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| Fifth Judicial District Department of Correctional Services Policy and Procedural Manual | | | Approval Date: 4-23-14 Approved By:  <small>Sally Kreemer, Director Fifth Judicial District Department of Correctional Services</small> |
| Division: Administration Unit(s): All Units | Subject: PREA 6 – Official Response Following an Offender Report | | Effective Date: Review Dates: N/A Revision Dates: N/A Origination Date: 4-23-2014 |
| PREA Standards: | 115.261 115.264 115.267 | 115.262 115.265 | 115.263 115.266 |

PURPOSE

To establish procedures to take after an offender PREA related report has been made or observed by staff.

POLICY

It is the policy of the Fifth Judicial District Department of Correctional Services to provide a safe, humane and secure environment, free from the threat of sexual violence and sexual harassment for all offenders, by maintaining a program of education, prevention, detection, response, investigation, prosecution and tracking. The Fifth Judicial District Department of Correctional Services has zero tolerance for sexual violence of any kind.

APPLICABILITY

This policy applies to all employees, prospective employees, interns, volunteers and contractors of the Fifth Judicial District Department of Correctional Services and will be maintained current by the District Director or designee.

PROCEDURES

I. Staff and Department Reporting Duties § 115.261

- A. Staff are required to immediately report any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in the Men's or Women's Residential Facility; retaliation against offenders or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
- B. Apart from reporting to designated supervisors, 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 decisions.
- C. Unless otherwise precluded by Federal, State, or local law, mental health practitioners shall be required to report sexual abuse pursuant to paragraph (1) of this section and to inform offenders of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

- D. If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person's statute, the Department shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.
- E. The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the District PREA Coordinator, the Assistant Director, and the District Director.

II. Agency Protection Duties § 115.262

- A. When staff learns that an offender is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the targeted offender.

III. Reporting to Other Confinement Facilities § 115.263

- A. Upon receiving an allegation that an offender was sexually abused while confined at another facility, the PREA Coordinator or designee shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
- B. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- C. The PREA Coordinator shall document such notification.
- D. The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

IV. Staff First Responder Duties § 115.264

- A. Upon learning of an allegation that an offender was sexually abused, the first security staff member to respond to the report shall be required to:
 - 1. Separate the alleged victim and abuser;
 - 2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence (when law enforcement arrives);
 - 3. 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
 - 4. 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.
- B. If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

V. Coordinated Response § 115.265

- A. There is a written plan (flow charts) to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health

practitioners, investigators and facility leadership. The flow charts are in the PREA binder at each Control Desk.

VI. Preservation of Ability to Protect Offenders From Contact With Abusers § 115.266

- A. Neither the Department nor any other governmental entity responsible for collective bargaining on the Department's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the Department's ability to remove alleged staff sexual abusers from contact with offenders pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
- B. Nothing in this standard shall restrict the entering into or renewal of agreements that govern:
 - 1. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.272 and 115.276. (115.272 state that; the agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. 115.276 state that (a) staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. (b) Termination shall be the presumptive disciplinary sanction for staff who has engaged in sexual abuse. (c) Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. (d) all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies) OR
 - 2. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

VII. Agency Protection Against Retaliation § 115.267

- A. The Department shall protect all offenders and staff that reports sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other offenders or staff and shall designate which staff members or departments are charged with monitoring retaliation.
 - 1. The PREA Coordinator will monitor any reports of retaliation as noted above.
- B. The Department shall employ multiple protection measures, such as housing changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims and emotional support services for offenders or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
- C. For at least ninety (90) days following a report of sexual abuse, the Department shall monitor the conduct and treatment of offenders or staff who reported the sexual abuse and of offenders who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by offenders or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any offender disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. The Department shall continue such monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need.
- D. In the case of offenders, such monitoring shall also include periodic status checks.

- E. If any other individual who cooperates with an investigation expresses a fear of retaliation, the Department shall take appropriate measures to protect that individual against retaliation.
- F. The Department's obligation to monitor shall terminate if the Department determines that the allegation is unfounded.