
**NEVADA COUNTY
SHERIFF'S OFFICE**



**CORRECTIONS
DIVISION DIRECTIVE**

69

Effective Date 12-11-15

SUBJECT

SEXUAL MISCONDUCT AND ABUSE - PREA

POLICY:

The Nevada County Corrections Division has zero-tolerance for inmate-on-inmate sexual assault and staff sexual abuse and sexual misconduct towards inmates. The Nevada County Corrections Division will adopt guidelines and procedures to reduce the risk of sexual assault and sexual misconduct. This policy applies to all inmates and persons employed by the Nevada County Corrections Division, including volunteers and independent contractors.

PURPOSE:

The purpose of this Directive is to provide guidelines for the prevention, detection, response, investigation, punishment for the perpetrator; treatment and support for the victim; and data collection; in order to protect the inmate population from inmate-on-inmate sexual assault and staff sexual abuse and sexual misconduct.

CODE REFERENCES:

Prison Rape Elimination act of 2003 (34 USC 30301/30302); 28 CFR 115; Penal Code Sections 264.2, 286(e), 288(e), 289.6, 293.5, 679.04, 13516.

CASE LAW

N/A

DEFINITIONS

Sexual Abuse- shall mean sexual abuse by another inmate and sexual abuse of an inmate by a staff member, contractor, or volunteer.

Sexual Abuse by another Inmate- shall mean any of the following acts, if the victim does not consent, is coerced into such act by overt or implied 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 annual or genital opening of another person, however slight, by any part of the

body of one person, or of any object, substance, instrument or device, into the sex organ, mouth, anus of another person;

4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any person, excluding incidents in which the intent of the sexual contact is solely to harm or debilitate rather than to sexually exploit.

Sexual Abuse by a Staff Member, Contractor, or Volunteer- shall mean any of the following acts, with or without consent:

1. Sexual Touching

- A. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- B. Contact between the mouth and the penis, vulva, or anus; penetration of the annual or genital opening of another person, however slight, by any part of the body of one person, or of any object, substance, instrument or device, into the sex organ, mouth, anus of another person;
- C. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any person, with the intent to abuse, arouse or gratify sexual desire.

2. Any attempted, threatened, or requested sexual touching by a staff member, contractor, or volunteer.

3. Indecent Exposure- shall mean the display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate.

4. Voyeurism- shall mean an invasion of an inmate's privacy by staff for reasons unrelated to official duties, such as peering at an inmate who is showering, undressing, or using a toilet in his or her cell or dorm to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals or breasts; or taking images of all or part of an inmates naked body or of an inmate performing bodily functions, and distributing or publishing them.

Sexual Misconduct – shall mean:

1. As it relates to inmates, includes acts of indecent exposure, sexual disorderly conduct and exhibitionist masturbation. Any inmate who “willfully and lewdly” exposes their private parts or who touches(without exposing) their genitals, buttocks, or breasts in a manner that demonstrates it is for the purpose of sexual arousal, gratification, annoyance, or offense will be subject to a rule violation and/or criminal prosecution.
2. As it relates to employees, any sexual behavior by a departmental employee directed toward an inmate as defined in Penal Code Section 289.6. The legal concept of “consent” does not exist between employees and inmates; any sexual behavior between them constitutes sexual misconduct and shall subject the employee to disciplinary action and/ or to prosecution under the law. Sexual misconduct also includes, but is not limited to conversations or correspondence that suggests a romantic relationship.

Sexual Harassment –shall mean:

1. 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 directed toward another inmate.
2. Repeated verbal comments or gestures of a sexual nature to an inmate by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language and gestures.

PROCEDURE:

1. Supervision and Monitoring (§ 115.13)
 - A. The department shall ensure that each facility it operates shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into considerations:
 1. Generally accepted detention and correctional practices;

2. Any judicial finding of inadequacy;
 3. Any findings of inadequacy from Federal investigative agencies;
 4. Any findings of inadequacy from internal or external oversight bodies;
 5. All components of the facility's physical plant (including "blind spots" or areas where staff or inmates may be isolated);
 6. The composition of the inmate population;
 7. The number and placement of supervisory staff;
 8. Institution programs occurring on a particular shift;
 9. Any applicable State or local laws, regulation, or standards;
 10. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
 11. Any other relevant factors.
- B. In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.
- C. Whenever necessary, but no less frequently than once each year, for each facility the agency operates, the PREA Coordinator, Division Commander, Executive Lieutenant and PREA Manager shall assess, determine, and document whether adjustments are needed to:
1. The staffing plan established pursuant to paragraph (a) of this section;
 2. The facility's deployment of video monitoring systems and other monitoring technologies;
 3. The resources the facility has available to commit to ensure adherence to the staffing plan.
- D. Intermediate level or higher-level supervisors shall conduct unannounced rounds in each housing unit to identify and deter staff sexual abuse and sexual harassment.
1. Rounds shall be conducted daily on both the day and night shifts.
 2. All rounds shall be documented in the JMS system.

3. Staff is prohibited from alerting other staff members that these rounds are occurring, unless such announcement is related to legitimate operational functions of the facility.

2. Hiring and Promotion Decisions (§ 115.17):

- A. The Nevada County Corrections Division shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who-
 1. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
 2. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
 3. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.
- B. Any incidents of sexual harassment shall be considered in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.
- C. Before hiring new employees who may have contact with inmates, the Nevada County Sheriff's Office shall:
 1. Perform a criminal background check; and
 2. Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employees for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
- D. The Nevada County Sheriff's Office shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates.
- E. Every five (5) years a criminal background check shall be conducted on current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees.
- F. All applicants and employees who may have contact with inmates directly shall be asked about previous misconduct

described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self- evaluations conducted as part of the reviews of current employees. The Nevada County Corrections division shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

G. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

H. Unless prohibited by law, the Nevada County Sheriff's Office shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from and institutional employer for whom such employee has applied to work.

3. Employee Training and Education (§ 115.31 & § 115.34) :

A. All corrections employees and employees who may have direct contact with inmates shall receive documented PREA training during initial training, new employee orientation, and annually thereafter which shall include, but will not be limited to:

1. Zero Tolerance stance.
2. Review of this policy and General Order # 12,
3. Prevention, detection, investigation, response and prosecution of Sexual Misconduct.
4. An offender's right to be free from sexual misconduct and sexual abuse.
5. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment.
6. The dynamics of sexual abuse and sexual harassment in confinement.
7. The common reactions of sexual abuse and sexual harassment victims.
8. How to detect and respond to sign of threatened and actual sexual abuse
9. How to avoid inappropriate relationships with inmates.
10. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or nonconforming inmates.

11. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

- B. The employees shall complete an Employee PREA Acknowledgement Form stating that the employee understands the training they have received (§ 115.31).
 - C. In addition to general training provided to all employees pursuant to (§115.31), Nevada County Corrections Division shall ensure that, to the extent that Nevada County Corrections Division conducts sexual abuse investigations, investigators will receive training in conducting investigations in a confinement setting (§ 115.34).
 - D. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral (§ 115.34).
 - E. The Nevada County Corrections Division shall maintain documentation that investigators have completed the required specialized training in conducting sexual abuse investigations (§ 115.34).
4. Medical and Mental Health Staff, Civilian staff, Volunteer, and Contractor training at Wayne Brown Correctional Facility (§ 115.32) :
- A. All Medical and Mental Health Staff, Volunteers and Contractors who have contact with inmates shall be notified of the Nevada County Corrections Division zero-tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents.
 - B. All Medical and Mental Health Staff, Volunteers and Contractors who have contact with inmates shall receive orientation and periodic training consistent with their level of inmate contact relating to their responsibilities under the Nevada County Corrections Division sexual abuse and sexual harassment prevention, detection and response policies and procedures.
 - C. Medical and Mental Health Staff, Civilian Staff, Volunteers and Contractors shall sign a PREA Acknowledgement Form stating that they understood the information and training they have received.
5. Medical and Mental Health Staff, Civilian staff, Volunteer, and Contractor training for Truckee Jail Facility (§ 115.32) :
- A. Medical and Mental Health staff, and Civilian Staff shall be notified of the Nevada County Corrections Division zero-

tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents.

- B. Medical and Mental Health Staff and Civilian Staff who have contact with inmates shall receive orientation and periodic training consistent with their level of inmate contact relating to their responsibilities under the Nevada County Corrections Division sexual abuse and sexual harassment prevention, detection and response policies and procedures.
- C. Inmate Program Volunteers are not allowed in the Truckee Facility and all contractors shall be escorted by staff.
- D. Medical and Mental Health Staff and Civilian Staff shall sign a PREA Acknowledgement Form stating that they understood the information and training they have received.

6. Inmate Education (§ 115.33) :

- A. During the intake booking process all inmates will receive information about sexual abuse, sexual misconduct, and sexual harassment.
 - 1. The information shall be communicated orally, visually or in writing accessible to all inmates including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.
 - 2. The information shall include the Departments zero-tolerance stance, self-protection methods (situation avoidance), prevention and intervention, reporting sexual abuse, treatment and counseling, protection against retaliation and consequences of false allegations.
- B. Appropriate provisions shall be made to ensure effective education for those inmates with low literacy levels and those with disabilities that hinder their ability to understand the information in the manner provided.
 - 1. Staff conducting the initial education and initial assessment for inmates will have them read aloud the Pin and Trust Account admonishment.
 - 2. This assessment will assist detecting visual impairment or other disabilities.
- C. Staff will document verification of the inmate orientation and education on PREA by having the inmate sign the Inmate PREA Acknowledgement Form and placing the original signed acknowledgement form in the inmate's hard card.

- D. Within 30 days of intake, inmates shall receive comprehensive education either orally, visually or in writing regarding:
1. Their rights to be free from sexual abuse and sexual harassment.
 2. Their right to be free from retaliation for reporting such abuse or harassment.
 3. The Nevada County Corrections Division sexual abuse reporting and response procedures.
- E. Key information will be continuously and readily available or visible to inmates through posters, inmate handbooks or other written formats. Posters will be displayed in appropriate locations which are designed to inform inmates that the Nevada County Corrections Division has a zero-tolerance policy towards sexual assault and sexual misconduct and that all inmates are encouraged to report any and all instances of sexual assault sexual misconduct and sexual harassment.

7. Screening and Assessment (§ 115.41) :

- A. All inmates shall be screened during the booking intake process to assess their risk of being sexually abused by other inmates or sexually abusive towards other inmates. If the inmate discloses prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall notify medical staff immediately.
- B. The assessments shall be conducted using "Risk Assessment Questionnaire".
- C. The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization or being sexually abusive:
1. Age;
 2. Physical build;
 3. Mental, physical, or developmental disability;
 4. Prior incarceration;
 5. Criminal history (non-violent vs. violent)
 6. Any prior convictions for sex offenses against an adult or child;
 7. Perceived to be or is gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;

8. Previous sexual victimization;
9. Inmates own perception of vulnerability;
10. Detained solely for civil immigration purposes;
11. History of sexually abusive behavior;
12. Prior acts of sexual abuse;
13. History of prior institutional violence or sexual abuse.

- D. Intake screening shall take place within 72 hours after arrival at the facility.
- E. Any inmate transferred from the Truckee Facility to Wayne Brown Correctional Facility will have a new risk assessment completed.
- F. Within 30 days from the inmate's arrival, Classification will reassess the inmate's risk of victimization or abusiveness based upon any additional relevant information received since the initial intake screening.
- G. An inmate's risk level shall be reassessed when warranted due to referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmates risk of sexual victimization or abusiveness.
- H. Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked pursuant to paragraph C(3), C(7), C(8), or C(9).
- I. All information received in response to the inmates risk assessment questionnaire is to be treated as confidential information and shall only be reported to designated supervisors, classification staff, and medical/mental health staff.

8. Reporting and Notifications:

- A. Inmates, visitors, offender family members/associates and other community members can privately report allegations of sexual abuse and sexual harassment, any retaliation by other inmates or staff for reporting sexual harassment or sexual abuse, any staff neglect or violation of responsibilities that may have contributed to such incidents in the following ways:

1. Confidential Hotline:

- a. The toll free number for Community Beyond Violence will be posted next to all inmate telephones and is available to anyone.

- b. All calls to the hotline are toll-free, confidential and will not be recorded or monitored at the facility
 2. Inmate phone system
 3. Verbal Complaints:
 4. Written Complaints:
 - a. Through the inmate kiosk system.
 - b. Written notes or letters to staff or administrators.
 - c. Letters directed to the PREA Coordinator.
 - d. Inmate Grievance form.
 5. Nevada County Website
 - B. Inmates detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security (§ 115.51).
 - C. Employees shall accept any reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.
 - D. Inmate interpreters, inmate readers, or other types of inmate assistants shall not be relied on except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under 115.64, or the investigation of the inmate's allegations. (§115.16)
 - E. Employees shall report immediately and according to agency policy (§ 115.61) :
 1. Any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency.
 2. Any retaliation against inmates or staff who reported such an incident.
 3. Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
 - F. Employees are encouraged to follow the chain of command when reporting sexual abuse or sexual harassment of inmates. Employees not comfortable with reporting violations of this policy to their immediate supervisor may bypass the chain of command and report the allegation to any supervisor. The

chain of command does NOT need to be followed. Staff can also privately report sexual abuse and sexual harassment of inmates to Human Resources. (§ 115.51)

- G. Such allegations shall be treated with discretion and to the extent permitted by law, confidentially. Apart from reporting to designated supervisors or officials, employees shall not reveal any information related to a sexual abuse report to anyone other than those who need to know, as specified in this policy, to make treatment, investigation, and other security and management decisions. (§ 115.61)
- H. Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (f) of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.
- I. If the alleged victim is under the age of 18 or considered a vulnerable adult under State or local vulnerable person's statute, the Nevada County Corrections Division shall report the allegation to the designated State or local agency under applicable mandatory reporting laws. (§ 115.61)
- J. Staff shall report immediately all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports to the facility's investigator as designated by the Facility Commander.
- K. When the facility learns that an inmate is subject to a substantial risk of imminent sexual abuse immediate action shall be taken to protect the inmate. (§ 115.62)
- L. Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Facility Commander shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. Notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. Such notification shall be documented.
(§ 115.63)
- M. If the Facility Commander receives notification from other facilities or agencies the facility shall investigate these reports in accordance with the PREA standards (§ 115.63).
- N. Substantiated deliberately malicious or false reports by inmates or other parties will result in disciplinary action or criminal charges.
- O. Retaliation against inmates, employees, or other parties for reporting sexual misconduct or sexual abuse is prohibited and will not be tolerated. Those who retaliate may face disciplinary action, up to and including dismissal for employees.

9. Initial Response (§ 115.64):

- A. Employees shall maintain professional behavior when interacting with an alleged victim of sexual abuse, and display sensitivity to the potential emotional impact of the situation. All employees are reminded that this is a very serious situation. Incident-specific information shall be treated as confidential, and disclosure made only to staff that have a “need to know” and to persons and entities as permitted by law.
- B. Staff shall not discriminate in their response to inmates who are gay, bisexual, or transgender who report that they have experienced sexual abuse.
- C. Upon learning of an allegation that an inmate was sexually abused the correctional employee shall contact the shift Sergeant or OIC.
- D. The shift Sergeant or OIC shall notify Medical Staff immediately.
- E. Upon learning of an allegation that an inmate was sexually abused the correctional employee shall:
 - 1. Separate the alleged victim and abuser;
 - 2. Preserve and protect any crime scene until the appropriate steps can be taken to collect any evidence;
 - 3. If the abuse occurred within a time that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating;
 - 4. Attempt to obtain the identity of the suspect and any possible witnesses, but do not interview the victim further;
 - 5. If the abuse occurred within a time period that still allows for collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.
 - 6. Do not attempt to interrogate the alleged suspect, unless circumstances make it unavoidable.
 - 7. If the person notified is a volunteer or contractor, the responder shall be required to request that the alleged

victim not take any actions that could destroy physical evidence, and then notify correctional staff.

- F. If the alleged sexual assault is reported or discovered more than 72 hours after the incident, the shift supervisor shall secure the alleged crime scene (if feasible) and place the alleged suspect (if identified) into administrative segregation.
 - 1. A medical opinion shall be obtained to determine whether the victim is to be taken for a forensic examination. In addition, the victim should be asked if he/she retained any evidence of the assault (e.g., soiled bedding, clothing, etc.).
- G. Hospital medical staff will be responsible to conduct an examination of the victim and alleged suspect to determine the presence or absence of physical trauma, and perform follow-up testing for sexually transmitted diseases and pregnancy testing, as appropriate.
- H. The victim shall be referred to Behavioral Health for evaluation and counseling.
- I. The Facility Commander or his/her designee shall ensure that the victim is informed that his/her name will become a matter of public record unless he/she requests that it not become a matter of public record, pursuant to PC 293(a).
 - 1. The advisement and the victims' response shall be memorialized in a written report.
 - 2. If the victim chooses to have his/her name remain confidential, a written report concerning the offenses must indicate that the victim requested confidentiality of his/her name pursuant to PC 293(a).
 - 3. If the victim has requested confidentiality, the victim's name and address may not be release expect to specified persons as authorized by law.
- J. The provision of safe housing options, medical care, and the like shall not be contingent upon the willingness to press charges.

10. Coordinated Response for WBCF (§ 115.65):

- A. All allegations of sexual abuse, including third-parties and anonymous reports shall be reported to the Facility Commander or his/her designee.
 - 1. If the victim alleges he/she was involved with or assaulted by staff, the Facility Commander or his/her designee shall also notify the Internal Affairs Unit.

- B. The shift Sergeant or OIC shall:
 - 1. Notify dispatch and request a Nevada County Sheriffs Officer to respond.
 - 2. Notify Medical Staff immediately.
- C. If there is an immediate medical emergency the inmate is to be taken to Sierra Nevada Memorial Hospital.
- D. Forensic medical examinations shall be offered for all victims of sexual abuse where evidentiary or medically appropriate.
 - 1. Follow- up testing for pregnancy, sexually transmitted infections/diseases and HIV will be offered as clinically indicated.
- E. If any life-threatening injuries exist, response may include the need to request emergency transportation (i.e., ambulance). When the call is made to request an ambulance, it is critical to inform the fire/rescue dispatcher that the injured inmate is a victim of sexual assault.
 - 1. Medical staff shall be cognizant to maintain intact any physical evidence which may be found on the victim's person or clothing.
- F. The inmate shall be assigned a custody escort who shall remain with the victim for the entire process, whenever possible.
 - 1. Gender preference should be considered when assigning a custody escort to the victim. The custody escort will ensure effective communication (i.e., complexity of the issues, language barriers, and literacy).
 - 2. The escort shall not be present in the examination room during the sexual assault examination, unless requested by the victim or hospital staff, or ordered by the Facility Commander.
- G. At the time the victim is sent to the hospital, the Facility Commander or his/her designee is required to contact the Rape Crisis Center to request a Victim Sexual Assault Advocate be dispatched to the hospital. (§ 115.21)
- H. As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals. (§ 115.21)

11. Coordinated Response for Truckee (§ 115.65):

- A. All allegations of sexual abuse, including third-parties and anonymous reports shall be reported to the Facility Commander or his/her designee.
 - 1. If the victim alleges he/she was involved with or assaulted by staff, the Facility Commander or his/her designee shall also notify the Internal Affairs Unit.
- B. The shift Sergeant or OIC at Wayne Brown Correctional Facility shall be notified immediately.
 - 1. The shift Sergeant or OIC shall notify dispatch (911) and request Law Enforcement to respond.
 - 2. The shift Sergeant or OIC at Wayne Brown Correctional Facility shall notify medical staff immediately.
- C. If there is an immediate medical emergency, the inmate is to be immediately taken to Tahoe Forest Hospital.
- D. Forensic medical examinations shall be offered for all victims of sexual abuse where evidentiarily or medically appropriate.
 - 1. Follow-up testing for pregnancy, sexually transmitted infections/diseases and HIV will be offered as clinically indicated.
- E. If any life-threatening injuries exist, response may include the need to request emergency transportation (i.e., ambulance). When the call is made to request an ambulance, it is critical to inform the fire/rescue dispatcher that the injured inmate is a victim of sexual assault.
- F. If there is no immediate emergency the inmate will be transported to Wayne Brown Correctional Facility for medical assessment.
- G. The inmate shall be assigned a custody escort who shall remain with the victim for the entire process, whenever possible.
 - 1. Gender preference should be considered when assigning a custody escort to the victim. The custody escort will ensure effective communication (i.e., complexity of the issues, language barriers, and literacy).
 - 2. The escort shall not be present in the examination room during the sexual assault examination, unless

requested by the victim or hospital staff, or ordered by the Facility Commander.

- H. At the time the victim is sent to the hospital, the Facility Commander or his/her designee is required to contact the Rape Crisis Center to request a Victim Sexual Assault Advocate be dispatched to the hospital. (§ 115.21)
- I. As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals. (§ 115.21)

12. Crisis Intervention and Risk Assessment:

- A. Upon return to the Jail, all victims of a sexual assault shall be referred to Behavioral Health for an urgent suicide risk assessment. Mental Health staff shall evaluate the victim within four (4) hours of referral. Until that time, the inmate shall be placed under constant direct supervision to ensure he/she does not attempt to hurt himself/herself or someone else.
- B. Behavioral Health shall be responsible to monitor victims for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences.
- C. The victim shall be offered crisis intervention counseling, appropriate to the individual needs of the victim.

13. Confidential support services (§ 115.53):

- A. Inmates will be provided access to outside victim advocates for emotional support services related to sexual abuse.
- B. Toll-free, unmonitored victim advocate phone numbers and addresses are located in the inmate informational handbook and on posters in the housing units for all inmates, including inmates held solely for civil immigration purposes.
- C. Inmates will be informed, prior to giving them access to outside support services of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse made to outside victim advocates the report will be forwarded to authorities in accordance with mandatory reporting laws, including any limits to confidentiality under federal, state and local laws.

14. Suspect processing:

- A. Staff shall ensure that there is no physical, verbal, or visual contact between the victim and suspect, whenever possible.

Corrections staff shall not interrogate the alleged suspect unless circumstance make it unavoidable.

1. The investigating detective will provide a Miranda warning and interview the suspect to obtain his/her account of the incident.
 2. The suspect will be transported to the designated medical location for the forensic examination.
 3. The suspect must consent to the forensic examination or staff will take steps necessary to obtain a search warrant.
 4. Upon completion of the forensic medical examination, the suspect will be transferred to an administrative segregation unit. The alleged aggressor shall be held in segregation pending investigation until the investigation is complete.
- B. The Major Crimes Unit will be responsible for all phases of the investigation if the allegations are against an employee.
1. Immediate efforts shall be made to eliminate contact between the victim and the staff member;
 2. The Sheriff or his designee shall determine if the employee should be placed on administrative leave consistent with the departmental policy during the course of the investigation.
- C. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

15. Retaliation (§ 115.67):

- A. Retaliation against any employee, medical or mental health staff, civilian staff, volunteer, contractor or inmate for reporting or cooperating with sexual abuse investigation is strictly prohibited.
- B. Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy.
- C. Protection measures shall include, housing changes for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
- D. The Facility Commander shall ensure that the conduct and treatment of inmates or staff that have reported sexual abuse or cooperated with the investigation is monitored for changes

that may suggest possible retaliation for at least ninety (90) days following their report or cooperation. If necessary, the Facility Commander shall act promptly to remedy any such retaliation. Items monitored will include inmate disciplinary reports, housing or program changes, negative performance review and reassignments of staff. Monitoring shall continue beyond the ninety (90) days if the initial monitoring indicates a continuing need.

- E. In the case of inmates, such monitoring shall also include periodic status checks.
- F. The obligation to monitor for retaliation shall terminate if it is determined that the allegation is unfounded.

16. Criminal and Administrative Agency Investigations (§ 115.71):

- A. Investigations into allegations of sexual abuse and sexual harassment shall be conducted promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
- B. Allegations of sexual abuse or sexual harassment are referred for investigation to the Nevada County Sheriff's Office, unless the allegation does not involve potentially criminal behavior. All referrals shall be documented.
- C. Criminal Investigations shall be documented in a written report that contains a through descriptions of physical, testimonial, and documentary evidence and attaches copies of all document evidence where feasible.
- D. When sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to § 115.34.
- E. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data: shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- F. When the quality of evidence appears to support criminal prosecution, the Nevada County Sheriff's Office shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- G. The creditability 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 inmate or staff. An inmate who alleges sexual abuse shall not be required to submit to a polygraph examination or other truth-telling device

as a condition for proceeding with the investigation of such an allegation.

H. Administrative Investigations:

1. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and;
 2. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- I. The agency shall retain all criminal investigations or Internal Affairs Investigations for as long as the alleged abuser is incarcerated or employed by the agency, plus five (5) years.
- J. The departure of the alleged abuser or victim from employment or control of the facility or agency shall not provide a basis for terminating the investigation.
- K. When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

17. Evidentiary standard for administrative investigations (§ 115.72):

- A. No higher standard shall be imposed than a preponderance of the evidence in determining whether the allegations of sexual abuse or sexual harassment are substantiated.

18. Reporting to Inmates (§ 115.73):

- A. Following an investigation into an inmate's allegation that they suffered sexual abuse in a Sheriff's Office Facility, the inmate shall be informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- B. If the Nevada County Sheriff's Office does not conduct the investigation they shall request relevant information from the investigative agency in order to inform the inmate.
- C. Following an inmate's allegation that a staff member has committed sexual abuse, the inmate shall be informed whenever any of the following occur:
1. The staff member is no longer posted within the inmate's housing unit;
 2. The staff member is no longer employed by the Nevada County Sheriff's Office;

3. The staff member has been indicted on a charge related to sexual abuse within the facility;
4. The staff member has been convicted on a charge related to sexual abuse within the facility;
5. The requirement to inform the inmate shall not apply to allegations that have been determined to be unfounded.

D. Following an inmate's allegation that he or she has been sexually abused by another inmate, the inmate shall be informed whenever any of the following occur:

1. When it is learned that the alleged abuser has been indicted on a charge related to sexual abuse with the facility; or
2. When it is learned the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

E. All notifications or attempted notifications to inmates shall be documented.

F. If the inmate is released from custody all facility obligations to report shall terminate.

19. Disciplinary Sanctions for Employees (§ 115.76):

A. Employees shall be subject to disciplinary sanctions up to and including termination for violating this policy.

B. Termination shall be the presumptive disciplinary sanction for staff who has engaged in sexual abuse.

C. All termination for violations of sexual abuse or sexual misconduct, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

D. Disciplinary sanctions for violations of agency policy relating to sexual abuse or sexual harassment (other than engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

20. Corrective actions for volunteers and contractors (§ 115.77).

A. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported

to the Nevada County Sheriff's Office, unless the activity clearly was not criminal, and to other relevant licensing bodies.

- B. Appropriate remedial measure shall be taken in addition to considering whether to prohibit further contact with inmates, in the case any other violation of this policy by a volunteer or contractor.

21. Disciplinary Sanction for Inmates (§ 115.78):

- A. Inmates who are found guilty of committing inmate-on-inmate sexual assault will be punished to the highest degree in accordance with the Nevada County's Correction Division Inmate Discipline policy, up to and including criminal prosecution.
- B. Sanction shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.
- C. An inmate's mental disabilities or mental illness shall be considered when determining what type of discipline, if any, should be imposed.
- D. An inmate may be disciplined for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- E. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if the investigation does not establish evidence sufficient to substantiate the allegation.
- F. Sexual activity between all inmates is prohibited. Inmates will be disciplined for such activity.
- G. Sexual activity between inmates will not constitute sexual abuse if it is determined that the activity is not coerced.

22. Exhaustion of Administration Remedies (§ 115.52):

- A. There is no time limit on when an inmate may submit a grievance of an alleged incident of sexual abuse.
- B. An inmate shall not be required to use any informal grievance process or otherwise to attempt to resolve with the staff, an alleged incident of sexual abuse.
- C. An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of

the complaint and such grievance shall not be referred to the staff member who is the subject of the complaint.

- D. Final agency decisions on the merits of any portion of a grievance alleging sexual abuse shall be issued within 90 days of the initial filing of the grievance. An extension of time to respond, of up to 70 days, may be claimed if the normal time period for response is insufficient to make an appropriate decision. The inmate shall be notified, in writing, of any such extension which provides a date by which a decision will be made.
- E. Computation of the 90-day time period shall not include time consumed by the inmates in preparing any administrative appeal.
- F. Whenever the Nevada County Corrections Division is notified by a third party, including other inmates, which an inmate has been sexually abused it shall consider such notification as a grievance or request for informal resolution submitted on behalf of the alleged inmate victim. The alleged victim shall be informed that a grievance has been submitted on his/her behalf and it shall be processed under the normal procedures unless the alleged victim expressly requests that it not be processed. Such a request shall be documented.
- G. An inmate may file an emergency grievance when the inmate is subject to a substantial risk of imminent sexual abuse:
 - 1. After receiving such an emergency grievance , the form shall be forwarded to a level of review at which corrective action may be taken, provide an initial response within forty-eight (48) hours, and a decision made within five (5) calendar days.
 - 2. If the grievance is determined not to be an emergency, the grievance may be processed as normal, or returned to the inmate and required to follow normal grievance procedures. The inmate shall be provided with a written explanation of why the grievance does not qualify as an emergency.
 - 3. An inmate may be disciplined if they intentionally file a grievance related to alleged sexual abuse if it is demonstrated that the inmate filed the grievance in bad faith.

23. Sexual Disorderly Conduct

- A. By choosing to work in a jail environment, corrections personnel have acknowledged and accepted the probability that they will face inappropriate and socially deviant behavior. While it is not possible to stop all obscene comments and conduct by inmates, neither shall it be accepted; acts of indecent exposure, sexual disorderly conduct and exhibitionist

masturbation will not be tolerated. An inmate who engages in indecent exposure or sexual disorderly conduct shall be reported and disciplined in an attempt to eliminate and reduce the opportunity to repeat the behavior.

- B. If counseling and progressive discipline fails to result in a modification of the inmate's behavior, and additional charge of PC 314.1 (indecent exposure) or PC 647 (disorderly conduct) shall be added after the inmate's third violation.
- C. Sexually hostile conduct shall not be ignored. Every incident shall be documented by the observing employee. If the exposure or inappropriate touching of one's genitals is considered to unusual and bizarre behavior, medical shall be notified for a referral for a mental health evaluation.
- D. If an inmate's continued behavior requires additional security precautions, such steps shall be taken, which may include, but not limited to the following:
 - 1. Transfer to an administrative housing unit (if the behavior occurs in a group setting or inside the cell/bed area in a general population housing unit).
 - 2. Posted notification, alerting staff to the inmate's propensity to engage in indecent exposure or sexual disorderly conduct.
 - 3. Temporary restriction from the recreation yard or other settings which may provide a venue for behavior.
 - 4. Substitution of activity setting to reduce the possibility of the behavior impacting staff.

24. Sexual Abuse Incident Reviews (§ 115.86):

- A. The Nevada County Corrections Division shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including when the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
- B. Such reviews shall ordinarily occur within 30 days of the conclusion of the investigation.
- C. The review team shall include the Division Commander, Executive Lieutenant, PREA Coordinator, with input from line supervisors, investigators, and medical or mental health practitioners.
- D. The review team shall:

1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 2. 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;
 3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 4. Assess adequacy of staffing levels in the area during different shifts;
 5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff;
 6. Prepare a report of its findings and any recommendations for improvement and submit such report to the Facility Commander and PREA compliance manager.
- E. The recommendations for improvement shall be implemented for each facility the agency operates, or shall document its reasons for not doing so.

25. Data Collection (§ 115.87):

- A. Accurate, uniform data for every allegation of sexual abuse shall be collected using a standardized instrument and set of definitions
- B. Incident-based sexual abuse data shall be aggregated at least annually and shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the DOJ.
- C. All data collected shall be maintained, reviews as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
- D. If requested, all data shall be provided from the previous calendar year to the DOJ no later than June 30.

26. Corrective Action Review (§ 115.88):

- A.** All data collected and aggregated pursuant to § 115.87 shall be reviewed in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
 - 1. Identifying problem areas;
 - 2. Taking corrective action on an ongoing basis; and
 - 3. Preparing an annual report of its finding and corrections actions for each facility, as well as the agency as a whole.
- B.** An annual 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 progress made in addressing sexual abuse. The report shall be approved by the Division Commander and made available on the Sheriff's website.
- C.** Specific material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the facility, but the report must indicate the nature of the material redacted.

27. Data Storage, Publication and Destruction (§ 115.89):

- A.** All data collected pursuant to § 115.87 shall be securely retained.
- B.** All aggregated sexual abuse data, from facilities under direct control of the Nevada County Sheriff's Office, shall be readily available to the public at least annually through the Sheriff's website.
- C.** Prior to making aggregated sexual abuse data publically available all personal identifiers shall be removed.
- D.** Sexual abuse data collected pursuant to § 115.87 shall be maintained for at least 10 years after the date of the initial collection.