

ST. LOUIS COUNTY FAMILY COURT

Detention

Policy and Procedure related to Rights, Privileges and Protection

Department/Unit Name: Family Court/Detention

Date Issued: February 10, 2016

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Policy Number: Policy III-5

Title: Preventing, Detecting and Responding to Sexual Abuse and Sexual Harassment

Purpose: The facility shall have a written policy and procedure to comply with the Prison Rape Elimination Act Standards.

Policy: The Detention Center shall have zero tolerance for all forms of sexual abuse and sexual harassment consistent with the requirements of the Prison Rape Elimination Act ("PREA") and Regulations thereto. For purposes of this Policy, the terms "sexual abuse" and "sexual harassment" are defined in the PREA Regulations as well as in the Glossary of Terms contained in the Detention Center Policy and Procedure Manual ("Manual"). Nothing in this Policy is intended to authorize or condone consensual sexual activity between residents or between residents and staff members.

Responsibility: Detention/Designated Personnel

Procedure:

1. **General**

Detention Staff shall take all necessary steps to prevent, detect and respond to instances of sexual abuse and sexual harassment within the Center. Procedures intended to achieve this end are set forth in general terms below however additional procedures relevant to this Policy may be set forth elsewhere in the Manual and in related detention documents.

2. **Prevention**

Staffing and Supervision –

The Center shall maintain levels of staffing sufficient to protect residents from sexual abuse and sexual harassment. Absent exigent circumstances, staff to resident ratios shall be compliant with the requirements of law. Staff supervision of residents shall be uninterrupted and vigilant and shall serve to prevent incidents of

sexual abuse and harassment and, when necessary, to detect and respond to such incidents. Video and audio monitoring of resident behavior shall supplement staff supervision. Periodic unannounced inspections by supervisory staff shall be conducted to identify and deter sexual abuse and harassment of residents by staff. Staff are prohibited from alerting other staff members about a pending or current inspection unless there is a legitimate operational need to do so.

Staff Background -

The Center shall ensure that criminal background checks, child abuse registry checks and, where possible, prior employer checks are conducted prior to hiring new staff or enlisting the services of any contractor that may have contact with residents. The purpose of such checks shall be to determine if the prospective staff member or contractor has previously engaged in prohibited sexual activity. The center shall also ensure that such checks are periodically performed and not to exceed five years on current staff and contractors and that procedures are in place for such staff and contractors to self-report prohibited sexual activity.

Resident Privacy –

Staff shall not perform any sort of cross-gender search of residents nor shall staff allow residents to be viewed by members of the opposite sex while showering, performing bodily functions or changing clothing. If conditions require an exception to the above, the circumstances of the search or the viewing shall be documented and justified in writing. Staff shall always first announce their presence before entering a living unit occupied by residents of the opposite sex.

Resident Access to Information and Services –

Upon admission all residents shall receive information explaining the Center's zero tolerance policy regarding sexual abuse and sexual harassment and the procedures to be followed to report such activity. Thereafter, within 10 days of admission, residents shall personally receive more comprehensive information (if not previously provided) regarding the Center's policies and procedures including a resident's right to be free from sexual abuse and harassment and to be free from retaliation for reporting same. Participation by residents in these informational and educational sessions shall be documented by Center staff. All residents, including those with either physical or mental disabilities, shall be able to fully participate in the Center's efforts to prevent, detect and respond to instances of sexual abuse or harassment. Interpreters will be provided, when necessary, to ensure that

residents who are hearing impaired or who have limited English proficiency are able to understand and access the Center's policies and practices and to participate meaningfully in the informational and educational sessions. All written materials shall be presented to residents in a format and manner that ensures understanding by residents. This may include reading and verbally explaining the materials to residents as necessary. The Center shall not rely on resident interpreters/readers/assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-responder duties, or the investigation of the resident's allegations.

Training and Education –

All staff shall be trained on their responsibilities under the Center's sexual abuse and sexual harassment prevention, detection and response procedures. Such training shall include educational sessions on, among other topics, resident rights, staff communication skills and the dynamics of sexual abuse and sexual harassment in a juvenile detention center. Staff shall receive refresher training at least every two years. Volunteers and contractors shall also receive training on the Center's policies and procedures consistent with the type of services they provide and amount of contact they have with residents. Medical and mental health practitioners who work in the Center and provide services to residents shall also participate in training focused on the identification of and response to episodes of sexual abuse or sexual harassment. Participation in all training sessions shall be documented.

Placement of Residents -

Residents shall be assigned to living units and to detention programs with a goal of keeping them safe and free from sexual abuse. Residents shall not be assigned to living units or programs based solely upon their sexual orientation.

Screening information shall be used to assist in making decisions about living units and programming. Decisions about living units or programming for lesbian, gay, bisexual, transgendered youth shall not be made solely on the basis of such identification or status.

Any housing/programming decisions for transgender or intersex residents shall be made on a case-by-case basis to ensure the resident's health and safety and shall also consider the resident's

own views with regard to his/her safety. Transgender and intersex residents shall also be given the opportunity to shower separately from other residents. Consideration is also to be given to overall facility management and security.

Isolation of any resident due to concerns with regard to sexual aggressive behaviors or due to risk of sexual victimization may only be initiated as a last resort when less restrictive measures are inadequate to keep the resident and others safe. Isolation of any resident for this purpose must be approved by the Detention Director or his/her designee. Isolation should allow residents to participate in programming to the extent possible and not deny residents access to large-muscle exercise or educational programming. Any youth on isolation shall receive daily visits from medical or mental health staff. Youth on isolation shall receive a review at minimum every 30 days or sooner if there is a change in circumstances to determine whether there is a continuing need for separation.

3 **Detection**

Screening of Residents –

Using an objective screening instrument, all residents shall be screened within 72 hours of admission (and thereafter as appropriate) to determine the risk that a resident shall either perpetrate or be the victim of sexual abuse while residing in the Center. Residents who have experienced prior sexual victimization as indicated by the screening instrument shall be offered follow-up medical or mental health services within 14 days of the screening. Residents who have previously perpetrated sexual abuse shall be offered mental health services within 14 days of the screening. Controls shall be instituted by Detention Administration to ensure that information obtained through the screenings is treated confidentially.

Resident Reporting –

The Center shall provide ways for residents to privately report incidents of sexual abuse or sexual harassment of themselves or any other resident. Residents shall also be permitted to privately report incidents of retaliation triggered by a report of sexual abuse or sexual harassment as well as instances of staff misconduct that may have contributed to an incident of sexual abuse or sexual harassment. Although grievance procedures set forth in Policy III-1 of the Manual are available to residents for reporting purposes, verbal reports from residents, anonymous reports and third-party

reports shall also be received by staff and documented. Under conditions consistent with the safety and security of the Center, third-parties shall be permitted to assist residents in making such reports. Parents and legal guardians shall be permitted to make such reports in lieu of the resident. Reports shall not be submitted to or referred to staff members who are the subject of a complaint nor shall residents be required to first attempt to resolve their complaint informally with any detention staff.

Other Reporting –

The public shall be permitted to make third-party reports of sexual abuse or sexual harassment of residents to Detention Administration. Instructions on how to make such reports shall be shared with the public.

4. Response

Staff Reporting –

Staff shall immediately report any knowledge, suspicion or information they receive regarding an incident of sexual abuse or sexual harassment to the Duty Supervisor, unless the Duty Supervisor is the subject of the report in which event the report shall immediately be made to Detention Administration. This reporting requirement also applies when any staff member becomes aware of an incident of retaliation against a resident or staff member for having previously made a report alleging sexual abuse or sexual harassment. Staff shall always be permitted to make reports privately. Upon receiving such a report, the Duty Supervisor or Detention Administration shall promptly notify the Clayton Police Department of any incidents that may involve a violation of law. Detention Administration shall also promptly notify the Children's Division if the incident appears to involve staff negligence or misconduct. All necessary information shall be provided to these agencies to permit them to conduct a thorough investigation of the allegations of sexual abuse or sexual harassment. In addition, the Duty Supervisor or Detention Administration shall promptly notify the alleged victim's parents or legal guardians and his or her attorney and Court caseworker. When allegations of sexual abuse that occurred when the juvenile was confined to another facility or appropriate office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency. Such notification will be documented and shall be provided as soon as possible, but no later than 72 hours after receiving such allegations. Detention medical staff shall also be advised if the circumstances so warrant.

If the alleged incident of sexual abuse or sexual harassment does not rise to a level requiring notification of law enforcement or the Children's Division, then Detention Administration shall conduct its own investigation in accordance with procedures set forth in Policy III-1: Resident Grievances, Policy III-4: Reporting Child Maltreatment and/or Policy VI-1: Healthcare of Residents. Any notifications received from other facilities about allegations of abuse which may have occurred in the Center will be investigated in the same manner.

Initial Staff Response –

If staff learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident. Staff that first respond to a report of sexual abuse shall immediately separate the alleged victim and the abuser and shall take necessary steps to preserve any relevant physical evidence present at the scene. The alleged victim and abuser shall be directed to not destroy any such evidence.

Protection against Retaliation –

Detention Administration shall take necessary steps to protect residents and staff who report sexual abuse or harassment from retaliation. This shall include monitoring their conduct or treatment for a period of at least 90 days following the report of sexual abuse (or until the allegations are found to be unfounded) for any signs that suggest possible retaliation by other residents or staff. Protective measures should be taken to reduce the likelihood of unsupervised contact between residents who report and individuals who might be inclined to retaliate.

Follow-up Reporting -

Detention Administration shall ensure that resident victims of sexual abuse are informed as to whether the sex abuse allegations have been substantiated, not substantiated or determined to be unfounded. The resident shall also be informed if and when a staff member alleged to have committed the sexual abuse is indicted, convicted or transferred from the resident's living unit or from employment at the Detention Center. Subject to laws governing confidentiality, the resident shall also be informed if and when a resident alleged to have committed the sexual abuse is charged with or is found to have committed the act of sexual abuse. These

obligations shall continue for so long as the resident who alleges sexual abuse remains in the Center.

Discipline –

Staff violating the Center's or Court's policies governing sexual abuse or sexual harassment of a resident shall be subject to disciplinary sanctions, up to and including termination of employment, in accordance with the Family Court Human Resources Policy Manual.

Contractors and volunteers that are found to have engaged in sexual abuse or who have violated the Center's or Court's policies governing sexual abuse or sexual harassment of a resident shall be prohibited from having further contact with residents. Where appropriate, their activities shall be reported to law enforcement and/or applicable licensing bodies.

Residents who have been found, pursuant to a formal disciplinary process, to have engaged in sexual abuse or sexual harassment of another resident shall be subject to disciplinary sanctions in accordance with Policy VII-1: Rules, Discipline and Separations. Pending the results of the formal disciplinary process, necessary steps must be taken by Detention Administration to ensure the continuing safety and security of the Center.

Medical and Mental Health Services -

Resident victims of sexual abuse shall have access to medical and mental health practitioners who can provide medical and mental health assistance including emergency medical treatment and crisis intervention services. Follow-up medical and mental health evaluations and treatment shall be made available to all residents with a history of sexual abuse victimization. Tests for pregnancy and for sexually transmitted diseases shall be offered as medically appropriate.

Post-Incident Review –

Detention Administration shall conduct an incident review preferably within 30 days of the conclusion of every sexual abuse investigation (unless determined unfounded). The purpose of this review is to identify the cause of the sexual abuse incident and whether a change in policy, practice or operations would serve to reduce the likelihood of a re-occurrence. A review team assembled for this purpose shall prepare a report of its findings and recommendations. Detention Administration shall implement

the recommendations or shall document its reasons for not doing so.

Data Collection, Storage and Review –

Using a standardized instrument, Detention Administration shall collect data on every allegation of sexual abuse and aggregate same at least annually for the purpose of assessing and improving the Center's prevention, detection and response policies, practices and training. An annual report shall be prepared setting forth findings and corrective actions taken based upon the data and 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 Center's progress in addressing sexual abuse. The annual report shall be approved by the Court Administrator. All data collected shall be securely retained for at least 10 years. The annual report and the aggregated sexual abuse data shall be made available to the public, provided however, that personal identifiers and material that may present a threat to the safety and security of the Center shall be redacted from the report and data. The nature of any redacted information must be indicated.

Related Policies: Policy I-5: Staff Training; Policy I-10: Records; Policy III-1: Resident Grievances; Policy III-4: Reporting Child Maltreatment; Policy VI-1: Health Care of Residents.

Related Resources: Appendix A: Standards for Operation of a Juvenile Detention Facility: 2.7; 2.17.