1.700 Prison Rape Elimination Act

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PRISON RAPE ELIMINATION ACT (PREA) INVESTIGATION REQUIREMENTS

Policy:

In accordance with Federal Law, Prison Rape Elimination Act (PREA), Division of Criminal Justice (DCJ) and Criminal Justice Services Department (CJSD) Policy, sexual behavior of any kind to include sexual harassment and sexual abuse among clients or between clients and staff members will not be tolerated, regardless of whether such conduct is consensual and regardless of whether such conduct occurs on site at a CJSD facility or off site. CJSD will report allegations or reasonable suspicions, knowledge, or information regarding any incident of sexual abuse or sexual harassment to law enforcement. This includes any incidents that occurred in a facility; whether or not it is part of CJSD and regardless of whether or not the client was under the supervision of CJSD at the time. Reports will also be made to the referral agency of the client, the Community Corrections Board and DCJ.

Apart from reporting to designated CJSD Staff, 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. Staff will report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to CJSD Administration. Any instance a report is made alleging sexual misconduct CJSD Staff will complete a thorough and detailed investigation with accurate documentation.

Procedure:

A. First Response/Investigative Protocols: First Responders and subsequent responders will initiate and complete the PREA Incident Response Manual and ensure designated staff follow appropriate security procedures.

1. CJSD shall establish procedures for the administrative investigations of alleged nonconsensual sexual acts and contact and staff sexual misconduct and harassment.
2. CJSD shall ensure that standard evidence protocols are met anytime that a crime scene, victim, or perpetrator may have usable evidence pertinent to an investigation of alleged sexual abuse, misconduct, or harassment. These protocols are outlined in the PREA training session, and in the first responder manual.

3. Upon the conclusion of any administrative and/or criminal investigation, the victim shall be:
   a. Notified of the outcome of the investigation and the determination if their complaint was substantiated, unsubstantiated, or unfounded. CJSD shall request all pertinent information from criminal investigators, if applicable.
   b. Informed whenever the alleged perpetrator (client) is:
      i. Charged criminally
      ii. Convicted
   c. Informed whenever the alleged perpetrator (staff) is:
      i. Has pending or completed disciplinary action;
      ii. No longer employed at CJSD;
      iii. Charged criminally
      iv. Convicted
   d. The CJSD PREA Coordinator shall be responsible for making such notifications and for documenting the notification in the client file.
   e. CJSD’s duty to report to the victim shall end upon the victim leaving custody.

4. In determining whether an allegation of sexual misconduct is substantiated, unsubstantiated, or unfounded, the decision shall be based solely upon the preponderance of the evidence gathered during the investigation.

B. Sexual Assault Response Team (SART): SART shall be comprised of members specifically trained in responding to sexual misconduct and sexual abuse. Those members shall include:

1. PREA Coordinator;
2. A designated CJSD PREA Manager;
3. A designated CJSD PREA Supervisor;

4. A CJSD Advocate to coordinate victim services;

5. SART shall meet to:
   a. Debrief investigations of sexual misconduct within 30 days of the conclusion of the investigation;
   b. Conduct annual reviews of CJSD staffing plans and monitoring updates, and;
   c. Review annual aggregate data regarding PREA investigations and outcomes.

6. SART shall act as an advisory team and resource to:
   a. CJSD Managers conducting administrative investigations into alleged incidents;
   b. Law Enforcement conducting criminal investigations into alleged incidents, and;
   c. Outside agencies or the public.

7. SART shall meet at the conclusion of all administrative and/or criminal investigations to:
   a. Conduct a full incident review using the PREA Incident Review/Debriefing;
   b. Ensure that all required follow up steps are communicated to staff, and;
   c. Explore alternatives to prevent or improve the response to any future events of sexual misconduct.

8. SART shall liaison with outside agencies and community partners as necessary to establish and maintain a community level of care for all victims of sexual abuse in CJSD custody.

C. Administrative Investigations will include:
1. Credibility assessment: The credibility of an alleged victim, suspect or witness shall be assessed on an individual basis and shall not be determined by the person's status as a client or staff. Polygraph examinations or other truth-telling devices may not be used on the alleged victim as a condition for proceeding with the investigation.

2. An effort to determine whether staff actions or failures to act contributed to the abuse.

3. Documentation descriptions of physical and testimonial evidence, reasoning behind credibility assessments and investigative facts and findings.

D. Criminal Investigations: In any instance where the initial investigation determines that criminal behaviors have occurred, the PREA Coordinator or the on duty manager will contact the Grand Junction Police Department for further investigation. The Grand Junction Police Department will be responsible for the collecting of evidence, interviewing witnesses, and referring for prosecution.

1. CJSD shall cooperate with outside investigators and will make contact as necessary to remain informed about the progress of an investigation.

2. Investigations will not be terminated if the alleged abuser or alleged victim are removed from employment with CJSD or are no longer a client at CJSD.

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