Department), unless the advocate can offer confidentiality that is equal to a community-based advocate.

(2) Emotional Support Services [DOJ § 115.53]

(a) The facility will provide inmates with access to outside victim advocates for emotional support services related to sexual assault/abuse by giving inmates 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. Labette County will enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible. Inmates will be able to request to contact an outside victim advocate through a chaplain, clinician, or other service provider.

(b) The facility will inform inmates, 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 will be forwarded to authorities in accordance with mandatory reporting laws.

(c) Labette County will maintain or attempt to enter into memoranda of understanding or other agreements

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with community service providers that are able to provide inmates with confidential emotional support services related to sexual assault/abuse. Labette County will maintain copies of agreements or documentation showing attempts to enter into such agreements.

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

(1) Labette County will ensure that an administrative or criminal investigation is completed for all allegations of sexual assault/abuse and sexual harassment. If referred, KBI will conduct investigation.

(2) It is Labette County's policy to ensure that allegations of sexual assault/abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. Such referrals will be available on Labette County website.

(3) When Labette County conducts its own investigations into allegations of sexual assault/abuse and sexual harassment, it will do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

(4) Where sexual assault/abuse is alleged, Labette County will use investigators who have received special training in sexual assault/abuse investigations pursuant to Section 6. A. (Employee Training) of this policy.

(5) Investigators will 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 assault/abuse involving the suspected perpetrator.

(6) When the quality of evidence appears to support criminal prosecution, Labette County will conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

(7) The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as inmate or staff. Labette County will not require an inmate who alleges sexual assault/abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with an investigation. Agencies may, however, administer such tests to victims who request them.

(8) Administrative investigations:

(a) Will include an effort to determine whether staff actions or failures to act contributed to the assault/abuse;  
and

(b) Will 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) Will be referred for prosecution if there are substantiated allegations of conduct that appear to be criminal.

(d) Labette County will impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual assault/abuse or sexual harassment are substantiated in administrative investigations.

(9) Criminal investigations: Will 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;  
and

(10) Labette County will retain all written reports required by this section for as long as the alleged abuser is

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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 will not provide a basis for terminating an investigation.

(12) When other agencies investigate sexual assault/abuse, Labette County will cooperate with outside investigators and will endeavor to remain informed about the progress of the investigation.

(13) Evidence Protocol and Forensic Medical Exams [DOJ §115.21]:

(a) To the extent Labette County is responsible for investigating allegations of sexual assault/abuse, it will follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

(b) Labette County will offer all victims of sexual assault/abuse access to forensic medical examinations, without financial cost to the victim, where evidentiarily or medically appropriate. Such examinations will 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. Labette County will document its efforts to provide SAFEs or SANEs for this purpose.

(c) To the extent Labette County is not responsible for investigating allegations of sexual assault/abuse, it will request that the investigating agency follow the requirements of this section.

(14) Following an investigation into an inmate's allegation that he or she suffered sexual assault/abuse, Labette County will inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

(15) If Labette County did not conduct the investigation, it will request the relevant information from the investigative agency in order to inform the inmate.

(16) Following an inmate's allegation that a staff member committed sexual assault/abuse against him or her, Labette County will subsequently inform the inmate whenever:

(a) The staff member is no longer working within the inmate's cell block;

(b) The staff member is no longer employed at the facility;

(c) Labette County learns that the staff member has been charged with or indicted on a charge related to sexual abuse within the facility; or

(d) Labette County learns that the staff member has been convicted on a charge related to sexual assault/abuse within the facility.

(17) Following an inmate's allegation that he or she has been sexually assaulted/abused by another inmate, Labette County will subsequently inform the alleged victim whenever:

(a) Labette County learns that the alleged abuser has been charged with or indicted on a charge related to sexual assault/abuse within the facility; or

(b) Labette County learns that the alleged abuser has been convicted on a charge related to sexual assault/abuse within the facility. All such notifications or attempted notifications will be documented. Labette County's obligation to report under this standard shall terminate if the inmate is released from the agency's custody. [DOJ § 115.73]

(18) Sexual abuse incident reviews [DOJ § 115.86]

(a) Labette County will conduct a sexual assault/abuse incident review at the conclusion of every

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sexual assault/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 the PREA coordinator, upper-level management officials, with input from mid-level supervisors, investigators, and medical or mental health practitioners.

(d) The review team shall:

(d1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual assault/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 assault/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/coordinator.

(e) Labette County will implement the review team's recommendations for improvement, or document its reasons for not doing so.

Agencies must use the Department of Justice's National Protocol as a basis for their evidence collection protocols; however, they are free to adapt the protocol to their needs. The protocol must be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents. The National Protocol provides a set of minimum suggestions. Agencies that follow more comprehensive guidelines can continue using those, as long as they are consistent with the National Protocol. Agencies should refer to the Department of Justice's Recommendations for Administrators of Prisons, Jails, and Community Confinement Facilities for Adapting the U.S. Department of Justice's A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents, which is available at: <http://www.ovw.usdoj.gov/docs/confinement-safe-protocol.pdf>.

#### **G. Protection from Retaliation [DOJ §115.67]**

Note: For rules regarding reporting by inmates and staff of retaliation after it has occurred, see Section 5. A. (Procedures for Reporting Sexual Assault/Abuse/Sexual Harassment) above.

(1) Labette County policy is to protect all inmates and staff who report sexual assault/abuse or sexual harassment or cooperate with sexual assault/abuse or sexual harassment investigations from retaliation by other inmates or staff.

(2) Labette County will employ multiple protection measures promptly, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual assault/abuse or sexual harassment or for cooperating with investigations.

(3) For at least 90 days following a report of sexual assault/abuse, Labette County PREA coordinator or

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designee will monitor the conduct and treatment of inmates or staff who reported sexual assault/abuse, and of inmates who were reported to have suffered sexual assault/abuse, to see if there are changes that may suggest possible retaliation by inmates or staff, and will act promptly to remedy any such retaliation. An agency's obligation to monitor will terminate if an investigation determines that the allegation is unfounded.

Labette County shall continue such monitoring beyond 90 days if the initial monitoring indicates an ongoing need. Sheriff, Undersheriff and Jail Administrator will monitor any inmate/staff retaliation. Monitoring shall include:

- (a) Periodic in-person conversations with inmates and/or staff;
- (b) Review of disciplinary incidents involving inmates;
- (c) Review of housing or program changes; and
- (d) Review of negative performance reviews or reassignments of staff.

(4) Any use of special management housing to protect an inmate who is alleged to have suffered sexual assault/abuse will be subject to the same requirements that are discussed above in Section 4.G(3) (Protective Custody).

Note: For rules regarding reporting of retaliation after it has occurred , see Section 5.A. above

#### **H. Sanctions for Individuals Found to have Participated in Sexual Assault/Abuse or Harassment**

(1) Disciplinary Sanctions for Staff [DOJ Standards §115.76]

(a) Staff will be subject to disciplinary sanctions up to and including termination for violating agency sexual assault/abuse or sexual harassment policies. Exceptions will be made only in extraordinary circumstances.

(b) Termination will be the presumptive disciplinary sanction for staff who have engaged in sexual assault/abuse.

(c) Disciplinary sanctions for violations of Labette County policies relating to sexual assault/abuse or sexual harassment 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.

(d) All terminations for violations of agency sexual assault/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.

The Department of Justice recognizes that, pursuant to collective bargaining agreements, final decisions may rest in the hands of an arbitrator.

(2) Corrective Action for Contractors and Volunteers [§115.77]

(a) Any contractor or volunteer who engages in sexual assault/abuse will be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

(b) The facility will take appropriate remedial measures, and will consider whether to prohibit further contact with inmates, in the case of any other violation of Labette County sexual assault/abuse or sexual harassment policies by a contractor or volunteer.

(3) Disciplinary Sanctions for Inmates [DOJ Standards §115.78]

(a) Inmates will be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual assault/abuse or following a criminal finding of guilt for inmate-on-inmate sexual assault/abuse.

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- (b) Sanctions will 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.
- (c) The disciplinary process will consider whether an inmate's mental disability or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
- (d) Labette County will discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- (3) For the purpose of disciplinary action, a report of sexual assault/abuse made in good faith based upon a reasonable belief that the alleged conduct occurred will not constitute falsely reporting an incident, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Labette County prohibits sexual activity between inmates and will discipline inmates for such activity. An agency will not, however, deem such activity to constitute sexual assault/abuse if it determines that the activity is not coerced.

#### **I. Notifying Other Confinement Agencies [DOJ § 115.63]**

- (1) Upon Labette County receiving an allegation that an inmate was sexually assaulted/abused while confined at another facility, the allegation will be investigated.
- (2) Such notification will be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- (3) Labette County will document that it has provided such notification.

## **6. STAFF TRAINING AND INMATE EDUCATION**

Labette County is committed to communicating to the inmates at its jail, to its employees, and to contractors and volunteers, the following information through the training, education and orientation programs described in this section:

- Labette County zero tolerance policy;
- Labette County policies to prevent, detect, and respond to sexual assault/abuse and sexual harassment; and
- Other rights and obligations under this policy.

#### **A. Employee Training [DOJ §115.31]**

- (1) Labette County will train all employees who may have contact with inmates on:
- (a) Its zero-tolerance policy for sexual assault/abuse, sexual harassment and retaliation;
  - (b) How to fulfill their responsibilities regarding prevention, detection, reporting, and response to sexual assault/abuse and sexual harassment;
  - (c) Inmates' right to be free from sexual assault/abuse and sexual harassment;
  - (d) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
  - (e) The dynamics of sexual assault/abuse and sexual harassment in confinement;
  - (f) The common reactions of sexual assault/abuse and sexual harassment victims;
  - (g) How to detect and respond to signs of threatened and actual sexual abuse; such as
    - i. Depression
    - ii. Fear

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iii. Anxiety

iv. Helplessness

(h) How to avoid inappropriate relationships with inmates; most staff on inmate misconduct occurs after seemingly innocent professional boundaries have been crossed. The following behaviors will assist you in maintaining appropriate boundaries:

i. Maintain professional distance

ii. Focus behavior on duty assignments

iii. Do not become overly close with any particular inmate

iv. Do not share your own or other staff members personal information with or around inmates

v. When speaking to inmates about other staff, refer to staff members with their rank and last name.

vi. Do not accept gifts or favors from inmates.

(i) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates;

(j) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

(2) Correctional staff employees will be trained in how to conduct cross-gender pat-down searches, and how to conduct searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

(3) Training will be tailored to all genders of the inmate at the employee's facility.

(4) All current employees will receive this training, and Labette County will provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual assault/abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, Labette County will provide refresher information on current sexual assault/abuse and sexual harassment policies.

(5) Specialized Training: Investigators [DOJ §115.34]

(a) In addition to the general training provided to all employees, Labette County will ensure that, to the extent it conducts sexual assault/abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

(b) Specialized training will include techniques for interviewing sexual assault/abuse victims, proper use of Miranda and Garrity warnings, sexual assault/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 [DOJ § 115.35]

Labette County will 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 assault/abuse and sexual harassment;

(b) How to preserve physical evidence of sexual assault/abuse;

(c) How to respond effectively and professionally to victims of sexual assault/abuse and sexual harassment;

and

(d) How and to whom to report allegations or suspicions of sexual assault/abuse and sexual harassment.

(7) Labette County will document, through employee signature or electronic verification, that employees have received and understand the training. In the case of investigators who investigate sexual assault/abuse in the facility, it will maintain documentation they have completed the required specialized training in sexual assault/abuse investigations. In the case of medical and mental health practitioners, the facility will maintain documentation that

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they have received the specialized training described in this section.

#### **B. Inmate Orientation and Education [DOJ §115.33]**

(1) During the intake process, inmates will receive information explaining Labette County's zero-tolerance policy regarding sexual assault/abuse and sexual harassment and how to report incidents or suspicions of sexual assault/abuse or sexual harassment. ([PREA guidelines](#))

(2) Within 30 days of intake, Labette County will provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual assault/abuse and sexual harassment and to be free from retaliation for reporting such incidents, and Labette County policies and procedures for responding to such incidents.

(3) Current inmates will 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. ([Discharge Referral Form](#))

(4) Labette County will provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.

(5) Labette County will maintain documentation of inmate participation in these education sessions.

(6) In addition to providing such education, Labette county will ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

#### **C. Volunteer and Contractor Training [DOJ § 115.32]**

(1) Labette County will ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under Labette County sexual assault/abuse and sexual harassment prevention, detection, and response policies and procedures.

(2) The level and type of training provided to volunteers and contractors will be based on the services they provide and the level of contact they have with inmates, but all volunteers and contractors who have contact with inmates will be notified of Labette County's zero-tolerance policy regarding sexual assault/abuse and sexual harassment and how to report such incidents.

(3) Labette County will maintain documentation confirming that volunteers and contractors understand the training they have received. Volunteer/contract workers will be required to fill out an [Awareness Statement for Non-Criminal](#) Justice background check.

## **7. DATA COLLECTION AND REVIEW [DOJ §§ 115.87- 89]**

### **A. Data Collection [DOJ § 115.87]**

(1) Labette County will collect accurate, uniform data for every allegation of sexual abuse at the facility under



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its direct control using a standardized instrument and set of definitions.

(2) Labette County will aggregate the incident-based sexual assault/abuse data at least annually.

(3) The incident-based data collected will include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice. The SSV only requests detailed information for substantiated incidents.

(4) Labette County will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual assault/abuse incident reviews.

(5) Upon request, Labette County will 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 [DOJ § 115.88]**

(1) Labette County will review data collected and aggregated pursuant to Section 7. A. (Data Collection) above in order to assess and improve the effectiveness of its sexual assault/abuse prevention, detection, and response policies, practices, and training, including by:

- (a) Identifying problem areas;
- (b) Taking corrective action on an ongoing basis; and
- (c) Preparing an annual report of its findings and corrective actions for the facility, as well as the agency as a whole.

(2) Such report will include a comparison of the current year's data and corrective actions with those from prior years and will provide an assessment of Labette County progress in addressing sexual assault/abuse.

(3) Labette County's report will be approved by Labette County sheriff and made readily available to the public through its website or, if it does not have one, through other means.

(4) Labette County will redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but will indicate the nature of the material redacted.

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

(1) Labette County will ensure that data collected pursuant to Section 7. A. are securely retained.

(2) Labette County will make all aggregated sexual assault/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 assault/abuse data publicly available, the Labette County will remove all personal identifiers.

(4) Labette County will 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.

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## **8. COLLECTIVE BARGAINING AGREEMENTS [DOJ § 115.66]**

**A. Any governmental entity responsible for collective bargaining** on Labette County's behalf will not enter into or renew any collective bargaining agreement or other agreement that limits Labette County's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or a determination of whether and to what extent discipline is warranted.

**B. Nothing in this section will restrict Labette County entering into or renewing agreements that govern:**

(1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions in this policy relating to the standard of evidence for substantiating allegations of sexual abuse/harassment in Section 5. F. (Investigation of Incidents) and disciplinary sanctions for staff in Section 5.H. (Sanctions Against Abusers When Allegations are Substantiated); or

(2) Whether a no-contact assignment that is imposed pending the outcome of an investigation will be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual assault/abuse is not substantiated.

## **9. AUDITING AND CORRECTIVE ACTION [DOJ § 115.401-405]**

### **A. Frequency and Scope of Audits [DOJ § 115.401]**

(1) During the three-year period starting August, 2016, and during each three-year period thereafter, Labette County will ensure that the facility is audited at least once.

(2) Labette County will bear the burden of demonstrating compliance with the standards.

(3) Labette County will permit the auditor to:

(a) Review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations of the facility;

(b) Request and receive copies of any relevant documents (including electronically stored information).

(c) Conduct private interviews with inmates.

(4) Labette County will make available to the auditor, at a minimum:

(a) A sampling of relevant documents and other records and information for the most recent one-year period;

(b) A sampling of any available videotapes and other electronically available data that may be relevant to the provisions being audited.

(5) Labette County will ensure the auditor has access to all areas of the audited facility.

(6) Labette County will cooperate with the auditor to ensure a representative sample of inmates and of staff, supervisors, and administrators can be interviewed by the auditor.

(7) Labette County will ensure at least one way for inmates to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

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The Department of Justice may recommend an expedited audit if the Department has reason to believe that a facility may be experiencing problems relating to sexual assault/abuse.

The recommendation may also include referrals to resources that can assist the agency with PREA-related issues.

The Department of Justice released a PREA Audit Instrument for prisons and jails to provide guidance on the conduct and contents of the audit. Refer to the PREA Resource Center website for the PREA Audit Instrument: [www.prearesourcecenter.org](http://www.prearesourcecenter.org).

Note: Auditors will also attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

#### **B. Auditor Qualifications [DOJ § 115.402]**

(1) Labette County will ensure that audits are conducted by a qualified auditor, which includes:

- (a) A member of a correctional monitoring body that is not part of, or under the authority of, Labette County;
- (b) A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the agency; or
- (c) Other outside individuals with relevant experience.

(2) All auditors will be certified by the Department of Justice. Refer to the PREA Audit Instrument for guidance on auditor qualifications. The PREA Audit Instrument can be found on the PREA Resource Center website at [www.prearesourcecenter.org](http://www.prearesourcecenter.org).

(3) No audit will be conducted by an auditor who has received financial compensation from Labette County, except for compensation received for conducting prior PREA audits, within the three years prior to the agency's retention of the auditor.

(4) Labette County will not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to Labette County's retention of the auditor, with the exception of contracting for subsequent PREA audits.

The Department of Justice has clarified that two corrections agencies may not agree to audit each other, or do 'reciprocal audits.' See the PREA Resource Center FAQ: <http://www.prearesourcecenter.org/faq#n1053>.

#### **C. Audit Contents and Findings [DOJ § 115.403]**

(1) Each audit will include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.

(2) Audit reports will state whether agency-wide policies and procedures comply with relevant PREA standards.

(3) For each PREA standard, the auditor will determine whether the audited facility reaches one of the following findings:

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- (a) Exceeds Standard (substantially exceeds requirement of standard);
- (b) Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period);
- (c) Does Not Meet Standard (requires corrective action)

(4) The audit summary will indicate, among other things, the number of provisions the facility has achieved at each grade level.

(5) Audit reports will describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and will include recommendations for any required corrective action. Auditors must redact any personally identifiable inmate or staff information from their reports, but will provide such information to the agency upon request, and may provide such information to the Department of Justice.

(6) Labette County will ensure that the auditor's final report is published on Labette County's website if it has one, or is otherwise made readily available to the public.

#### **D. Audit Corrective Action Plan [DOJ § 115.404]**

(1) A finding of "Does Not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.

(2) The auditor and Labette County will jointly develop a corrective action plan to achieve compliance.

(3) The auditor will take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.

(4) After the 180-day corrective action period ends, the auditor will issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.

(5) If Labette County does not achieve compliance with each standard, it may request a subsequent audit once it believes that it has achieved compliance.

#### **E. Audit Appeals [DOJ § 115.405]**

(1) Labette County may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect.

(a) Such appeal must be lodged within 90 days of the auditor's final determination.

(2) If the Department determines that Labette County has stated good cause for a re-evaluation, Labette County may commission a re-audit by an auditor mutually agreed upon by the Department and the agency.

(a) Labette County shall bear the costs of this re-audit.

(3) The findings of the re-audit shall be considered final.