



# FLAGLER COUNTY SHERIFF'S OFFICE

## GENERAL ORDER

<b>Effective Date:</b> February 4, 2021	<input type="checkbox"/> <b>New</b> <input type="checkbox"/> <b>Rescinds:</b> <input checked="" type="checkbox"/> <b>Amends:</b> GO # 620 dated 02/07/2018	<b>Number:</b> 620
<b>Subject:</b> Prison Rape Elimination Act of 2003 (PREA)		
<b>Distribution:</b> All CDSO Staff	<b>FCAC Standards:</b> 9.09M <b>FMJ Standards:</b>	

- I. Scope and Purpose:** The Flagler County Sheriff's Office Court & Detention Services Division (FCSO CDSO) has zero-tolerance towards all forms of sexual abuse and sexual harassment in the Detention Facility.
- II. Discussion:** The CDSO is committed to the safety of any individual confined at the Detention Facility or any individual confined in the custody of the FCSO. All reports of sexual behavior or abuse, regardless of perception, rumor, appearance or participant disclosure will be responded to.
- III. Policy:** The CDSO will establish standards as defined by the Prison Rape Elimination Act (PREA) of 2003. These standards are established for the reduction and punishment of sexual abuse of inmates, to address the safety and treatment needs of inmates who have been a victim of a sexual act, and to discipline and prosecute those who perpetrate these acts upon inmates. The CDSO has zero-tolerance towards all forms of sexual abuse and sexual harassment in the Detention Facility. This policy will outline how the CDSO will implement FCSO's zero-tolerance approach to preventing, detecting, and responding to sexual abuse and sexual harassment. This policy includes a description of CDSO strategies and responses to reduce and prevent sexual abuse and sexual harassment of inmates.
- IV. Forms:**
- |   |                      |
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| • Protective/Administrative Custody Request | FCSO Form #CDSO 034  |
| • Statement of Search/Preference Form       | FCSO Form # CDSO 147 |
| • PREA Checklist                            | FCSO Form # CDSO 150 |
| • PREA Sexual Violence Screening Form       | FCSO Form # CDSO 168 |
- V. Definitions:** General definitions and definitions of prohibited behaviors regarding sexual abuse and sexual harassment.

- A. Gender Nonconforming - a person whose appearance or manner does not conform to traditional societal gender expectations.
- B. Intersex - a person whose sexual or reproduction anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sexual development.
- C. Sexual Predator - A person who has been convicted in a criminal proceeding or an administrative proceeding for an act of sexual assault/abuse.
- D. Transgender - a person whose gender identity (i.e. internal sense of feeling male or female) is different from their assigned sex at birth.
- E. Youthful Offender - any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.
- F. Zero Tolerance - This term will mean no sexual act, contact or harassment will be tolerated between CDS staff and any inmate, nor between any inmate/s with another inmate/s. The CDS will not recognize "consent" between any of the parties relative to any sexual act, conduct or harassment.
- G. Sexual Abuse - the infliction of sexual contact upon a person by forcible compulsion, or the engaging in sexual contact with a person who is below a specified age or who is incapable of giving consent because of age or mental or physical incapacity, or the crime of engaging in or inflicting sexual abuse.

## **VI. Procedures:**

### **A. Prevention and Planning.**

#### **1. Zero tolerance of sexual abuse and sexual harassment.**

- a. The CDS has zero-tolerance towards all forms of sexual abuse and sexual harassment in this Facility.
- b. Sexual abuse of an inmate by another inmate includes any of the following acts:
  - i. if the victim does not consent;
  - ii. is coerced into such act by open or implied threats of violence;
  - iii. is unable to consent or refuse.
  - (A). Contact between the penis and the vulva or the penis and anus, including penetration, however slight;
  - (B). Contact between the mouth and penis, vulva or anus;
  - (C). Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instruments;
  - (D). Any other intentional touching, either directly or through clothing, of the genitalia, anus groin, breast, inner thigh or the buttocks of another person.
- c. Sexual abuse of an inmate by a staff member, contractor, or volunteer includes

any of the following acts, with or without consent of the inmate:

- i. Contact between the mouth and the penis, vulva, or anus, including penetration, however slight;
- ii. Contact between the mouth, vulva or penis;
- iii. Contact between the mouth and the body part where the staff member, contractor, or volunteer has the intent to abuse, arouse or gratify sexual desire;
- iv. Penetration of the anal or genital opening however slight, by a hand, finger, object, or other instruments 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;
- v. 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;
- vi. 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;
- vii. Any display by a staff member, contractors or volunteer of his or her uncovered genitalia, buttocks, or breasts in the presence of an inmate.

2. Voyeurism by a staff member, contractor or volunteer.

- a. Voyeurism by a staff member, contractor or volunteer is an invasion of an inmate by staff, for reasons unrelated to official duties, such as:

- i. Peering at an inmate who is using the toilet in his/her cell to perform bodily functions;
- ii. Requiring an inmate to expose his/her buttocks, genitalia or breasts, or taking images of all or part of an inmate's naked body, or of an inmate performing bodily functions.

- b. Sexual harassment includes:

- i. Repeated and unwelcomed sexual advances, requests for sexual favors, verbal comments, gestures, or actions of a derogatory or offensive sexual nature, by one inmate directed toward another;
- ii. Repeated verbal comments or gestures of a sexual nature to an inmate by a staff member, contractor or volunteer, including or demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

3. Disciplinary sanctions for those found to have participated in prohibited behaviors.

- a. FCSO employees, contractors and volunteers, will be subject to disciplinary

sanctions up to and including termination and criminal prosecution when warranted, for violating the Sexual Abuse and Sexual Harassment Policy.

- i. All terminations for violations of the FCSO's Sexual Abuse and Sexual Harassment Policies, resignations by staff that would have been terminated if not for their resignation, will have documentation in their personnel file of the facts known in regards to Sexual Abuse and Sexual Harassment Policies violated;
- ii. Other disciplinary sanctions for violating the Sexual Abuse and Sexual Harassment Policy which does not include actually engaging in sexual abuse, will be based on the following:
  - (A). The nature and circumstances of the acts committed.
  - (B). The staff member's disciplinary history.
  - (C). The sanctions imposed for similar offenses by other staff with similar histories.
- b. Any contractor or volunteer who engages in sexual abuse will be prohibited from contact with inmates and will be reported to the Court and Detention Services Division Chief (CSDSD).
- c. The CSDSD has a strict zero-tolerance for sexual abuse and harassment of inmates.
- d. The CSDSD will respond appropriately in the removal of contractors and volunteers in violation of the Agency's Sexual Abuse and Sexual Harassment Policy, which will prohibit the contractor and/or volunteer from further contact with inmates.
- e. Inmates will be subject to disciplinary sanctions through a formal disciplinary process following:
  - i. An administrative finding that the inmate engaged in inmate-on-inmate sexual abuse.
- f. Following a criminal investigation finding of guilt for inmate-on-inmate sexual abuse, inmate disciplinary sanctions will take into consideration the following:
  - i. The nature and circumstances of the abuse committed;
  - ii. The inmate's discipline history;
  - iii. The sanctions imposed;
  - iv. Inmate's mental disabilities or mental illness.
- g. The CSDSD prohibits all sexual activity between inmates and will discipline inmates for such activities.
- h. The CSDSD will not deem the activity as sexual abuse if it was not coerced.

4. The CDSD will designate a PREA Coordinator as an upper-level Agency-wide person with sufficient time and authority to develop, implement, and oversee CDSD efforts to comply with the PREA standards within the CDSD.
  - a. The PREA Coordinator is in the FCSO's organizational structure.
  - b. The PREA Coordinator is tasked with auditing, collecting and maintaining information on each instance of alleged inmate-on-inmate sexual act or abusive sexual contact, and each instance of staff-on-inmate sexual misconduct or sexual harassment.
  - c. A designee may be assigned in periods of the PREA Coordinator's absence.
  - d. The FCSO's PREA Compliance Manager will be the designated PREA Coordinator.
  - e. The PREA Compliance Manager/Coordinator will be given sufficient time and authority to coordinate the Facility's efforts to comply with the PREA standards.
  - f. The PREA Compliance Manager/Coordinator directly reports to the CDSDC, or a designee in the absence of.
5. Contracting with other entities for the confinement of inmates.
  - a. Any contract entered into for the confinement of inmates after August 20, 2012, or since the last PREA Audit, whichever is later, requires:
    - i. All contractors adopt and comply with PREA standards;
    - ii. All contracts require the CDSD to monitor the contractor's compliance with PREA Standards.

B. Supervision and Monitoring.

1. The CDSD will develop, document, and make the best efforts regularly to provide an adequate level of staffing and video monitoring, to protect inmates against sexual abuse.
2. The PREA Coordinator will review staffing annually to see whether adjustments are needed in:
  - a. The staffing plan.
  - b. The deployment of monitoring technology.
  - c. The allocation of CDSD resources to commit to staffing to ensure compliance.
  - d. If adequate staffing levels deviate, the Shift Supervisor or designee will document the cause of the deviation, and what action or actions the Shift Supervisor or designee has taken to correct the deviation.
3. Supervisors will conduct unannounced rounds of the jail daily to identify and deter staff sexual abuse and sexual harassment.

- a. The unannounced PREA Supervisor rounds will be conducted on day and night shifts.
  - b. The Housing Unit Detention Deputy (HUDD) will document the unannounced round in the Officer's Activity Log through the Jail Management System (JMS).
4. Staff members are prohibited from alerting each other when the Supervisor is conducting these unannounced rounds.
5. Youthful inmates.
  - a. Youthful inmates will not be placed in housing units within sight and sound-or physical contact of an adult inmate, through the use of shared dayroom or other common space, shower area, or sleeping quarters.
  - b. The CDSD will establish inmate housing for youthful inmates providing sight, sound, and physical separation from adult inmates in dayrooms, common areas, showers, and sleeping quarters.
  - c. The CDSD maintains sight, sound, and physical separation between youthful inmates and adult inmates in areas outside of housing units.
  - d. The CDSD documents the exigent circumstances for each instance in which youthful inmates' access to large-muscle exercise, legally required education services, and other programs and work opportunities were denied.
6. Limits to cross-gender viewing and searches.
  - a. Detention Deputies will not conduct cross-gender strip searches or cross-gender visual body cavity searches (anal or genital opening) except in exigent circumstances or when performed by a Medical Practitioner.
  - b. All cross-gender strip searches and cross-gender visual body cavity searches will be documented.
  - c. The CDSD does not permit cross-gender pat-down searches of female inmates, absent exigent circumstances.
  - d. All cross-gender pat-down searches of female inmates will be documented, including exigent reasoning and supervisory approval.
  - e. Detention Deputies will not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status.
  - f. If the inmate's genital status is unknown, it may be determined through conversation with the inmate.
  - g. The CDSD will not restrict female inmates' access to regularly available programs or other out-of-cell/housing opportunities, based on the inability to perform cross-gender pat-down searches.
  - h. Inmates will be allowed to shower, perform bodily functions, and change clothing without a non-medical staff of the opposite gender viewing their breast, buttocks, or genitalia, or when such viewing is incidental to routine cell checks to include viewing via video camera.
  - i. Staff will announce "male on the floor" or "female on the floor" each time a

Detention Deputy of the opposite gender enters an inmate housing unit, to inform inmates that a Deputy of the opposite gender will be on the floor. A notation will be made in the Officer's Activity Log.

7. Inmates with disabilities and inmates who have limited English proficiency.
  - a. The following procedures have been established to provide disabled inmates equal opportunity to participate in or benefit from all aspects of FCSO's efforts to prevent, detect and respond to sexual abuse and sexual harassment.
    - i. All inmate education materials will be in formats accessible to all inmates in accordance with Title II of the Americans with Disabilities Act, 28 CFR 35.164;
    - ii. Formats include but not limited to:
      - (A). Provide interpreter services for inmates who are deaf or hard hearing.
      - (B). Interpreter services for non-English speaking inmates.
      - (C). Reading of material by staff to inmates.
    - iii. The CDSD will not rely on inmate interpreters, inmate readers, or other types of inmate assistants, except to provide enhanced training on the agency's zero tolerance policy.

C. Upgrades to Facilities and Technology.

1. The CDSD will consider the effect of design, acquisition, expansion or modification in reference to the Facility's ability to protect inmates from sexual abuse during any planned expansions, modifications, or video equipment updates to the Facility.
2. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the CDSD will consider how much technology can be used to enhance the CDSD's ability to protect inmates from sexual abuse.

D. Responsive Planning.

1. The CDSD will make available a Victim Advocate for the victim from the Flagler County Family Life Center (FLC) and/or the Flagler County Sheriff's Office Victim Advocate's program (FCSO VAP), Family Life Center Sexual Abuse Hotline Number 386-437-3505 (24-Hour Crisis Helpline for Voice/Telecommunications Device for the Deaf (TDD)/Text Telephone/Telecommunication Device for the Deaf (TTY). These services will be documented.

- a. If the FLC is not able to provide a Victim Advocate for services in person, the CDSD will provide a qualified staff member from a community-based organization or a qualified CDSD staff member.
  - b. If requested by the victim, the Victim Advocate, a qualified CDSD staff member, or a qualified community-based organization staff member, will accompany and support the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals.
- 2. Policies to ensure referrals of allegations for investigations.
  - a. The CDSD ensures an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment (including inmate-on-inmate sexual abuse or staff sexual misconduct).
    - i. All referrals of allegations of sexual abuse or sexual harassment for criminal investigations must be documented;
    - ii. All Allegations of sexual abuse or sexual harassment must be referred for investigation to the Investigative Services Division (ISD), who has the legal authority to conduct criminal investigations, including the CDSD's result if it conducted its own investigations, unless the allegation does not involve potentially criminal behavior;
    - iii. This General Order and any other regarding the referral of allegations of sexual abuse or sexual harassment for a criminal investigation, is published on the FCSO website or made publicly available via other means.

#### E. Training and Education.

- 1. Employee Training.
  - a. All employees will receive Annual Training on Inmate Sexual Abuse/Assault Awareness, Prevention, Response, and Reporting Procedures. [FCAC 9.09M] The CDSD trains all employees who have contact with inmates on the following matters:
    - i. The CDSD's "zero-tolerance" for sexual abuse and/or sexual harassment;
    - ii. How to fulfill their responsibilities under the CDSD sexual abuse and sexual harassment prevention, detection, reporting, and response to the General Orders in place for the PREA Standards;
    - iii. The right for inmates to be free from sexual abuse and sexual harassment;
    - iv. The right for inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
    - v. The dynamics of sexual abuse and sexual assault;

- vi. The common reactions of sexual abuse and sexual harassment victims;
- vii. How to detect and respond to signs of threatened and actual sexual abuse;
- viii. How to avoid an inappropriate relationship with inmates;
- ix. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
- x. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender-non-conforming inmates;
- xi. Training is tailored to the gender of the inmates in the Facility;
- xii. Between training sessions, employees will be provided with information about current General Orders regarding sexual abuse and harassment;
- xiii. The CDSD will document employees' understanding of the training they have received through employee signature or electronic verification.

b. Pat Search/Strip Search - Transgender/Intersex Inmates:

- i. A certified member of the same sex and in compliance with Florida State Statute (F.S.S.) 901.012 and 901.211, searches inmates upon admission;
- ii. The Statement of Search Preference Form will be completed by the transgender/intersex inmate, choosing to have a male, female or both conduct the search;
- iii. The Detention Deputy performing the pat search will be of the same sex as identified by the transgender/intersex inmate on the Statement of Search Preference Form;
- iv. The inmate can choose to have a male or female Detention Deputy pat search in different areas based on the anatomy of the inmate;
- v. When a strip search is required for a transgender/intersex inmate, the search will be conducted by a Detention Deputy and overseen by a Supervisor, in which both will sign as witnesses per the Statement of Search Preference Form;
- vi. Detention Deputies will conduct searches professionally and respectfully;
- vii. The searches will be conducted in the least intrusive manner possible, consistent with security needs, and only if a search needs to occur based on exigent circumstances;

(A). All transgender/intersex searches will be documented.

- viii. The security of the Facility, staff and inmate's safety must be maintained at all times;
- ix. The Detention Deputy and Supervisor witnessing the search will both be of the same sex, which is listed on the Statement of Search Preference Form as signed by the inmate;
- x. Strip searches will never be performed as a punitive measure;
- xi. Staff will not search or physically examine a transgender or intersex

- inmate for the sole purpose of determining the inmate's genital status;
- xii. If the genital status is unknown, it may be determined during a conversation with the inmate, reviewing medical records, or as part of a broader medical examination conducted in private by Medical personnel requiring approval of CSDC or designee;
  - xiii. The Deputies and Health Services Provider must attempt to communicate with the inmate for the cooperation in determining gender housing and additional inmate services without resorting to a physical examination;
  - xiv. If the inmate refuses to cooperate, the inmate will be housed in a single-cell by themselves until the Review Team communicates and attempts to receive confirmation;
  - xv. All transgender or intersex inmates will be housed in Administrative Confinement until evaluated by Medical, Mental Health, Classification Unit, and/or the PREA Coordinator to determine the appropriate housing to ensure their safety and security in the Detention Facility.

2. The Review Team.

- a. The Review Team will consist of the following or designees:
  - i. Medical Health Services Administrator or Mental Health Counselor;
  - ii. CSDC;
  - iii. PREA Coordinator/Manager;
  - iv. Investigators;
  - v. Classification.
- b. The Booking/Intake Detention Deputy will be responsible for notifying the Medical Staff that a transgender/intersex inmate has been identified at Intake/Booking.

3. Volunteer and Contractor Training.

- a. All Volunteers and Contractors who have contact with inmates will be trained on their responsibilities under the CDSD's PREA Policy.
  - i. The type and level of training are based on the services they provide and the level of contact they have with inmates.
- b. All Volunteers and Contractors who have contact with inmates have, at least, been notified of the CDSD's Zero-Tolerance General Order regarding Sexual Abuse and Sexual Harassment and informed how to report such incidents.
  - i. Documentation will be kept on file with the CDSD confirming Volunteers and Contractors understand the training they received.

4. Inmate Education.

- a. All inmates during Booking/Intake, will receive the CDSD Inmate Rules and Regulations Handbook, explaining the Facility's Zero-Tolerance General Order regarding Sexual Abuse and Sexual Harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
- b. Posters containing sexual assault awareness and reporting information are posted in the Booking Area for inmates who make bonds prior to being moved to Population.
- c. Inmate PREA education is available in accessible formats for all inmates including those who are:
  - i. Limited in English proficiency;
  - ii. Deaf;
  - iii. Visually impaired;
  - iv. Otherwise disabled;
  - v. Limited in their reading skills.
- d. Inmates will be required to sign documentation of inmate participation in PREA Education Sessions.
- e. The CDSD ensures key information about the PREA General Orders are continuously and readily available or visible through posters, one-on-one comprehensive education within thirty (30) days of incarceration, inmate handbooks, or other written formats.

F. Screening for Risk of Sexual Victimization and Abusiveness.

1. Screening for risk of sexual victimization and abusiveness.

- a. All inmates will be screened during Intake using an objective Initial Custody Assessment, due to the risk of being sexually abused by other inmates or sexually abusive towards other inmates.
- b. The Intake Screening will take place during the Booking process or within seventy-two (72) hours of arrival at the Facility, and a reassessment of the inmate by the Classification Unit, no later than thirty (30) days from the inmate's arrival, based upon additional and relevant information received by the Facility since the Intake Screening.
- c. The Intake Screening will be considered at the minimum the following:
  - i. Whether the inmate has a mental, physical, or developmental disability;
  - ii. Age of the inmate;
  - iii. Physical build of the inmate;
  - iv. If the inmate has previously been incarcerated;
  - v. If the inmate's criminal history is exclusively nonviolent;
  - vi. If the inmate has prior convictions for sex offenses against an adult or

- child;
  - vii. If the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming;
  - viii. The inmate's perception is vulnerability;
  - ix. The inmate is detained solely for civil immigration;
  - x. If the inmate has any prior acts of sexual abuse;
  - xi. If the inmate has prior convictions for violent offenses;
  - xii. If the inmate has previously experienced sexual victimization;
  - xiii. If the inmate has a history of prior institutional violence or sexual abuse known to the CDSO.
- d. Based on the answers provided and the inmate's perceptions of vulnerability, a determination for the inmate's housing is made and a Risk Alert or Special Condition Alert is affixed to the inmate's Global Jacket.
- i. If a single-cell is recommended, then the inmate will be housed in a single cell until reviewed by the Classification Unit and/or the PREA Coordinator;
  - ii. If no single-cell is recommended and the inmate feels comfortable in General Population, the inmate will be placed in the housing unit of his/her Classification status;
  - iii. If the inmate feels uncomfortable being placed in General Population, the inmate will be housed in a single-cell until evaluated by the Classification Unit and/or the PREA Coordinator, unless required by a Medical Practitioner to be housed in Medical. The Booking Deputy will also submit an Incident Report, stating the reasons the inmate feels uncomfortable being housed in General Population.
- e. An inmate's risk level will be reassessed at any time and when warranted due to a referral, request, incidence of sexual abuse, or receipt of additional information, which bears the inmate's risk of sexual victimization or abusiveness.
- f. Inmates will not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked during the Risk Screening.
- g. The CDSO will implement appropriate controls on the dissemination within the Facility of responses to questions asked pursuant to inmate screening, in order to ensure sensitive information is not exploited to the inmate's detriment by staff or other inmates.
2. Use of Screening Information.
- a. Information from the Risk Screening will be used to determine housing, bed, work, education, and program assignments to prevent inmates with the high risk of being sexually victimized from those at the risk of being sexually

abusive.

- b. The CDSO makes individualized determinations about how to ensure the safety of each inmate.
- c. The CDSO makes housing and program assignments for transgender or intersex inmates in the CDSO on a case-by-case basis, to ensure the inmates' health and safety, and whether the placement would present management or security problems.
- d. Placement and programming assignments for transgender or intersex inmates will be reassessed at least twice (2x) each year to review any threats to the inmates' safety.
- e. A transgender or intersex inmates' views concerning his or her own safety will be given serious consideration.
- f. Transgender or intersex inmates will be given the opportunity to shower separately from other inmates.
- g. The PREA Coordinator or designee will assess all transgender or intersex inmates for housing to include:
  - i. Does the inmate feel comfortable being housed in General Population?
  - ii. What gender of inmates does the inmate feel comfortable being housed with?
  - iii. Does the inmate feel comfortable showering around other inmates?
  - iv. Does the inmate prefer to shower away from other inmates?
- h. Transgender or intersex inmates who prefer to shower separately will be taken to Medical/Old Booking and allowed to shower where they cannot be viewed by other inmates.
- i. Transgender or intersex inmates in General Population can submit a request to the Shift Supervisor via the HUDD, to request a change in housing or showering status.
- j. Lesbian, gay, bisexual, transgender or intersex inmates will not be placed in dedicated Facilities, units or wings solely based on such identification or status, unless such placement is in a dedicated Facility, unit or wing established in connection with a consent decree, legal settlement or legal judgment to protect such inmates.

### 3. Protective Custody.

- a. Inmates at high risk for sexual victimization will not be placed in Voluntary Segregated Housing unless an assessment of all available alternatives has been made, and a determination has been made in which there are no available alternative means of separation from likely abusers.
- b. Inmates placed in Segregated Housing for this purpose will have access to programs, privileges, education, and work opportunities to the extent possible.
- c. If the Facility restricts access to programs, privileges, education, or work opportunities, the Facility will document:

- i. The opportunities which have been limited;
  - ii. The duration of the limitation;
  - iii. The reason for such limitations.
- d. If an Involuntary Segregated Housing assignment is made, the Facility will document:
  - i. The basis for the Facility's concern for the inmate's safety;
  - ii. The reasons for such limitations;
  - iii. Report will be written when an inmate is placed in Involuntary Segregated Housing.
- e. The Classification Unit and the PREA Coordinator will review all segregated housing to determine if continued segregation is required.
- f. If the inmate is to remain in Involuntary Segregated Housing, the Classification Unit will complete an Incident Report documenting the reasons the inmate will remain in segregated housing, any limitations to programs, education and work opportunities, the duration of the limitations and why the limitations are placed based on the safety of the inmate and security of the Facility.
  - i. The Classification Unit will forward the Incident Report to the PREA Coordinator for review and response.
- g. The PREA Coordinator and CDSDC will review and respond to the Incident Report, detailing the reasons why the inmate will stay in segregated housing, and returned to the Classification Unit to be put into the inmate's file.
- h. Inmates in Involuntary Segregated Housing will be reviewed at least every thirty (30) days by the Classification Unit and the PREA Coordinator to determine whether there is a continuing need for separation from the General Population.

## G. Reporting.

### 1. Inmate Reporting.

- a. The FCSO allows for internal reporting by inmates to report privately to CDSD officials about:
  - i. Sexual abuse or sexual harassment;
  - ii. Retaliation by other inmates or staff for reporting sexual abuse and sexual harassment;
  - iii. Staff neglect or violation of responsibilities which may have contributed to such incidents.

- b. The multiple internal reporting methods inmates can utilize are:
  - i. Inmates may report verbally to staff or Chaplains, Program Coordinators, etc.;
  - ii. Inmate Request Form;
  - iii. Postcards or letters;
  - iv. Inmate Grievance Form;
  - v. Flagler County Sheriff's Office Court & Detention Services Intervention PREA Hotline (386) 313-2215.
- c. The FCSO provides ways for inmates to report abuse or harassment to a public or private entity or office, which is not part of the CDSO by:
  - i. Flagler Family Life Center Sexual Abuse Helpline 386-437-3505 (24 Hour Crisis Helpline for Voice/Telecommunications Device for the Deaf (TDD)/Text Telephone/Telecommunication Device for the Deaf (TTY);
  - ii. Memorandum of Understanding (MOU) - Bunnell, Fl.
- d. Inmates detained solely for civil immigration purposes must be provided information on how to contact relevant consular officials and relevant officials and the Department of Homeland Security (DHS).
- e. Staff must accept reports of sexual assault and sexual harassment made verbally, in writing, anonymously, and from third parties.
- f. Staff is required to immediately document verbal reports.
- g. The CDSO staff can privately report sexual abuse and sexual harassment of inmates to their Supervisors or any other Facility Supervisor.
- h. Staff is informed of these procedures in the following ways:
  - i. In-Service Training;
  - ii. Power DMS;
  - iii. General Orders.

2. Exhaustion of Administrative Remedies.

- a. The CDSO has an Administrative Procedure for dealing with inmate grievances regarding sexual abuse.
- b. Inmates may submit a grievance regarding an allegation of sexual abuse at any time regardless of when the incident is alleged to have occurred.
- c. Inmates are not required to use an informal grievance process, or otherwise to attempt to resolve with staff, an alleged incident of sexual abuse.
- d. Inmates may submit a grievance alleging sexual abuse without submitting the said grievance to the staff member who is the subject of the complaint.
- e. Any inmate grievance alleging sexual abuse will not be referred to the staff

member who is the subject of the complaint.

- f. The CSDC or designee will issue a final decision on the merits of any portion of the grievance alleging sexual abuse within ninety (90) days of the initial filing of the grievance.
- g. The CSDC or designee may claim an extension of time to respond up to seventy (70) days, if the normal time period for response is insufficient to make an appropriate decision.
  - i. If an extension is needed, the inmate will be notified in writing;
  - ii. The notification will also include a date by which a decision will be made.
- h. Agency General Orders permits third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and to file such requests on behalf of the inmates.
- i. If the inmate declines to have third-party assistance in filing a grievance alleging sexual abuse, the CSDC documents the inmate's decision to decline on an Inmate Grievance Form.
- j. The CSDC has General Orders and established procedures for filing an Emergency Grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse.
- k. Emergency Grievances alleging substantial risk of imminent sexual abuse require an initial response within forty-eight (48) hours.
- l. Emergency Grievances alleging a substantial risk of imminent sexual abuse require a final CSDC decision be issued within five (5) days.
- m. After an emergency decision is made, a copy of the Emergency Grievance and all responses will be forwarded to the PREA Coordinator.
- n. The CSDC will only discipline an inmate for filing a Grievance related to alleged sexual abuse, only where the CSDC demonstrates the inmate filed the Grievance in bad faith.

### 3. Third-Party Reporting.

- a. The CSDC provides a method to receive third-party reports of inmate sexual abuse or sexual harassment by posting reporting information and contact numbers on FCSO's website.
- b. The CSDC publicly distributes information on the FCSO website on how to report inmate sexual abuse or sexual harassment on behalf of inmates.
- c. The CSDC posts contact numbers and reporting information in the lobby and visitation entrance to the Facility for public viewing.

## H. Official Response Following an Inmate Report.

### 1. Staff and CSDC reporting duties.

- a. All staff are required to report immediately any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, even if the incident took place at another facility, not the CDSD.
- b. All staff will be required to immediately report any retaliation against inmates or staff who report such incidents.
- c. All staff will be required to immediately report any staff neglect or violation of responsibilities, which may have contributed to an incident or retaliation.
- d. Apart from reporting to the designated Supervisors or officials and designated state or local service agencies, the staff is prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.
- e. Unless otherwise precluded by federal, state, or local law, medical and mental health practitioners will be required to report sexual abuse to the appropriate officials, and to inform inmates of their duty to report, and the limitations of confidentiality at the initiation of services.
- f. If the alleged victim is under the age of eighteen (18) or considered a vulnerable adult under a state or local vulnerable person's statute, the CDSD will report the allegation to the designated state or local services under applicable mandatory reporting laws.
- g. The Facility will report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the FCSO's designated Investigator.

## 2. Reporting To Other Confinement Facilities.

- a. Upon receiving an allegation of an inmate sexually abused while confined at another facility, the head of the facility must be notified or appropriate office of the facility where the sexual abuse allegedly occurred.
- b. The facility head will provide such notification as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.
- c. The CDSD will fully document that notification was provided within seventy-two (72) hours to the facility where the alleged sexual abuse took place on an Incident Report Form.
- d. The CDSD will ensure allegations of sexual abuse received from other facilities/agencies referring to CDSD inmates will be fully investigated.

## 3. Staff First Responder Duties.

- a. First Responder procedures for allegations of sexual abuse:
  - i. Separate the alleged victim and abuser;
  - ii. Preserve and protect any crime scene until appropriate steps can be taken

- to collect any evidence;
  - iii. The first Deputy on scene has the responsibility to secure, preserve, and control access to and from the crime scene;
  - iv. The crime scene should be secure in such a way that no one other than law enforcement personnel has access to the scene;
  - v. Secure cell or dorm door;
  - vi. Rope off crime scene area with crime scene tape (rope off larger area than actual crime scene);
  - vii. Initiate and maintain crime scene Sign-In Log;
  - viii. Control of the crime scene will be the responsibility of the first Deputy on scene, until relieved.
- (A). Anyone other than the Crime Scene Technician and Investigator will remain outside the crime scene regardless of rank, unless requested by the Crime Scene Technician and Investigator.
  - (B). A Crime Scene Log will be maintained by the controlling Deputy.
  - (C). Allow as few people as necessary to enter the scene.
  - (D). Limit the access to the crime scene to the Crime Scene Technician and Investigator.
- b. PREA Response Kits are located in the Shift Supervisor's Office and the Control Room. Each Kit contains the following:
  - i. Crime scene tape;
  - ii. Gloves;
  - iii. Shoe protectors;
  - iv. Binder with Crime Scene Log-In Sheets.
- c. If the PREA Response Kit is utilized, an Incident Report will be submitted.
- d. If the abuse occurred within a time period which still allows for the collection of physical evidence, staff will request the alleged victim not to take any action which could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, eating or drinking.
- e. If the abuse occurred within a time period which still allows for the collection of physical evidence, staff will ensure the alleged abuser does not take any action which could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, drinking or eating.
- f. If the first Staff Responder is not a security staff member, the Responder is required to:
  - i. Request the alleged victim not to take any actions which could destroy evidence;
  - ii. Immediately notify security staff.
- g. Shift Supervisor's response.

- i. Ensure alleged inmate victim and alleged inmate aggressor are separated, if housed together;
- ii. Ensure the alleged inmate victim receives a SANE Exam by a qualified Sexual Assault Nurse Examiner (SANE).
  - (A). If requested by the victim, attempt to make available to the victim a Victim Advocate from a Rape Crisis Center in person or by other means.
  - (B). All of these efforts will be fully documented on an Incident Report and/or Supplemental Incident Report, with the FL Sexual Abuse Hotline 1-800-962-2873.
- iii. Ensure the alleged inmate aggressor is seen and evaluated by Medical;
- iv. Prepare a complete PREA Packet to include copies of the following:
  - (A). PREA Checklist
  - (B). Incident Reports.
  - (C). Supplemental Reports.
  - (D). Disciplinary Report/s.
  - (E). Supplemental Disciplinary Report/s.
  - (F). Charging Affidavit, if applicable.
  - (G). Witness/Victim/Evidence.
  - (H). Voluntary Witness Statement Form.
  - (I). Voluntary Witness Supplemental Statement Form.
  - (J). Medical Reports documenting the inmate was seen by Medical.
  - (K). Roster of Cell Assignments.
  - (L). Video of Incident, if available.
  - (M). Photographs, if available.
  - (N). Evidence Property Form Receipt, if applicable.
  - (O). Any other relevant documents, notes, etc.

\*Depending on the outcome of the investigation, some forms may or may not be needed for the PREA Packet. \*
- v. Notify the CDSDC, PREA Coordinator, ISD, Communications, and Medical;
- vi. When the PREA Packet is completed, it will be forwarded to the PREA Coordinator or designee;
  - (A). The Coordinator will review the documentation for accuracy and request any additional documentation needed.
  - (B). A complete copy of the PREA Packet, including the PREA checklist will then be forwarded to the CDSDC or designee for review.
- vii. In the event an actual rape occurs, the PREA Packet will be provided to

the ISD;

- viii. It will be the responsibility of the Shift Supervisor-on-duty to investigate and review all allegations and complaints of sexual assault or harassment received as the Shift Supervisor of their shift;
- ix. The Shift Supervisor will not pass on complaints of sexual assault or harassment to the next shift, or any portion of the investigation or review to be completed by the next shift.

4. Preservation of Ability to Protect Inmates from Contact with Abusers.

- a. Neither the CDSD nor any other governmental entity responsible for collective bargaining on FCSO's behalf, will enter into or renew any collective bargaining agreement or other agreement that limits FCSO ability to remove alleged staff sexual abusers from contact with any inmates, pending the outcome of an investigation or a determination of whether and to what extent discipline is warranted.

5. Agency Protection against Retaliation.

- a. The CDSD protects all inmates and staff who report sexual abuse or sexual harassment, or those who cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff. The FCSO's PREA Coordinator is designated to monitor for possible retaliation.
- b. The FCSO will employ multiple protective measures, such as housing changed or transfers for inmate's 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.
- c. For at least ninety (90) days following a report of sexual abuse, the CDSD will monitor the conduct and treatment of inmates or staff who report sexual abuse, and of inmates who were reported to have suffered sexual abuse, to see if there are changes which may suggest possible retaliation by inmate or staff, and acts promptly to remedy and such retaliation.
- d. The CDSD will monitor to include any inmate disciplinary reports, housing or program changes or negative performance reviews or reassignments of staff.
- e. The CDSD will continue such monitoring beyond ninety (90) days, if the initial monitoring indicates a continuing need.
- f. In the case of inmates, such monitoring will also include periodic status checks.
- g. If any other individual who cooperates with an investigation expresses a fear of retaliation, the CDSD will respond appropriately to protect those individuals against retaliation.
- h. The CDSD will terminate monitoring if it is determined the allegation is unfounded.

## I. Investigations.

### 1. Criminal and Administrative Agency Investigations.

- a. All investigations into allegations of sexual abuse and sexual harassment will be done promptly, thoroughly and objectively, including third-party and anonymous reports.
- b. The CDSO will use Investigators from the FCSO ISD who have received special training pursuant to §115.34.
- c. Investigators will gather and preserve direct evidence and circumstantial evidence, including any available physical and DNA evidence and any electronic monitoring data.
- d. Alleged victims, suspects, suspected perpetrators, and witnesses will be interviewed.
- e. The Investigator will review prior complaints and reports of sexual abuse involving the suspected perpetrator, if any.
- f. When the quality of evidence appears to support criminal prosecution, the CDSO will conduct compelled interviews, only after consulting with prosecutors as to whether compelled interview may be an obstacle for subsequent criminal prosecution.
- g. The credibility of an alleged victim, suspect or witness will not be determined by the person's status as inmate or staff.
- h. The CDSO will not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

### 2. Administrative Investigations.

- a. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse.
- b. Shall be documented in written reports which include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- c. Criminal investigations will be documented in a written report which contains a thorough description of physical, testimonial and documentary evidence and attaches copies of all documentary evidence, where feasible.
- d. All substantial allegations of conduct that appear to be criminal, will be referred for prosecution.
- e. The CDSO will retain all written reports pertaining to Administrative or Criminal Investigations of alleged sexual assault or sexual harassment, for as long as the alleged abuser is incarcerated or employed by the CDSO, plus five years.
- f. The division of the alleged abuser or victim from the employment or control of the facility or CDSO control, will not provide a basis for terminating an investigation.

3. Evidentiary Standards for Administrative Investigations.

- a. The CDSD imposes a standard of a preponderance of the evidence or a lower standard of proof for determining whether allegations of sexual abuse or sexual harassment are substantiated.

4. Reporting To Inmates.

- a. The CDSD requires that an inmate who makes an allegation in which he or she suffered sexual abuse in an FCSO Facility, be informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the CDSD.
- b. If there has been a substantiated or unsubstantiated complaint of sexual abuse committed by a staff member against an inmate, the CDSD will subsequently inform the inmate whenever:
  - i. The staff member was no longer posted within the inmate's unit;
  - ii. The staff member was no longer employed at the Facility;
  - iii. The CDSD learned the staff member was indicted on a charge related to sexual abuse within the Facility.
- c. Following an inmate's allegation in which he/she has been sexually abused by another inmate in an FCSO Facility, the CDSD will subsequently inform the alleged victim whenever:
  - i. The CDSD learns the alleged abuser has been indicted on a charge related to sexual abuse within the Facility;
  - ii. The CDSD learns the alleged abuser has been convicted on a charge related to sexual abuse within the Facility.
- d. All notification to inmates described under this Standard will be documented.

J. Discipline.

1. Disciplinary Sanctions for Inmates.

- a. Inmates are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding which the inmate engaged in inmate-on-inmate sexual abuse.
- b. Inmates are subject to disciplinary sanctions pursuant to a formal disciplinary process following a criminal finding of guilt for inmate-on-inmate sexual abuse.
- c. Sanctions are proportionate with the nature and circumstance of the abuses committed, the inmate's disciplinary history, and the sanctions imposed for the

- comparable offenses by other inmates with similar histories.
- d. The disciplinary process considers that an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
  - e. The Facility does not offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for abuse.
  - f. The CDSO disciplines inmates for sexual conduct with staff only upon finding that the staff member did not consent to such contact.
  - g. The CDSO prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.
  - h. The CDSO prohibits all sexual activity between inmates.
  - i. Sexual activity is prohibited between inmates, but the CDSO will only deem such activity to constitute sexual abuse if it determines the activity was coerced.

K. Medical and Mental Health Care.

1. Medical and mental health screening, history of sexual abuse.

- a. All inmates confined at CDSO who have disclosed any prior sexual victimization during the Booking/Intake Screening or any other screening pursuant to §115.41, are offered a follow-up meeting within fourteen (14) days with a Medical or Mental Health Practitioner.
- b. Medical and Mental Health Staff maintain secondary material (e.g. forms, logs) documenting compliance with the above standard.
- c. Information related to sexual victimization or abusiveness which occurred in an institutional setting, is not limited to Medical or Mental Health Practitioners.
  - i. The information shared with other staff is strictly limited to informing security and management decisions, including treatment plans, housing, bed, work, and education, and program assignments, or as otherwise required by federal, state or local law.

2. Access to Emergency Medical and Mental Health Services.

- a. Inmate victims of sexual abuse receive timely and unimpeded access to emergency medical treatment and intervention services to include receiving a SANE Exam by a qualified Sexual Assault Nurse Examiner (SANE).
- b. Medical and Mental Health Staff maintain secondary material (e.g. logs, forms) documenting the timeliness of emergency medical treatment and crisis intervention services that were provided.

- i. The appropriate response by Non-Health Staff in the event Health Staff are not present at the time the incident is reported, and the provisions of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.
  - c. Treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- 3. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers.
  - a. The CDSD offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
  - b. The evaluation and treatment of such victims will include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to or placement in other facilities, or their release from custody.
  - c. The Facility will provide such victims with medical and mental health services consistent with the community level of care.
  - d. Female victims of sexual abuse while incarcerated are offered pregnancy tests.
  - e. If pregnancy results from sexual abuse while incarcerated, victims receive timely and comprehensive information about, and timely access to all lawful pregnancy-related medical services.
  - f. Inmate victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.
  - g. Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
  - h. The CDSD will maintain that a mental health evaluation is conducted of all inmate-on-inmate abusers within sixty (60) days of learning of such abuse history, and offers treatment when deemed appropriate by mental health practitioners.

L. Sexual Abuse Incident Reviews.

- 1. The Facility conducts a Sexual Abuse Incident Review at the conclusion of every Sexual Abuse Investigation, including whether the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
- 2. A Sexual Abuse Incident Review will be conducted within thirty (30) days of concluding the investigation.
- 3. The Sexual Abuse Incident Review Team will include upper-level management officials and allow for input from Line Supervisors, Investigators, Medical or Mental Health Staff.

4. The Review Team will:
  - a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
  - b. Consider whether the incident or allegation was motivated by:
    - i. Race or ethnicity;
    - ii. Gender identity (lesbian, gay, bisexual, intersex, transgender) ;
    - iii. Gang affiliation;
    - iv. Motivated or otherwise caused by other group dynamics.
  - c. Examine the area where the incident allegedly occurred to assess whether physical barriers in the area may enable the abuser.
  - d. Assess the adequacy of staffing levels in the area during different shifts.
  - e. Prepare a report of its findings and any recommendations for improvement and submit the report to the CSDSD and PREA Compliance Manager.
5. The CSDSD will implement the recommendations or will document the reasons for not doing so.

M. Data Collection.

1. The CSDSD collects accurate, uniform data for every allegation of sexual abuse using a standardized instrument and set of definitions.
2. The standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice.
3. The CSDSD aggregates the incident-based data at least annually.
4. The CSDSD maintains review and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
5. Upon request, the CSDSD will provide all such data from the previous calendar year to the Department of Justice (DOJ) no later than June 30<sup>th</sup>.

N. Data Review for Corrective Action.

1. The CSDSD review data collected and aggregated pursuant to §115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, and training, including:
  - a. Identifying problem areas.
  - b. Taking corrective action on a continuing basis.
  - c. Preparing an Annual Report of its findings from its data review and any corrective actions, as well as the CSDSD as a whole.

2. The Annual Report will include a comparison of the current year's data and corrective actions with those from prior years.
3. The Annual Report will provide an assessment of the CDSD's progress in addressing sexual abuse.
4. The CDSD will make its Annual Report readily available to the public at least annually through its website.
5. The Annual Reports are approved by the CDSDC.
6. When the CDSD redacts material from an Annual Report for publication, the redactions are limited to specific materials where publication would present a clear and specific threat to the safety and security of the facility.
7. The CDSD will indicate the nature of the redaction.

O. Data Storage, Publication and Destruction.

1. The CDSD ensures the incidence-base and aggregate data are securely retained.
2. Aggregated sexual abuse data from FCSO CDSD under its direct control and private facilities with which it contracts, can be made readily available to the public at least annually through its website.
3. Before making aggregated sexual abuse data publicly available, the CDSD removes all personal identifiers.
4. The FCSO maintains sexual abuse data collected pursuant to §115.87 for at least ten (10) years after the date of initial collection, unless federal, state or local law requires otherwise.



**Rick Staly**  
Sheriff