



POLICY AND ADMINISTRATIVE PROCEDURES

Manual of Policies and Procedures

Title

PRISON RAPE ELIMINATION ACT (PREA)

I. PURPOSE:

The purpose of this policy is to maintain the expectation of a zero tolerance for sexual abuse and/or sexual harassment in regards to residents and staff, in order to promote safety and security for everyone involved.

II. POLICY STATEMENT:

Allen County Work Release is to remain in compliance with all PREA standards as mandated. It is the policy of the Allen County Work Release to provide a safe, humane, secure environment, free from the threat of sexual violence/misconduct for all residents and staff. The agency shall maintain a zero tolerance for sexual abuse and harassment for anyone associated with the facility including volunteers, contractors, clergy and the public. All allegations of sexual misconduct or harassment shall be administratively and or criminally investigated.

Sexual misconduct among residents and/or staff is strictly prohibited.

III. DEFINITIONS:

For the purposes of these administrative procedures, the following definitions are presented:

- **LBGTI Community:** Lesbian, Bi-sexual, Gay, Transgender, or Intersex
- **Miranda and Garrity Warnings:** An advisement of rights usually administered by state or local investigators to the subject of their investigation. It clarifies the liability for any statements made but also advises of the right to remain silent on issues that tend to implicate them in a crime.
- **PREA Coordinator:** A County employee who is responsible for maintaining files and compliance for the facility in accordance with PREA standards as issued by the Department of Justice.
- **SAFE:** Sexual Assault Forensic Examiner
- **SANE:** Sexual Assault Nurse Examiner
- **Sexual Assault:** Touching another person to sexually arouse yourself or the victim by force, threat of force or if the victim is mentally disabled as to not be able to give consent.
- **Sexual Harassment:** Unwelcomed sexual advances, requests for sexual favors and any other verbal or physical harassment of a sexual nature.
- **Substantiated:** A preponderance of the evidence suggests that an event did occur.
- **Unfounded:** The evidence did not provide a preponderance that the event did or did not occur

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- **Unsubstantiated:** A preponderance of the evidence suggests that an event did not occur.
- **Zero Tolerance:** A law, policy or practice that provides for the imposition of severe penalties for a proscribed offense or behavior without making exceptions for extenuating circumstances.

IV. EMPLOYMENT HIRING & PROMOTION & TERMINATION:

Allen County Work Release will not hire or promote anyone who has either a criminal or civil history of sexual abuse. The agency shall make reasonable attempts to contact any previous employers wherein the prospect worked with adults or juveniles in an institutional setting. The agency shall conduct criminal background checks at hire and every 5 years thereafter unless there is a change to employment status (promotion, resignation etc). The Indiana Sex and Violent Offenders Registry shall be used as a resource for verification.

During the interview process, all prospects will be given a questionnaire that specifically asks about sexual related abuse/harassment/misconduct in previous employment or civilly. They will be asked if they have been adjudicated administratively or civilly to have engaged in sexual abuse and or misconduct. During the interview all applicants will be asked about previous sexual misconduct verbally.

Any current employee who is applying for a promotion will be questioned the same as a new employee in regards to PREA related incidents.

If at any time during employment, a conviction or loss of civil suit determines that the employee is guilty of a PREA related incident, they will be terminated per the zero tolerance expectation.

Material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination.

All staff shall be subject to disciplinary sanctions up to and including termination and criminal prosecution for violating the facilities PREA policy. Termination shall be the presumptive sanction for engaging in sexual misconduct.

Terminations for sexual misconduct or resignations by staff that would have been terminated for violations of PREA relevance if it weren't for their resignation will be reported to law enforcement (if criminal). Any relevant licensing bodies will be notified.

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V. CONTRACTORS, VOLUNTEERS, CLERGY:

Allen County Work Release will not hire or utilize the services of any non-county employee if they have been convicted of or adjudicated for a PREA incident.

Contractors will be supervised by a county employee at all times unless in an area not accessible to the residents.

Contractors, volunteers or clergy who engage in sexual abuse with a resident shall be prohibited from contact with those being supervised and shall be reported to law enforcement (unless not criminal) and to relevant licensing bodies.

VI. PREA TRAINING:

All employees, volunteers and contractors will participate in PREA education training upon hire and every 2 years thereafter. Refresher courses will be provided in the interim as needed. Because Allen County Work Release is a co-ed facility, training will discuss protection of both populations.

Anyone having contact with the residents or staff of Allen County Work Release, will be required to sign a document that they have been trained on procedures for mandatory reporting and that they understand the expectation.

VII. RESIDENT ASSESSMENT & EDUCATION:

Within 72 hours of admission, all residents will be given a risk assessment for determining their risk for victimization or predatory behaviors. Residents will not be disciplined for refusal to answer questions or disclose information when being assessed. The results of this assessment shall only be disseminated on a "need to know" basis. The documentation of this assessment shall be maintained in the medical/confidential section of the residents fact file, locked in the office of the specified case manager.

A result of risk will be used in determining, dormitory and bed assignments.

Within 30 days of arrival, residents risk shall be re-evaluated based on any new information since intake, resident or staff reports or changes in behavior. Re-assessments will be conducted as needed thereafter.

If a resident is found to be a member of the LBGTI community, this shall not be the basis for dormitory assignment. A transgendered or intersex resident's views with respect to maintaining their safety shall be given consideration when applicable. They shall be given the opportunity to shower separately.

Residents will receive education about the agencies zero tolerance policy, methods of reporting, aftercare services and the right to remain free from

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retaliation.

VIII. MANDATORY REPORTING:

It is the policy that if ever a resident makes a report or is seen in a compromised position with a staff or equal, that it will be immediately reported to the supervisor. The supervisor will then notify the PREA Coordinator so the initial administrative investigation can begin. Once it has been determined that there is significant belief that a PREA incident with criminal intent did occur, it is to be reported to the Allen County Sheriff Department for a full investigation.

In the event that is reported does not warrant criminal investigation but does require administrative investigating, it shall be forwarded to the Director. The Director along with Internal Affairs shall conduct the investigation.

If a resident reports that they were the victim of a sexual assault while housed in another institution, that information shall be immediately reported to the PREA Coordinator. Within 72 hours of awareness, the head of the other agency shall be notified in writing of the allegations. Conversely, if allegations are reported from another agency about abuse within Allen County Work Release, it shall start an investigation immediately.

IX. PREVENTION, INTERVENTION AND AWARENESS:

Allen County Work Release shall be staffed to provide adequate levels of supervision and monitoring. The use of radio technology, cameras, visual rounds and maintaining integrity of secured areas shall aid in the prevention of sexual abuse/harassment.

PREA posters shall be hung throughout the facility provided contact information for anonymous reporting to outside third-party entities. The posters shall also be visible in the common areas, community areas and places where the public may also access the information.

The agency shall utilize professional interpreters in the community to assist with communication with residents wherein use of the English language verbally or written is not an option. Resident interpreters will not be utilized unless the situation lends that an extended delay in obtaining pertinent information would compromise the safety and security of the victim, facility and staff.

X. REPORTING METHODS:

Residents and/or their families may report being the victim, bystander, witness or concern of allegations of sexual abuse through the following methods:

- Verbally reporting to any staff, contractor, volunteer, clergy etc;
- Written correspondence to staff, contractor, volunteer, clergy etc;

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- Telephonic communication with staff, contractor, volunteer, clergy etc;
- Calling crisis hotlines listed on poster;

Any notifications completed verbally will be immediately documented on an incident report.

All reports can be made anonymously. Phone calls made in the dayroom to the specified hotlines are not being recorded and monitored by staff.

A resident's current incarceration status shall not be a basis for determining whether allegations are true or not. All allegations will be treated equally and investigated every time.

XI. AFTERCARE SERVICES:

Once a staff has been made aware of a sexual assault that may require an examination of private body parts, the victim is to be referred to St. Joseph Hospital Emergency Room. A rape kit can be completed by a SANE/SAFE nurse at that time. Testing and treatment for sexually transmitted diseases and pregnancy shall be provided free of charge to the resident.

St. Joseph Hospital has social workers whose primary purpose is to provide referrals to local advocacy agencies such as the Fort Wayne Sexual Assault Treatment Center and other related counseling services.

XII. INVESTIGATION:

Administrative investigations shall be initiated immediately. If there is no physical evidence or threat of being a criminal offense the investigation can be completed within the facility. The investigation will be completed by the Director, unless he is the alleged perpetrator. In that instance, a member of the Allen County Sheriff's Criminal Investigation Division will decide who is to conduct the investigation.

A determination as to whether it is a true PREA incident should be completed within 72 hours of the incident and forwarded to law enforcement if thought to be so. The investigation shall be forwarded to the Allen County Sheriff's Department. Miranda and Garrity Warnings and evidence collection will be conducted by the Sex Crimes Unit. Facility staff shall cooperate with law enforcement as needed during the investigation.

The departure of either the alleged perpetrator or victim shall not be a basis for terminating an investigation.

All investigations should be completed within 90 days. If additional time is

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needed, it is the responsibility of the PREA Coordinator to remain in contact with law enforcement on the progression of the case.

The victim is to be kept notified in writing on the progress of the case at each interval.

All documentation shall be retained for as long as the perpetrator is incarcerated or employed by Allen County plus five years.

XIII. DISCIPLINE:

There is no standard higher than the preponderance of the evidence when determining whether allegations of sexual abuse and harrassment are substantiated.

Residents will be subject to termination from the program following an administrative or criminal finding that they engaged in sexual abuse. Coercion must be present for sexual abuse to be validated between residents. Sexual abuse does not include consensual sexual behavior between two residents.

A resident may be disciplined if they engaged in non-consensual contact with a staff.

Any sexual contact initiated by staff on residents shall be considered coercion as they are in a state of authority. This is considered an abuse of power.

Sanctions shall be commensurate with the nature and circumstances of the abuse committed. The resident's disciplinary history, mental disability or illness as well as the sanctions of those who committed similar offenses shall be considered.

Allen County Work Release shall consider counseling, therapy or other interventions to address the underlying motive for abuse.

Once the investigation has been completed, the results shall be provided to the alleged victim in writing. The sanction provided to a staff member shall be provided to the victim as to whether they have been terminated, indicted and or convicted on a charge related to sexual abuse. The obligation to notify the victim terminates when they are released from custody.

XIV. INCIDENT REVIEW:

A sexual abuse incident review shall occur at the conclusion of every substantiated or unsubstantiated sexual abuse investigation. If the conclusion was

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unfounded, no review is necessary. The review will occur within 30 days and will include middle management, case managers, director and PREA coordinator. The purpose of the review is to:

- Consider an update or creation of policy and procedure;
- Determine motivation of incident as to whether it was due to race, ethnicity, religious beliefs, gang affiliated, gender or any other grouping;
- Assess the outlay of the facility where it took place;
- Determine whether staff actions or failure to act contributed to abuse;
- Review staffing levels, and
- Assess the need for more cameras.

A report of findings and recommendations for improvement shall be typed and submitted Community Corrections Advisory Board (if approval of funding is needed). If no fiscal responsibility is needed, the report shall be maintained with a copy to Human Resources. If there is a need that cannot be fulfilled, it shall be documented as to why this is the case.

XV. RETALIATION:

For at least 90 days following a report of substantiated sexual abuse, Allen County Work Release shall monitor the conduct and treatment of staff and residents involved in a PREA incident. This can include a bystander, witness or simply someone who cooperated with the investigation. This shall be documented and maintained in the Personnel file of the staff or the resident's file as well as copies provided to Human Resources.

Staff shall report retaliation against residents or staff who report sexual abuse/harassment. They shall also report any staff neglect or dereliction of duties that may be a contributing factor to an incident of retaliation.

Signs of retaliation that are being monitored for resident can include but not limited to:

- Excessive disciplinary actions;
- Dormitory changes;
- Restriction in privileges without cause;
- Decrease in employment hours;
- Down phasing;
- Expressing concern for safety;
- Home pass suspensions, and
- Behavioral changes (regression, unusually quiet, timid etc).

Signs of retaliation that are being monitored for staff can include but not limited to:

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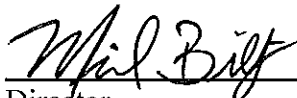
- Undo shift changes;
- Rejection of vacation days;
- Excessive disciplinary actions;
- Unfair post assignment rotations;
- Absence of overtime offering;
- Excessive call-ins;
- Requests to work different shift due to being uncomfortable;
- Expressing concern for safety, and
- Behavioral changes (demeanor shifts, timid, etc)

If retaliation is confirmed, it will be promptly addressed using the progressive discipline model already in place.

The agency shall provide protective measures for those who are believed to be the recipient of retaliation. This can include termination of employment, court ordered transfer to different monitoring options, removal of abuser to a different monitoring option and contact information for emotional support services.

XVI. APPLICABILITY:

These administrative procedures shall be applicable to the Allen County Work Release.



Director

6-1-17
Date