

Tazewell County Justice Center

Policy and Procedures- Support Services Number- Prison Rape Elimination Act

Policy:

It shall be the policy of the Tazewell County Justice Center (TCJC) to maintain a safe living and working environment for detainees and staff. The Tazewell County Justice Center (TCJC) is committed to establishing and maintaining an atmosphere that prohibits sexual conduct between detainees, detainees and staff, detainees and volunteers or detainees and contractual staff regardless of consensual status, and is subject to administrative and criminal disciplinary sanctions accordance with Policy **2100 Harassment and Complaints Procedures**. Detainees while incarcerated at (TCJC) will be protected from sexual intimidation, harassment, or assault by other detainees, staff, volunteers, and contractual employees

Purpose:

The Purpose of this policy is to provide guidelines for the prevention, detection, response, investigation, and tracking of inmate sexual assault and sexual misconduct.

Applicability:

This policy applies to all persons employed by the Tazewell County Justice Center, volunteers, contractors, interns, and detainees.

I. DEFINITIONS:

- A. Prison Rape Elimination Act (PREA)** - A Federal law to address sexual violence in prisons, jails, and other correctional facilities. Under PREA, the National Prison Rape Elimination Commission was created with the responsibility for establishing standards for the prevention, detection, response, and monitoring of sexual abuse and violence within correctional systems.
- B. Agency** - The unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice with direct responsibilities for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.
- C. Agency head**- The principal official of an agency.
- D. Community confinement facility**- A community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post release supervision, while participating in gainful employment, employment search efforts, community services, vocational training, treatment, education programs, or similar facility approved programs during nonresidential hours.
- E. Contractor**- means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

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- F. **Detainee**- Any person detained in a lockup, regardless of adjudication status.
- G. **Direct staff supervision**- means that security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.
- H. **Employee**- A person who works directly for the agency or facility.
- I. **Exigent circumstances**- means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
- J. **Facility**- means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.
- K. **Facility head**- means the principal official of a facility.
- L. **Full compliance**- means compliance with all material requirements of each standard except for *de minimus* violations, or discrete and temporary violations during otherwise sustained periods of compliance.
- M. **Gender nonconforming**- means a person whose appearance or manner does not conform to traditional societal gender expectations.
- N. **Inmate**- means any person incarcerated or detained in a prison or jail.
- O. **Intersex**- means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.
- P. **Jail**- means a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.
- Q. **Juvenile**- means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.
- R. **Juvenile Facility**- means a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.
- S. **Law enforcement staff**- means employees responsible for the supervision and control of detainees in lockups.
- T. **Lockup**- means a facility that contains holding cells, cell blocks, or other secure enclosures that are:(1) Under the control of a law enforcement, court, or custodial officer; and (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

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- U. **Medical practitioner**- means 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. A qualified medical practitioner refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
- V. **Mental health practitioner**- means a mental 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. A qualified mental health practitioner refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
- W. **Pat-down search**- means a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.
- X. **Prison**- means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.
- Y. **Resident**- means any person confined or detained in a juvenile facility or in a community confinement facility.
- Z. **Secure juvenile facility**- means a juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.
- AA. **Security Staff**- means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.
- BB. **Staff**- means employee.
- CC. **Strip search**- means a search that requires a person to remove or arrange some or all so as to permit a visual inspection of the person's breast, buttocks, or genitalia.
- DD. **Transgender**- means a person whose gender identity (*i.e.*, internal sense of feeling male or female) is different from the person's assigned sex at birth.
- EE. **Substantiated allegation**- means an allegation that was investigated and determined to have occurred.
- FF. **Unfounded allegation**- means an allegation that was investigated and determined not to have occurred.
- GG. **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.
- HH. **Volunteer**- means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

II. Youthful inmate- means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

JJ. Youthful detainee- means any person under the age of 18 who is under adult court supervision and detained in a lockup.

KK. Sexual abuse- (1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

LL. Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts- if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse: (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; (2) Contact between the mouth and the penis, vulva, or anus; (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

MM. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; (2) Contact between the mouth and the penis, vulva, or anus; (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section; (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and (8) Voyeurism by a staff member, contractor, or volunteer.

NN. Voyeurism by a staff member, contractor, or volunteer: means an invasion of privacy of an inmate, detainee, or resident 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 breast; or taking images of all or part of a inmate's naked body or of an inmate performing bodily functions.

OO. Sexual harassment includes-(1) Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another. (2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

II. PROCEDURES:

A. Zero Tolerance of Sexual Abuse and Sexual Harassment:

1. By policy and practice the Tazewell County Justice Center will have zero tolerance for inmate or staff sexual abuse and/or sexual harassment of any kind in its facility. All incidents of sexual abuse and or sexual harassment will be reported and investigated.

2. The TCJC shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contactor who may have contact with inmates, who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

- A.) Has been convicted of engaging in sexual activity in the community facilitated by force overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
- B.) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of the Prison Rape Elimination Act.

NOTE: Sexual relationships of a romantic nature between staff and detainees shall also be included such as conversations and/or correspondence of a romantic nature between staff and detainees.

B. Staff Education:

1.) All employees including staff members contractual, volunteers, and interns and others who provide on-going services or support will be trained on PREA and this policy based on the service they provide. They will also be informed of their responsibility to report incidents they have observed or allegations told to them by an inmate or employee.

2.) The TCJC shall train all employees who may have contact with detainees on:

- A.) Its Zero-tolerance policy for sexual abuse and sexual harassment;
- B.) How to fulfill their responsibilities under the agencies sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.
- C.) Detainees' rights to be free from sexual abuse and sexual harassment.
- D.) The right of detainees and employees to be free from retaliation for reporting sexual abuse and sexual harassment.
- E.) The dynamics of sexual abuse and sexual harassment in confinement.
- F.) The Common reactions of sexual abuse and sexual harassment victims.
- G.) How to detect and respond to signs of threatened and actual sexual abuse.
- H.) How to avoid inappropriate relationships with detainees.
- I.) How to communicate effectively and professional with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees.
- J.) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

3.) Such training shall be tailored to the gender of the detainees housed at the TCJC.

C. Detainee Education:

1. All detainees will be advised their rights and protections under PREA. Multiple strategies will be utilized to ensure all offenders are aware of PREA. Detainees will also be advised of the consequences of false allegations

A. During the intake process, detainees shall receive information explaining the TCJC has a zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

B. Within 30 days of intake, the TCJC shall provide comprehensive education to detainees either in person or through video regarding their right to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policy and procedures for responding to such incidents.

C. Current inmates who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policy and procedures of the detainee's new facility differ from those of the previous facility.

D. The TCJC shall provide detainees education in formats accessible to all detainees, including those who are limited English proficient, deaf, visually impaired, otherwise disabled, as well as to detainees who have limited reading skills.

E. The TCJC shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to detainees who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using and necessary specialized vocabulary.

F. The TCJC shall not rely on detainee interpreters, detainee readers, or other types of detainee assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the detainee's safety, the performance of first response duties or the investigation of the detainee's allegations.

D. Medical / Mental Health:

1.) The TCJC ensures 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 abuse and sexual harassment.

B.) How to preserve physical evidence of sexual abuse.

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- C.) How to respond effectively and professionally to victims of sexual abuse and sexual harassment.
- D.) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
- 2.) Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of the Prison Rape Elimination Act and to inform detainees of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.
- 3.) If during the medical screening process a detainee indicates they have experienced prior sexual victimization, whether it occurred in an outside institutional setting or in the community, staff shall ensure that the detainee is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
- 4.) Any information related to sexual victimization or abusiveness that occurred in an institutional setting is 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, or as otherwise required by Federal State, or local law.
- 5.) Medical and mental health practitioners shall obtain informed consent from detainee's before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the detainee is under the age of 18
- 6.) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- 7.) The TCJC shall offer medical and mental health evaluations and, as appropriate, treatment to all detainees who have been victimized by sexual abuse.
- 8.) Detainee victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy test.
- 9.) If pregnancy results from the conduct described in (#8) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
- 10.) Detainee victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted diseases (STD's) as medically appropriate.

E. Prevention:

- 1.) When Staff learns that a detainee is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the detainee.
 - A.) Classification processes and assignment of detainees, using proven standardized instruments, in a manner that limits the occurrence of prison rape.

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- B.) Consideration shall include detainee history and vulnerability to victimization, as well as detainees who are known predators.
- C.) Prevention strategies must include the designation of an adequate number of protective custody or single cell beds to protect detainees reporting sexual assault or acts defined under this policy.
- D.) All staff and detainees will be alert to signs of potential situations in which sexual abuse might occur.
- E.) Command Staff shall perform unannounced checks in every housing unit. Command Staff will sign the log book with the date and time while in the housing unit.
- F.) The TCJC shall enable detainees' to shower, perform bodily functions, and change clothes without non-medical staff of the opposite gender viewing their breast, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Correctional staff of the opposite gender shall announce their presence when entering an inmate housing unit.
- G.) The TCJC shall not conduct cross gender strip searches or cross gender visual body searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by a medical practitioners.
- H.) Staff shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. The TCJC shall not restrict female detainees' access to regular available programming or other out-of-cell opportunities in order to comply with this provision.
- I.) Staff shall document all cross gender strip searches and cross gender visual body cavity searches, and shall document all cross gender pat-searches of female inmates.
- J.) Within a set time period, not to exceed 30 days from the detainee's arrival at the facility, the TCJC will reassess the detainee's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening. (Only for detainees determined to be at risk for victimization or abusiveness)
- K.) A detainee risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the detainee's risk of sexual victimization or abusiveness.
- L.) Detainees may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of the Prison Rape Elimination Act.

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- M.) Staff shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees.
- N.) Detainee's at risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If Classification cannot conduct such an assessment immediately, the detainee may be held in involuntary segregated housing for less than 24 hours while completing the assessment.
- O.) Detainee's placed in segregation housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: The opportunities that have been limited. The duration of the limitation and the reason for such limitations.
- P.) Every 30 days, Classification shall afford each detainee a review to determine whether there is a continuing need for separation from the general population.

Transgender or intersex detainees':

- A.) Staff shall not search or physically examine detainees' for the sole purpose of determining the detainees' genital status.
- B.) If the detainees' genital status is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by the medical department.
- C.) Staff shall make individualized determinations about how to ensure the safety of each detainee
- D.) In deciding whether to assign a transgender or intersex detainee to a facility for male or female detainees, and in making other housing and programming assignment, the TCJC shall consider on a case by case basis whether a placement would ensure the detainee's health and safety, and whether the placement would present management or security problems.
- E.) Placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice a year to review any threats to safety experienced by the detainee by Classification.
- F.) A transgender or intersex detainee's own views with respect to his or her own safety shall be given serious consideration.
- G.) Transgender and intersex detainees shall be given the opportunity to shower separately from other detainees.

F. Detection:

1. The PREA Coordinator will continuously monitor operational practices, design and/or structural barriers with a focus on improving detection of sexual activity and abuse.

D. Staff Reporting:

- 1.) In cases where the sexual abuse and/or sexual harassment allegedly occurred by another detainee or staff member, the following actions must occur:
 - Staff must report immediately to shift command any knowledge, suspicion, or information they receive regarding the incident of sexual abuse and/or sexual harassment, including any knowledge of staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse. Staff members are **mandatory reporters** with no discretion to decide whether or not to report sexual abuse and/or sexual harassment allegations. Staff sexual misconduct is an egregious violation of professional boundaries and one that compromises the core mission of this facility.
 - Staff members must not reveal any information related to a sexual abuse report other than to the extent necessary in order to make investigation or treatment decisions.
 - Staff members must immediately contact shift command.
 - Shift Command shall notify the DJS.
 - The D.J.S or J.S. will contact an investigator.
 - Staff members must complete an incident report as directed by the Jail Commander. Copies of these reports will be forwarded to the D.J.S, J.S., Investigator (Detective Division), States Attorney, PREA coordinator.
- 2.) Retaliation in any form against those who report is strictly prohibited.
- 3.) The TCJC shall provide a method for staff to privately report sexual abuse and sexual harassment of detainees.
- 4.) Upon receiving an allegation that a detainee was sexually abused while confined at another facility, the D.J.S. or J.S. shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
- 5.) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- 6.) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with the PREA standard.

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E. Inmate Reporting:

1. Detainees who are victims of/or have knowledge of sexual abuse should immediately report the incident to any staff member; or
2. Detainees may write or notify an outside source such as: i.e. (Family, Friends, Chaplin, etc...)
3. Detainees may also report the incident to medical staff, who will then report this information to shift command.
4. Detainee request form.
5. Retaliation in any form against those who report is strictly prohibited.
6. The TCJC shall employ multiple protection measures, such as housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
7. For at least 90 days following a report of sexual abuse, Staff shall monitor the conduct and treatment of detainees or staff who reported the sexual abuse and of detainees who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by detainees or staff, and acts promptly to remedy any such retaliation. Items the agency should monitor include any detainee disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The TCJC shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.
8. In the case of detainees, such monitoring shall also include periodic status checks.
9. If any other individual who cooperates with an investigation expresses a fear of retaliation, the TCJC shall take appropriate measures to protect that individual against retaliation.

F. Detainee Grievance :

1. No time limit shall be imposed on submitting a grievance regarding an allegation of sexual abuse.
2. The TCJC may apply otherwise applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.
3. The Staff shall not require a detainee to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
4. Nothing in this section shall restrict the TCJC's ability to defend against a detainee lawsuit on the ground that the applicable statute of limitations has expired.
5. Staff shall ensure that a detainee who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint and such grievance is not referred to a staff member who is the subject of the complaint.

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6. All grievance procedures must be properly exhausted prior to any tort or civil claims against the Sheriff, the Jail or Tazewell County.
7. The TCJC issues a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance,
8. Computation of the 90-day time period does not include time consumed by detainees in preparing any administrative appeal.
9. The TCJC may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make appropriate decision. The TCJC shall notify the detainee in writing of any such extension and provide a date by which a decision will be made.
10. At any level of the administrative process, including the final level, if the detainee does not receive a response within the time allotted for reply, including any properly noticed extension, the detainee may consider the absence of a response to be a denial at that level.
11. Third parties, including fellow detainees, staff members, family members, attorneys, and outside advocates, shall be permitted to assist detainees in filling request for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such request on behalf of detainees.
12. If a third party files such a request on behalf a detainee, the TCJC 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 require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.
13. If the detainee declines to have the request processed on his or her behalf, the TCJC shall document the detainee's decision.
14. The TCJC shall establish procedures for filing an emergency grievance alleging that a detainee is subject to a substantial risk of imminent sexual abuse.
15. After receiving an emergency grievance alleging a detainee's is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final decision within 5 calendar days. The initial response and final agency decision documents the agency's determination whether the inmate is in substantial risk of imminent sexual abuse ant the action taken in response to the emergency grievance.

G. False Reporting:

Substantiated deliberately malicious or false reports by offenders or other parties will result in disciplinary action and/or criminal charges.

H. Incident Review: The TCJC shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been unfounded. The review team shall include upper level management officials with input from line supervisors, investigators, and medical or mental health practitioners.

I. First Responder Duties:

1. Immediately separate, isolate and continuously observe the alleged perpetrator and victim until an investigator can see them.
2. Notify Shift Command immediately.
3. Call another Correctional Officer for assistance.
4. If the abuse occurred within a time period that still allows for the collection of physical evidence, staff shall request the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating and If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
5. Provide medical assistance for the alleged victim as soon as possible, and if needed mental health services.
6. Take reasonable measures to identify, isolate, and separate witnesses.
7. Protect all areas where physical evidence exist, lock down detainees and secure the crime scene, with limited access.
8. The scene should be preserved exactly as found, unless there is evidence that cannot be protected or secured without compromising the safety and security of the facility. Take custody of physical evidence, which cannot be secured, and retain it in your possession until it can be transferred to the investigator.
9. Observe all conditions, events and remarks and record them for your report.
10. If the first staff responder is not a security member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

Treatment:

1. The TCJC shall provide detainee's with access to outside victim advocates for emotional support services related to sexual abuse by giving detainee's the mailing address 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. The TCJC shall enable reasonable communication between detainee's and these organizations and agencies in a confidential manner as possible.
2. The TCJC shall inform detainee's, prior to giving the access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
3. The TCJC has a Memorandum of Understanding with The Center for Prevention of Abuse to assist with treatment for victims of sexual abuse.
4. Should the victim refuse or decline medical or mental health services they shall sign a refusal of treatment form.

J. Investigation:

1. All reported violations of sexual abuse and/or sexual harassment will be investigated and as warranted, will be resolved through appropriate disciplinary processes and/or criminal proceedings in accordance with applicable state and federal laws.
2. The rights of both the accused and the complainant shall be protected, and the confidentiality of proceeding will be maintained to the fullest extent possible.
3. A thorough and competent investigation into the allegations will be done by collecting evidence, gathering information, and documentation. It will be a prompt, objective, and fair investigation. Primary consideration will be to safeguard the well being and security of the complainant and the subject, thus ensuring the integrity and credibility of the process and the Sheriff's Department. The TCJC shall use investigators who have received special training in sexual abuse investigations where sexual abuse is alleged. Specialized training shall also include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution.
4. All allegations of sexual abuse and/or sexual harassment will be treated seriously. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witness; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

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5. When the quality of evidence appears to support criminal prosecution, the Detective Division shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
6. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as detainee or staff. The TCJC shall not require a detainee who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such abuse.
7. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and shall 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.
8. All investigations will be documented in written reports, which must be retained for as long as the alleged abuser is incarcerated or employed by the agency, plus five (5) years.
9. The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.
10. The TCJC shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
11. Following an investigation into a detainee's allegation that he or she suffered sexual abuse in the facility, the PREA Coordinator shall inform the detainee whether the allegation has been determined to be substantiated unsubstantiated, or unfounded.

K. Disciplinary Sanctions for Staff

1. Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.
2. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
3. In accordance with the States Attorneys Office Staff shall be criminal charges with Custodial Sexual Misconduct 720 ILCS 5/11-9.2 and Official Misconduct 720 ILCS 5/33 (b).
4. Disciplinary sanctions for violations of the TCJC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall 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.

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5. All terminations for violations of the TCJC sexual abuse and sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

X. Corrective Action for Contractors and Volunteers

1. Any contractor or volunteer who engages in sexual abuse is prohibited from contact with detainees and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
2. In accordance with the States Attorneys Office any contractor or volunteer who engages in sexual abuse shall be criminal charged with Custodial Sexual Misconduct 720 ILCS / 5/11-9.2.

Y. Disciplinary Sanctions for Detainees

1. Detainees shall be subjected to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding the detainee engaged in detainee on detainee sexual abuse or following a criminal finding of guilty for detainee on detainee sexual abuse.
2. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the detainee's disciplinary history, and the sanctions imposed for comparable offenses by other detainees with similar histories.
3. The disciplinary process shall consider whether a detainee's mental disability or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
4. The TCJC may discipline a detainee for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
6. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
6. The TCJC prohibits all sexual activity between detainees and may discipline detainees for such activity. The TCJC may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

Z. Data Collection/Tracking:

1. The PREA coordinator and/or Jail Commander will compile records and report statistical data on an annual basis as required by the Prison Rape Elimination Act of 2003.
2. Data will be collected as needed from all available incident-based documents including reports, investigation files, and sexual abuse incident reviews.
3. Sexual abuse data will be aggregated at least annually, using a sexual abuse aggregate data collection instrument.
4. Sexual abuse data will be maintained for at least ten (10) years after the date of its initial collection.

Approved: Sheriff Robert Huston

Effective Date: ____/____/____

Reviewed Date: ____/____/____

ACA:

NCCHC:

ICJS: 701.140 (B) (8)

Related Policies:7525

Revision Dates
