

WILSON COUNTY SEXUAL MISCONDUCT/SEXUAL
ASSAULT POLICY
Effective 02/07/2018

DEFINITIONS:

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 implies 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

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;
- 4) Penetration of the anal or genital opening, however slight, by hand, finger, object, or another instrument, that is unrelated to the 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 the 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.

Sexual harassment:

- 1) Repeated and unwelcomed 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.

A) The Wilson county Sheriff's Office WLCO/Wilson County Jail (WCJ) has a zero tolerance for incidence of rape, sexual assault or sexual misconduct, and makes every effort to comply with applicable components of the Prison Rape Elimination Act of 2003.

B) The prevention of rape, sexual assault or sexual misconduct is a top priority to protect the safety of the public by releasing inmates into the community who have not been sexually assaulted while in custody, to protect the public health from sexually transmitted diseases that inmate may contact while in custody, for the protection of inmate rights, conditions of confinement, and to ensure safe, secure and orderly operations of the WCJ.

- C) WLSO/WCJ does not condone nor tolerate any type of inmate rape, sexual assault, sexual misconduct, consensual sexual contact, sexual abuse and sexual harassment toward an inmate(s). The WLSO aggressively pursues any criminal acts, complaints, suspicions of sexual misconduct up to and including prosecution under the Kansas State Statutes for Criminal Prosecution.
- D) WCJ staff are provided annual training specific to the prevention, identification, reporting and handling of inmate sexual misconduct/sexual assault including common indicators of misconduct.
- E) Objective procedures are utilized to identify potentially aggressive or vulnerable inmate to sexual assault/misconduct.
- F) Effective control and supervision of inmate procedures are practiced by staff for the protection of inmates and to ensure safe, secure and orderly operations of the WCJ.
- G) The WCJ provides for confidential disclosure of incidents of rape, sexual assault, sexual misconduct, sexual contact, sexual abuse and sexual harassment to a WLSO/WCJ employee, either verbally or in writing. Inmates may file a sexual misconduct complaint through the grievance system (Inmate communication Form-ICF). An inmate who reports an incident of rape, sexual assault, sexual misconduct, sexual contact, sexual abuse or sexual harassment may request and be treated as an anonymous informant.

H) Allegations of rape or sexual assault are reported to the Undersheriff/ Jail administrator by WCJ Corrections staff within twenty-four hours of the initial report. Upon discovery of a credible allegation, staff will immediately adhere to the following:

- 1) Contact and inform the Undersheriff/ Jail Administrator of the incident.
- 2) Determine if the alleged victim requires placement in isolation (for protection purposes only) or placement at another facility while maintaining constant supervision of the inmate.
- 3) Notify medical staff to respond and address any emergency, urgent, or necessary health concerns while keeping the preservation of evidence intact if at all possible.
- 4) Secure the area where the assault is alleged to have occurred as a possible crime scene.
- 5) Place the alleged perpetrator(s) in Administrative Segregation pending investigation of the complaint.
- 6) WCJ Corrections or the Undersheriff will ensure that the Sheriff is notified of the incident.

7) Mental Health staff is made available to provide crisis counseling to the victim and other inmates requesting services.

I) WLSO/KBI will determine what evidence is to be collected. If available a WLSO Deputy will escort an inmate that needs hospital care or off-site medical examination for the purposes of evidence collection, if a Deputy is not available then a WCJ Corrections Supervisor will do the escort.

J) The investigation including interviews, videos, polygraph documents, witness statements, supporting documents and other evidence is treated as confidential. Secrecy orders are executed when appropriate. The name of the and/or alleged victim and the identity of the witness are confidential. It is imperative that confidentiality regarding the identity of an individual in the investigation be maintained to the greatest extent possible regardless of the location of the inmate.

K) Except for individuals responsible for conducting the investigation, other individuals alerted to the allegation, including WLSO administrative staff are prohibited from conducting independent inquiries into the circumstances related to the alleged incident(s). Breach of confidentiality may result in disciplinary action up to and including dismissal.

L) A pending investigation shall in no way limit an inmate's right to legal counsel.

M) The confidentiality provisions above in no way limit the investigator(s) or WLSO WCJ staff from cooperating with or appearing or testifying before a grand jury, court or local, state or federal investigative agency.

- N) Interviews are conducted thoroughly and in a professional, non-abusive and non-threatening manner. Staff will not make predetermined judgements regarding whether the reported incident occurred or not, but proceed with notifying the appropriate individuals based on the nature of the report. If appropriate, the victim may be offered the opportunity to speak to a same gender investigator if at all possible regarding the facts of the complaint.
- O) Investigating of sexual assault, rape and/or sexual misconduct are conducted by an investigator who has experience and training in investigations and appropriate/effective interview techniques.
- P) If the victim or complainant refuses to cooperate with the investigator(s), the investigator(s) will follow up with persons identified as having knowledge of the incident(s) before the investigation is closed. If no such persons are identified and if the victim or complainant had previously been cooperative, the investigator(s) must determine whether the victim or complainant has been threatened or coerced and whether the investigation should proceed without his/her cooperation.

- Q) A preliminary and final investigative report is completed within a reasonable time. Factual findings may be based on a range of evidence, including physical documentary evidence, witness accounts and circumstantial evidence. Inmate witness and complainant's credibility is evaluated in an unbiased manner in accordance with established investigative methods. The final investigation includes at a minimum a narrative of the allegations, a comprehensive listing of factual findings, details of the interviews with all parties and witnesses, conclusions and recommendations. If warranted a final disciplinary determination is made by the Sheriff or his/her designee.
- R) A multi-disciplinary meeting between the WLSO/WCJ, PD if applicable, medical and Mental Health staff and Investigator(s) should be held within thirty days of an incident and on an annual basis to determine if revisions to the WLSO/WCJ policies, procedures or best practices are warranted. The recommended revisions should be forwarded to the Sheriff for consideration.
- S) The investigator(s) collects data for the purpose of documenting the incident(s) and investigation findings of rape, sexual assault, or sexual misconduct to comply with reporting mandates of PREA.