
Part Three

Facility Operations

Section C

Safety and Security

Title

Sexual Abuse and Assault Prevention and Intervention Program

Number

HCDC-3C-21

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07-14-08

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11-07-23

PURPOSE

- To demonstrate compliance with the Prison Rape Elimination Act (PREA).
- To demonstrate compliance with Nebraska State Law and Nebraska Jail Standards.

POLICY

The Hall County Department of Corrections maintains a zero-tolerance for all forms of sexual abuse or assault. It is the policy of the Hall County Department of Corrections to provide a safe and secure environment for all inmates, employees, contractors, and volunteers, free from the threat of sexual abuse or assault, by maintaining a Sexual Abuse and Assault Prevention and Intervention Program that ensures effective procedures for preventing, reporting, responding to, investigating, and tracking incidents or allegations of sexual abuse or assault.

Sexual assault or abuse of inmates by other inmates or by employees, contractors, or volunteers is prohibited and subject to administrative, disciplinary, and criminal sanctions.

A. PREA Coordinator

The Hall County Department of Corrections has a PREA Coordinator who is responsible for overseeing all aspects of the facility's efforts to comply with this zero-tolerance policy, including by:

1. Assisting with keeping current these written policies and procedures for the Sexual Abuse and Assault Prevention and Intervention Program;
2. Assisting with the development of initial and ongoing training protocols;

3. Serving as liaison with other agencies;
4. Coordinating the gathering of statistics and reports on incidents of sexual abuse or assault;
5. Reviewing the results of every investigation of sexual abuse and conducting an annual review of all investigations to assess and improve prevention and response efforts; and
6. Reviewing facility practices to ensure required levels of confidentiality and maintained.

B. Definitions

For the purposes of this policy, the following definitions apply:

- 1. Inmate on inmate Sexual Abuse and/or Assault: One or more inmates, by force, coercion, or intimidation, engaging in or attempting to engage in:**
 - a. contact between the penis and the vagina or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;
 - b. contact between the mouth and the penis, vagina or anus;
 - c. penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object;
 - d. touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person; or
 - e. threats, intimidation, or other actions or communications by one or more inmates aimed at coercing or pressuring another inmate to engage in a sexual act.
- 2. Staff-on-inmate Sexual Abuse and/or Assault: One or more staff member(s), or contract personnel engaging in or attempting to engage in:**
 - a. contact between the penis and the vagina or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;

- b. contact between the mouth and the penis, vagina or anus;
- c. penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object;
- d. 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;
- e. threats, intimidation, harassment, indecent, profane or abusive language, or other actions (including unnecessary visual surveillance) or communications aimed at coercing or pressuring an inmate to engage in a sexual act; or
- f. repeated verbal statements or comments of a sexual nature to an inmate, including demeaning references to gender, derogatory comments about body or clothing, or profane or obscene language or gestures.

3. Sexual Contact between inmates Prohibited

In addition to the forms of sexual abuse and/or assault defined above, all sexual conduct including consensual sexual conduct between inmates is prohibited and subject to administrative and disciplinary sanctions. (It should be noted that consensual sexual conduct between inmates and staff, volunteers, contract personnel is included within the definition of staff-on- inmate sexual abuse and/or assault above).

C. Staff Training

Training on the facility's Sexual Abuse or Assault Prevention and Intervention Program shall be included in training for employees, volunteers and contract personnel and shall also be included in annual refresher training thereafter. The level and type of training for volunteers and contractors will be based on the services they provide and their level of contact with inmates; however, all volunteers and contractors who have any contact with inmates must be notified of the facility's zero-tolerance policy. The facility must maintain written documentation verifying employee, volunteer and contractor training.

Training shall include:

1. definitions and examples of prohibited and illegal behavior;
2. agency prohibitions on retaliation against inmates and staff who report sexual abuse;
3. instruction that sexual abuse and/or assault is never an acceptable consequence of detention;
4. recognition of situations where sexual abuse and/or assault may occur;
5. recognition of the physical, behavioral and emotional signs of sexual abuse and/or assault and ways to prevent such occurrences.
6. the requirement to limit reporting of sexual abuse and assault to personnel with a need-to-know in order to make decisions concerning the inmate- victim's welfare, and for law enforcement/investigative purposes;
7. the investigation process and how to ensure that evidence is not destroyed;
8. prevention, recognition and appropriate response to allegations or suspicions of sexual assault involving inmates with mental or physical disabilities;
9. instruction on reporting knowledge or suspicion of sexual abuse and/or assault and making intervention referrals to the facility's program coordinator; and
10. instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse and/or assault.

D. Inmate Notification, Orientation and Instruction

The Director of Corrections or designee shall ensure that the orientation program notifies and informs inmates about the facility's zero tolerance policy for all forms of sexual abuse and assault.

Following the intake process, the facility shall provide instruction to inmates on the facility's Sexual Abuse and Assault Prevention and Intervention Program and ensure that such instruction includes at a minimum:

1. the facility's zero-tolerance policy for all forms of sexual abuse or assault;
2. prevention and intervention strategies;
3. definitions and examples of inmate-on-inmate sexual abuse, staff-on-inmate and coercive sexual activity;

4. explanation of methods for reporting sexual abuse or assault, including the Department of Homeland Security (DHS) /Office of the Inspector General (OIG) and the Immigration and Customs Enforcement (ICE)/Office of Professional Responsibility (OPR) investigation process for ICE detainees.
5. information about self-protection and indicators of sexual abuse;
6. prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainees immigration proceedings; and
7. rights of an inmate who has been subjected to sexual abuse to receive treatment and counseling.

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

The facility's sexual abuse or assault prevention and intervention program shall provide inmates who are victims of sexual abuse or assault the option to report the incident or situation to a designated staff member other than a Unit Officer (e.g. PREA Coordinator, Shift Sergeant, Medical staff, Mental Health). The facility shall provide inmates with the name of the PREA Coordinator and information on how to contact him or her. Inmates will also be informed that they can report any incident or situation regarding sexual abuse or assault or intimidation to any staff member.

All required PREA information supplied by ICE will be displayed in unit information boards.

When practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency. Oral interpretation or assistance shall be provided to any inmate who speaks another language in which written material has not been translated or who is illiterate.

E. Prevention

All staff and detainees are responsible for being alert to signs of potential situations in which sexual assaults might occur, and for making reports and intervention referrals as appropriate.

Classification is an ongoing, dynamic process. An inmate who is subjected to sexual abuse or assault shall not be returned to general population until proper re-classification, taking into consideration any increased vulnerability of the inmate as a result of the sexual abuse or assault, is completed.

1. Inmates shall be screened upon arrival at the facility for potential vulnerabilities to sexually aggressive behavior or tendencies to act out with sexually aggressive behavior.
2. Each new arrival shall be kept separate from the general population until he/she is classified and may be housed accordingly.
3. Inmates with a history of sexual assault shall be identified, monitored and counseled while they are in custody. Inmates identified as high risk for committing sexual assault shall be assessed by a mental health or other qualified health care professional and treated, as appropriate.
4. Inmates at risk for sexual victimization shall be identified, monitored and counseled. Inmates identified as high risk for sexual victimization shall be assessed by a mental health or other qualified health care professional. Inmates who are considered at risk shall be placed in the least restrictive housing that is available and appropriate.
5. Inmates at high risk for sexual victimization shall not be placed in involuntary segregation 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 such an assessment cannot be conducted immediately, the department may hold the inmate in involuntary segregation for less than 24 hours while completing the assessment.
6. If segregation is necessary, the following shall be documented:
 - The basis for concern for the inmate's safety; and
 - The reason why no alternative means of separation can be arranged.
7. Inmates placed in segregation for this purpose shall have access to programs, privileges, education and work opportunities to the extent possible. If restrictions are necessary the following shall be documented:
 - The opportunities that have been limited;
 - The duration of the limitation;
 - The reason for the limitation

8. Inmates identified as being at risk for sexual victimization shall be transported in accordance with that special safety concern with particular attention to inmates who may need to be afforded closer observation for their own safety.

F. Prompt and Effective Intervention

Staff sensitivity towards inmates who are victims of sexual abuse and/or assault is critical.

Staff shall take seriously all statements from inmates claiming to be victims of sexual assaults and shall respond supportively and non-judgmentally. Any inmate who alleges that they have been sexually assaulted shall be offered immediate protection from the assailant and shall be referred for a medical examination and/or clinical assessment for potential negative symptoms. Staff members who become aware of an alleged assault shall immediately follow the reporting requirements set forth in the written policies and procedures.

The facility uses a coordinated, multidisciplinary team approach to responding to sexual abuse, which in accordance with community practices, includes a medical practitioner, a mental health practitioner, security staff and an investigator from the assigned investigative entity, as well as representatives from outside entities that provide relevant services and expertise.

Care must be taken not to punish a confirmed or alleged sexual assault victim. Victimized inmates should not be subject to disciplinary action either for reporting sexual abuse or for participating in sexual activity as a result of force, coercion, threats, or fear of force. Care shall be taken to place the inmate in a supportive environment that represents the least restrictive housing option possible (e.g. protective custody). However, victims shall not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances or at the request of the inmate.

G. Reporting, Notifications and Confidentiality

The facility shall employ procedures for an internal administrative investigation that shall be conducted in all cases only after consultation with the assigned criminal investigative entity or after the criminal investigation has concluded. Such procedures shall establish the coordination and sequencing of the two types of investigations, to ensure that the criminal investigation is not compromised by an internal administrative investigation. All incidents and allegations of sexual abuse or assault shall be reported immediately.

Information concerning the identity of an 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 inmate-victim's welfare, and for law enforcement/investigative purposes.

1. Alleged Inmate Perpetrator

When an inmate(s) is alleged to be the perpetrator, it is the Director's responsibility to ensure that the incident is promptly referred to the appropriate law enforcement agency having jurisdiction for investigation and reported to Field Office Director, Joint Intake Center (JIC), ICE OPR, or DHS (when ICE detainee(s) involved).

2. Alleged Staff Perpetrator

When an employee, contractor or volunteer is alleged to be the perpetrator of inmate sexual abuse and/or assault, it is the Director's responsibility to ensure that the incident is promptly referred to the appropriate law enforcement agency having jurisdiction for investigation and reported to the Field Office Director, Joint Intake Center (JIC), ICE OPR, or DHS (when ICE detainee(s) involved). The County Board of Corrections shall also be notified.

Staff, contractors or volunteers suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring inmate contact pending the outcome of an investigation. It is the Director's responsibility to ensure that the incident is promptly referred to the appropriate law enforcement agency having jurisdiction for investigation and reported to the Field Office Director, Joint Intake Center (JIC), ICE OPR, or DHS (when ICE detainee(s) involved).

H. Investigation and Prosecution

If an inmate alleges sexual assault, a sensitive and coordinated response is necessary. All investigations into alleged sexual assault must be prompt, thorough, objective, fair and conducted by qualified investigators. The program coordinator shall be responsible for reviewing the results of every investigation of sexual abuse.

When possible and feasible, appropriate staff shall preserve the crime scene, and safeguard information and evidence in coordination with the referral agency and consistent with established evidence gathering and evidence processing procedures. The first security staff member to respond to the report is required to (1) separate the alleged victim and abuser; (2) seal and preserve any crime scene(s); and (3) security and non-security staff request the victim/abuser not to take any actions that could destroy physical evidence, including washing, brushing his or her teeth, changing his or her clothes, urinating, defecating, smoking, drinking, or eating. If the first staff responder is a non-security staff member, he or she is required to request the victim not to take any actions that could destroy physical evidence, to include the above listed, and then notify security staff.

At no cost to the inmate, the Director or designee shall arrange for the victim to undergo a forensic medical examination. During the forensic exam, the victim may request that an outside advocate be present for support (which may include a Sexual Assault Forensic Examiner S.A.F.E. or Sexual Assault Nurse Examiner S.A.N.E.). The results of the physical examination and all collected physical evidence are to be provided to the investigative entity. Appropriate infectious disease testing, as determined by the health service provider, may be necessary. Part of the investigative process may also include an examination and collection of physical evidence from the suspect assailant(s).

I. Health Care Services and Transfer of Inmates to Hospitals or Other Facilities

Victims shall be provided emergency medical and mental health services and ongoing care. When possible and feasible, victims of sexual assault shall be referred, under appropriate security provisions, to a community facility for treatment and for collection evidence.

If available and offered by a community facility, prophylactic treatment, emergency contraception and follow up examinations for sexually transmitted diseases shall be offered to all victims, as appropriate. This will be done at no financial cost and regardless of whether the victim names the accuser or cooperates with any investigation arising out of an incident of sexual abuse.

1. Health care professionals shall conduct an examination to document the extent of physical injury and to determine whether referral to another medical facility is indicated. With the victim's consent, the examination shall include collection of evidence from the victim, using a kit approved by the appropriate authority.
2. All collected forensic evidence must be secured and processed by the investigating agency.
3. Health care professionals shall test for sexually transmitted diseases and infections (e.g. HIV, gonorrhea, hepatitis, Chlamydia and other diseases/infections) and refer victim for counseling, as appropriate.
4. Prophylactic treatment, emergency contraception and follow up examination for sexually transmitted diseases shall be offered to all victims, as appropriate.
5. Following a physical examination, a mental health professional shall evaluate the need for crisis intervention counseling and long term follow up.

If a transfer has taken place, a report shall be made to the facility administrator or designee to confirm that the victim has been separated from his/her assailant. Transfers shall take into account safety and security concerns and special needs of victimized inmates.

J. Tracking Incidents of Sexual Abuse and/or Assault.

All case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling shall be maintained in appropriate files in accordance with policy.

Because of the very sensitive nature of information about victims and their medical condition, including infectious disease testing, staff must be particularly vigilant about maintaining confidentiality and releasing information only for legitimate need to know reasons.

Monitoring and evaluation are essential for assessing both the rate of occurrence of sexual assault and agency effectiveness in reducing sexually abusive behavior. The program coordinator is responsible for an annual review of aggregate data (omitting personally identifying information) and shall present the findings to the Field Office Director and ICE/ERO headquarters for use in determining changes to existing policies and practices to determine whether changes are needed to further the goal of eliminating sexual abuse. Accordingly the Director must maintain two types of files.

1. General files include:

- a. the victim(s) and assailant(s) of a sexual assault;
- b. crime characteristics;
- c. detailed reporting timeline, including the name of the staff member receiving the report of sexual assault, date and time the report was received, and steps taken to communicate the report up the chain of command; and
- d. all formal and/informal action taken.

2. Administrative investigative files include:

- a. all reports;
- b. medical forms;
- c. supporting memos and videotapes, if any; and
- d. any other evidentiary materials pertaining to the allegation.

The Director shall maintain these files chronologically in a secure location.

In addition, the Director shall maintain a listing of the names of sexual assault victims and assailants, along with the dates and locations of all sexual assault incidents occurring within the facility, on the computerized incident reporting system. Such information shall be maintained on a need to know basis which includes protection of electronic files from unauthorized access. At no time may law enforcement sensitive documents or evidence be stored at the facility.

Access to this designation shall be limited to those staff involved in the treatment of the victim or the investigation of the incident.

REFERENCES

American Correctional Association, Performance Based Standards for Adult Local Detention Facilities, 4th Edition: 4-ALDF-4D-22, 4D-22-1, 4D-22-2, 4D-22-3, 4D-22-4, 4D-22-5, 4D-22-6, 4D-22-7, 4D-22-8, 2A-29

National Commission on Correctional Health Care, Standards for Health Services in Jails, 2008: J-B-04, J-B-06, J-I-03

Approved and Accepted

Director – Hall Co. Dept. of Corrections

Date