

	<b>POLICY &amp; PROCEDURE</b>	
	<b>Columbiana County Jail</b>	
	<b>POLICY #:</b>	<b>10.1.1-A</b>
	<b>Subject:</b>	Investigating Allegations of Sexually Abusive Behavior (PREA) & Evidence Collection
	<b>Effective Date:</b>	<b>05-19-2021</b>
<b>Related Standards:</b>		
<b>State Standard(s):</b>		

**POLICY:**

The Columbiana County Jail (CCJ) mandates zero tolerance towards all forms of sexual abuse. In accordance with this procedure manual, all employees, contactors, and volunteers have an affirmative duty to report all allegations or knowledge of sexual abuses, romantic, or sexual contact that takes place within the facility. All cases of alleged sexual conduct, in accordance with Local Policy 10.1.1 Sexual Abuse/Assault Prevention and Intervention Program, shall be promptly, thoroughly, and objectively investigated. Upon substantiation of any allegation of sexual conduct, appropriate disciplinary actions will be taken against the employee, contractor, volunteer, or inmates, including criminal prosecution.

**AUTHORITY:**

Columbiana County Jail Policy and Correctional Solutions Group, LLC (CSG) Corporate Policy.

**DEFINITIONS:**

1. **Inmate** means any person incarcerated in the Columbiana County Jail.
2. **Employee** means a person employed by CSG or any operational subsidiary, sometimes referred to as staff or staff member.
3. **Contractor** means a person who provides services on a recurring basis pursuant to a contractual agreement with the facility.
4. **Volunteer** means an individual, who is not an employee, who donates time and effort on a recurring basis to enhance the activities and programs of CCJ.
5. **Facility Administrator** means the principal official of a facility (i.e. Warden).
6. **Facility** means a place, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that was built or retrofitted for the purpose of detaining individuals and is routinely used to detain individuals in its custody.
7. **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 training for treating sexual abuse victims.
8. **Substantiated** means the investigation determined the allegations occurred.
9. **Unsubstantiated** means the investigation determined the allegation may have occurred, but there was insufficient evidence to prove.
10. **Unfounded** means the investigation determined the allegation did not occur.

**B. Definitions Related to Sexual Abuse**

1. Sexual abuse by another inmate includes any of the following acts by one or more inmates who, by force, coercion, or intimidation, or if the victim did not consent or was unable to consent or refuse, engages in, or attempts to engage in:
  - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.

- b. Contact between the mouth and the penis, vulva, 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 thigh, 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.
  - e. Threats, intimidation, or other actions or communications by one or more inmates aimed at coercing or pressuring another inmate to engage in sexual acts.
2. Sexual abuse of an inmate by an employee, contractor, or volunteer includes any of the following acts, if engaged in by one or more employees, contractors, or volunteers who, with or without the consent of the inmate, engages in or attempts to engage in:
- a. Contact between the penis and the vulva or the anus and, for purpose of this paragraph; contact involving the penis upon penetration, however slight.
  - b. Contact between the mouth and the penis, vulva, or anus.
  - c. Contact between the mouth and any body part where the employee, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
  - d. Penetration, however slight, of the anal or genital opening of another person by a hand, finger, or by any object that is related to official duties, or where the employee, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
  - e. Intentional touching of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, either directly or through the clothing, that is unrelated to official duties, or where the employee, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
  - f. Threats, intimidation, harassment, indecent, profane, or abusive language, or other actions or communications, aimed at coercing or pressuring an inmate to engage in a sexual act.
  - g. Repeated verbal statements or comments of a sexual nature to an inmate; any display of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate.
  - h. Voyeurism which is defined as the inappropriate visual surveillance of an inmate for reasons unrelated to official duties. When not conducted for reasons relating to official duties, the following are examples of voyeurism: staring 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 buttock, genitals, or breasts, or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions. Sexual conduct between staff and inmates, volunteers, or contract personnel and inmates, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.  
Note: Sexual acts or contact between an inmate and an employee, contractor, or volunteer, even when no objections are raised by either party, are always forbidden and illegal. Accordingly, except in cases where the employee, contractor, or volunteer is clearly the victim of inmate sexually abusive behavior, sexual behavior between an employee, contractor, or volunteer and inmates is always the employee's, contractor's or volunteer's responsibility.

### C. Additional Definitions

1. **Sexual Activity**: Physical contact between two or more inmates of the same or opposite sex for the purpose of sexual arousal or gratification where all involved inmates independently expresses or implies consent. Such contact includes the following: active or passive contact or fondling of genitals, hands, mouth, buttocks, anus, or breast.  
Note: **Consensual sexual** conduct between inmates does not constitute sexual abuse or assault and need not be reported, although it is prohibited and subject to disciplinary sanctions. Staff should be sensitive to the possibility that seemingly consensual behavior may have involved coercion by either person involved.
2. **Sexual Abuse Behavior**: The term used in this policy to describe all prohibited sexual behavior. Sexually abusive behavior includes acts of intimacy, sexual activity, and sexual abuse as defined in this section.

**PROCEDURES:**

1. Policies to Ensure Referrals of Allegations for Investigations.
  - a. CCJ shall have a policy in place to ensure that all allegations of sexual abuse are referred for investigation to a law enforcement agency (Columbiana County Sheriff's Office – CCSO) with legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. CCJ shall document all referrals.
  - b. CSG Corporate shall publish such Corporate policy on its website.
  - c. When an inmate of the facility in which an alleged inmate victim is housed is alleged to be the perpetrator of inmate sexual abuse, CCJ shall ensure that the incident is promptly reported to the facility PREA Coordinator (PC), and, if it is potentially criminal, referred to the Columbiana County Sheriff's Office (CCSO) having jurisdiction for investigation.
  - d. When an employee, contractor, or volunteer is alleged to be the perpetrator of inmate sexual abuse, CCJ shall ensure that the incident is promptly reported to the facility PREA Coordinator (PC), and, if it is potentially criminal, referred to the Columbiana County Sheriff's Office (CCSO).
  - e. The Corporate PREA Coordinator shall also be notified of all inmate sexual abuse allegations.  
An investigation is conducted and documented whenever a sexual assault or threat is reported.
2. Ability to Protect Inmates from Contact with Abusers.
  - a. Employees, contractors, and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring inmate contact, pending the outcome of an investigation.
  - b. CCJ shall not enter into or renew any collective bargaining agreement or other agreement that limits the facility's ability to remove alleged employee sexual abusers from contact with any inmate, pending the outcome of an investigation or of a determination, and to what extent discipline is warranted.

**D. Investigations**

1. Criminal and Administrative Agency Investigations
  - a. An administrative or criminal investigation shall be completed for all allegations of sexual abuse.
  - b. The Facility Administrator and contracting agencies shall be notified prior to investigating all allegations of sexual abuse.
  - c. Specific procedures not listed in this policy which are required by contractual obligations shall be followed.
  - d. When CCJ conducts its own investigations into allegations of sexual abuse, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. CCJ shall use investigators who have received specialized training in sexual abuse investigations. The specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
  - e. When outside agencies investigate sexual abuse, CCJ shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.
  - f. 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 inmate or staff.
  - g. CCJ shall not require an inmate 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 an allegation.

- h. 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.
- i. In the event of facility transfers, if the transfer location is known, the Facility Administrator shall notify the receiving Facility Administrator (in writing) of the ongoing investigation. The written notification shall be retained in the investigative file.
- j. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
- k. Within 30-days of the conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted.
- l. Within 30-days of the conclusion of a criminal investigation where the allegation was unsubstantiated, CCJ shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the appropriate investigative office within the assigned criminal investigative entity.

#### **E. Investigative Reports**

- m. An investigative report shall be written for all investigations of allegations of sexual abuse. CCJ shall utilize the investigative report template for all PREA investigations, unless another format is required by the contracting agency.
- n. 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 witnesses, and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- o. Administrative investigations: (1) shall include an effort to determine whether staff actions or failures to act contributed to the abuse, and (2) shall be documented in a written report format that includes, at a minimum, a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- p. Evidentiary standard for administrative investigations: facilities shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.
- q. Investigative reports shall include attached copies of all documentary evidence, where feasible.
- r. All investigations shall be logged and backed upon receipt of notification.
- s. At the conclusion of every investigation of sexual abuse, the written results shall be reviewed by the Facility Administrator and promptly forwarded to the Corporate PREA Coordinator for review.
- t. Due to their confidential nature, all sexual abuse investigative files shall be retained in a secure location with restricted access, as designated by the Facility Administrator.
- u. CCJ shall retain all written reports referenced in this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, however, for any circumstance, files shall be retained no less than ten years.
- v. Because of the very sensitive nature of information about victims and their medical conditions, including infectious disease testing, staff must be particularly vigilant about maintaining confidentiality and releasing information only for legitimate need-to-know reasons.
- w. All case record associated with claims of sexual abuse, including incident reports, investigative reports, inmate information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling are retained in accordance with an established schedule.

#### **F. Receipt of Allegations of Sexual Abuse and Assault**

First responder duties and actions will be carried out in accordance to local policy 10.1.1.

#### **G. Evidence Protocol and Forensic Medical Examinations**

- 1. CCJ is responsible for investigating allegations of sexual abuse and is required to follow uniform evidence protocols that maximize the potential for obtaining viable physical evidence for administrative proceedings and criminal prosecutions and developed in coordination with the CCSO.

2. CCJ shall offer to all inmates who experience sexual abuse access to forensic medical examinations (whether on-site or at any outside facility) with the victim's consent and without cost to the inmate and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
3. Facility medical staff shall not participate in sexual assault forensic medical examinations or evidence gathering. Examinations shall be performed by a Sexual Assault Nurse Examiner (SANE) or Sexual Assault Forensic Examiner (SAFE). An offsite Qualified Medical Practitioner may perform the examination if a SAFE or SANE is not available.
4. The outside or internal victim advocate shall provide emotional support, crisis intervention, information, and referrals.
5. As requested by the victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting the forensic exam, shall be allowed for support during a forensic exam and investigatory interviews.
6. The victim advocate may not obstruct or interfere with the course of the investigation in any manner and will not serve as a translator.
7. CCJ may not utilize facility employees as victim advocates unless the following documentation exists:
  - a. Documentation is on file that no other alternatives are available in the community.
  - b. Documentation exists that validate designated employees have been screened for appropriateness to serve in this role and have received education concerning sexual assault and forensic examination issues in general.

#### **H. Preservation of Evidence - Victim**

1. The alleged victim shall immediately be escorted for medical treatment, as deemed necessary by medical providers.
2. The alleged victim and alleged abuser shall not be permitted to communicate and shall be escorted and held separately out of sight and sound from each other on site, at the hospital, and upon return to the facility.
3. If the alleged sexual abuse is reported or discovered within 96-hours of the incident, and if determined appropriate by the medical provider and/or investigator, the alleged victim shall either be transported to the designated offsite facility or a SANE or SAFE shall be called to the facility for the collection of forensic evidence and medical treatment.
4. No attempt will be made by facility medical staff to clean or treat the victim unless the injuries are such that not treating them would cause deterioration of the victim's medical condition; however, visible injuries shall be documented both photographically and in writing and placed in the victim's medical record.
5. All refusals of medical services shall be documented.
6. If the alleged victim does not consent to the forensic exam, or if more than 96-hours have passed since the alleged sexual abuse was reported or alleged to have occurred, the alleged victim will be offered access to other specialized services (i.e., medical referral for sexually transmitted diseases, pregnancy testing, and ongoing counseling and treatment services) as deemed appropriate by medical and mental health staff. All refusals of these services shall be documented.
7. CCJ management shall implement necessary follow-up actions in accordance with this procedure, their facility Coordinated Response Plan, and any other client mandates.
8. CCJ shall employ multiple protection measures, such as housing changes or transfers for victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for victims or staff who fear retaliation for reporting sexual abuse or assault or for cooperating with investigations.
9. Involuntary restricted housing may be used only after an assessment of all available housing alternatives has shown that there are no other means of protecting the alleged victim.
10. If CCJ cannot conduct such assessment immediately, the victim may be placed in involuntary restricted housing for no more than 24-hours while completing the assessment.



11. A report is made to the Facility Administrator or designee to assure separation of the victim from his or her assailant.

**I. Preservation of Evidence – Abuser**

1. The alleged abuser shall remain in the dry cell/area under direct supervision of a same sex security staff member to ensure he/she does not destroy potential evidence (i.e., wash, shower, change clothes, etc.).  
Note: Any referral of the abuser for a forensic exam must be approved by the client.
2. After the investigator(s) has completed the interview, separate and apart from the alleged victim, the alleged abuser shall be referred to medical for further assessment and treatment, as deemed necessary by healthcare providers. Visible injuries shall be documented both photographically and in writing and placed in the abuser's medical record.
3. Thereafter, the alleged abuser shall be held in restriction pending further investigation.
4. During the course of the investigation, the alleged victim and alleged abuser shall remain separated and housed out of sight and sound range from one another.

**J. Mental Health Assessments**

1. Upon completion of the forensic medical exam, or if the victim does not consent, or if more than 96-hours have passed since the alleged sexual abuse was reported or alleged to have occurred, a mental health evaluation will be completed prior to any housing determination. The alleged victim must not be left alone until evaluated by a Mental Health provider to determine suicide risk.
2. A PREA Mental Health Incident Report will be completed by CCJ mental health professional.
3. In the event a report of sexual abuse is received after normal business hours, on-call mental health providers shall be contacted.
4. If the on-call mental health provider is unable to respond in person, the victim shall be interviewed over the telephone, with an on-duty nurse present during the interview.
5. In the event that there is no mental health provider, a physician shall perform the assessment.
6. After assessing the victim, the mental health provider shall consult with and advise the on-duty nurse of mental health interventions, such as the need for implementation of suicide precautions.
7. In the absence of a nurse, the on-call mental health provider shall provide direction about mental health interventions to security staff.
8. CCJ medical staff shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 6 days of learning of such abuse history, and offer treatment, when deemed appropriate by mental health practitioners. All refusals of these services shall be documented.

**K. Sources of Evidence**

Evidence is anything that can be used as proof of innocence or guilt. Evidence can include, at a minimum: verbal and written statements from the alleged victim, alleged abuser, or other individuals, material objects, video footage, letters, cards, mail, phone systems, logbooks, etc. Investigators shall consider these things during their investigations.

**L. Physical Evidence - Crime Scene**

1. If determined that a possibility of evidence still exists, it shall only be retrieved by trained personnel.
2. Facility investigators may be responsible for collecting information or evidence in accordance with facility policy, contract requirements, and coordination with the outside agency (CCSO) to which the case may be referred.
3. Access to the crime scene shall be controlled. A crime scene log shall be maintained to record the names of each person entering the crime scene, the time of entry, and time of departure. Persons entering the crime scene area shall be limited to those persons performing specified related tasks.
4. The crime scene and all evidence gathered shall be logged and properly stored (as appropriate) and all evidence gathered shall be logged and properly stored with a chain of custody evidence form attached, in accordance with facility policy.

5. Each item suspected as contaminated with bodily fluids shall be stored in individual paper wrapping or a paper sack and a chain of custody shall be initiated.
6. The crime scene shall remain secured until cleared and released by the investigating authority in charge of the scene.

**M. Interviewing Alleged Victims, Suspected Abusers, and Witnesses**

1. Interviews shall be conducted in a thorough, professional, non-abusive, and non-threatening manner. Interviews shall take place in a private location, away from assigned housing areas/units.
2. Initially, a brief inquiry about the abuse should be taken from the alleged victim (only), as he/she may not give very much detail. If this is the case, it is important to be understanding and responsive. Opportunities to secure more details will occur later.
3. If an employee, contractor, or volunteer is the alleged abuser, the individual will be removed from all duties requiring inmate contact, pending the outcome of the investigation.
4. Ensure the Facility Administrator, facility investigator, Corporate PREA Coordinator, and other designated individuals are notified within two (2) hours of the occurrence. If the incident is "potentially criminal" and involves coercion or force, law enforcement (CCSO) will have jurisdiction over the investigation.
5. If outside law enforcement declines to investigate, a full investigation shall be conducted by a facility staff member who has received the PREA Specialized Investigations Training.
6. Inmates shall not be relied on as interpreters, except in limited circumstances where an extended delay in obtaining a perspective interpreter could compromise the individual's safety, the performance of first response duties, or the investigation of the individual's allegations. Any use of these interpreters under these circumstances shall be justified and fully documented in the written investigative report.
7. In accordance with CSG Corporate Standard of Employee Conduct, during an official investigation, employees are to cooperate fully by providing all pertinent information they may have during an investigation. Failure by any employee to answer any inquiry fully and to the best of their knowledge will be grounds for taking disciplinary action. Any attempt to obstruct an investigation will subject the person to immediate disciplinary action, up to and including termination.
8. Allegations of sexual abuse where an employee is the alleged abuser shall be investigated in accordance with CSG Corporate policy.
9. When the quality of evidence appears to support criminal prosecution, the facility shall conduct compelled interviews, only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
10. CCJ shall not terminate an investigation solely because the source of the allegation recants the allegation.

**N. Reporting to Inmates**

1. At the conclusion of all investigations conducted by the facility investigator, the facility investigator or staff member designated by the Facility Administrator shall inform the inmate who made the allegation of sexual abuse, in writing, whether the allegation has been: substantiated, unsubstantiated or unfounded.
2. The inmate shall receive the original completed: "Notification of Outcome of Allegation" form in a timely manner, and a copy of the form shall be retained as part of the investigative file.
3. The inmate will be provided an updated notification at the conclusion of a criminal proceeding if the inmate is still in custody at the facility.
4. CCJ's obligation to report under this section shall terminate if the inmate's released from custody.
5. If the facility did not conduct the investigation, it shall request the relevant information from the investigating agency to inform the inmate.
6. At the conclusion of every investigation of sexual abuse, the written results shall be promptly forwarded to the Corporate PREA Coordinator for review.

**O. Disciplinary Actions**

1. Employee Disciplinary Sanctions

- a. Staff shall be subject to disciplinary or adverse action, up to and including removal from their position for substantiated allegations of sexual abuse or for violating agency or facility sexual abuse policies.
  - b. The agency shall review and approve facility policies and procedures regarding disciplinary or adverse actions for staff and shall ensure that the facility policy and procedures specify disciplinary or adverse actions for staff, up to and including removal from their position, when there is a substantiated allegation of sexual abuse, or when there has been a violation of agency sexual abuse rules, policies, or standards. Removal from their position is the presumptive disciplinary sanction for staff who have engaged in, attempted, or threatened to engage in sexual abuse, as defined under the definition of sexual abuse of an inmate by an employee, contractor, or volunteer.
  - c. CCJ shall report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to appropriate law enforcement agencies, unless the activity was clearly not criminal.
  - d. CCJ shall make reasonable efforts to report removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to any relevant licensing bodies, to the extent known.
2. Inmate Disciplinary Sanctions
- e. CCJ shall subject an inmate to disciplinary sanctions, pursuant to a formal disciplinary process, following an administrative or criminal finding that the inmate engaged in sexual abuse.
  - f. At all steps in the disciplinary process, any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the inmate to conform to rules and regulations in the future.
  - g. CCJ shall have an inmate disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedures.
  - h. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
  - i. CCJ shall not discipline an inmate for sexual contact with staff, unless there is a finding that the staff member did not consent to such contact.
  - j. 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.
  - k. The PREA Coordinator shall receive copies of all disciplinary reports regarding sexual activity and sexual abuse for monitoring purposes.
3. Corrective Action for Contractors and Volunteers
- l. Any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with any inmate. CCJ shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. Such incidents shall also be reported to law enforcement agencies unless the activity was clearly not criminal.
  - m. Contractors and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring inmate contact, pending the outcome of an investigation.
  - n. CCJ shall take appropriate remedial measures and shall consider whether to prohibit further contact with inmates by contractors or volunteers who have not engaged in sexual abuse, but have violated other provisions within these standards.



**REVIEW:**

The Facility Warden/Administrator will review this policy on an annual basis.

<b>Policy Approval</b>		
<b>Approved for Distribution</b>	<i>David Stanfield</i> Chief Operating Officer, CSG	<i>Signature on file</i>
<b>Policy Approved</b>	<i>Tom Mackie</i> Facility Warden	<i>TMackie 5/13/21</i>
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