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|  | LANE COUNTY SHERIFF'S OFFICE POLICY | Number: G.O. 12.11 |
| | | Issue Date: December 21, 2015 |
| | | Revision Date: May 22, 2019 |
| CHAPTER: Corrections | | Related Policy: G.O. 3.13 (Internal Investigation), G.O. 4.07 (Sexual Misconduct with Suspects, Inmates, or Other Persons), |
| SUBJECT: SEXUAL ASSAULT AND SEXUAL MISCONDUCT OF INMATES-PREA | | Related Laws: Prison Rape Elimination Act of 2003 (P.L. 108-19), ORS 163.305–163.467, Sexual Offenses, ORS 147.450, Definition (sexual assault), |

POLICY: The Lane County Sheriff's Office mandates a zero tolerance for any incidence of sexual harassment, sexual misconduct, sexual assault or attempted sexual assault of any inmate in the custody of the sheriff. All staff, volunteers, contractors and inmates must abide by this and related policies, laws, and standards that help prevent, detect, reduce, and punish inmate sexual assault. The Sheriff's Office policies must provide prompt and effective intervention and investigation should an assault occur.

DEFINITIONS:

1. Prison Rape Elimination Act (PREA): Signed into law in 2003 establishing a zero tolerance standard for the incidence of prison rape in prisons in the United States.
2. Sexual Assault: Any unwanted sexual contact for the purpose of arousing or gratifying the sexual desire of either party. It includes sexual intercourse, oral or anal sodomy, sexual touching with an object, fondling, or any other unwelcome or inappropriate touching.
3. Sexual Harassment: 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/or 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.
4. Sexual Misconduct: Any unwanted sexual contact or behavior for the purpose of arousing or gratifying the sexual desire of either party. It includes sexual harassment, fondling, inappropriate touching, or any other conduct of a sexual nature without consent, or has the effect of threatening or intimidating the person against whom such conduct is directed. It further includes subjecting another to sexual comments, gestures, display or circulation of written material or pictures that are derogatory toward either gender.

RULE:

1. Sexual contact in any form between members of the Sheriff's Office and suspects, inmates, or other person contacted in the course of Sheriff's Office official business is illegal, unacceptable conduct and is prohibited.
2. Sexual contact in any form between inmates is prohibited. In custodial settings, inmates are not capable of consenting to sex, just as those individuals with diminished mental capacity and juveniles are deemed unable to consent.
3. All reports of sexual misconduct or violations of the PREA law will be investigated in a timely manner and, if warranted, appropriate disciplinary or criminal action will be taken.

PROCEDURE:

I. PREVENTION AND SELF PROTECTION

A. Risk Management:

Jail staff will use approved supervision methodologies, electronic surveillance, facility design, and the inmate classification system to enhance monitoring in such areas of the jail and to reduce the risk of sexual assaults in jail housing areas.

B. Classification:

Jail staff will screen all inmates for potential vulnerabilities to sexual assault or tendencies of acting out in a sexually aggressive manner as a part of initial and primary classifications for lodging purposes. They will do the same, using any readily available information, for any inmate being placed in a holding cell with another inmate before lodging. At the primary classification interview, classification staff should also ask if an inmate has been a previous victim of sexual assault provided they do so in private. They should refer victims to mental health providers for assessment if medical staff has not already done so.

C. Initial Medical Screening:

As a part of intake screenings, medical staff should ask if an inmate has been a previous victim of sexual assault at a correctional facility or other location. They should refer any inmate victim to a mental health provider for a needs assessment.

D. Staff Training for Sexual Assaults/Harassment:

The Division Commander or his designee will ensure staff receive documented initial and periodic refresher training on detecting, preventing, reporting, and

responding to sexual assaults. Training may vary by position and method. Training should be concurrent with other policy-mandated sexual harassment and sexual misconduct training and should include:

1. This LCSO policy on sexual assault of inmates.
2. LCSO G.O. 4.07 *Sexual Misconduct with Suspects, Inmates, or Other Persons*.
3. Sexual assault prevention and response methods.
4. Recognizing the signs of sexual assault.
5. Identification and referral process should an allegation of sexual assault be made.
6. Crime scene and evidence protection.
7. Identification and monitoring of high risk areas in the jail facility.
8. Emotional and psychological effects of rape on an inmate victim and how to deal with them.
9. Types of assailants that threaten or commit rape in a jail environment and their reasons.
10. Tailored efforts to address the needs of vulnerable populations, such as juveniles, women, and developmentally disabled persons.
11. Confidentiality when dealing with reports of sexual assault of inmates.
12. Process of investigations involving staff.

E. Volunteer and Contract Staff Training for Sexual Assaults/Harassment:

The Division Commander or his designee will ensure all volunteers and contract staff receive documented initial and periodic refresher training on detecting, preventing, reporting, and responding to sexual assaults. Training may vary by position and method. Training should be concurrent with other policy-mandated sexual harassment and sexual misconduct training and should include:

1. This LCSO policy on sexual assault of inmates.
2. LCSO G.O. 4.07 *Sexual Misconduct with Suspects, Inmates, or Other Persons*
3. Sexual assault prevention and response methods.

4. Recognizing the signs of sexual assault.
5. Identification and referral process should an allegation of sexual assault be made.
6. Emotional and psychological effects of rape on an inmate victim and how to deal with them.
7. Types of assailants that threaten or commit rape in a jail environment and their reasons.
8. Tailored efforts to address the needs of vulnerable populations, such as juveniles, women, and developmentally disabled persons.
9. Confidentiality when dealing with reports of sexual assault of inmates.
10. Process of investigations involving staff.

F. Inmate Orientation:

As a part of inmate orientation and the *Inmate Manual*, jail staff will provide information on:

1. Prohibited sexual conduct.
2. Self-protection from becoming a forced or coerced victim of sexual assault, sexual harassment or misconduct while in custody, which includes such things as:
 - a. Avoiding isolated areas out of sight of staff.
 - b. Not accepting items of value from other inmates.
 - c. Not displaying body language that can be perceived as weak.
 - d. Staying leery of any inmate offering protection.
 - e. Not giving out information about family, friends, or financial support.
 - f. Not purchasing large amounts of commissary.
 - g. Not giving an impression of having money available or of being in need of money.
3. Reporting sexual assaults/harassment.
4. Consequences of false reporting.
5. Treatment and counseling for victims of sexual assault.
6. Disciplinary and legal repercussions of sexual misconduct and assault.

7. Transmission of sexually transmitted diseases due to a sexual conduct or assault.

G. Access to Literature:

Literature on rape and rape trauma syndrome should be made available to inmates in areas where inmates may access it without calling attention to themselves.

H. Channels of Communication:

Jail staff will keep the channels of communication open between themselves and inmates' families and friends, welcoming information that may reveal threats of abuse or abuse that has not been reported.

II. RESPONSE AND INVESTIGATION

A. Reporting a Sexual Assault:

Staff will inform inmates that if, for any reason, he or she feels uncomfortable reporting the alleged sexual assault to a staff member, he or she may report it using a Health Care Request Form, a letter to a jail official, the telephone hotline, or an Inmate Request Form. An inmate may report it anonymously or be treated as a confidential informant. Medical or mental health staff will inform a shift sergeant when any inmate reports being a victim of a sexual assault either just before or during incarceration.

B. Response to a Sexual Assault Report:

Staff must take seriously and follow up on all statements from an inmate or other individual that the inmate has been a victim of sexual assault or know of a threat to or past sexual assault of another. Staff response will be timely and in a sensitive, supportive, and nonjudgmental manner. They also must safeguard reports, investigations, and confidentiality of victims and informants.

1. Reports of Sexual Assault that are found to have occurred in a facility other than the Lane County Adult Corrections or Community Corrections Center will be reviewed as noted in Section II C. The Jail Commander or designee:
 - a. Shall make notification to the Jail Commander/Warden or PREA resource official of the facility where the alleged Sexual Assault took place within 72 hours of the report.
 - b. Documentation of said notification will be attached to the Sexual Assault Review Documentation generated by Section II C.

C. Verifying a Suspected Sexual Assault:

Occasionally jail staff will hear of an inmate being threatened with sexual assault or rumored to have been assaulted. Some victims of sexual assault may appear to have unexplained injuries, changes in physical behavior such as difficulty walking or abrupt personality changes, such as withdrawn and suicidal behavior. Jail staff will do the following to respond to an incident of a suspected sexual assault:

1. Interview a suspected victim without jeopardizing the inmate's safety, identity, and confidence.
2. Remove the suspected victim from the area for said interview.
3. Ask the suspected victim open-ended, neutral questions, such as:
 - a. How are you doing?
 - b. Are you being hassled?
 - c. Would you like move to another housing area?
4. If there are no indications of a sexual assault/harassment or the inmate is nonresponsive, remind the inmate to contact a deputy or health care staff if help is ever needed.
5. If the inmate has experienced an incident of sexual assault/harassment, consider the following:
 - a. Advise the inmate that jail staff can help.
 - b. If the inmate is afraid of being labeled a "snitch" (informer), advise the inmate that he or she does not have to identify the assailant to get help.
 - c. If the inmate was sexually assaulted at any time in the past, mention the importance of getting help to deal with the assault and that trained staff are available.
 - d. Make referrals for the appropriate services, such as medical, rape kit evidence collection, formal criminal investigation, and rape counseling.
6. Whether there is a confirmed incident or not, complete a Jail Incident Report to document the encounter and inform a shift sergeant.

D. Response to a Sexual Assault Incident:

Any staff member who witnesses, finds evidence of, or receives a report of a recent sexual assault on an inmate will contact a shift Sergeant immediately. The shift Sergeant will first contact the on-call jail command officer. The on-call jail command officer will determine if there is a need to contact the Criminal Investigations Supervisor.

The shift Sergeant will make sure staff take or assist in the following steps according to Investigations staff and command officers' directions:

1. Move the victim to a protected area immediately.
2. Contact medical staff, whether emergency medical care is needed or not.
3. Get a brief account of what happened. If the inmate makes a request to speak with an investigator of a specific gender, accommodate the request if possible.
4. If the assault is less than 72 hours old, inform the victim not to shower, wash, drink, eat, or defecate until they have been examined.
5. Segregate any alleged inmate assailant in a dry cell to reduce the opportunity for them to dispose of evidence.
6. Limit access to the area of the alleged assault to avoid evidence contamination.
7. Identify and secure any evidence related to the assault, such as clothing, undergarments, and bedding. Follow any specific instructions on evidence collection that CIS personnel provide.
8. Coordinate the need for immediate evidence collection involving the inmate, the alleged assailant, and the assault scene with CIS personnel. Injuries should be photographed as in any other potential assault case.
9. Arrange to keep witnesses separate from the alleged assailant. It will be necessary for investigators to interview and obtain statements from all potential witnesses as soon as possible as well as to question the alleged assailant.
10. Have deputies involved write a Jail Incident Report and any needed disciplinary report.
11. Contact the jail chaplain so support and pastoral care can be offered to the victim.
12. Lodge the inmate in protective custody or another pod or jail deemed safe and secure for the inmate when the inmate returns from medical treatment or investigation interview.
13. If the alleged assailant is a staff member, jail command officers will immediately take steps to prevent further contact between the staff member and alleged victim.

14. Offer the victim the opportunity to speak with a rape trauma counselor or other qualified sexual assault counselor.

E. Detective Involvement:

The PREA Coordinator or responding supervisor will draft a memo outlining the incident or alleged incident to the Division Captain. The Captain will forward this to the Police Services Captain for an assignment determination to CIS if appropriate. The Sheriff may authorize the assignment of an outside investigator if it is believed that is in the best interest of the Sheriff's office.

F. Retaliation:

Jail staff must not retaliate against or allow others to retaliate against any person who reported a sexual assault or took part in its investigation. Staff will encourage inmates to report any retaliation to the housing Deputy promptly. The inmate may also report retaliation by other means such as a grievance, letter to a jail official, or the use of telephone hotline. Any allegation of retaliation must be immediately brought to the attention of jail command staff.

G. Family and Friends of the Inmate:

Jail staff should be sensitive to the inmate's wishes and family concerns whether the inmate victim tells relatives or friends of the assault or not.

III. Health Care Staff Response

A. Medical Staff Treatment:

At a minimum, medical staff will do the following for an inmate victim of sexual assault:

1. Render first aid if needed.
2. Document all exams and treatment of injuries, and any refusals for treatment; notify a shift sergeant on any refusal.
3. Transfer the inmate to a hospital for immediate care:
 - a. For a forensic sexual assault examination performed in accordance with the 2004 National protocol or later edition.
 - b. For appropriate evidence collection at the direction of CIS personnel
 - c. For sexually transmitted disease testing.

- d. For prophylactic medical measures for reducing the incidence of sexual transmitted diseases, and, for a woman, pregnancy.
- e. For other rape treatment intervention.

4. Refer the inmate to a mental health provider for crisis intervention or a counselor trained or experienced in rape counseling as soon as possible. Make any needed additional referrals for further crisis intervention for an inmate with severe mental illness.

B. Post-Release Treatment and Counseling:

Mental health providers or rape counselors should provide the inmate with appropriate information for follow-up treatment at a rape treatment center after the inmate is released from custody.

IV. CRIMINAL AND ADMINISTRATIVE ACTIONS

A. Prosecution:

When an investigation shows there is probable cause to believe a sexual assault took place, deputies or detectives may arrest the alleged assailant (if known) or forward all incident reports to the district attorney for their determination.

B. Disciplinary Actions for Inmates:

Deputies will initiate disciplinary action against any inmate suspected of sexual assault or who intentionally makes a false sexual assault charge against another person. Disciplinary investigations shall occur after the criminal investigation is completed. The hearing officer and appellate reviewers will treat self-defense against a sexual assault as a mitigating factor in disciplinary proceedings for fighting where evidenced.

C. Disciplinary Actions for Staff Members:

If the alleged assailant is a staff member, supervisors will treat the incident as a possible felony crime scene, and will immediately notify jail command staff. Supervisors will refer to General Orders 4.06 Job Related Harassment, 4.07 Sexual Misconduct with Suspects, Inmates, or Other Persons and 4.08 Relations Between Employee/Inmate, for responding to and handling the disciplinary allegations. All allegations will be referred to the Office of the Chief Deputy for assignment of investigations. Supervisors must coordinate any disciplinary investigations with criminal investigators to avoid interfering with the criminal investigation.

D. Following Up:

When practical, supervisors will conduct follow-up contacts with a victim of sexual assault or retaliation to ensure that the inmates are free from continued assaults or retribution for reporting or taking part in investigations.

1. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever:
 - a. The staff member is no longer posted within the inmate's unit;
 - b. The staff member is no longer employed at the facility;
 - c. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - d. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
2. Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever:
 - a. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - b. The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

E. Incident Review:

The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

1. Such review shall ordinarily occur within 30 days of the conclusion of the investigation.
2. The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
 - a. The review team shall:
 - i. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

- ii. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
 - iii. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - iv. Assess the adequacy of staffing levels in that area during different shifts;
 - v. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - vi. Prepare a report of its findings, including any recommendations for improvement and submit such report to the facility head and PREA compliance manager.
3. The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.

F. Data Collection, Reporting, and Access:

Data on sexual assaults of inmates and reports of PREA events will be collected, stored and reported to state and federal authorities' at their request. Data on individual inmates should be made available only to staff with a need to know.

1. The agency shall review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
 - a. Identifying problem areas;
 - b. Taking corrective action on an ongoing basis;
 - c. The agency shall ensure that data collected are securely retained; and
 - d. Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
2. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
 - a. The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.

- b. The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.
- c. The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.
- d. Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.
- e. The agency shall maintain sexual abuse data collected for at least 10 years after the date of the initial collection unless federal, state, or local law requires otherwise.