

	STATE MENTAL HOSPITAL POLICY COMMONWEALTH OF PENNSYLVANIA OFFICE OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES		
	NUMBER: SMH-P-10-02	ISSUE DATE: 03-10-10	EFFECTIVE DATE: 03-10-10
SUBJECT: Response to Incidents of Alleged Improper Sexual Behavior		BY:  Aidan Altenor Director, Bureau of Community and Hospital Operations	

SCOPE:

State Mental Health Hospitals
 South Mountain Restoration Center

PURPOSE:

The purpose of this policy is to institute uniform guidelines to investigate any alleged or observed incidents of improper sexual behavior, sexual abuse or sexual assault and to provide appropriate treatment to the victims. All State Mental Hospitals (SMHs) and the South Mountain Restoration Center (SMRC) shall revise their policies, procedures, and practices accordingly.

BACKGROUND:

The Office of Mental Health and Substance Abuse Services (OMHSAS) and the Bureau of Community and Hospital Operations (BCHO) support the principles of Recovery and assure that all treatment be provided in the most appropriate and least restrictive environment consistent with the safety, welfare of staff, public and other individuals who are served in the State Mental Hospital system and the South Mountain Restoration Center (SMRC). It is the responsibility of each state hospital and the SMRC to provide a safe and therapeutic environment for all individuals in a manner that is non-coercive, supportive and consistent with respecting the rights and dignity of all whom we serve.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Director, Bureau of Community and Hospital Operations, DPW-OMHSAS,

BACKGROUND continued:

The Office of Mental Health and Substance Abuse Services (OMHSAS) recognizes that individuals in state mental hospitals and the SMRC who experience a sexual assault *must* be provided emotional and physical care as part of their recovery. OMHSAS defines a **sexual assault** as: ***An act or attempted act of: rape; incest; sexual molestation; inappropriate or unwanted touching of an individual by another; and offering or promising privileges, goods, or other things of value in exchange for sexual favors or other improper sexual behavior.*** The victim shall be offered specialized counseling/treatment services, including the development of a safety plan. Individuals who receive services in the state mental hospitals and the SMRC shall also be afforded all the rights given to individuals in the community including:

- The right to receive a physical examination at a community hospital;
- The right to contact the local or state police enforcement agency and pursue criminal charges;
- The right to request and receive counseling from the county's Victim's Assistance Office; and
- The expectation that the victim's selected method to "feel safe" is considered and honored whenever possible.

The OMHSAS defines **sexual abuse** as: ***All types of sexual assault; sexual harassment; sexual advances; requests for sexual favors; and sexually offensive comments or gestures.*** Any sexual contact between a staff person and an individual who receives services is considered sexual abuse. This would also include the display of sexual photographs and/or drawings and providing individuals written materials of a sexual nature.

DEFINITIONS (PA Statutes):

- 1) **Indecent Assault** - Indecent contact with another person without consent. The individual knows that the other person is incapable of appraising the nature of his/her conduct. The individual knows that the other person is unaware of the contact being committed. The individual has impaired the other person's power to appraise, control or resist. The victim is detained in a hospital where the individual has supervisory or disciplinary authority over him/her.
- 2) **Aggravated Indecent Assault** - The engagement in penetration, however slight, of the genitals or anus of another with a part of the individual's body for any purpose other than good faith medical, hygienic or law enforcement procedures without consent. The individual knows that the other person is

incapable of appraising the nature of his/her conduct. The individual knows that the other person is unaware of the contact being committed. The individual has impaired the other person's power to appraise, control or resist; the victim is detained in a hospital where the individual has supervisory or disciplinary authority over him/her.

REFERENCES

- DPW Manual Section 7001.4; DPW Manual Section 7084, Pennsylvania Consolidated Statutes Title 18 (42 Pa.1726.1, Forensic Examination Costs for Sexual Offense.
- **As many as 80 percent of men and women in psychiatric hospitals have experienced physical or sexual abuse, most of them as children.** *The Damaging Consequences of Violence and Trauma*, 2004, compiled by Ann Jennings, PhD.
- **On average over half of women seen in a range of mental health settings are either currently experiencing or have experienced abuse by an intimate partner and for victims of domestic violence, PTSD rates ranged from 54% to 84%.** *Domestic Violence & Mental Health Policy Initiative, 2002* : Coker et al, 2002; Kubany et al, 1995; Kemp, Rawlings & Green, 1991
<http://www.dvmhpi./Aboutdvmh.htm>
- **According to the National Institute of Mental Health (2001), in a given year: Research has shown that women are at higher risk for developing PTSD than men (Breslau et al, 1997). PTSD rates shortly after sexual assault can reach as high as 94% (Rothbaum, Riggs, Murdock, & Walsh, 1992). Domestic Violence, Mental Health, and Trauma: Research Highlights (PDF) Carole Warshaw, M.D. and Holly Barnes, M.A., April, 2003.**
- **Serious episodes of depression affect about one third of battered women in the United States.** Population Reports: Ending Violence Against Women, 2000. Heise, L. 1994. *Violence Against Women: The Hidden Health Burden*. World Bank Discussion Paper. Washington D.C.: The World Bank
- **An independent assessment of severely mentally ill recipients of public mental health inpatient and out-patient services revealed 43 percent had a diagnosis of PTSD not previously assessed by any of the facilities. Mental health staff had only noted a diagnosis of PTSD in the charts of 2 percent of the individuals.** Mueser K.T., Goodman L.B., Trumbetta S.L., Rosenberg S.D., Osher C., Vidaver R., Auciello P., &

Foy D.W. "Trauma and posttraumatic stress disorder in severe mental illness." *Journal of Consulting & Clinical Psychology*, 1998.

PROCEDURE

Any staff member who observes an incident or receives a sexual assault or sexual behavior complaint is required to do the following:

1. During routine business hours, notify the Chief Executive Officer (CEO) or designee. After routine business hours, the Nurse Manager/Supervisor is to be notified who, in turn, is required to notify the Administrator-on-Call (AOC). The Chief Executive Officer (or designee) shall also notify the Administrative Investigation Coordinator (AIC).
2. Notify the Registered Nurse on the unit who shall immediately implement the sexual behavior policy.
3. Initiate the process to complete the Individual Incident Report (SI815) for each involved consumer; both victims and targets.
4. Security must be notified in all cases where a sexual assault event occurs or is alleged. The Security Officer, in turn, shall:
 - a. Notify the Pennsylvania State Police (or governing law enforcement agency) of the alleged incident.
 - b. Follow departmental protocol regarding investigations; including the completion of the Safety Incident Report (PW456).
 - c. Maintain consultation with the Police to track any ensuing investigation, obtain outcomes and provide this information to the Chief Executive Officer and the Administrative Investigation Coordinator.
 - d. The PACER (**P**ublic **A**ccess to **C**ourt **E**lectronic **R**ecords) system shall also be utilized.
5. Individual victims shall:
 - Be offered immediate support and counsel by ward staff;
 - Be informed of their right to pursue criminal charges;
 - Be offered counsel through the Psychology department;
 - Be offered counsel through the Spiritual Services department;
 - Receive counsel as requested through the Psychology and/or Spiritual Services Departments. The appropriate department director(s) shall be notified of this intent.

- Be asked if they wish to have their name referred to the Victim's Assistance Office. If the response is yes, the unit Social Worker shall make the necessary contact/referral or allow the victim to make the call to the local center. After routine working hours, the Nurse Supervisor shall be responsible for this step. All SMHs and the SMRC shall maintain a current list of local Victim Advocacy Programs and the corresponding contact information to be utilized in these instances.
6. Documentation of the person's responses and what/if anything was done shall be recorded in the progress notes by all appropriate staff involved in the response to the incident.
 7. Notification of the individual's family shall be made by the attending Psychiatrist or Physician on-duty dependent upon the circumstances of the incident, the possible therapeutic effect upon the individual and whether the individual consents to the notification. Documentation concerning the individual's consent to notification of the family is to be made in the medical record.
 8. If the victim is an employee or visitor to the hospital, emergency first aid shall be provided and, if needed, transportation to a local hospital arranged. The victim will be strongly urged to seek counseling through the Victim's Assistance Office and employees will be reminded of the availability of the State Employees Assistance Program (SEAP).

Charge Nurse - Responsibilities to the Victim:

1. Attend to the immediate first aid needs of victim; including psychological/emotional support.
2. Notify the following:
 - Monday-Friday, (Normal working hours).
 - a. Attending Psychiatrist (if not available, Supervising Psychiatrist)
 - b. Nursing Supervisor
 - c. Security
 - d. Department Directors of Psychology and/or Spiritual Services, if needed
 - e. Medical Physician
 - Off Duty Hours, Weekends and Holidays
 - a. Physician on duty
 - b. Nursing Supervisor

- c. CEO (or designee)
 - d. Security
3. Completes appropriate part of Individual Incident Report, SI-815 (Incident Management) prior to change of shift.
 4. Make arrangements to prepare individual for transfer to community hospital, if needed. Send any evidence in a paper bag labeled with the individual's name/date, e.g., clothing or object related to assault to be eventually transferred to the PSP.

Special Note: To preserve evidence, the victim must not take a shower, bath, or change clothing until after returning from the outside hospital.

Psychiatrist and/or Covering Medical Physician

1. Interviews the individual, completes a competency examination, completes appropriate section of the SI-815 Individual Incident Form with findings and notes observations/conclusions within the progress notes section of the victim's medical record.
2. Attends to any immediate first aid needs of the individual, but does NOT conduct a rape examination or interfere with physical evidence.
3. Notifies the local general hospital emergency room that the individual will be coming for examination for trauma generally, and for any indicated evidentiary examination.
4. After a sexual assault event in which there is the possibility of exchange of body fluids, the Psychiatrist, when reviewing the incident report, will involve the medical Physician. The Medical Physician will collaborate with the Medical Physician treating any other involved individual(s), if known, to determine the need for follow up testing and treatment for all involved. Follow up testing should include RPR, Hepatitis Profile, HIV (consent needed), Chlamydia testing, as appropriate, and for females, pregnancy testing if warranted and referral to GYN Clinic for follow up examinations. Sequential testing shall be ordered for those conditions for which it is appropriate. The Medical Physician shall include the status of the sequential testing in the summary if the individual is transferred or discharged while follow up testing is in progress.

Emotional/Post Traumatic Stress (PTSD) Aspects:

It is important for hospital staff to offer support to the sexual assault victim. The victim(s) should be considered to be in a period of trauma and crisis; he/she may have undergone a painful physical and/or emotional experience, which was a direct threat to his/her physical and mental well being. It also is of particular note that it is possible that an individual would have to discuss the incident with as many as five or more different people including the initial reporter; the unit Nurse; the Physician; the Psychiatrist; Security and possibly many others at a community hospital. Staff needs to be aware of the re-traumatizing aspects of having to relive the experience many times and should react accordingly. Staff may also feel disturbed by the victim's ordeal or be unsure about how to be most helpful emotionally. The following comments may be helpful:

- A. Research has shown that victims vividly recall remarks made by persons with whom they come in contact with immediately after the assault. It is necessary therefore, that staff remain respectful, calm, empathic, warm, and non-judgmental.
- B. Sexual assaulted victims may be: (1) expressive - crying, hostile, tense, or even smiling; or, alternatively, (2) controlled - calm, composed, or subdued. Whatever the emotional style of the victim, he or she may not be thinking or acting rationally due to being in a state of trauma.
- C. In attempting to regain control of his or her life, the victim goes through phases; various decisions are made during these phases. Immediately following the assault, while at the hospital, the victim will, in all likelihood, be informed of the option to file a criminal complaint but they may not be able to make a decision about prosecution at that time. Upon return from the hospital, if an advocate is not present to explain the legal process, the Nurse, Physician or other member of the treatment team might suggest that the victim consider prosecution as a possibility for the future. Explain that he/she has the right to a change of mind at a later date and that the present gathering of evidence shall enable him/her to make that choice. They shall also explain that it is safe for the victim to sign the consent form to release the evidence. The evidence shall not be used in any way unless prosecution is decided upon. At that time, it will be used to help the victim.
- D. While cooperation and coordination with law enforcement agencies is essential, the emphasis on physical and emotional well being of the victim will not be compromised.