

MCLENNAN COUNTY SHERIFF'S OFFICE

SECTION III Chapter 17 : Prison Rape Elimination Act

17.1 **Purpose** The purpose of this Chapter is to reinforce the prohibitions against sexual abuse of inmates contained in other portions of these policies and in the Jail rules, and to guard against the same by adopting policies consistent with the standards established by the United States Attorney General's Office for implementation of the Prison Rape Elimination Act ("PREA"). The Jail Captain is hereby designated as the PREA coordinator.

17.2 **Definitions**

A. **Sexual abuse** includes -

1. Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
2. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

B. **Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident** 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:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
4. 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.

C. **Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer** includes any of the following acts, with or without consent of the inmate, detainee, or resident:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. 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;

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4. 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;
5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
6. 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;
7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
8. Voyeurism by a staff member, contractor, or volunteer.

D. **Voyeurism by a staff member, contractor, or volunteer** means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering 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 buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

E. **Sexual harassment** includes—

1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
2. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Note: An inmate cannot be disciplined for sexual contact with staff except upon a finding that the staff member did not consent to such contact. Any prohibition on inmate-on-inmate sexual activity shall not consider consensual sexual activity to constitute sexual abuse under this policy.

17.3 **Zero Tolerance**

A. *Staff* - Sexual abuse or sexual harassment of inmates by staff will not be tolerated in any form. A staff member who engages in such conduct **will be discharged**. There is no such thing as “consensual” sexual contact between a staff member and an inmate. Because of the nature of incarceration, whether or not the inmate consents is not

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relevant. In fact, under state law sexual contact with an incarcerated person by jail staff is a felony, whether consensual or not. This agency will pursue criminal charges against staff for claimed consensual sexual contact. Of course, non-consensual sexual contact is also a criminal offense for which prosecution will be pursued.

A discharge for violation of this policy will be reported to the Texas Commission on Law Enforcement Officer Standards and Education. In addition, information regarding a substantiated allegation of sexual abuse or sexual harassment will be reported to any prospective institutional employers that seek information about the perpetrator.

Note: Adequate background checks shall be conducted on all staff to avoid the hiring of a person prone to sexual abuse or violence. Persons who have been adjudicated guilty of any sex crime or attempted sex crime are not eligible for employment with the Jail. Indeed, even persons who have been found to have committed sexual harassment in the civil context are not eligible for employment at the Jail. Persons who have been fired or resigned from employment at a correctional or other prison, lock-up, jail, community or juvenile facility, or other facility amid allegations of sexual misconduct are not eligible for employment with the jail. The Jail maintains and shall continue to maintain a rigorous criminal background, employment background, personal history, application and interview process. Falsification of material information in this process will result in discharge.

B. Inmates - Sexual abuse and/or sexual harassment of inmates by other inmates will not be tolerated in any form. Violators will be subject to the strictest discipline allowed under the applicable disciplinary policies, re-classification, and, if applicable, criminal charges.

Proper consideration will be given to mental disabilities or mental illnesses that may have contributed to the behavior in setting the discipline. However, regardless of such conditions, proper restrictions must be put in place to prevent further such behavior from occurring.

C. Volunteers - Sexual abuse and/or sexual harassment of inmates by volunteers will not be tolerated in any form. A volunteer who violates this policy will be removed from volunteer status, barred from the jail, and, if applicable, criminal charges will be sought. In addition, any organization for which the volunteer works in connection with the jail will be notified of the violation and will not be allowed to place volunteers at the jail until a complete review of the organization indicates that the violation was not the result of institutional neglect or indifference.

[Each volunteer shall receive a copy of this policy. Each volunteer must sign an acknowledgement that they have received the policy and understand it. The acknowledgement shall be retained by the PREA Coordinator.]

Volunteers must consent to a criminal history background check. Persons who have been adjudicated guilty of any sex crime or attempted sex crime are not eligible to volunteer at the Jail.

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- D. Contractors - Sexual abuse and/or sexual harassment of inmates by contractors working at the jail will not be tolerated in any form. A contractor who violates this policy will be barred from the jail, and, if applicable criminal charges will be filed.

[Each contractor that has actual contact with inmates shall receive a copy of this policy. Each contractor must sign an acknowledgement that they have received the policy and understand it. The acknowledgement shall be retained by the PREA Coordinator.]

Contractor employees having contact with inmates must consent to a criminal history background check. Persons who have been adjudicated guilty of any sex crime or attempted sex crime are not eligible to work at the Jail.

17.4 **Rules Regarding Cross-Gender Viewing and Searches** The following rules apply to staff:

- A. Staff shall not assist in the dress-out of a prisoner of the opposite gender unless the prisoner changes clothes outside the view of the staff member;
- B. Staff shall not monitor the shower or toilet facilities used by inmates of the opposite gender. [Entry into such areas in the case of an emergency is not a violation, but the officer should announce his/her presence];
- C. Staff shall never perform a strip search or visual body cavity search on a prisoner of the opposite gender. Only staff that is of the same gender as the prisoner may be present. A strip search or visual body cavity search must be conducted in a private area out of the view of others;
- D. Except in exigent circumstances, clothed searches/pat-downs should be conducted by staff of the same gender as the prisoner;
- E. Where a cross-gender pat-down is necessary, it shall be conducted in a professional and respectful manner with due regard for the dignity of the prisoner and the security needs of the jail;
- F. All cross-gender searches shall be documented by staff in the form of a report to their supervisor; and
- G. No staff are allowed to conduct a body cavity search, cross-gender or otherwise. In accordance with jail policy, a body cavity search may ONLY be conducted by medical personnel. If officers are needed for security during the search, only officers of the same gender as the prisoner may be present.
- H. Staff shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

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- 17.5 **Supervision and Monitoring Generally** The jail has video monitoring, intercoms, and separated housing by classification. In addition, the jail maintains adequate levels of staffing and conducts cell checks in accordance with applicable standards of the Texas Commission on Jail Standards.

The layout of the facility is conducive to observation. Staff are encouraged to notify the administration of any deficiencies that could counter or detract from the jail's efforts to prevent the sexual abuse of inmates.

Each year the jail will assess and determine whether adjustments are needed to protect inmates from sexual abuse, including adjustments in the areas of:

- staffing levels;
- staffing patterns; and
- video monitoring/other technologies.

Unannounced rounds shall be conducted by a supervisor of the level of corporal or higher at least once during each shift as a deterrent to staff sexual abuse. A supervisor shall document each such round. A supervisor shall also document any deficiencies that could expose inmates to sexual abuse by other inmates such as jailers sleeping on duty, cell checks not being made, etc. Any staff member who alerts other staff that a supervisory round is occurring will be subject to disciplinary action unless such is related to a legitimate operational function of the jail.

17.6 **Staff Training**

A. All staff having contact with inmates shall receive training on:

1. The jail's zero-tolerance policy for sexual abuse and sexual harassment;
2. How to fulfill their responsibilities under jail's sexual abuse prevention, detection, reporting, and response policies and procedures;
3. Inmates' right to be free from sexual abuse and sexual harassment;
4. The right of inmates and employees to be free from retaliation for reporting sexual abuse;
5. The dynamics of sexual abuse in confinement;
6. The common reactions of sexual abuse victims;
7. How to detect and respond to signs of threatened and actual sexual abuse;
8. How to avoid inappropriate relationships with inmates;

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9. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, or intersex inmates; and
 10. How to comply with relevant laws related to mandatory reporting of sexual abuse.
- B. Training materials and course outlines will be established, and trainers will be educated on this policy and PREA. Assistance in the training of trainers may be obtained from outside sources.
 - C. New hires will receive the training as part of their orientation. Existing staff must complete the training within one (1) year from August 20, 2012.
 - D. Refresher training or training materials will be provided annually to staff.
 - E. Documentation in the form of sign-up sheets or other proof shall be kept to show that each staff member having contact with inmates has undergone the training, and each staff member must sign an acknowledgement that he/she understands the training he/she has received.
 - F. These policies shall be distributed to all staff who have contact with inmates, and each staff member must sign an acknowledgement of receipt which will be maintained in the PREA training file by the PREA Coordinator.

17.7 **Inmate Education**

- A. The jail will develop an inmate education program that informs inmates of the jail's zero-tolerance policy regarding sexual abuse and sexual harassment, how to report incidents or suspicions of sexual abuse or sexual harassment, the prohibition against retaliation for reporting sexual abuse or sexual harassment, the inmate's right to be free from sexual abuse and sexual harassment, and generally sets forth the jail's response policies and procedures and the jail's commitment to eliminate sexual abuse and sexual harassment.
- B. At intake, the intake officer will provide the inmate with a handout that informs the inmate of:
 1. the zero-tolerance policy;
 2. procedures for reporting incidents or suspicions of sexual abuse or sexual harassment; and
 3. the inmate's right to be free from sexual abuse or sexual harassment, and from retaliation for reporting.

Assistance will be provided to inmates with disabilities, inmates who cannot read, and inmates who do not speak English.

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Once the inmate has read the handout he/she will be requested to sign an acknowledgment form that he/she received the hand-out and understands it. If the inmate refuses to sign the acknowledgment, this will be noted on the acknowledgment form and the officer will note on the form that the handout was supplied to the inmate.

Inmates, to whom the handout has to be read or explained due to disability, language barrier, or literacy will be asked to sign an acknowledgment form stating that the handout was explained to them. If the inmate refuses to sign the acknowledgment, this will be noted on the acknowledgment form and the officer will note on the form that the handout was read/explained to the inmate.

The acknowledgment form shall be maintained in the inmate's file.

- C. Within 30 days after intake, inmates will be provided with more detailed education on this policy and PREA. The education will be provided via video. It is the current expectation that a video will be shown to inmates after booking, but prior to housing.
- D. Documentation that an inmate was shown the video will be maintained in the inmate's file.
- E. Documentation shall be maintained on inmate participation in any other education sessions that may be provided.
- F. The Inmate Rules Handbook shall be modified to include information regarding this policy and PREA, including:
 - 1. the zero-tolerance policy;
 - 2. procedures for reporting incidents or suspicions of sexual abuse or sexual harassment;
 - 3. inmate's right to be free from sexual abuse and sexual harassment, and from retaliation for reporting the same; and
 - 4. the jail's commitment to investigate such reports.

17.8 **Specialized Training**

- A. *Investigators* - Investigators who investigate sexual abuse allegations relating to conduct within the jail shall receive training on techniques for interviewing sexual abuse victims, proper use of *Miranda* and *Garrity* warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence necessary for referral for administrative or prosecutorial action. Documentation of the training will be maintained.
- B. *Medical and Mental Health Care Personnel* - Medical and mental health care personnel at the jail shall receive training on how to detect and assess signs of sexual abuse, how to preserve evidence of sexual abuse, how to respond effectively

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and professionally to victims of sexual abuse, and how and to whom to report allegations or suspicions of sexual abuse. Documentation of the training will be maintained.

17.9 **Screening of Inmates for Risk of Victimization and Abusiveness**

- A. All inmates shall be screened during intake and again during initial classification to assess their risk of being sexually abused by other inmates or sexually abusing other inmates using an objective screening form to be provided by the jail.
- B. The initial classification process, which must take place within 30 days after the inmate's confinement, shall consider at a minimum whether the inmate has any mental, developmental, or physical disabilities, age, physical build, incarceration history, whether the inmate's criminal history is exclusively non-violent, any prior convictions for sex offenses, sexual orientation, gender identity, previous sexual victimization, the inmate's own perception of vulnerability, whether the inmate is there solely on an immigration hold/immigration charges, prior acts of sexual abuse, prior convictions for violent offenses, any history of prior commission of sexual abuse or violence while incarcerated known to the Jail. Re-screening will be conducted where new circumstances or information requires re-screening for the protection of the inmate or others. An inmate may not be disciplined for refusal to answer questions, but the refusal shall be noted on the screening form.

Further screening by the jail's mental health provider may be necessary when it is learned that the inmate has been the victim or perpetrator of sexual abuse, and there is an indication that there is a need for further information for proper risk assessment.

- C. Access to screening information of an inmate is restricted to actual duty specific need, and such information shall never be accessed or disseminated for other than carrying out the purposes of this policy and PREA. An employee who misuses such information will be subject to discharge.
- D. The screening information serves as a tool to avoid inmates having a high risk of victimization from being housed or otherwise placed with inmates having a high risk of being sexually abusive. Placement and programming assignments for transgender or intersex inmates shall be re-assessed at least twice each year. The determination of measures to ensure an inmate's safety shall be individualized so as to better serve the goals of this policy and PREA.
- E. The means of separating inmates at high risk of sexual victimization from likely abusers is sometimes contingent on facts and circumstances then-existing (available classification space, etc.). Generally, involuntary segregation of the inmate susceptible to abuse should not be resorted to unless no other alternative can be arranged. If involuntary segregation is the only available means of assuring the inmate's safety, the inmate shall have the same access to programs and the same opportunities while in segregation as the inmate would have if not in segregation, where possible. [Note: if access to programs, etc. is limited, the limitation, its duration and the reasons therefore must be documented. The documentation will be placed in the inmate's file.]

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Involuntary segregation should be resorted to for only as long as other alternatives are not possible. Involuntary segregation may not exceed 30 days unless it is extended, which extension is documented in a writing explaining the reason for the extension and the reason no alternative placement could be arranged. Involuntary segregation must be reviewed every 30 days and only extended in accordance with this provision. (Each 30 day period requires separate documentation).

- F. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the staff shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.
- G. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.
- H. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.
- I. The jail will not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

17.10 **Youthful Inmates**

- A. "Youthful Inmate" is defined by PREA as a person under the age of 18 who is confined in an adult prison or jail. PREA has placed a substantial new burden on Texas jails given that individuals are considered adults at age 17 in Texas. What PREA does is:
 - 1. prohibit inmates under age 18 from being housed in a unit in which the youthful inmate will have sight, sound or physical contact with any adult inmate through the use of shared dayroom or other common space, shower areas, or sleeping quarters; and
 - 2. require either sight and sound separation or direct staff supervision in areas outside of housing units.
- B. PREA then suggests that jails should use their best efforts to avoid placing youthful inmates in isolation to comply, and requires that absent exigent circumstances youthful inmates have access to recreation. It also requires that youthful inmates have access to programs and work opportunities where possible.

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- C. The administration of the Sheriff's Office is reviewing options to address this mandate. Until a uniform program (and space/staffing) for addressing youthful inmates is established, compliance will have to be achieved on a case-by-case basis in coordination with the management of the jail. Management is to be notified immediately upon book-in of a youthful inmate. The youthful inmate will be held in segregated housing until another option can be determined.

17.11 **Reports and Investigations**

- A. Any member of staff who receives a report of sexual abuse from an inmate, verbal or otherwise, must immediately report this to his/her supervisor, who in turn must immediately report it to the captain. In addition, staff must immediately report any suspicion or information of conduct violating these policies, whether or not any report has been filed by anyone. [Note: if the supervisor is the alleged perpetrator, staff should report to the next higher level of supervision or directly to a lieutenant or the captain. Even anonymous reports must be addressed in compliance herewith.]
- B. Inmates may report sexual abuse, sexual harassment, retaliation for reporting sexual abuse or sexual harassment, or staff neglect that may have contributed to an incident of sexual abuse:
 - 1. verbally or in writing to any staff; or
 - 2. by correspondence mailed to the County Director of Human Resources, 214 Nth 4th Street, Suite 200, Waco, Texas 76701, who will forward the report to the captain [a request for anonymity will be honored].

[Note: Inmates detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.]

[Note: 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.]

- C. Third parties, such as family members, etc., may report sexual abuse, sexual harassment, retaliation for reporting sexual abuse or sexual harassment, or staff neglect that may have contributed to an incident of sexual abuse in writing to the jail captain or to one of the lieutenants. Information will be posted in the visitation areas and the Visitation Center as to how and where to make a report. However, even if the report is received verbally or by other staff than designated, it still must be treated as a report and handled accordingly.
- D. Contractors or volunteers must immediately report actual or suspected sexual abuse, sexual harassment, retaliation for reporting sexual abuse or sexual harassment, or staff

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neglect that may have contributed to an incident of sexual abuse in writing to the jail captain or to one of the lieutenants. However, even if the report is received verbally or by other staff than designated, it still must be treated as a report and handled accordingly.

- E. Regardless of the source or manner of the report (inmate, staff, inmate's family, volunteer, contractor, friend, clergy, etc.), all reports will be taken seriously and made known to the captain as soon as possible. Even anonymous reports must be taken seriously and made known to the captain as soon as possible. All verbal reports will be promptly documented in a written incident report.
- F. Staff may report sexual abuse or sexual harassment of inmates to any Sergeant, Lieutenant, the Captain, the Chief Deputy, or the Sheriff. Staff may also report sexual abuse or sexual harassment of inmates by another staff member to the County Human Resources Director who will inform the captain. Staff reports must be writing. However, even if the report is received verbally or by other staff than designated, it still must be treated as a report and handled accordingly.
- G. If it is learned that an inmate is subject to a substantial risk of imminent sexual abuse, immediate action shall be taken to protect the inmate. This may involve moving the inmate or the potential abuser. Protective custody should only be resorted to if no other options to protect the inmate are reasonably available. If involuntary segregation is the only available means of assuring the inmate's safety, the inmate shall have the same access to programs and the same opportunities while in segregation as the inmate would have if not in segregation, where possible. [Note: if access to programs, etc. is limited, the limitation, its duration and the reasons therefore must be documented. The documentation will be placed in the inmate's file] Involuntary segregation should be resorted to for only as long as other alternatives are not possible. Involuntary segregation may not exceed 30 days unless it is extended, which extension is documented in a writing explaining the reason for the extension and the reason no alternative placement could be arranged. Involuntary segregation must be reviewed every 30 days and only extended in accordance with this provision. (Each 30 day period requires separate documentation). **IMMEDIATE ACTION TO PREVENT OR STOP THE ABUSE SHALL BE THE FIRST AND PARAMOUNT PRIORITY.**
- H. Where an incident of sexual abuse is learned of by staff within a time period that still allows for the collection of physical evidence, first staff on scene must:
 - 1. separate the alleged victim from the abuser;
 - 2. remove both the victim and suspect from the scene and preserve the scene;
 - 3. request the victim not to take any actions that could destroy physical evidence including brushing teeth, using the toilet, changing clothes or washing;
 - 4. prevent the abuser from taking any actions that could destroy physical evidence including brushing teeth, using the toilet, changing clothes or washing; and

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5. contact the Captain, Lieutenant, or Sergeant, and contact Investigators.

Upon arrival at the scene, the investigators shall take over the scene and begin processing evidence. Investigators shall coordinate with the medical staff-or an outside agency where available, such as the Advocacy Center, for examination of the victim, abuser, and/or collection of evidence. Otherwise, the victim will be taken to the hospital emergency room for a SANE. Medical staff, in addition to potentially assisting in the evidentiary collection process, shall tend to any medical or mental health needs of the victim. Administrative staff shall coordinate subsequent housing and program placement of the victim and abuser to prevent contact.

Investigators shall, in coordination with the management of the jail, medical staff, and outside resources, adopt a uniform protocol for forensic medical examinations to obtain evidence and the utilization of practitioners trained in sexual assault forensic examination where possible. Administrative staff shall coordinate with the Advocacy Center for assistance in such examinations and for the provision of a victim's advocate.

- I. **All allegations of sexual abuse shall be promptly and objectively investigated, regardless of the source of the information. Reports received must be assigned to an investigator by management immediately upon receipt.** Investigators shall conduct the investigations in a professional and thorough manner in accordance with their training. 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. When the quality of evidence appears to support criminal prosecution, investigators shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. Credibility of witnesses must be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. An inmate shall not be required to submit to a polygraph as a condition of investigating the report.

Administrative Investigations: (1) Shall include an effort to determine whether staff actions or failures to act facilitated the abuse; and (2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative findings.

Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

The jail shall retain such investigative records for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. 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.

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For purposes of an administrative as opposed to a criminal investigation, the standard used shall be no higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.

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

- J. Following an inmate's allegation that a staff member has committed sexual abuse, the Jail shall subsequently inform the inmate (unless the allegation is determined to be unfounded) whenever:
1. The staff member is no longer posted within the inmate's unit;
 2. The staff member is no longer employed at the facility;
 3. The jail learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 4. The jail learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

17.12 Grievances

- A. Although the Jail will investigate any report and take appropriate action whether or not such information is received in the form of a grievance; federal rules require a grievance policy.
- B. An inmate may file a grievance at any time regarding an incident of alleged sexual abuse as long as it is filed in good faith and relates to an alleged incident that has occurred during his/her then-present incarceration at the Jail. The Jail will investigate the matter and render a determination on the merits of the grievance within 90 days. An extension of up to 70 days to issue a determination may be taken if the facts and circumstances require and the inmate is notified in writing of the extension and the date that a determination will be made.
- C. Grievances submitted on behalf of an inmate by someone else will be treated as a grievance. The inmate upon whose behalf the grievance was made will be notified of the grievance. The grievance process itself will not proceed unless the inmate gives written acknowledgement of his/her intent to proceed with the grievance thereafter in the inmate's own right. If the inmate chooses not to proceed, the grievance will still be treated as a report and investigated as such.
- D. Where an inmate is subject to a substantial risk of imminent threat of sexual abuse, the inmate may designate his/her grievance as an emergency grievance. For an emergency grievance, immediate action is necessary. The initial response to the grievance must be made within 48 hours and the final determination must be made within five (5) calendar days. The immediate focus must be to take action to prevent the potential

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sexual abuse. Corrective and protective action must be pursued promptly. Emergency grievances must be filed in good faith. The Jail retains the right to determine if a grievance qualifies as an emergency grievance. If it does not so qualify, it will be handled as a normal grievance with a written explanation being provided to the inmate of why the grievance did not qualify as an emergency. An inmate may be disciplined for intentionally filing an emergency grievance where no emergency exists.

- E. Staff must treat the information as confidential, only to be revealed to their supervisors in the chain of command to ensure prompt action is taken.
- F. Upon receipt of the information, the Captain or his designee will immediately assign the matter to investigators.
- G. If a report is received that an inmate was sexually abused at another facility, that information shall be made known to the Captain who will notify an appropriate official at the other facility of the report within 72 hours.

17.13 **Access to Outside Confidential Support Services**

- A. Mailing addresses, telephone numbers and hotline numbers for local, state or national victim advocacy and rape crisis organizations shall be provided to inmates upon request.
- B. Inmates will be informed in advance of the extent to which the inmate's communications with these organizations will be monitored.

17.14 **Retaliation**

- A. Retaliation by staff - Retaliation by staff against any inmate, staff member or other person who makes a report or cooperates with the investigation of sexual abuse or sexual harassment is strictly PROHIBITED. Verified retaliation will result in termination of employment.
- B. Retaliation by Inmates - Reasonable and appropriate steps shall be taken to protect inmates, others, and staff members who report or cooperate with the investigation of sexual abuse or sexual harassment from retaliation by inmates. This may require housing changes, removal of staff from a specific area, increased monitoring or other protective measures. Inmates who engage in retaliation will be disciplined.
- C. Monitoring - In any case, disciplinary decisions, employment decisions, program assignments or changes with regard to inmates and staff members who report or cooperate with the investigation of sexual abuse or sexual harassment will be monitored for at least 90 days to see if there are any changes that might suggest possible retaliation. In the case of a reporting or cooperating inmate, monitoring shall include periodic status checks by the PREA coordinator or his designee (at least weekly) until any threat is deemed to have passed.

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[Note: the obligation to monitor terminates if the underlying allegation is determined to be unfounded.]

17.15 **Medical/Mental health Services**

- A. Medical and mental health services will be made available to a victim of sexual abuse in accordance with the professional judgment of the Jail's medical staff. PREA has standards specific to medical personnel, the implementation of which are within the province and sound medical judgment of the Medical Director.

17.16 **Sexual Abuse Incident Review**

- A. After each investigation of a sexual abuse incident that results in a founded or inconclusive determination a review committee made up of a lieutenant, a sergeant, and an investigator shall review the incident. The review committee shall:
 - 1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - 2. Consider whether the incident or allegation was motivated or otherwise caused by the perpetrator or victim's race, genital status, ethnicity, sexual orientation, gang affiliation, or other group dynamics at the facility;
 - 3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - 4. Assess the adequacy of staffing levels in that area during different shifts;
 - 5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - 6. Prepare a report of their findings and any recommendations for improvement and submit such report to the Captain.

17.17 **Data**

- A. A cumulative record of all sexual abuse allegations, their dispositions and any corrective action taken shall be maintained during each calendar year. The data collected and maintained must be sufficient to allow the Jail to be able to respond to USDOJ surveys.
- B. The data shall be aggregated annually and reviewed by the captain to assess and improve the Jail's policies. An annual report will be created based on the captain's review which identifies any problem areas, corrective actions taken or needed, and any changes to policies made or proposed. The report must also compare the aggregated numbers from that year to the numbers in previous years' reports. The report must be made available for public inspection, except that information that

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poses a threat to facility safety/security may be redacted, and personal identifiers must be removed.

- C. Aggregated data must be retained for at least 10 years.
- D. PREA standards contain certain other mandates that are not included within this policy, including independent audit standards. As such contracting and expenditures are not within the authority of the jail, the jail must defer to the Commissioners Court.

18. **Housing Contracts with other Entities**

- A. New contracts and renewals of contracts with entities housing inmates for the Jail at other facilities shall obligate the entity to adopt and comply with PREA standards, and provide for the right of the Jail to monitor the entity's compliance.

Incident-based and aggregated data must be provided by each private operator that contracts to house inmates from the Jail, and shall be included in the Jail's annual report as a separate appendix.