

DATE: April 27, 2012

SUBJECT: INMATE RULES AND DISCIPLINE

HISTORY: 12/15/11, 4/23/10, 4/24/09, 4/18/08

Inmate-on-Inmate Sexual Violence

LAST REVIEW: MAR 2012

POLICY

This policy of the Volusia County Division of Corrections establishes a zero tolerance standard for the incidence of inmate-on-inmate sexual violence and sex-related offenses, and attempts thereof, during the period of incarceration. The Division will strictly enforce all federal, state and local laws regarding inmate sexual misconduct, and threats of sexual assault or intimidation through this policy and standard operating procedures.

REFERENCE

Prison Rape Elimination Act of 2003 (PREA) P.L. 108-79

RESPONSIBILITY

The Corrections Director shall designate a (PREA) Coordinator. It is the responsibility of the PREA Coordinator to ensure compliance with the PREA recommended best practices. It is the responsibility of all staff to educate inmates about inmate sexual violence. It is the responsibility of all staff to detect and report instances of alleged inmate sexual violence in accordance with this Policy and Procedure.

GENERAL INFORMATION & DEFINITIONS

- A. Sexual violence is defined as forced or coerced sexual acts or sexual contact between inmates. Forced or coerced inmate-on-inmate contact is where one inmate does not consent, or the inmate (victim) is unable to consent or refuse.
- B. Sexual violence may consist of either nonconsensual sexual acts or abusive sexual contacts, which are further defined below.
- C. Nonconsensual sexual acts include:
 - 1. Contact between the penis and vagina or the penis and anus including penetration, however slight; or
 - 2. Contact between the mouth and the penis, vagina or anus; or
 - 3. Penetration of the anal or genital opening of another person by a hand, finger or other object.
- D. Abusive sexual contacts include:
 - 1. Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any person.
 - 2. It excludes incidents in which the intent of the sexual contact is to harm or debilitate rather than to sexually exploit.
- E. Consensual sexual contact or penetration between inmates is not sexual violence/abuse. However, it is subject to disciplinary action per Division Policy 301.01.

PROCEDURE

- A. Procedures for preventing sexual violence and promoting inmate safety in the Division of Corrections:
 - 1. New jail admits will be provided with information that is communicated verbally and in writing (Inmate Rules and Regulations, Inmate's Guide to Sexual Violence and Misconduct, Orientation Video) concerning jail rape, sexual abuse/assault and sexual misconduct.

- a) The information covers prevention, self protection, reporting sexual abuse/assault, treatment and counseling.
2. Inmates will be screened at intake and when making housing assignments as a potential target of sexual victimization or of being sexually aggressive towards others. Relevant considerations include:
 - a) Age of inmate.
 - b) Whether the offender is a violent or nonviolent offender.
 - c) Whether the inmate has a history of mental illness.
 - d) Whether the inmate has a known history of vulnerability or aggressiveness during a prior jail incarceration.
3. Medical staff who conduct intake screenings shall ask inmates whether they have been sexually victimized in the past. When an inmate reports that he/she has been a victim of rape or sexual abuse/assault, Medical staff shall immediately make a referral of the inmate for assessment and possible treatment.
4. Inmates will be screened during classification for becoming the target of sexual victimization or of being sexually aggressive towards others. Relevant considerations include:
 - a) Age of inmate.
 - b) Whether the offender is a violent or nonviolent offender.
 - c) Whether the inmate has a history of mental illness.
 - d) Whether the inmate has a known history of vulnerability or aggressiveness during a prior jail incarceration.

B. General procedures for responding to sexual abuse:

1. All staff members shall intervene as soon as practical when an inmate appears to be the target of sexual abuse or intimidation.
2. The safety of an inmate who alleges that he/she has been the victim of sexual abuse shall be immediately and discreetly ensured.
3. Inmates who file complaints of sexual abuse shall not be punished, either directly or indirectly, for doing so. If a person is segregated for his/her own protection, segregation will be non-disciplinary (i.e., typical privileges are afforded the inmate).
4. Under no circumstances is it appropriate to suggest that an inmate should fight to avoid sexual violence or to suggest that the reported sexual abuse is not significant enough to be addressed by staff.
5. Any person who knowingly or willfully submits inaccurate or untruthful information in regards to sexual abuse is punishable pursuant to Division policy and the County Merit Rules if a staff member is the source of the inaccurate or untruthful information.
6. Staff shall not discriminate in their response to inmates who are gay, bisexual or transgender who experience sexual aggression or who report that they have experienced sexual abuse.
7. Retaliation against an inmate for making an allegation of sexual abuse by another inmate shall be strictly prohibited.
8. Inmates who are victims of sexual abuse/assault have the option to report the incident to any supervisor, Case Manager, Medical staff, Chaplains or any other Division of Corrections personnel. As such, all requests will be acted upon immediately in order to eliminate evidence being destroyed or contaminated and/or to provide safety for alleged victims if the point of contact line officer is not aware of the allegati

C. Victim Identification:

1. Division staff may become aware of a rape, sexual offense, or sexual assault or incident in any of the following ways:
 - a) Correctional officer discovers a sexual assault in progress;
 - b) Victim reports a sexual assault to a correctional officer or civilian staff;
 - c) Rumored or suspected sexual assault.

D. Verifying Suspected Sexual Violence

1. Occasionally staff will hear of an inmate being threatened with sexual violence or rumored to have been victimized. Some victims of rape, sexual assault or sexual-related offenses may be suspected because of unexplained injuries, changes in physical behavior such as difficulty walking or abrupt personality changes such as withdrawal and suicidal behavior.
2. Staff shall investigate a suspected victim without jeopardizing the inmate's safety, identity and confidence.
3. Staff shall remove the suspected victim from the area for interviewing. Staff will ask the suspected victim open-ended, neutral questions such as: "How are you doing?"; "Are you being hassled?"; "Would you like to be moved to another housing area?"
4. If there are no indications of any problems, staff will suggest that if help is ever needed the inmate can contact an Officer, Medical staff, Mental Health staff, Case Management staff or any other Corrections staff.
5. If the inmate has been a victim of rape, sexual assault or other sexual offense, the staff member that is made aware of these allegations will consider the following:
 - a) Advise the inmate that correctional staff can help him/her;
 - b) If the inmate is scared of being labeled a "snitch" (informer), advise him/her that they do not have to identify the aggressor to get help;
 - c) If he/she was sexually abused, sexually assaulted or was threatened by any sexual misconduct, mention the importance of getting help to deal with the sexual offense and that trained staff are available;
 - d) Determine together with the victim what service he/she needs;
 - e) Arrange for the appropriate services as agreed upon.
6. If an investigation concludes that the inmate has a persistent pattern for falsehood for sexual assaults, the sexual assault was fabricated or that the inmate inflicted or attempted self-injury, correctional staff may recommend disciplinary action against the inmate. An assessment of the inmate's role and degree of culpability is necessary. Inmates who report a sexual assault shall be informed that such inquiries are routine.

E. Staff Intervention with Victims

1. If the inmate was threatened with rape, sexual assault or other sexual offense, the on-duty Shift Commander must be notified immediately.
2. During normal business hours the on-duty Shift Commander will notify the Director, Assistant Director and Warden of the Facility where the inmate is housed. After business hours notifications shall be made to the Staff Duty Officer.

3. The Shift Commander shall arrange protective housing for the inmate, refer him/her to the Medical Unit/Mental Health Staff and write an incident report.
4. Contact with victims needs to be sensitive, supportive and non-judgmental.
5. The Shift Commander will immediately conduct a preliminary inquiry to ascertain the validity of any allegation and the need to contact the Volusia County Sheriff's Office for investigation.
 - a) If an allegation of sexual abuse, assault and/or threat is credible, the VCSO will immediately be contacted (without a preliminary inquiry) to conduct an investigation and document its findings for consideration of a recommendation to the appropriate agency for prosecution of the alleged offender.
6. All case records associated with claims of rape, sexual abuse/assault, threats or allegations thereof including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling will be maintained in the VCBJ Warden's office and made available to appropriate federal, state and local agencies upon request.
 - a) A copy of the initial Incident Report (VCDC 401) shall be forwarded to the PREA Coordinator.
7. Victims shall receive appropriate acute-trauma care for rape victims, including, but not limited to, treatment of injuries, HIV/AIDS prophylactic measures, and later, testing for sexually transmittable diseases.
 - a) Victims shall be referred to the Rape Crisis Center for initial intake evaluation and evidence collection. Correctional staff or contract medical staff will not be involved in the collection of evidence in sexual assault cases nor should either one ever attempt an examination to determine the extent of assault. The victim should not bathe or shower before evidence collection. All sexual assault examinations shall be done by proper medical personnel. The victim can decline referral to the Rape Crisis Center.
 - b) All victims shall have a mental health referral (VCDC 721) completed upon return from the forensic medical/hospital exam.
8. Discharge referrals to Rape Crisis Center are appropriate for follow-up when the victim is released from custody. This referral information should be given to the victim at the time of initial intervention.
9. Victims shall be offered the opportunity to press outside charges against alleged inmate aggressors.

F. Post-Investigation Actions

1. Alleged inmate aggressors may be charged under the Division's disciplinary code, as per policy 301.01.
2. The Shift Commander will be responsible to ensure that data and documentation is gathered and forwarded via their chain of command.
3. Supervisory review of reports shall occur and appropriate follow up action taken to improve prevention and security measures and/or staff training as it relates to inmate-on-inmate sexual violence.
4. Collection of data and records of claims associated with sexual violence (nonconsensual acts and abusive sexual contacts) will be maintained by the VCBJ Warden's office.
5. The Corrections Research and Program Assistant or designee shall complete annual reporting forms in accordance with federal, state and local requirements.

G. Staff Training

1. Staff Development will ensure that all staff:

- a) Are trained to recognize the signs of sexual assault;
- b) Understand the identification and referral process when an alleged sexual assault occurs; and
- c) Have a basic understanding of sexual assault prevention and response techniques.



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