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NEWPORT NEWS JUVENILE SERVICES

**Residents'
Guide to
Sexual
Misconduct**

*How to Identify
And Address
Sexual Misconduct*

October 21, 2015

The Newport News Department of Juvenile Services (NNDJS) shall maintain a “zero tolerance” for resident-on-resident sexual assault, staff sexual misconduct and/or sexual harassment toward offenders.

The Newport News Department of Juvenile Services is committed to providing a safe and healthy environment for all staff, visitors and our juvenile residents. Juvenile Services has a **ZERO TOLERANCE** for sexual misconduct of any kind and will impose discipline for such misconduct, up to and dismissal for staff and serious sanctions for residents who victimize other residents. Incidents of sexual misconduct committed by visitors, professionals and/or contractors/vendors, against our residents, shall also be referred to law enforcement for investigation and prosecution, when applicable.

Newport News Department of Juvenile Services employees shall not engage in any form of misconduct and does not support staff members who do. We recognize that staff misconduct and failure to follow professional standards taints our reputation, credibility, and jeopardizes the safety and security of the department.

Due to the resident’s custody or supervision status, no prohibited act of sexual misconduct can have as an affirmative defense, a claim of consent.

- Consensual sexual intercourse with a resident is by its nature an assault.
- Sexual misconduct includes any sexual behavior that is directed towards a resident.

To fully understand the scope of this crime, it is very important to note the definition of “Sexual Misconduct” which is: *“any act or attempted act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act including the penetration, however slight, of the male or female sex organ or the anus by a finger,*

instrument, or object done for the purpose of arousing or gratifying the sexual desire of any person.”

Newport News Juvenile Services, in an effort to continually promote the professionalism of our staff, will pursue prosecution of any staff member who is involved in this type of activity. In other words, any physical contact with a resident of a sexual nature could result in prosecution for a felony.

Any alleged abuse (including sexual contact) of a resident shall be immediately reported to the Department of Juvenile Justice, Child Protective Services, or local law enforcement and will be investigated.

Newport News Juvenile Services employees do not engage in this kind of conduct and will not support staff members who do. They recognize that improper behavior jeopardizes the reputation and the safety and security of this agency. It is important that everyone, staff and residents, do their part to reduce the harm that results from sexual misconduct. The purpose of this guide is to ensure residents are aware of the safeguards that exist.

What is sexual misconduct?

Sexual misconduct is:

- Any sexual advance by staff members or residents
- Requests for sexual favors by staff members or residents
- Threats by staff or residents for refusing sexual advances
- Verbal or physical conduct of a sexual nature toward a resident by staff members, contract staff or volunteers of the Newport News Juvenile Services

- Invasion of privacy beyond that reasonably necessary for safety and security.

Examples of sexual misconduct may include but are not limited to:

- Any sexual act
- Intentional touching of genitals, anus, groin, breast or inner thigh area to gratify sexual desire
- Indecent exposure by a staff member or resident in front of a resident or
- Kissing.

Sexual acts or sexual contacts between any staff person and a resident, even if the resident consents, initiates or pursues, are always prohibited and always illegal.

What is sexual harassment?

Sexual harassment is: staff engaging in sexual advances, requests for sexual favors or other offensive conduct of a sexual nature.

Examples of sexual harassment include but are not limited to:

- Demeaning references to a resident's gender
- Derogatory comments about a resident's gender
- Jokes about sex or gender specific traits
- Abusive, threatening, profane or degrading sexual comments and
- Touching, attention, or conduct of a sexual nature

What is over-familiarity?

Over-familiarity is: staff engaging in or attempting to engage in conduct likely to result in intimacy or a close personal relationship with a resident. Examples of behavior by staff and residents that is prohibited include, but is not limited to:

- Flirting with each other
- Exchanging personal letters or gifts
- Requests or granting of special favors and
- Discussing personal matters unless it is an expectation of the staff member's job responsibilities

What is retaliation?

Retaliation is intimidation to prevent a resident from filing a complaint or participating in an investigation of sexual misconduct. Our department prohibits any individual from interfering with an investigation, including intimidation or retaliation against witnesses. If a resident believes that they are being denied privileges, or is being unfairly treated or punished in some way because they have filed a complaint or assisted in the investigation of a complaint, the resident should report this to the Secure Detention Administrator, Deputy Director, or Director.

Reporting Sexual Misconduct

Sexual misconduct by staff is **prohibited**, but it must be reported before action can be taken. Do not rely on anyone else to report misconduct – when it is experienced or seen, report it immediately.

To make sure that sexual misconduct is reported, the Newport News Department of Juvenile Services has several ways for residents to report confidentially. Residents may use the reporting method with which they are most comfortable.

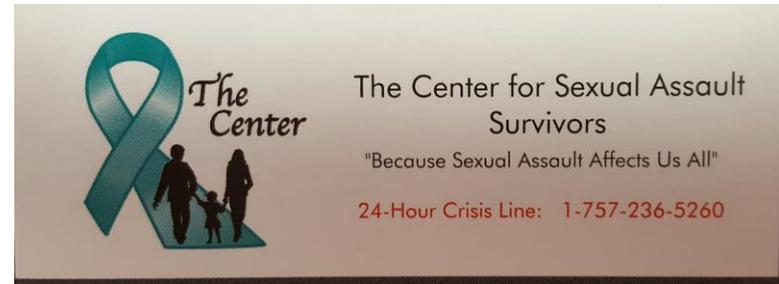
Reporting from the NNJDC:

Trustworthy Adults

In this facility, there are many adults who will help and protect you. If you feel comfortable, you should talk to a staff, counselor, teacher or medical professional and tell them if you have been abused. You also can tell your attorney, probation officer, parent, guardian or other professional during visits.

Facility Grievance System

NNJDC has a way to handle your complaints or problems; "**grievances**". The facility's grievance system is always available for you to report abuse if you do not feel comfortable talking to a staff member directly.



What happens to reports of sexual misconduct?

Newport News Department of Juvenile Services will investigate all allegations of sexual misconduct.

Members of Newport News Department of Juvenile Services Administration, Department of Juvenile Justice, Child Protective Services, and/or Local Police/Sheriff's Office, will investigate allegations of:

- Sexual harassment
- Sexual misconduct
- Over-familiarity and
- Retaliation

During an investigation of sexual misconduct, a number of actions may occur if it is determined to be in the best interest of the resident, the staff, or the center:

- Staff could be placed on restricted duty, barred from entering the center, placed on administrative leave, or suspended.
- Residents could be relocated for their safety. Residents will never be punished for reporting sexual misconduct. In fact, every effort will be made to assure residents' protection.

Keep in mind a thorough investigation takes time. The investigation must clearly support or refute any allegation with evidence, information gathered from witnesses, and documentation.

Possible Outcomes of an Investigation

After the investigation is finished, one of the following decisions will be reached:

- There is sufficient evidence to conclude the allegation is true. Results of the investigation will be sent to the Commonwealth Attorney's Office, who will determine the filing of charges.
- There is insufficient evidence to conclude the allegation is or is not true. If the investigation proves the resident made a false allegation, she/he could receive a disciplinary action, the Court Service Unit will be notified.
- There is not enough evidence to prove that the allegation is true, but there is evidence to prove that another law, policy or rule was violated.

Any staff member who sexually abuses or assaults a resident will be disciplined up to and including termination. Discipline and criminal prosecution are more likely to be successful if the abuse is reported immediately.

Just as important

Resident on Resident Sexual Assault and Abuse:

Definition: One or more residents engaging in, or attempting to engage in a sexual act with another resident or the use of threats, intimidation, inappropriate touching, or other actions and/or communications by one or more residents aimed at coercing and/or pressuring another resident to engage in a sexual act.

While in residential care, no one has the right to pressure residents to engage in sexual acts. Residents do not have to tolerate sexual assault or pressure to engage in unwanted sexual behavior.

