

POLICY AND PROCEDURES

NUMBER: 1806 SUBJECT: Inmate on Inmate Sexual Assault
(In compliance w/ the Prison Rape Elimination Act (PREA) Fed. Law S.1435)

ACA STANDARDS: 4-ALDF-4D-22-1, 22-2, 22-3, 22-4, 22-6, 22-7, 22-8

DIRECTOR: Herbert Bernsen

EFFECTIVE DATE: 12/07 REVISION DATE: 6/09, 11/13,
12/14



I. POLICY

The St. Louis County Department of Justice Services shall establish the following procedures in order to detect and prevent sexual assaults perpetrated against inmates by other inmates through inmate orientation, screening, assessment, classification, monitoring, counseling, and investigation of alleged sexual assaults. The Department will maintain a “**Zero Tolerance**” standard for any form of sexual contact between inmates, to include sexual assault/violence and consensual sex. An employee who becomes aware of an inmate in partial or total confinement alleging sexual abuse or sexual assault will inform his/her supervisor or the Watch Commander immediately.

In response to the enactment of the Federal Prison Rape Elimination Act (PREA) of 2003, the Department of Justice Services will cooperate with the Bureau of Justice Statistics in providing required access to staff and inmates, statistical information, and data collection with regard to sexual assault on inmates confined to this institution. The Department will also cooperate fully with plans by the Review Panel on Prison Rape if it chooses to hold hearings involving this department. Finally, the Department will comply with American Correctional Association standards as related to sexual assault on and by inmates.

II. RESPONSIBILITIES

All St. Louis County Department of Justice Services’ staff, Department of Health (DOH) staff, civilians (volunteers, vendors, etc) and other law enforcement personnel are responsible for the following procedures.

III. DEFINITIONS

Sexual Assault –

- a. The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will.
- b. The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim has a permanent mental or physical incapacity; or
- c. The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

Carnal Knowledge – Contact between the penis and the vulva or penis and the anus, including penetration of any sort, however slight.

Oral Sodomy – Contact between the mouth and the penis, the mouth and vulva or the mouth and the anus.

Sexual Violence

- a. **Non-Consensual Sexual Acts –** Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and contact between the penis and the vulva or the penis and the anus including penetration, however slight; or contact between the mouth and the penis, vulva, or anus; or penetration of the anal or genital opening of another person by a hand, finger, or other object.
- b. **Abusive Sexual Contacts –** Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person or sexual activity in which the inmate has not consented to the sexual act performed on him/her by another inmate. (Policy 142 set guidelines for sexual misconduct against inmates by staff, contract personnel or volunteers within the Department of Justice Services.)

Consensual Sex - Voluntary agreement by two (2) or more inmates to engage in sexual activity.

Zero Tolerance Standard – prohibition of any form of sexual contact between inmates, to include:

- a. Physical/sexual assault

- b. Physical/Sexual violence
- c. Physical /sexual pressure
- d. Extortion (pressuring for personal property, charging rent, demanding sexual favors or money)
- e. Physical/sexual intimidation or manipulation
- f. Retaliation/retribution
- g. Consensual sex.

Sexual Assault Nurse Examiner (SANE) – Hospital medical staff trained in providing comprehensive and compassionate care to victims of sexual assault/abuse.

Sexual Assault Response Team (SART) - A team comprised of at least one facility security supervisor, one medical staff and one Mental Health Professional.

Total Confinement - is when a person is housed in Justice Services' facility

Partial confinement - is when a person is on any Justice Services' Community Service Program, is in custody but is at a work site, out to other authorities, etc

Caution Codes –

SXP – Sexual Perpetrator

SXV – Sexual Assault Victim

SXX – Sexual Predator

IV. PROCEDURES –

- A. To effectively prevent, manage and provide services to inmates who are victims of sexual assault/violence the department will focus on two (2) different areas:

- 1. **Prevention:**

- a. Classification and Assessment of Offenders -Upon offender admission to the department, the Classification staff will screen the offender for potential vulnerability to sexual assault and/or tendencies to act out with sexually aggressive behavior:

- (1) Ask the offender a battery of questions set by the Classification staff concerning their sexual behavior
- (2) Scan offender's criminal history for history of sexual offenses.
- (3) Assess whether the offender appears to be transgender, potentially physically vulnerable or unusually nervous/anxious.
- (4) Inmates identified as at risk with a history of sexually aggressive behavior or sexual vulnerability will be identified in the Integrated Jail Management System (IJMS) by utilizing the correct Caution Codes and will be assessed by Mental Health Staff. Following this identification, these inmates will be monitored and counseled
- (5) The Mental Health Staff will pass on all necessary information to the Classification staff so any precautions, (i.e. isolation, suicide watch, housing assignments, etc.) may be taken.
- (6) Housing Assignments will be made accordingly.

b. Inmate Orientation - Upon arrival to the Pre-Classification Housing Unit(s) (males) or Unit Four (females), Segregation Units or Infirmary, inmates will be provided with the Inmate Handbook and a pamphlet on "Sexual Assault Awareness," which includes information on:

- (1) "Zero Tolerance" standard regarding sexual assault
- (2) "Zero Tolerance" standard regarding consensual sex
- (3) Self-Protection/intervention
- (4) Reporting sexual assault
- (5) Treatment and counseling
- [(6) Inmates will be told that they have the responsibility of reporting any incident of sexual abuse/assault to supervisors, as well as line staff. Portions of this record are closed pursuant to Section 610.021 (19) (21) RSMo and Section 114.020 (18) (20) SLCRO

because public disclosure of such portions would threaten public safety by compromising the safe and secure operation of the Jail, and the public interest in nondisclosure outweighs the public interest in disclosure of the portions of such records.]

2. Services to Victims:

- a. The Justice Services' Administration has identified a facility SART as employees on-duty 24 hours a day, seven (7) days a week. The team will be comprised of the on-duty Watch Commander and an on-duty Healthcare Provider, usually a nurse. During normal work hours, a Mental Health employee will be included as part of the SART. This method identifies the team by position instead of individual.
- b. SART is responsible for the immediate management of the victim offender to include temporary housing.
 - (1) Victims should not be housed on the same unit as the alleged perpetrator(s).
 - (2) Victims should be housed in the least restrictive environment possible
 - (3) Victims should be allowed to retain personal property that does not present a legitimate security concern.
 - (4) Upon return to the facility, the victim should be given access to showers, food and drink. Telephone calls to family, visits from clergy, should be allowed whenever possible.
- c. Unit Managers/Watch Commander in the Unit Manager's absence, are responsible for entering the proper Caution Code into IJMS once an allegation of sexual assault has been substantiated.
- d. Initial Response – To ensure the alleged sexual assault victim is safe and to meet the psychological and medical needs of the alleged sexual assault victim, the following steps will be taken when an inmate, inmate relative, staff person, etc., report a sexual assault.

- (1) Responsibilities of staff person receiving the report
 - (a) Inform the Unit Supervisor and/or Watch Commander and the Unit Control Officer by phone of the alleged assault
 - (b) Send the alleged victim out to the Unit Control area to ensure the inmate is safe
 - (c) Have the alleged perpetrator(s) report to an area near the staff's work station
 - (d) Determine and secure the crime scene
 - (e) Lock down the alleged perpetrator's cell and any other cells to preserve any evidence

NOTE: Remove any other inmates from these cells and place in secure area (empty cells, recreation area, sallyport) to preserve any evidence.
 - (f) Have the alleged perpetrator(s) escorted out of the housing unit
 - (g) Complete an incident report.
- (2) Housing Unit Supervisor's (Lt) responsibilities
 - (a) Respond to the housing unit and ensure alleged victim is safely escorted from the housing unit to the Unit Control area
 - (b) Ensure alleged victim is moved to a locked multi-purpose room for his/her protection
 - (c) Ensure the Watch Commander has been called to the scene
 - (d) Ensure an officer is placed in the multi-purpose room with the alleged victim
 - [(e) Ensure the alleged perpetrator(s) is escorted *to another unit/floor* and placed in a

locked multi-purpose room away from the alleged victim]

(f) Complete incident report.

(3) Unit Control Officer's responsibilities

[(a) Ensure the doors to the multi-purpose rooms are locked]

(b) If the alleged incident happened within 72 hours, ensure the inmates are not allowed to shower, wash, change clothes, or attend to other hygiene practices that may destroy evidence until evidence collection procedures are concluded. The Clayton Police becomes the lead agency in the investigation and is assisted by the Watch Commander or Internal Affairs Officer.

(c) If the alleged victim claims that the incident of sexual violence happened more than 72 hours from the time it is reported, the Watch Commander or the Internal Affairs Officer will take a complete report from the alleged victim and notify the Clayton Police. If appropriate, the SART is also contacted to schedule counseling and medical evaluation within one (1) day of notification.

Note: This reporting delay does not preclude the alleged victim from receiving any medical or psychological care that may be warranted due to physical or emotional trauma he/she may experience as determined by the medical staff.

(d) Complete incident report.

(4) Watch Commander's responsibilities

(a) Respond to the housing unit floor

(b) Investigate the allegations by interviewing inmates involved

- (c) Determine if act(s) were consensual or non-consensual
 - (d) If act(s) were non-consensual, inform Master Control staff by phone to contact Clayton Police Department
 - (e) Contact Corrections Medical staff and Mental Health staff and inform them of the assault
 - (f) If act(s) is consensual, ensure inmates are escorted to Disciplinary Segregation
 - (g) Ensure staff follow the directions of Clayton Police
 - (h) Ensure the following staff are notified of the situation:
 - (1) Internal Affairs Officer
 - (2) Superintendent of Security
 - (3) Unit Manager of Housing Unit floor
 - (i) Ensure any necessary moves are completed (e.g., hospital run, disciplinary segregation, Infirmary, clinic, etc.) due to consensual or non-consensual act(s)
 - (j) Ensure all necessary staff complete incident report prior to departing the facility
 - (k) Ensure information is placed in the Watch Commander's Report.
- (5) Medical Staff's responsibilities
- (a) Respond immediately to housing unit floor; perform a brief exam prior to sending the inmate to contracted facility. The initial assessment will be done by a DOH nurse on-duty, which includes weekends, holidays and after hours

- (b) Ensure inmate is monitored for emergency medical and mental health problems
- (c) Ensure proper evaluation and treatment of any life threatening injuries is obtained immediately
- (d) After completion of initial exam, the DOH nurse will contact the hospital triage nurse and inform him/her of the incoming inmate (victim) and request that the SANE staff be notified for response
- (e) Inform the Watch Commander when the inmate (victim) can be transported to the hospital and whether there is a need to call 911 for transportation
- (f) Upon return from the hospital, the inmate (victim) is to go to the Infirmary where an evaluation will be done by the nursing staff on-duty and the medical and mental health providers contacted after the nursing evaluation

NOTE: Treatment of non-life threatening injuries may be in conjunction with directions of the Clayton Police.

- (g) Inform Clayton Police if alleged perpetrator or assault victim is HIV positive
- (h) Ensure HIV counseling is given to inmates when consensual sex is involved
- (i) Ensure that post-HIV counseling is completed upon return from hospital for non-consensual sex
- (j) Refer to Mental Health staff upon return from the hospital
- (k) Ensure that all appropriate medical/lab work was completed at the hospital

- (l) Ensure any hospital follow-up orders are completed while assault victim remains at facility
 - (m) Ensure appropriate, complete and concise medical documentation related to the sexual assault or abuse is placed or scanned into the inmate electronic medical records by the DOH nurse evaluating the inmate (victim). This includes, but is not limited to, hospital records, medical counseling records and post release medical treatment referrals.
 - (n) All records will be maintained for a period of at least five (5) years following the date of the allegation or incident.
 - (o) Ensure that any follow-up orders not completed while in facility are relayed to any receiving facility or explained to inmate if he/she is released from custody.
- (6) Mental Health Staff Responsibilities
- (a) Respond immediately to housing unit floor, during normal work hours
 - (b) Assess the inmates mental health needs and provide necessary crisis counseling. Mental health staff will confer with the Medical staff regarding any clinical issues relevant to the interview.
 - (c) Report the incident and the inmate's needs to the Department's psychiatrist who will determine whether department staff or external professionals should provide the necessary services.
 - (d) Ensure any hospital follow-up orders are completed while assault victim remains at facility
 - (e) Ensure mental health information related to the sexual abuse or assault is placed or scanned into the inmate's medical file,

including hospital records, mental health counseling records and post release mental health treatment referral

(f) Ensure that any follow-up orders not completed while in facility are relayed to any receiving facility or explained to inmate if he/she is released from custody.

(g) All records will be maintained for a period of at least five (5) years following the date of the allegation or incident.

B. Investigation, Prosecution and Maintenance of Records (See Policy 142)

1. Investigations: All occurrences or allegations of sexual assault or threats to sexual assault shall be reported to the Internal Affairs Officer (IAO).

a. The IAO will investigate the alleged sexual assault in a timely, complete, thorough and uniform manner, consistent with generally accepted principles pertaining to corrections investigations to ensure inmate/staff did not violate any Departmental policies and procedures and/or any illegal activities. (See Policy # 110 Internal Affairs Investigation)

b. If any illegal activities by inmate/staff are found to have allegedly occurred, the IAO will notify the Clayton Police Department

c. The IAO will preserve any evidence according to Policy #840 Preservation of Evidence.

2. Prosecution:

a. The IAO will file results of the investigation with the Clayton Police Department of any inmate/staff who allegedly conducted any illegal activities which may have led to/aided the sexual assault of an inmate.

b. The Clayton Police Department may seek the prosecution of the alleged perpetrator of sexual assault on an inmate.

c. The Clayton Police Department may investigate and seek the prosecution of any staff member who allegedly

conducted illegal activity which may have led to/aided the sexual assault on an inmate.

- d. The decision to prosecute an inmate or staff member is that of the St. Louis County Prosecuting Attorney's Office.

3. Maintenance of Records

- a. The case records involving allegations and incidents of sexual assault of inmates will be kept by the IAO. The case records will include all incident reports, investigation reports, and inmate information and case disposition. The IAO shall maintain all statistics as required regarding allegations of sexual assault and abuse.
- b. All records will be maintained for a period of at least five (5) years following the date of the allegation or incident

4. Documentation Collection

a. Data Collection

In order to comply with the US Department of Justice's Bureau of Justice Statistics ("DOJ/BJIS") reporting requirements the following definitions are used to collect data on all inmate on inmate sexual violence:

Alleged Victim: the individual who claims he/she has been subjected to inmate on inmate sexual violence

Victim: the individual who, as determined by Clayton Police or DJS, has been subjected to inmate on inmate sexual violence

Suspect: the individual under investigation for allegedly committing an act of sexual violence on another inmate

Perpetrator: the individual who, as determined by Clayton Police or DJS, has committed an act of inmate on inmate sexual violence

Inappropriate Sexual Relations: any type of sexual activity between inmates

b. Classification of Investigation Outcomes

Consistent with the investigation outcome definitions developed by the DOJ/BJS' statistics, the findings of all investigations of incidents of inmate on inmate sexual violence are categorized as:

Substantiated: The incident was investigated and determined to have occurred;

Unsubstantiated: Evidence was insufficient to make a final determination that the incident occurred;

Unfounded: The incident was determined NOT to have occurred;

On-Going: A final determination has not yet been made as to whether the incident occurred

5. Audits

- a. The Internal Affairs Officer monitors policy compliance in all facilities.
- b. The *IJMS System Analyst* performs periodic quality control checks to ensure that all data entered into the Sexual Assault database is valid and reliable.
- c. The Internal Affairs Officer reviews all cases of alleged inmate sexual violence to ensure that incidents are accurately tracked in accordance with the definitions set forth by the Prison Rape Elimination Act and mandated by the DOJ/BJS.

C. Notifying Other Agencies/Receiving Notification from Other Agencies

1. Notifying State/Federal Agencies

- a. Upon preparing documents for an inmate being sent to another agency, the Transportation Office Specialist will make a copy of the photo sheet which will include any caution and special condition codes. The Office Specialist will include this sheet with any other documents.
- b. The officers transporting the inmate(s) to the other agency will obtain all pertinent documents from the Transportation

Office Specialist and will deliver all documents to the receiving agency.

2. Notifying Other Agencies (municipalities, other counties, etc.)
 - a. See Policy 1420 Inmate Release for specific duties for staff.
 - b. The Bonding staff will make a copy of the booking sheet (which will include any caution and special condition codes) and any additional documents when an inmate is to be released to another agency. This documentation will be sent to the Intake Service Center (ISC) Shift Supervisor.
 - c. The ISC Shift Supervisor will check documents for accuracy and sign off on the documents. The documents will then be sent to the Facility Property Room Officer.
 - d. The Facility Property Room Officer will inform the municipality, etc. of the release of the inmate and complete his/her portion of the documents. The Facility Property Officer will then return the documents to the ISC Shift Supervisor.
 - e. Upon arrival of the police officer, the releasing officer will have the police officer read any caution and special condition codes and sign the booking sheet.
3. Receiving Notification State/Federal Agencies
 - a. Upon receiving written notification from the courts that an inmate is needed from a different facility for court, the Transportation Office Specialist will contact that facility to make preparation to transport the inmate.
 - b. The Transportation Office Specialist will request from the facility any information on inmates being transported to the Justice Center who have been involved in an incident which included sexual assault/violence or consensual sex. If written documentation is available, the Transportation Office Specialist will request a copy to be forwarded with the inmate.
 - c. The Transportation Officers escorting the inmate(s) to the Justice Center will obtain any documents from the facility and deliver the documents to the Transportation Supervisor/designee.

- d. The Transportation Supervisor/designee will deliver any documentation regarding inmates involved in sexual assault/violence or consensual sex to the Classification Specialist or Watch Commander in the absence of the Classification Specialist.

NOTE: The Watch Commander will ensure the Classification Specialist receives a copy of the information.

- e. The Classification Specialist will ensure the appropriate Corrections Case Manager receives a copy of the documentation.
- f. The Classification Specialist/Watch Commander will ensure housing of the inmates is made accordingly and caution/special condition codes are in place.
- g. If no written information is available, the Transportation Office Specialist will send an email to the Classification Specialist and Watch Commander. The information included in the email will relay any verbal information given to the Transportation Office Specialist concerning an inmate or if there was no information given concerning an inmate.
- h. In the absence of Transportation staff, the Classification Specialist or Watch Commander will ensure the appropriate Corrections Case Manager is notified of any information concerning an inmate.

D. Disciplinary Sanctions

1. Inmate disciplinary sanctions are options to be considered in addition to criminal prosecution.
2. See Policy 1804 Rules and Discipline for specific duties for staff.

E. Confidentiality:

1. All information and handling of reports will be done in a manner that protects the privacy and confidentiality of the inmate victim and his/her medical and mental health records. Departmental staff will interact with the inmate victim in a professional manner and shall leave solicitation about the details of the incident to the IAO, Watch Commander and/or the Clayton Police Department.

F. Training

1. All staff will be trained in the Prison Rape Elimination Act (PREA) on an annual basis. The training will include, but not be limited to:
 - a. Defining:
 - (1) Inmate on inmate sexual assault/violence
 - (2) Inmate on inmate consensual sex
 - (3) Zero Tolerance
 - b. Discussing the core elements in addressing sexual assault/violence
 - (1) Prevention
 - (2) Services to Victims
 - (3) Investigation
 - (4) Prosecution.
 - c. Discussing staff's responsibilities and roles
 - d. Discussing Medical and Mental Health protocol.
2. The Training Manager will establish the curriculum of the training.