

WINNEBAGO COUNTY SHERIFF'S DEPARTMENT

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Effective Date: 02/28/14	Re-issue Date: 02/08/18	
Chapter: Support Services		
Subject: Prison Rape Elimination Act		
ICJS:	A.C.A. Standards:	

I. POLICY

The Winnebago County Sheriff's Department has a **zero-tolerance** policy towards all forms of sexual abuse or assault, sexual harassment, or any type of sexual misconduct of detainees/inmates, either by staff or other detainees/inmates. This policy ensures effective procedures for preventing, reporting, responding to, investigating, and tracking of incidents or allegations of sexual abuse or assault. It shall be the policy of the Sheriff's Office to pursue administrative, disciplinary, and/or criminal sanctions against any detainee/inmate, staff member, contractor, or volunteer found to have committed sexual abuse or assault against any detainee/inmate. It shall be the responsibility of the medical staff to provide immediate first-aid to the victim and to refer the detainee/inmate to the appropriate medical facility. Sexual misconduct in confinement facilities is unacceptable under any circumstances—even in cases of consensual acts, as it poses a serious threat to institutional security.

II. PURPOSE

To describe the procedures used to minimize sexual assaults in the correctional setting and to provide detainees/inmates and staff with information and training concerning sexual assault which establish procedures and policies for complying with the Prison Rape Elimination Act (PREA) of 2003.

III. DEFINITIONS

- A. Contractor - Refers to a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
- B. Detainee - Refers to any person detained within the correctional facility regardless of adjudication status.
- C. Detainee/Inmate-
On-
Detainee/Inmate
Sexual
Abuse/Assault - One or more detainees/inmates by force, coercion, or intimidation, engaging in or attempting to engage in:
 1. Contact between the penis and the vagina or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight.
 2. Contact between the mouth and the penis, vagina, or anus.
 3. Penetration, however slight, of the anal or genital opening of another person by a hand, finger, or by any object.
 4. Touching of the genitalia, anus, groin, or breast,

- inner thighs or buttocks, either directly or through the clothing, with intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.
5. Threats, intimidation, or other actions or communications by one or more detainees/inmates aimed at coercing or pressuring another detainee/inmate to engage in a sexual act.
 6. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in (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.
 8. Voyeurism by a staff member, contractor, or volunteer.
- D. Direct Staff Supervision - Security/Corrections staff are in the same room with, and within reasonable hearing distance of, the resident or detainee/inmate.
- E. Employee - A person who works directly for the Sheriff's Office.
- F. Exigent Circumstances - 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.
- G. Gender Nonconforming - Any person whose appearance or manner does not conform to traditional societal gender expectations.
- H. Inmate - Any person incarcerated or detained in the jail.
- I. Intersex - 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.
- J. Pat-Down Search - Running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.
- K. Prison Rape Elimination Act (PREA) - PREA refers to the Prison Rape Elimination Act which was signed into law on September 4, 2013. This act is intended to address the detection, prevention, reduction, and prosecution of sexual harassment and sexual assault in all correctional facilities in the country, and it applies to all confinement facilities.

- L. Sexual Abuse/Assault - Any contact between the sex organ of one person and the sex organ, mouth or anus of another person, or any intrusion of any part of the body of one person, or of any object into the sex organ, mouth or anus of another person, by the use of force or threat of force. Any person who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if the offender causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will or the offender causes submission of the victim through the actual application of physical force.
- M. Sexual Contact - The knowing touching of the victim's intimate parts by the offender, of the offender's intimate parts by the victim, or the knowing touching of the clothing covering the immediate area of the victim's or offender's intimate parts if that sexual contact is for the purposes of sexual arousal, gratification, or abuse.
- N. Sexual Harassment - Includes, but not limited to, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - 2. An individual's submission to or rejection of such conduct is used as a basis for an employment decision affecting that individual; or
 - 3. The purpose or the effect of such conduct is to substantially interfere with the affected individual's work performance or to create an intimidating, hostile or offensive work environment.
- O. Sexual Intrusion - Any intrusion, however slight, by any object or any part of person's body except the mouth, tongue or penis into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purpose of simple arousal, gratification, or abuse.
- P. Sexual Misconduct - Any behavior or act of a sexual nature directed toward an inmate or detainee by an employee, volunteer, visitor, contract employee, another inmate, or other agency representatives. This includes, but is not limited to, acts or any attempts to commit acts such as sexual abuse, sexual harassment, voyeurism, inappropriate behavior of a sexual nature, unreasonable invasion of privacy, conversations or correspondence that suggests a romantic relationship between an inmate or detainee and any party referenced above.

- Q. Staff - Employees, volunteers, interns, staff members of other agencies, and contract employees of the Winnebago County Sheriff's Office.
- R. Staff-On-Detainee/Inmate Sexual Abuse/Assault - One or more staff member(s), volunteer(s), or contract personnel engaging in or attempting to engage in:
1. Contact between the penis and the vagina or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight.
 2. Contact between the mouth and the penis, vagina, or anus.
 3. Penetration, however slight, of the anal or genital opening of another person by a hand, finger, or by any object.
 4. Except in the context of proper searches and medical examinations, touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing.
 5. Threats, intimidation, harassment, indecent, profane or abusive language, or other actions (including unnecessary visual surveillance) or communications aimed at coercing or pressuring another detainee to engage in a sexual act.
 6. Repeated verbal statements or comments of a sexual nature to a detainee/inmate, including demeaning references to gender, derogatory comments about body or clothing, or profane or obscene language or gestures.
- S. Strip Search - A search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.
- T. Substantiated (Sustained) - An allegation that was investigated and determined to have occurred.
- U. Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
- V. Unfounded - An allegation that was investigated and determined to not have occurred.
- W. Unsubstantiated (Not sustained) - An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- X. Visitor - Any person granted access to the Winnebago County Sheriff's Office facilities, for personal or official reasons, who is not a staff member.

- Y Volunteer - An individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

IV. PROCEDURES

- A. Sexual conduct between staff and detainees/inmates, volunteers or contract personnel and detainees/inmates, regardless of consensual status, is prohibited and subject to administrative and disciplinary sanctions as well as potential criminal actions. Detainees/Inmates shall be deemed incapable of giving consent to engage in sexual activities with staff, volunteers, visitors, or contractors.
- B. The Sheriff shall appoint a PREA Coordinator who has the authority to develop, implement, and oversee all aspects of the facility's efforts to comply with the zero-tolerance policy, including by:
1. Assisting with keeping policies and procedures in compliance with the sexual abuse and assault prevention and intervention programs;
 2. Assisting with the development of initial and ongoing training protocols;
 3. Serving as a liaison with other agencies;
 4. Coordinating the gathering of statistics and reports on incidents of sexual abuse or assault;
 5. Reviewing the results of each investigation of sexual abuse and conducting an annual review of all investigations to assess and improve prevention and response efforts;
 6. Reviewing facility practices to ensure required levels of confidentiality are maintained.
- C. Staffing
1. Supervisors and Commanders will ensure through daily compliance checks of staffing levels and annual review of jail policies that the jail staffing plan provides for adequate levels of staffing, and, where applicable, video monitoring to protect detainees/inmates against sexual abuse.
 2. In circumstances where the staffing plan is not complied with, Jail Command Staff will be contacted and the need and justification for all deviations from the plan will be documented.
- D. Prevention
1. All staff and detainees/inmates are responsible for being alert to signs of potential sexual abuse or harassment, and to situations in which sexual assaults might occur.

- E. Detainees/Inmates with Disabilities and Limited English Proficient (LEP) detainees/inmates
1. Staff shall take reasonable steps to prevent, detect and respond to sexual abuse and sexual harassment to detainees/inmates who are LEP.
 2. Staff shall ensure detainees/inmates who are deaf or hard of hearing; those who are blind or have low vision; or those who have intellectual, psychiatric, or speech disabilities have an equal opportunity to participate in or benefit from all aspects of the jail's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.
 - a. Such steps shall include, when necessary to ensure effective communication with detainees/inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. (This includes staff that are trained and supervised to communicate and the use of professional interpreter services.)
 - b. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with detainees/inmates with disabilities, including detainees/inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision.
 3. Staff will not rely on detainee/inmate interpreters or readers except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the detainee's/inmate's safety, the performance of first-response duties, or an investigation.
- F. Screening and Classification Requirements
1. All detainees/inmates shall be screened as part of the booking process, but not to exceed seventy-two (72) hours of incarceration/classification, for potential risk of sexual victimization (potential vulnerability) or sexually abusive behavior (tendency to act out), and shall be housed to prevent sexual abuse or assault.
 2. Each new detainee/inmate shall be kept separate from the general population until he/she has been classified and may be housed accordingly.
 3. Detainees/Inmates identified as having a history of sexually assaultive behavior; an offending detainee/inmate in an alleged sexual abuse case in the facility; or at risk for sexual victimization shall be assessed by a mental health or other qualified professional, and monitored and counseled as determined by the professional.
 4. Detainees/Inmates identified as at risk for sexual victimization are assessed by a mental health or other qualified professional. Detainees/Inmates at risk for sexual victimization are identified, monitored, counseled, and shall be placed in the least restrictive housing that is available and appropriate.

- a. If a detainee/inmate is at high risk for sexual victimization, they may be placed in Administrative Segregation involuntarily for up to twenty-four (24) hours to allow for assessment and determination of housing assignment.
 - (1) These detainees/inmates shall be counseled and kept separate from other detainees/inmates attending court.
 - b. Each detainee's/inmate's risk of victimization or abusiveness shall be evaluated by the medical staff as part of their fourteen (14) day physical or upon any additional, relevant information received since the intake screening. However, this assessment shall not exceed thirty (30) days after arrival at the facility.
 - (1) These detainees/inmates shall be counseled and kept separate from other detainees/inmates attending court.
 - c. If appropriate custodial options are not available at the facility for an ICE detainee, the Chicago ICE Field Office Director shall be consulted to determine if ICE can provide additional assistance.
5. Any detainee/inmate found to have potential vulnerabilities or tendencies for sexually aggressive behavior shall be housed by the Classification Office to limit the risk.
 6. A detainee's/inmate's 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/inmate's risk of sexual victimization or abusiveness.
 7. Detainees/Inmates shall not be disciplined for refusing to answer (or for not disclosing complete information related to) the screening questions on the Intake Screening form or during the fourteen (14) day physical regarding:
 - a. Whether or not the detainee/inmate has a mental, physical, or developmental disability;
 - b. Whether or not the detainee/inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;
 - c. Whether or not the detainee/inmate has previously experienced sexual victimization; and
 - d. The detainee's/inmate's own perception of vulnerability.
- G. Staff Training
1. Training on the prevention, detection, intervention and response to all allegations of sexual abuse and sexual harassment shall be included in initial and annual refresher training for all employees, volunteers, and contract personnel. This training shall also include training on Lesbian, Gay,

Bisexual, Transgender, Intersex (LGBTI) and Gender Nonconforming Detainees/Inmates.

2. All staff responsible for conducting sexual abuse or assault investigations shall receive specialized training in conducting such investigations, which includes techniques for interviewing sexual abuse victims, sexual abuse evidence collection, and the criteria and evidence required for administrative action or prosecutorial referral.
3. All full- and part-time medical and mental health care practitioners who work regularly in the facility shall receive specialized training in detecting and assessing signs of sexual abuse and assault, preserving physical evidence of sexual abuse, responding effectively to victims of sexual abuse and assault, and reporting allegations or suspicions of sexual abuse or assault.
4. The PREA Coordinator shall verify the Training Division is maintaining documentation verifying employee, volunteer, and contractor training.

H. Staff Training Procedures

1. The training unit shall be responsible for:
 - a. All staff training activities;
 - b. Ensuring that all staff are appropriately trained and respond in a coordinated and appropriate fashion to detainee/inmate reports of sexual abuse or assault;
 - c. Developing, implementing, and updating all lesson plans for the facility's sexual abuse and assault prevention and intervention programs.
 - d. Providing training (including information regarding the zero- tolerance policy concerning sexual misconduct with detainees/inmates) to all contract employees, volunteers, and all other non-sheriff's office staff entering the jail facility.

I. Detainee/Inmate Education

1. Classification staff shall be responsible for detainee/inmate education regarding issues pertaining to sexual abuse and assault.
 - a. Upon admission to the facility, all detainees/inmates shall be notified of the facility's zero-tolerance policy for all forms of sexual abuse and sexual harassment. They shall receive the information guide that provides information regarding sexual abuse and sexual harassment and they shall be required to sign a receipt for this information, which becomes a part of the detainee's/inmate's file. Such information shall include, at a minimum:
 - (1) The facility's zero-tolerance policy for all forms of sexual abuse or harassment;

- (2) Inappropriate staff conduct;
- (3) Detainee/Inmate rights and confidentiality;
- (4) Sexual abuse and sexual harassment prevention and intervention;
- (5) Methods of reporting sexual abuse and sexual harassment;
- (6) Sexual abuse treatment and counseling;
- (7) Investigative, disciplinary, and criminal processes of sexual abuse and sexual harassment.

2. Detainee/Inmate notification, orientation, and instruction must be in a language or manner that the detainee/inmate understands.
3. The facility shall maintain documentation of detainee/inmate participation in the instruction session.

J. Limits on Cross-Gender Viewing and Searches

1. Except in exigent circumstances, staff of the opposite gender may not visually observe (including viewing by video camera) detainees/inmates while changing clothing, showering, or performing bodily functions. However, staff of the opposite gender may be present immediately outside the room with the door ajar to hear what transpires inside.
2. Signage is posted in Booking and the detainee/inmate housing areas advising detainees/inmates that male and female staff work in these areas. At the start of each shift, the Housing Unit Officers will make an announcement using the intercom system to notify detainees/inmates when staff of the opposite gender is working in that detainee/inmate housing area.
 - a. Except in exigent circumstances, all officers shall announce their entry when entering a housing unit with detainees/inmates of the opposite gender. Staff should announce their entry using a tone of voice appropriate to the time of day, current activity, and occupancy of the dayroom area.
3. Searches of detainees/inmates shall be conducted in accordance with General Order 5-640.9, Searches.

K. Hiring and Promotional Decisions

1. The Winnebago County Sheriff's Office will not hire or promote anyone and shall not enlist the services of any contractor who may have contact with detainees/inmates who has engaged in any sexual misconduct that is prohibited by PREA Standards and/or Illinois Compiled Statutes.

2. As part of the hiring process, all prospective employees shall be subject to a fingerprint based criminal history background check. This same process shall be applied to any contractor, prior to enlisting their services.
 - a. The background check will also include contact with all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual misconduct.
 - b. As part of the application and background process, applicants and prospective contractors who may have contact with detainees/inmates shall be asked about any previous sexual misconduct in written applications and/or interviews for hiring or promotions. Employees and contractors have a continuing affirmative duty to disclose any such misconduct.
 - c. Material omissions regarding such misconduct or providing materially false information shall be grounds for termination.
3. Unless prohibited by law, the Winnebago County Sheriff's Office shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

L. Detainee/Inmate Reporting Requirements

1. Detainee/Inmate reports of sexual abuse or sexual harassment may be made using any available methods of communication. Additionally:
 - a. Detainees/Inmates shall be encouraged to promptly report signs or incidents of sexual abuse and harassment, and may not be punished for reporting.
 - b. Staff shall take all statements from detainees/inmates claiming to be victims of sexual assaults seriously, and shall respond supportively and non-judgmentally.
 - c. Any detainee/inmate may report acts of sexual abuse or assault to any employee, contractor, or volunteer.
 - d. If a detainee/inmate is not comfortable with making the report to immediate point-of-contact line staff, he/she shall be allowed to make the report to a staff person with whom he/she is comfortable in speaking about the allegations.
2. Although direct reporting is preferable, staff will investigate reports made by third parties (including current or former detainees/inmates) on behalf of the detainee/inmate.
 - a. If a third party files such a request on behalf of a detainee/inmate, as a condition of processing the request the alleged victim must agree to have the request filed on his or her behalf, and shall be required to

personally pursue any subsequent steps in the administrative remedy process relating to allegations of sexual abuse.

- (1) If the detainee/inmate declines to have the request processed on his or her behalf, the detainee's/inmate's decision shall be documented in writing.

M. Detainee/Inmate Reporting Procedures

1. Detainee/Inmate reports of sexual abuse or sexual harassment may be made using any available methods, including but not limited to:

- a. Reports to the facility

- (1) Verbal reports to a staff member (including medical staff, volunteers, etc.);
- (2) Sick call requests;
- (3) ICE Detainee Request Form;
- (4) Written informal or formal requests or grievances using appropriate forms;
 - (a) A time limit will not be imposed on any grievance regarding sexual abuse;
 - (b) Otherwise-applicable time limits for grievances apply to any portion of the grievance that does not allege sexual abuse;
 - (c) Detainees/Inmates are not required to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse;
 - (d) A detainee/inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint;
 - i. Such grievance shall not be referred to a staff member who is the subject of the complaint.
 - ii. The Corrections Superintendent shall issue a final agency decision of any portion of a grievance alleging sexual abuse within ninety (90) days of the initial filing of the grievance.
 - iii. Computation of the ninety (90) day time period shall not include time consumed by detainees/inmates in preparing any administrative appeal.

- iv. The time to respond may be extended where circumstances prevent a complete investigation into the allegations within the ninety (90) day time period. In such cases, the Corrections Superintendent shall notify the detainee/inmate in writing of such extension and provide a date by which a decision will be made.
 - v. At any level of the administrative process, including the final level, if the detainee/inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the detainee/inmate may consider the absence of a response to be a denial at that level.
 - vi. After receiving an emergency grievance alleging a detainee/inmate is subject to a substantial risk of imminent sexual abuse, the Corrections Division shall:
 - 1) 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;
 - 2) Provide an initial response within forty-eight (48) hours, and;
 - 3) Issue a final decision within five (5) calendar days. The initial response and final decision shall document the determination whether the detainee/inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.
- b. Reports to family members, friends, other outside entities who can contact facility staff.
 - c. Reports to DHS/ICE
 - (1) Written informal or formal requests or grievances (including emergency grievances) to ICE.
 - (2) Telephone calls or written reports to the DHS Office of Inspector General or ICE Office of Professional Regulation.

N. Staff Notifications, Reporting Requirements, and Procedures

1. All staff must immediately report any:
 - a. Known or suspected incidents or allegations of sexual abuse, sexual assault, or sexual harassment through the facility's chain of command;
 - b. Retaliation against detainees/inmates or staff who reported an incident;
 - c. Staff neglect or violation of responsibilities that may have contributed to an incident or retaliation;
2. The Corrections Superintendent, or his/her designee, shall promptly report incidents involving ICE detainees to the Chicago ICE Field Office Director, and refer all cases that appear to potentially support criminal prosecution to the Detective Bureau supervisor.
3. If an employee, contractor, or volunteer is alleged to be the perpetrator of detainee/inmate sexual abuse or sexual assault, the Corrections Superintendent, or his/her designee, shall also notify the Detective Bureau supervisor.
4. Information concerning the identity of a detainee/inmate victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have a need-to-know in order to make decisions concerning the victim's welfare, and for law enforcement/investigative purposes.
5. Upon receiving an allegation that a detainee/inmate was sexually abused while confined at another facility, the Corrections Superintendent, or his/her designee, shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred as soon as possible, but no later than seventy-two (72) hours after receiving the allegation. The detainee/inmate shall be notified in advance of such reporting.
6. In the event that allegations are received from other facilities or agencies regarding a detainee/inmate that was sexually abused while confined in the Winnebago County Corrections Facility, the Corrections Superintendent will have the allegations investigated in accordance with the PREA standards.
7. Any staff member that is made aware of an alleged sexual assault or sexual abuse shall notify the Shift Supervisor immediately and file a *PREA Incident Report*.
8. The Shift Supervisor shall notify the medical staff on duty concerning allegations of sexual assault or abuse of a detainee/inmate.
9. Medical staff shall implement the following procedures as soon as an alleged assault has been reported:
 - a. Administer emergency care, if needed.

protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

- e. In those cases of sexual assault, the on-duty supervisor will direct that the alleged victim be transported to an appropriate medical facility for post-sexual assault treatment as per their best medical practices.
 - (1) This exam will include measures for reducing the incidence of transmission of sexual diseases and mitigating any physical trauma/injury (to include pregnancy for females);
 - (2) The effective medical treatment of the victim shall be balanced against the need to preserve any physical evidence of assault, to promote the potential for investigation and successful prosecution of any related crime.
 - (3) The forensic medical examination shall be offered to all victims of sexual abuse, whether on-site or at an outside medical facility, without financial cost.
- 4. Staff shall make available to the victim a victim advocate from a rape crisis center.
 - a. As requested by the victim, the victim advocate shall accompany and support the victim through the forensic medical examination process and investigatory interviews; and shall provide emotional support, crisis intervention, information, and referrals.
 - b. Detainees/Inmates will be provided with access to outside victim advocates by giving them mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations. In addition, the facility shall enable reasonable communication between detainees/inmates and these organizations and agencies, in as confidential a manner as possible.
 - (1) The facility shall inform detainees/inmates, prior to giving them 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.
 - (2) The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide detainees/inmates with confidential emotional support services related to sexual abuse.
- 5. Staff, contractors, or volunteers suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring detainee/inmate contact pending the outcome of an investigation.

6. Relevant licensing bodies will be notified, when applicable, if contractors or volunteers are found culpable of sexual abuse or assault.

P. Contracts and Intergovernmental Agreements with Other Agencies

1. All agreements with other agencies that supervise or come into contact with detainees/inmates shall include statements concerning the zero-tolerance policy for any form of sexual misconduct with detainees/inmates.
2. Intergovernmental agreements or memoranda of understanding will also include clear agency roles for the reporting of sexual misconduct with detainees/inmates.
3. All advertising and awarding of contracts for Winnebago County Sheriff's Office Corrections shall:
 - a. Identify its zero-tolerance for any form of sexual misconduct with a detainee/inmate;
 - b. Define prohibited behavior by contractors and staff members;
 - c. Incorporate policies and procedures on expected professional behavior and prohibited sexual misconduct;
 - d. Specify training and orientation for contractors prior to entering the jail;
 - e. Establish reporting requirements and timetables for contractors to report allegations or suspicions of sexual misconduct with detainees/inmates;
 - f. Address how to deal with incidents of potential sexual misconduct involving contract employees; and,
 - g. Define procedures for barring contractors from the facility during the investigation of any allegations.
4. The Corrections Superintendent, or his/her designee, will provide associate agencies copies of this policy.

Q. Specialized Responder Requirements and Procedures

1. Staff must use a coordinated multidisciplinary team approach to responding to sexual abuse, such as a Sexual Assault Response Team (SART), which includes a medical practitioner, a mental health practitioner, a security staff member, and if available, the investigating Detective or a representative of the Detective Bureau, as well as representatives from outside entities that provide relevant services and expertise.
2. Care must be taken not to punish a confirmed or alleged sexual assault victim either for reporting sexual abuse or for participating in sexual activity

as a result of force, coercion, threats, or fear of force.

3. The victim shall be housed in a supportive environment that represents the least restrictive housing option possible, and that will, to the extent possible, permit the victim the same level of privileges he/she was permitted immediately prior to the sexual assault.
4. Victims may not be held for longer than five (5) days in any type of administrative segregation for protective purposes, except in highly unusual circumstances or at the request of the victim.
5. Detainees/Inmates identified as suspects shall be placed in Administrative Segregation until such time as the investigation into allegations is complete. If a detainee/inmate is identified as a victim, they shall be placed in either Protective Custody or Medical Housing. Medical and mental health staff can be consulted for input on the best location for housing the victim. The Classification Office shall be advised of all emergency housing reassignments.
6. If any of these requirements cannot be met for an ICE detainee, the Corrections Superintendent, or his/her designee, will consult with the Chicago ICE Field Office Director to determine if ICE can provide additional assistance.

R. Health Care Services Requirements

1. Victims shall be provided emergency and ongoing medical and mental health services as needed. If adequate health care services may not be available for ICE detainees, the Corrections Superintendent, or his/her designee, will consult with the Chicago ICE Field Office Director to determine if ICE can provide further assistance.
2. Medical staff responsible for examination or treatment of sexual abuse or assault victims shall be specially trained or certified in such procedures.
3. Detainees/Inmates who have been sexually assaulted shall be observed closely for signs of suicidal intent.

S. Investigation Requirements

1. A prompt, thorough, objective, and fair investigation shall be conducted by qualified Winnebago County Sheriff's Office investigators (unless determined by the Sheriff or Chief Deputy that such investigation will be conducted by an outside agency) for every incident or allegation of sexual misconduct (including third-party and anonymous reports) that are either criminal or administrative in scope.
 - a. When an outside agency conducts such an investigation, all staff will cooperate fully with the investigating unit.
 - b. All written reports, whether criminal or administrative, shall be retained for at least as long as the alleged abuser is incarcerated or

employed by the agency, plus ten (10) years, unless Federal, State, or local law requires otherwise.

- c. The departure of the alleged abuser or victim from the employment or control of the Winnebago County Sheriff's Office shall not provide a basis for terminating an investigation.
- d. The Corrections Superintendent, or his/her designee, shall coordinate as necessary with the ICE Office of Professional Responsibility (OPR) and/or criminal investigative entities responsible for investigation of the incident, when applicable.
 - (1) If any of these requirements cannot be met for an ICE detainee, the Corrections Superintendent, or his/her designee, will consult with the Chicago ICE Field Office Director to determine if ICE can provide additional assistance.

2. Criminal investigations

- a. Where sexual conduct that rises to the level of criminal behavior is alleged the agency shall use investigators who have received special training in sexual abuse investigations. The investigator(s) shall:
 - (1) Ensure that direct and circumstantial evidence is gathered and properly documented; this includes:
 - (a) Any available physical evidence;
 - (b) Any available electronic recording and/or monitoring data;
 - (c) Interview(s) with alleged victim(s);
 - (d) Interview(s) with suspected perpetrator(s);
 - (e) Interview(s) with any witness(es);
 - (f) Any prior complaints and/or reports of sexual misconduct involving the suspected perpetrator.
- b. When the quality of evidence appears to support criminal prosecution, the investigator will only conduct compelled interviews after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent prosecution.
- c. 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/inmate or staff.
 - (1) No detainee/inmate who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-

telling device as a condition for proceeding with the investigation of such an allegation.

- d. Criminal investigations shall be conducted and documented in accordance with General Order 5.442.1-Criminal Investigations, and General Order 5-442.9-Sexual Assault/Abuse Investigations.
- e. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.

3. Administrative (Internal) investigations

- a. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse.
- b. Administrative investigations 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.
- c. If during an administrative investigation the potential for substantiated allegations of conduct appear to be criminal it shall immediately be referred for criminal investigation/ prosecution.
- d. The evidentiary standard for administrative investigations shall be preponderance of the evidence in determining whether allegations of sexual misconduct are substantiated.
 - (1) The Sheriff (or his/her designee—someone other than the investigator) will make the final determination; though the investigator may make a recommendation as to this finding.

4. Retaliation

- a. After all reports of sexual abuse, sexual assault, or sexual harassment, the Corrections Superintendent, or his/her designee, will monitor the conduct and treatment of detainees/inmates or staff who report these incidents or cooperate with such investigations for at least ninety (90) days (which may be extended if initial monitoring indicates a continual need) to see if there are changes that may suggest possible retaliation by other detainees/inmates and/or staff. This should include, but is not limited to, monitoring:
 - (1) Detainee/Inmate disciplinary reports;
 - (2) Housing assignments;
 - (3) Program changes;
 - (4) Status checks of detainees/inmates;
 - (5) Negative staff performance reviews;

(6) Reassignment of staff.

- b. All acts of retaliation will be promptly remedied through appropriate steps of jail staff;
- c. Any individual who expresses a fear of retaliation will be given appropriate protection against retaliation, including appropriate staff or detainee/inmate disciplinary procedures against those perpetrating retaliation.

T. Report Findings

- 1. Following an investigation into a detainee's/inmate's allegation that they were the victim of sexual misconduct, the Corrections Superintendent, or his/her designee, shall inform the detainee/inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- 2. In cases where an outside agency conducts the investigation, the Corrections Superintendent, or his/her designee, will obtain copies of all relevant material so the copies may be retained by this agency in accordance with standards set forth by this directive.
- 3. Following a detainee's/inmate's allegation that a staff member has committed the sexual misconduct against the detainee/inmate, the Corrections Superintendent, or his/her designee, (unless the agency has determined that the allegation was unfounded) shall inform the detainee/inmate whenever:
 - a. The staff member is no longer posted within the detainee's/inmate's living area;
 - b. The staff member is no longer employed at the facility;
 - c. It becomes known to the agency that the staff member has been indicted on a charge related to the sexual misconduct within the facility;
 - d. It becomes known to the agency that the staff member has been convicted of a criminal offense related to the sexual misconduct within the facility.
- 4. Following a detainee's/inmate's allegation that he or she has been sexually abused by another detainee/inmate, the Corrections Superintendent, or his/her designee, shall subsequently inform the alleged victim whenever:
 - a. It becomes known to the agency that the detainee/inmate has been indicted on a charge related to the sexual misconduct within the facility;
 - b. It becomes known to the agency that the detainee/inmate has been convicted of a criminal offense related to the sexual misconduct within the facility.

- c. All such notifications or attempted notifications shall be documented;
- d. The agency's obligation to report under this standard shall terminate if the detainee/inmate is released from our custody.

U. Consent

- 1. A sexual act or sexual contact between any staff member or visitor and a detainee/inmate, even if the detainee/inmate consents, initiates or pursues, is prohibited and can be illegal. Detainees/inmates shall be considered incapable of giving consent to engage in sexual misconduct with staff members. A detainee's/inmate's consent to and/or initiation or pursuit of sexual misconduct with a staff member shall not excuse, negate, or mitigate a staff member's duties, responsibilities, and/or penalties under this policy.

V. Disciplinary Sanctions/Requirements

- 1. All perpetrators of sexual misconduct shall be disciplined and referred for criminal prosecution as appropriate.
- 2. Mental health staff shall offer therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse. Staff shall consider whether to require the offending detainee/inmate to participate in such interventions as a condition of access to programming or other benefits.
- 3. Detainees/Inmates will be subject to disciplinary action for committing sexual abuse. When a detainee/inmate is found to have engaged in sexual contact with a staff member, the detainee/inmate may be disciplined only where the staff member did not consent. When two (2) detainees/inmates engage in sexual contact, discipline may be imposed if investigation determines that the activity was not consensual. Staff shall not assume when encountering two (2) detainees/inmates engaged in sexual activity that one or both have committed sexual abuse.
- 4. Staff determined to have perpetrated sexual abuse or assault or to have failed to comply with the requirements established by this policy shall be subject to disciplinary and/or criminal sanctions.
 - a. Termination shall be the presumptive disciplinary sanction for staff who have engaged sexual abuse.
 - b. Disciplinary sanctions and disciplinary procedures are outlined in General Order 4-026.1, Standards of Conduct; General Order 5-052.1, Administrative Investigations; General Order 3-026.1, Discipline; and the appropriate staff member's Collective Bargaining Agreement, where applicable.

W. Sexual Abuse Incident Reviews

- 1. The PREA Coordinator, along with the Corrections Superintendent (and any other appropriate personnel) 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 determined to be unfounded.

- a. In conducting the review, input shall be sought from line supervisors, investigators, and medical or mental health staff.
2. Such review shall ordinarily occur within thirty (30) days of the conclusion of the investigation.
 3. The review team shall:
 - a. Review all reports, videos, photographs, and evidence collected;
 - b. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - c. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
 - d. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - e. Assess the adequacy of staffing levels in that area during different shifts;
 - f. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff;
 - g. Prepare a report of findings and any recommendations for improvement and submit such report to the Sheriff;
 - h. The Corrections Superintendent shall implement the recommendations for improvement, or shall document his/her reason(s) for not doing so.

X. Data Collection and Reporting Requirements

1. Reports and medical records may become evidence in a criminal prosecution, therefore, due caution should be observed in completion and completeness of these records.
2. The Corrections Superintendent, or his/her designee, will collect all data on sexual assaults on detainees/inmates and report them to Federal and State authorities as required or requested.
3. Data on individual detainees/inmates shall be made available only to staff with a need to know, and will be maintained and securely stored to prevent

unauthorized access. All data will be retained for as long as the alleged abuser is incarcerated or employed, plus ten (10) years, unless Federal, State, or local law requires otherwise.

4. Data will be used to assess, identify, and address security issues, a sexual harassment work environment, and to verify whether operational procedures match written policy.
5. Data collected will also be utilized to assess and improve the effectiveness of sexual abuse prevention, detection, and response policies, practices, and training, including by:
 - a. Identifying problem areas;
 - b. Taking corrective action on an on-going basis.
6. The PREA Coordinator shall review all data collected and prepare an annual report of any findings and/or corrective actions within this facility or agency as a whole.
 - a. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse;
 - b. After the annual report has been approved by the Sheriff, it shall be made readily available to the public via the agency's webpage or other means;
 - c. The report may redact specific material from reports when any publication would present a clear and specific threat to the safety and security of the facility. Any redaction should include:
 - (1) Any personal information that could identify staff, detainees/inmates, victims, or witnesses;
 - (2) Facility layout showing floor plans, diagrams, or photographs of exit doors;
 - (3) Any disciplinary records of staff or detainees/inmates.
7. A PREA Data Log will be maintained by the Corrections Superintendent, or his/her designee, which will contain the following information:
 - a. PREA case number;
 - b. Calendar year of the incident;
 - c. Incident report number;
 - d. Specific location of the incident;

- e. Date of the incident;
 - f. Date the incident was reported;
 - g. Method used to report the incident to the facility;
 - h. Investigator(s) assigned to the incident;
 - i. Type of incident (detainee/inmate-on-detainee/inmate, detainee/inmate-on-staff, or staff-on-detainee/inmate);
 - j. Situation or circumstances at time of incident;
 - k. Victim name;
 - (1) A name is not entered when it is a WCSO employee or contracted staff and the allegation is detainee/inmate-on-staff. Only "Staff" will be entered for the victim name.
 - l. Victim jail (MID) number;
 - m. Victim race and nationality;
 - n. Victim type (contracted staff, detainee/inmate, staff or volunteer);
 - o. Accused name;
 - (1) A name is not entered when it is a WCSO employee or contracted staff and the allegation is staff-on-detainee/inmate. Only "Staff" will be entered for the accused name.
 - p. Accused jail (MID) number;
 - q. Accused race;
 - r. Accused type (contracted staff, detainee/inmate, staff or volunteer);
 - s. Disposition (pending/ongoing, substantiated, unsubstantiated, unfounded, non-PREA.)
- Y. Application of Policy (Inclusions and Exclusions)
- 1. The terms and conditions as described throughout this directive shall apply to all employees, interns, volunteers, contractors, official and professional visitors, staff, and agency representatives.
 - 2. In order to maintain security and safety within the facility, certain operational procedures within the facility require latitude with regard to:

- a. Use of custodial personnel's hands or electronic contraband detection devices to perform searches of detainees/inmates (while the detainee/inmate is clothed or unclothed) in accordance with the facility's policies regarding contraband and detainee/inmate searches;
- b. Staff or medical personnel gathering physical evidence or engaging in other legitimate medical treatment in the course of investigating sexual misconduct or providing medical treatment;
- c. The use of medical devices in the course of appropriate medical treatment unrelated to a sexual misconduct investigation;
- d. The use of a health care provider's hands or instruments to perform body cavity searches related to the safety and security of the facility; provided such search is conducted in accordance to policy and in a manner consistent with constitutional requirements.



Gary Caruana, Sheriff

02-08-18

Approval Date