
	CORRECTIONS MANUAL		Reference Number MCSO CM-040
	Subject Rape Elimination and Reporting		
	Ruben Martí, Sheriff 	<input checked="" type="checkbox"/> Reviewed <input checked="" type="checkbox"/> Approved	Effective Date September 21, 2023

I. POLICY

The corrections staff of the Monroe County Jail strive to provide a safe, humane, and secure environment for inmates and staff. As part of this effort, the agency shall administer a program of prevention, detection, response, investigation and tracking of reported or suspected sexual predators and targeted individuals. Sexual assault, sexual misconduct, and rape is not tolerated in the facility, regardless of employee or inmate status. For the safety and security of employees and inmates; sexual assault, including rape, is a prohibitive act, and is managed as a disciplinary and/or criminal offense. Procedures and staff actions support early detection, prevention, rapid response, investigation and managed care for suspected offenders and victims. In accordance with the policy and the practices of the Monroe County Jail, inmates do not have an expectation of privacy while in custody; nor is there such thing as consensual sex or consensual sexual touching in the facility. This concept applies to everyone in the facility, whether they are employees, visitors, or inmates.

II. DEFINITIONS as Related to PREA

Other Sexual Conduct: As defined in Indiana Code 35-31.5-2-221.5.

Rape: As defined in Indiana Code 35-42-4-1.

Sexual Abuse: Conduct which includes:

1. Sexual abuse of an inmate by another inmate includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
 - 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 of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument,
 - d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation; and
 - e. Sexual misconduct.

2. Sexual abuse of an inmate by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate:
- 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. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - d. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - e. Any other sexual contact that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - f. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) - (5) of this section;
 - g. Any display by a staff member, contractor, or volunteer of their uncovered genitalia, buttocks, or breast in the presence of an inmate;
 - h. Voyeurism by a staff member, contractor, or volunteer; and
 - i. Sexual misconduct.

Sexual Battery: As defined in Indiana Code 35-42-4-8.

Sexual Contact: Includes, but is not limited to, intentional sexual contact or touching, or physical contact in a sexual manner, either directly or through clothing of the genitalia, anus, groin, breasts, inner thighs, or buttocks; with or without the consent of the person; or any unwanted touching with intent to arouse, humiliate, harass, degrade, or gratify the sexual desire of any person.

Sexual Misconduct: Any behavior or act of a sexual nature directed toward an officer or offender by another person, regardless of their status, gender, or position in the facility. This includes but not limited to, sexual assault, sexual abuse, sexual harassment, sexual contact, actions designed for the sexual gratification of any party, conduct of a sexual nature or implication, obscenity and unreasonable invasion of privacy. Sexual misconduct may also arise out of conversations or correspondence, which suggests a romantic or sexual relationship or encounter.

Sexual Misconduct by a Service Provider: As defined in Indiana Code 35-44.1-3-10.

Sexual Predator: A sexually aggressive inmate who preys on and victimizes other inmates.

Voyeurism by a Staff Member, Contractor or Volunteer: An invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in their cell to perform bodily functions; requiring an inmate to expose their buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

III. PROCEDURE

A. Screening During Intake and Officer Perceptions of Inmates

1. Known or suspected inmates displaying predatory behavior or perceived as being a potential victim is reported to the Jail Commander or designee for reclassification, disciplinary action, or mental evaluation, depending on the reporting officer's perceptions and subsequent inquiry. Once an inmate is identified as a sexual predator or a potential or confirmed victim, the inmate shall be evaluated for possible changes in classification, housing, and programs. Within the fiscal and physical ability of the facility and necessity to conserve scarce resources, reasonable efforts are made to identify both sexual predators and potential victims alike, and to house, supervise, and care for these inmates. Such as:

- a. Inmates determined to be sexual predators are segregated, monitored and referred to the jail mental health provider for counseling as warranted.
- b. Inmates at risk for sexual victimization are identified, monitored and referred to the jail mental health provider for counseling as warranted. Inmates at risk may be segregated for their safety.

2. It is understood that inmate screening and observations is not a science, but rather a reasoned judgment based on officer, medical practitioner, or counselor perceptions at the time. Further, inmates (predators and victims alike) by their very nature, often exercise deceptions to mask their true intentions, vulnerabilities, and relationships with other inmates and staff. Nevertheless, officers, medical professionals, and staff shall take reasonable steps to isolate sexual perpetrators and protect at risk inmates.

3. If the screening indicates an inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

B. Inmate Orientation and Education

1. During the intake process, inmates shall receive information explaining how to access the Inmate Handbook which contains information regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

2. Within 30 days of intake, the agency shall provide information regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

C. Duties and Responsibilities

1. In support of inmate supervision efforts in general and sexual assault prevention, employees, contractors, and volunteers are responsible for:
 - a. Ensuring that their conduct does not constitute or allow sexual misconduct to occur;
 - b. Immediately reporting any known or suspected violation; and
 - c. Cooperating and providing full disclosure during any internal inquiry or investigation.

2. Staff shall immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

3. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

4. Command, supervisors, and investigators shall:
 - a. Treat reported credible incidents of prohibited conduct seriously and ensure that suspected acts or allegations are reported through the chain-of-command and appropriately referred for inmate discipline, internal and/or criminal investigation.
 - b. Take immediate action to protect the inmate when it becomes known the inmate is subject to a substantial risk of imminent sexual abuse.
 - c. Refer substantiated allegations of prohibited conduct and any false reporting for inmate discipline, disciplinary action and/or criminal prosecution.
 - d. Ensure that victims who report sexual assaults are referred for medical and mental examination and crisis intervention counseling as warranted.
 - e. If no qualified medical or mental health providers are on duty at the time a report of recent abuse is made, staff shall immediately notify the appropriate medical and mental health providers.
 - f. Provide information to inmates during in-processing on sexual assault prevention, reporting of incidents and potential disciplinary and criminal sanctions that may apply. This information may include data on self-protection and counseling.
 - g. Ensure adequate separation between alleged victims and suspects during investigations and thereafter.
 - h. Discipline and/or refer prosecution of inmates, staff or others that commit violations of facility rules or the law.

5. The Jail Commander shall designate an agency-wide PREA coordinator.

D. Inmate Reporting.

1. Inmates may internally report instances of sexual abuse in the following manner:
 - a. To any Corrections Officer or Supervisor.
 - b. Via the KIOSK system.
 - c. To the Chaplin.
 - d. To the medical or mental health provider.

2. Inmates may externally report instances of sexual abuse in the following manner:
 - a. By dialing 812-330-6402 and leaving a message.
 - b. Via the jail inmate email system to outside individuals.

E. First Responder Duties

1. Upon learning of an allegation that an inmate was sexually abused, the Corrections Officers responding to the report shall:
 - a. Take preliminary steps to protect the victim by separating the alleged victim and abuser;
 - b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
 - c. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and;
 - d. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

F. Medical/Mental Health Staff Support

1. The jail medical provider and/or mental health provider shall assess the alleged victims physical and mental health needs and direct the patient to counseling as needed.

2. After conducting any medical or mental assessment and counseling, the jail medical provider and/or mental health provider shall consult with the lead investigator providing medical information, evidence and opinions. Available medical and/or mental health services shall be provided to involved inmates as determined by the jail medical provider and/or mental health provider.

3. The agency shall attempt to make available to the victim a victim advocate through the services of the mental health provider.

G. Investigations

1. As with any other reported or suspected disciplinary or criminal act, a sexual assault investigation shall be conducted and documented whenever reasonable suspicion exists. Officers and investigators shall isolate the alleged victim and suspect as soon as practical. Once the inquiry is concluded, investigator recommendations may include criminal referral(s) to a prosecutor, the facility disciplinary officer, or both.

2. The Jail Commander, designee, criminal investigator or PREA Coordinator shall maintain the records of reported incidence of sexual assault as with other reported crimes. The determination as to who is responsible for maintaining these files is determined by Jail Commander. These reports are maintained by using Monroe County Sheriff's Office investigative procedures.

H. Sexual Abuse Incident Reviews

1. The Jail Command Staff shall conduct a sexual abuse incident reviews as appropriate.

I. Reporting to Inmates

1. Following an investigation into an inmate's allegation that the inmate suffered sexual abuse in the facility, the Department shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

2. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the Department shall subsequently inform the inmate (unless the Department has determined that the allegation is unfounded) whenever:

- a. The staff member is no longer posted within the inmate's unit;
- b. The staff member is no longer employed at the facility;
- c. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
- d. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

3. Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever:

- a. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- b. The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

4. The Department's obligation to report under this standard shall terminate if the inmate is released from custody.

J. Protection Against Retaliation

1. Protection measures for inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations may include but are not limited to; housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims. Shift Commanders shall monitor for any instances of such retaliation.

K. Discipline for Staff

1. Disciplinary procedures for staff are outlined in MCSO-066 and MCSO-067.

L. Corrective Action for Contractors and Volunteers

1. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported investigated appropriately and reported to relevant employers.
2. The Department shall take appropriate remedial measures and shall consider whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

M. Disciplinary Sanctions for Inmates

1. Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.
2. Sanctions shall be commensurate with the nature and circumstances of the abuse committed and the inmate's disciplinary history.
3. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to their behavior when determining what type of sanction, if any, should be imposed.
4. The inmate may be disciplined for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
5. 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.
6. Sexual activity between inmates is prohibited which may result in discipline for such activity. Such activity shall not constitute sexual abuse if it is determined that the activity was not coerced.

N. Training

1. All employees will receive training regarding this policy and the agency's policy on harassment in the workplace.
2. All volunteers and contractors who have contact with inmates shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

O. Data collection

1. The MCSO shall collect data for every allegation of sexual abuse and aggregate data annually.
2. The MCSO shall maintain sexual abuse data for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.