

SECTION 14: SEXUAL ABUSE PREVENTION

1. REFERENCES:

American Correctional Association Standards for Adult Local Detention Facilities. Fourth Edition. Standard: 4-ALDF-4D-22, 4-ALDF-4D-22-1, 4-ALDF-4D-22-2, 4ALDF-4D-22-3, 4-ALDF-4D-22-4, 4-ALDF-4D-22-5, 4-ALDF-4D-22-6. New Mexico Local Government Accreditation Program, Adult Detention Professional Standards, First Edition: SC-58, SC-59, SC-60, SC-61, SC-62, SC-63, SC-64, SC-65, SC-66. Prison Rape Elimination Act of 2003. NMSA 1978 § 30-9-11.E(2).

2. POLICY:

Lincoln County Detention Center has zero tolerance for sexual misconduct involving inmates. It is the policy of Lincoln County Detention Center to provide a safe, humane, and secure environment, free from sexual violence, misconduct, harassment, or retaliation, by establishing definitions of prohibited conduct and maintaining a program of prevention, detection, investigation, response and tracking of all alleged and substantiated sexual misconduct.

Sexual misconduct between staff and inmates, volunteers or contract personnel and inmates, inmates and inmates, regardless of consensual status is prohibited and subject to administrative discipline and/or criminal sanctions.

3. DEFINITIONS:

Aggressor: Any person committing sexual misconduct against another. The aggressor may be the same or different gender as the victim.

Investigator: Individual(s) designated by the Detention Administrator to conduct documented internal investigations into alleged sexual misconduct in order to assess the truth of the allegations.

PREA Coordinator: Individual designated by the Detention Administrator who is responsible for coordinating the facility's response to allegations of sexual misconduct

Sexual Acts: Any contact between the sex organ of one person and the sex organ, mouth or anus of another person, or any intrusion of any part of the body of one person, or any object into the sex organ, mouth, or anus of another person.

Sexual Contact: Intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of a person other than by staff for medical purposes or for purposes of performing legitimate policy authorized searches.

Sexual Harassment: For purposes of this policy sexual harassment includes comments of a sexual nature; demeaning references to gender; lewd remarks about clothing, body or appearance; profane or obscene language or gestures; and displaying sexually oriented images

Sexual Misconduct: All forms of sexual behavior prohibited by this policy, including sexual harassment, sexual acts and sexual contact regardless of whether it is consensual. Examples of sexual misconduct include:

- A. Requests for sexual favors, sexual acts or sexual contact
- B. Influencing, promising or threatening an inmate's safety, custody or security level, including recommendations for court actions, privacy, housing, privileges, work detail or program status in exchanges for sexual favors
- C. Promise of protection in exchange for sexual favors
- D. Statements, comments or innuendo made directly or indirectly concerning the sexual orientation or perceived sexual orientation of any person
- E. Intimate or close relationships with an inmate defined as any relationship beyond the boundaries of a professional relationship
- F. Intimate conversation or correspondence with an inmate
- G. Exchanging letters, pictures, phone numbers, addresses, email addresses or other personal information with inmates
- H. Unreasonable invasion of an inmate's privacy such as inappropriate viewing of any inmate
- I. Any verbal, non-verbal or physical conduct which is sexual in nature or sexually suggestive
- J. Creating an intimidating, hostile or offensive environment by engaging in or permitting sexually offensive behavior or language that is directed at or observable by inmate's or others.
- K. Kissing, hugging fondling or other touching of an individual's breast, genital, anal or other intimate area either directly or through clothing for sexual arousal, gratification, abuse or assault of either party
- L. Rape, sexual assault, sexual intercourse, oral sex, anal sex, vaginal sex M. Sex or penetration with any object or body part

Retaliation: Any act of vengeance, covert or overt action or threat of action taken against an individual in response to their claim of sexual misconduct, sexual contact or sexual abuse or cooperation in the reporting or investigation of sexual

misconduct, regardless of the disposition of the complaint. Examples of retaliation include:

- A. Unnecessary discipline
- B. Verbal or physical intimidation or threats
- C. Unnecessary changes in housing classification
- D. Unnecessary changes in work or program assignments
- F. Unjustified denials of privileges or services
- G. Any action to compromise the victim or witness's safety including refusal or failure to protect

Victim: Any person who has been the object of sexual misconduct.

Victim Support Person: An individual designated by the Detention Center Administrator who has been specially trained to support a victim during investigation of alleged sexual acts or contact.

4. PROCEDURAL GUIDELINES:

A. Training:

Training for Employees. All facility employees shall receive instruction related to this policy and the recognition, prevention, detection, response, reporting, investigation and tracking of sexual misconduct.

- 1) All employees will receive this training as part of their pre-service or initial orientation to the Detention Center.
- 2) All employees shall receive supplemental training on these subjects every year as part of their annual in-service training.

Specialized Training for PREA Coordinator, Investigator and Victim Support Personnel. Specialized training is provided for employees who respond to incidents of sexual misconduct. This training includes facility policy, crime scene management, elimination of contamination, evidence collection protocol, and crisis intervention.

Training for Volunteer, Contractor and other Non-Employee Personnel with Inmate Contact. Non-employees who have inmate contact shall receive instruction regarding facility policy, prohibited conduct, prevention, detection, response, and reporting of sexual misconduct prior to assuming responsibilities that include inmate contact. Training for non-employees may be tailored to reflect the extent of time they are in the facility and their access to inmates.

- 1) Lesson Plans and Materials. All lesson plans or materials utilized for training on sexual assault and abuse shall be approved by the Health Services Director and Detention Center Administrator.

B. Inmate Orientation and Education:

All individuals booked into the facility shall receive verbal and written information about sexual misconduct during their orientation. This information shall address:

- 1) The Lincoln County Detention Center's zero tolerance for sexual misconduct.
- 2) What constitutes sexual misconduct
- 3) The Lincoln County Detention Center's program for prevention of sexual misconduct
- 4) Methods of self –protection
- 5) How to report sexual misconduct and retaliation
- 6) Protection from retaliation
- 7) Treatment and counseling

Information regarding these topics will be approved by the Detention Center Administrator and included in the Inmate Handbook and orientation materials.

Appropriate provisions shall be made as necessary for inmates not fluent in English, persons with disabilities, and those with low literacy levels.

C. Screening/Assessing Inmates at Intake

All individuals booked into the facility are screened for potential vulnerabilities or tendency to act out with sexually aggressive behavior within 24 hours of arrival at the facility.

Inmates identified as potential or confirmed victims of sexual assault or as having a tendency to act out with sexually aggressive behavior shall be considered for protective custody placement or placement in a special custody unit or other appropriate setting.

- 1) Any employee may make a referral based on their observation of the inmate's behavior or at the inmate's request, based on concerns that the inmate may be at significant risk of sexual victimization.
- 2) This referral shall be documented on an incident form.

D. Additional Screening/Assessing:

Inmates identified as high risk with a history of sexually assaultive behavior or who have been identified as at risk for sexual victimization are assessed by a

mental health or other qualified personnel. Such inmates will also be monitored by a mental health professional and counseled.

If at any time an inmate is identified as a sexual predator or as a victim/potential victim, the inmate shall be re-evaluated for appropriate housing, available programs, monitoring and counseling.

E. Sexual Misconduct Between Inmates and Non-inmates:

Lincoln County has zero tolerance for sexual misconduct between inmates and non-inmates. Sexual misconduct perpetrated by non-inmates is contrary to the policies of this facility and professional ethical principles that all employees are bound to uphold. Any such conduct is cause for disciplinary action up to and including termination.

There is no consensual sex in a custodial or supervisory relationship as a matter of law. A sexual act with an inmate by a person in a position of authority over the inmate is a felony subject to criminal prosecution. NMSA 1978 § 30-9-11.E(2).

Retaliation against inmates who refuse to submit to sexual activity, or retaliation against individuals (including witnesses) because of their involvement in the reporting or investigation of sexual misconduct is also prohibited and possible grounds for disciplinary action including termination, expulsion from the facility and/or criminal prosecution.

Failure of employees to report incidents of sexual misconduct will also result in corrective and/or disciplinary action.

Cases involving sexual misconduct may be referred to the District Attorney for prosecution.

Inmates who knowingly make false allegations of sexual misconduct are subject to discipline.

F. Sexual Misconduct Between Inmates

Sexual Contact, sexual acts, and other sexual misconduct between Inmates are prohibited by this policy regardless of whether it is alleged to be consensual.

Inmate aggressors are subject to discipline.

Inmates who report sexual misconduct are protected from retaliation.

Inmates who engage in retaliation are subject to discipline.

Inmates who knowingly make false allegations of sexual misconduct are subject to discipline

G. Reporting and Investigation

First Responder Instructions—All Alleged Sexual Misconduct:

- 1) An inmate may report sexual misconduct or threats of sexual misconduct to any non-inmate. Any non-inmate, who receives a report of sexual misconduct, whether verbally or in writing, shall immediately notify the shift supervisor and complete an incident report. The shift supervisor shall notify the Detention Administrator and PREA Coordinator and shall ensure that the alleged victim and aggressor are physically separated, either through the placement of one or both in the special management unit or some other effective means.
- 2) The PREA Coordinator shall direct the facility's response to all allegations of sexual misconduct including prompt assignment of a Victim Support Person, Investigator, and/or referral to mental health services when warranted.
- 3) In every case where the alleged aggressor is an employee, there will be no contact between the alleged aggressor and the alleged victim without the approval of the Lincoln County Detention Center Administrator.
- 4) Allegations of sexual misconduct shall be treated with discretion and, to the extent permitted by law, confidentiality. Individuals who fail to keep allegations of sexual misconduct confidential are subject to discipline.

First Responder Instructions--Allegations Involving Abuse, Assault or other Sexual Acts or Contact:

- 1) Advise the victim not to shower or otherwise clean themselves, or if the assault was oral, not to eat, drink, brush their teeth, chew gum or otherwise take any action that could damage or destroy evidence.
- 2) Secure the scene of the alleged assault if feasible.
- 3) Notify the PREA Coordinator who will assume responsibility for handling the sexual misconduct allegations and who will, in consultation with the Detention Administrator decide whether to notify law enforcement. Cases involving alleged sexual acts will be reported to law enforcement.
- 4) If the alleged assault occurred within the previous 72 hours arrangements shall be promptly made to have the alleged victim transported and examined at a local hospital. If the alleged assault occurred more than 72 hours before being reported, the PREA Coordinator has discretion to determine whether to send the alleged victim to the hospital for examination.

H. Investigations

All reports of sexual misconduct, sexual contact or sexual abuse must be considered credible and promptly investigated without regard to whether:

- 1) The inmates who are named in the allegation are in custody or not.
- 2) Staff members named in the allegation are currently employed or not.
- 3) The report of the allegation was made in a timely manner or not.
- 4) The inmate reporting the allegation is known to have made past false allegations.
- 5) The employee receiving the complaint believes or does not believe the allegations.

The Investigator is responsible for conducting and fully documenting the investigation in accordance with facility policy.

Victim Support Person: When the victim alleges that a sexual act occurred, a designated victim support person shall be notified as soon as possible, but no later than the next business day. This person will consult with the investigator on the case and offer assistance to the alleged victim as is appropriate based on their training. The victim support person may sit in on administrative interviews of the victim but may not in any manner, obstruct or interfere with the course of the investigation.

I. Debriefing

The Detention Administrator shall conduct a debriefing of all incidents of sexual misconduct in order to assess the environmental factors, relevant issues or problem areas that could have contributed to the incident and shall implement identified improvements to increase inmate safety.

J. Prosecutions

The Detention Center Administrator or designee shall work with the local District Attorney's Office to facilitate criminal prosecution of acts in violation of this policy or criminal law.

K. Discipline/Corrective Action

The Detention Administrator will take any action necessary to enforce this policy.

L. Tracking

The PREA Coordinator shall maintain a tracking system that records all allegations of sexual misconduct and their disposition. Tracking records should include investigative reports, disciplinary reports, incident reports, offender information, and case disposition.

M. Classification Notification

The Classification Supervisor/designee shall be notified when an inmate has been identified as a potential and/or confirmed victim or aggressor and ensure this information is entered into the appropriate inmate file.

SECTION 15: DISABLED INMATES

1. REFERENCES:

American Correctional Association Standards for Adult Local Detention Facilities. Fourth Edition. Standard: 4-ALDF-6BD-04. New Mexico Local Government Accreditation Program, Adult Detention Professional Standards, First Edition: SC-68, IP-16, MM-38.

2. POLICY:

Inmates with disabilities are housed in the most integrated setting appropriate to the needs of the individual. Physical modifications to cells are made, where necessary, so as to ensure that each inmate with a disability is housed in a cell with the accessible elements necessary to afford the inmate access to safe, appropriate housing.

Qualified inmates with disabilities will not be excluded from participation in services, programs, or activities, or otherwise subjected to discrimination.

When the inmate would be adversely affected as determined by the responsible physician, dentist, or security staff, the inmate may be permitted to retain their medical or dental adaptive device. Inmates with disabilities, including mental health disabilities and temporary disabilities, are housed in a manner that provides for their safety and security. Housing used by inmates with disabilities, including temporary disabilities, is designed for their use and provides them with the ability to perform self-care and personal hygiene in a reasonably private environment. Program and service areas are accessible to inmates with disabilities who reside in the facility.

Disabled inmates will be provided with auxiliary aids and services necessary to ensure effective communication.