

Cloud County Jail Policy

Section 4.1	Sexual Harassment/Assault Response Prevention Policy (S.H.A.R.P.P.)
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this Office for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Kansas Regulations: Department of Justice, Prison Rape Elimination Act (PREA), Prisons & Jail Standards and Community Confinement Standards 28 C.F.R. Part 115	
Date Implemented: 12/28/2023	Review Date:

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4.101 Purpose (115.11/.211)

The purpose of this policy is to provide clear, concise, and comprehensive procedures relative to the CCSD's commitment of adhering to a zero tolerance to any form of sexual harassment and/or sexually abusive behaviors of any form within the facility it operates. This policy also provides for the procedural guidelines in the Prevention, Detection, and Response to any and all allegations of sexual harassment and/or sexually abusive behaviors by any employee, contractor, vendor, volunteer, advocate, interns, or visitors toward an inmate confined at the CCSD facility.

4.102 Cancellation

CCSD 981.00 cancels all previous rules, regulations, policy statements, bulletins, directives, orders, and notices regarding SHARPP.

4.103 Applicability

This policy applies to all employees, contractors, vendors, volunteers, student interns, advocates, visitors, and inmates of the CCSD.

4.104 Access to Regulations

103 CCSD 981.00 shall be maintained within the CCSD's central policy file and accessible to all employees, inmates, and the public.

4.105 Policy (115.11/.211)

The CCSD shall be in compliance with the Prison Rape Elimination Act (PREA) of 2003. CCSD is committed to a zero-tolerance policy regarding sexual assaults and

sexual harassment, whether it be inmate on inmate, staff on inmate, or any other third party on inmate allegation. All intentional acts of a sexual harassment, sexually abusive behavior, or intimacy (as defined by this policy) between an inmate and a CCSD's employee, vendor, volunteer, or between an inmate and another inmate regardless of consent, are prohibited and the perpetrator shall be subject to administrative, criminal, and/or disciplinary sanctions. The CCSD is committed to investigating, disciplining, and referring for prosecution the Sheriff's Department employees, vendors, contractors, volunteers, advocates, visitor, and inmates who engage in sexual harassment or sexually abusive behaviors. Additionally, this policy will outline the departments approach to preventing, detecting, and responding to such conduct. 115.11(a)

SHARPP's Intent:

- Prevent, Detect and Respond to all allegations of sexual harassment and/or sexually abusive behaviors.
- Increase the timely reporting of incidents of any and all allegations relating to SHARPP.
- Develop and maintain a process to identify and manage inmates classified as potential victims and/or predators in accordance with the PREA standards and SHARPP.
- Provide training to employees, vendors, contractors, interns, advocates, and volunteers outlining their reporting responsibilities relative to this policy.
- Provide effective and ongoing orientation to inmates to avoid being victimized and how to report incidents of sexual harassment and/or sexually abusive behaviors.
- Provide treatment for victims and/or perpetrators.
- Discipline and/or refer for criminal prosecution any perpetrators.

The CCSD shall designate an upper-level, agency wide PREA Coordinator with sufficient time and authority to develop, implement, and oversee CCSD's efforts to comply with the PREA standards in all of its facilities. This position shall be noted on the CCSD's organizational chart. The CCSD shall also designate a PREA Manager, with sufficient time and authority, at its facility (Cloud County Law Enforcement

Center or CCLEC) to coordinate its efforts to comply with the PREA standards and SHARPP.

4.106 Contracting for the Confinement of Inmates (115.12/.212)

In the event the CCSD should contract for the confinement of its inmates with private agencies, other entities, or other government agencies, any new contract or contract renewal shall include that entities obligation to adopt and comply with the PREA standards.

Any new contract or contract renewal shall provide contract monitoring to ensure the contractor is complying with the PREA standards.

4.107 Definitions (115.5/.6)

Agency: Also referred as the Cloud County Sheriff's Department (CCSD). The unit of a State, local, corporate, nonprofit authority, or the Department of Justice, with direct responsibility for the operation of any facility that confines inmates or detainees including the implementation of policy as set by the governing, corporate, or nonprofit authority.

Agency Head: Principal official of the Cloud County Sheriff's Department - the Sheriff.

Allegation: Any incident reported to, or by, a department staff person, contractor, volunteer, third party, or inmate, involving an inmate victim of sexual harassment/sexually abusive behavior, which incident may lead to, or is pending the outcome of, an investigation.

At Risk: Inmates who exhibit characteristics consistent with potential victims or perpetrators of sexual harassment or sexually abusive behavior.

Body Cavity Search: An intrusive search of an inmate's body cavities to determine if contraband is being concealed. Such searches shall only be conducted by medical staff of the same gender, except in exigent circumstances and only when authorized by the Jail Administrator and/or Sheriff.

Community Confinement Facility: Any community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehab center, or other community correctional facility in which individuals reside as part of a term of

imprisonment or as a condition of pre-trial release or post-release while participating in gainful employment.

Consent: The cooperation in an act or attitude pursuant to an exercise of free will and with the full understanding of the nature of the act. Inmates cannot consent to any sexual and/or intimate acts with any employee, contractor, volunteer, intern, advocate, or third party.

Contractor: Any person who provides services on a recurring basis pursuant to a contractual agreement with the CCSD.

Direct Staff Supervision: Requires security staff to be in the same room with and within reasonable hearing distance of the inmate.

Employee: Any person who works directly for the Cloud County Sheriff's Department.

Exigent Circumstances: Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the life/safety of individuals and/or to the security or overall orderly operation of a facility.

Facility: A place, institution, building, set of buildings, structure, or area that is used by the Cloud County Sheriff's Department for care, custody, and control of individuals.

Facility Head: The principal official, typically the Jail Administrator, appointed by the Sheriff to oversee the day-to-day operations of a confinement facility.

Full Compliance: Compliance with all material requirements of each standard except for de minimis violations, or discrete and temporary violations during otherwise sustained periods of compliance.

Gender Dysphoria (GD): The formal diagnosis used by psychologists and physicians to describe individuals who experience significant distress over the sex and gender they were assigned at birth.

Gender Nonconforming: A person whose appearance or manner does not conform to traditional societal gender expectations.

Inmate: Any person incarcerated or detained in a jail or community confinement facility.

Intern: Any individual, usually a student in a formal program, who works for the CCSD (without pay) to gain work experience.

Intersex: Any person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of a male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Intimacy: Any behavior between individuals which does not rise to the level of sexual abuse or harassment, but which is close, personal, and creates/maintains an emotional and/or sexual connection, including, but not limited to, kissing, touching parts of the body (not included under the definition of sexual abuse), sending/receiving personal letters/cards/gifts, or engaging in unauthorized phone calls. Intimacy and intimate relationships between staff members and inmates are expressly prohibited.

Investigator: The Investigator is charged with investigating allegations of (or failing to report) allegations of sexual harassment and/or sexually abusive behavior by employees, contractors, volunteers and interns towards any inmate under the care, custody, and control of the CCSD.

Jail: A confinement facility within the CCSD administered by the Sheriff and or Jail Administrator which confines adults who are pending adjudication of criminal charges or adults committed to confinement after adjudication of criminal charges for sentences.

LGBTI: A common acronym for a lesbian, gay, bisexual, transgender or intersex person.

Kansas Staff Sexual Misconduct: K.S.A. 21-3520 prohibits “unlawful sexual relations” between staff and inmates. Unlawful sexual relations include, “engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy.” Unlawful sexual relations are a level 5 felony offense.

Medical Practitioner: Any health professional who by virtue of education, credentials, and experience, is permitted to evaluate and care for patients within the scope of his/her professional practice. A qualified medical practitioner refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental Health Practitioner: Any mental health professional who, by virtue of education, credentials, and experience is permitted by law to evaluate and care for

patients within the scope of his/her professional practice. A professional who has also successfully completed specialized training for treating sexual abuse victims.

Pat-down Search: The correctional practice of the running of the hands over the clothed body of an inmate or detainee by correctional staff to determine whether the individual possesses contraband.

Physical Assault: Any intentional or reckless action taken by an individual which causes injury or creates potential injury to another individual, including, but not limited to, physical contact, contact by means of an object, or contact by means of bodily fluids (e.g., spitting, throwing urine, etc.).

Prison Rape Elimination Act (PREA): Federal legislation (Public Law No. 108-79), enacted in 2003 to provide for the analysis of the incidence and effects of prison rape in federal, state and local institutions, and to provide information, resources, recommendations, and funding, to protect individuals from prison rape.

PREA Annual Safety Assessment: A yearly assessment designed to ensure that an institution's physical plant and operational system are assessed in relation to the National Prison Rape Elimination Commission standards and the Department performance measures and policies.

PREA Committee: A facility level, staff committee comprised of individuals deemed integral to the successful implementation of the PREA process. The committee, led by the CCSD's PREA Coordinator shall meet at least monthly to review, assess, and/or facility. This committee is also responsible for reviewing all sexual harassment/abuse investigations (substantiated, unsubstantiated, and unfounded allegations), which have been closed within the last 30 days.

PREA Coordinator: An upper level CCSD staff person responsible for developing, implementing, and overseeing, the CCSD's efforts to comply with the Department of Justice (DOJ) PREA standards and with all CCSD SHARPP related policies within the CCSD's facility.

PREA Manager: A staff member of the CCSD responsible for implementing and monitoring the Sexual Harassment/Abuse Response Prevention Policy (SHARPP) and coordinating the facility's compliance with the SHARPP standards.

Security Staff: Means employees primarily responsible for the care, custody, and control of inmates or detainees within the CCSD.

Sexual Assault Nurse Examiner (SANE): Provides necessary medical care and ensures medical intervention to victims of assault who are examined at designated emergency hospital.

Sexual Abuse, Inmate-on-Inmate: Sexual abuse of an inmate by another inmate includes any of the following acts if the inmate victim does not consent, is coerced into such act by overt or implied threats, or is unable to consent or refuse:

- 1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- 2) Contact between the mouth and the penis, vulva, or anus;
- 3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- 4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual Abuse, Staff-on-Inmate: Sexual abuse of an inmate by a staff member includes any of the following acts, with or without consent of the inmate:

- 1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- 2) Contact between the mouth and the penis, vulva, or anus;
- 3) Contact between the mouth and any body part where the staff member has the intent to abuse, arouse, or gratify sexual desire;
- 4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member has the intent to abuse, arouse, or gratify sexual desire;
- 5) Any other intentional contact, either directly or through the clothing, of, or with, the genitalia, anus, groin, breast, inner thigh, or the buttocks, which contact is unrelated to official duties or where the staff member has the intent to abuse, arouse, or gratify sexual desire;
- 6) Any attempt, threat, or request, by a staff member to engage in the activities described in paragraphs (1)-(5) of this section;

7) Any display by a staff member of his or her uncovered genitalia, buttocks, or breast, in the presence of an inmate, and

8) Voyeurism by a staff member, which is defined as an invasion of the privacy of an inmate by a staff member for reasons unrelated to official duties (e.g., peering at an inmate who is using a toilet in his/her cell to perform bodily functions, requiring an inmate to expose his/her buttocks, genitals, or breasts, or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions).

SHARPP: The acronym used to refer to the CCSD 918.00 Sexual Harassment/Assault Response Prevention Policy (SHARPP).

Strip Search: Requiring an inmate to remove their clothing in an effort to determine if the inmate is attempting to conceal contraband on their person or clothing. Strip searches shall be conducted by security staff or medical staff of the same gender as the inmate being searched (except in an exigent circumstance and only when authorized by the Shift Commander).

Voyeurism: The purposeful invasion of privacy of an inmate or detainee by an employee, contractor, volunteer, advocate, intern or visitor for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell 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 inmate's naked body or of an inmate performing bodily functions.

Youthful Inmate: Any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

4.108 Supervision and Monitoring (115.13/.213)

The CCSD shall conduct an annual staff analysis that shall provide adequate levels of staffing and where applicable, video monitoring to protect inmates against sexual harassment or sexually abusive behaviors. Any deviations shall be documented by the Shift Supervisor. In calculating adequate staffing levels and determining needs for video monitoring the following, along with any other relevant factors, shall be taken into consideration:

- Generally accepted correctional practices.
- Any judicial findings of inadequacy.

- Any findings of inadequacy from federal investigative agencies.
- Any findings of inadequacy from internal or external oversight bodies.
- All components of the physical plant.
- Composition of the inmate population
- Number and placement of supervisory staff.
- Institutional programs occurring on a particular shift.
- Applicable state or local laws, regulations, or standards.
- The prevalence of substantiated, unsubstantiated, or unfounded incidents of sexual misconduct.
- Any other relevant factors.

The facility PREA Manager will, on an annual basis, conduct a thorough, comprehensive PREA Safety Assessment and forward it to the CCSD's PREA Coordinator no later than the last business day in January each year. This assessment will determine and document at a minimum the following:

- Changes, modifications or adjustments to the facility staffing plans are needed.
- Additions, changes, and adjustments to any facility video monitoring systems and other monitoring technologies as needed.
- Number of PREA allegations reported, investigated, and the outcomes of those investigations.
- A review of any and all corrective action plans as a result of any PREA related investigation.
- Assessment of the resources that the CCSD has available to meet or exceed the DOJ PREA standards.

Intermediate-level or higher-level supervisors (Sergeants or above) shall conduct and document unannounced rounds (in Control Center Logs) in an effort to Prevent, Detect and Respond staff sexual abuse and sexual harassment. This practice shall be implemented on all shifts. Furthermore, employees shall be prohibited from alerting other employees that these supervisory rounds are occurring, unless such

announcement is related to the legitimate operational functions of the facility. This requirement is posted on each door to an inmate housing unit.

4.109 Youthful Inmates (115.14)

In accordance with Kansas Statutes Chapter 38. Minors § 38-2332, CCSD does not house youth inmates at their facility.

4.110 Cross-gender Searches and Viewing (115.15/215)

Inmate cross-gender strip searches and cross-gender visual body cavity searches shall NOT be conducted except in exigent circumstances or by a medical practitioner and only then by authorization from the PREA Coordinator and/or Sheriff. The facility shall document all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches of female inmates.

No transgender or intersex inmates shall be searched for the sole purpose of determining the inmate's genital status. If an inmate's genital status is unknown, it may be determined by conversation with the inmate, review of medical records, or by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

All staff of the opposite gender are required to verbally announce, or have verbally announced for them, their presence before entering an inmate housing unit. This requirement is posted on the outside of the housing unit door. Announcements shall be made before staff member enter the unit.

All inmates shall shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia except in exigent circumstances or when such viewing is incidental to routine security rounds. Inmates assigned to live in a dormitory setting shall be informed that there is no expectation of privacy and that opposite gender staff are, at times, required to walk thru these types of housing units (Attachment 1). As such, inmates shall be required to change clothing in the unit's bathroom or shower and shall be required to be appropriately dressed at all times.

The CCSD supervisory staff shall be responsible for the development, implementation, and training of correctional staff in how to conduct cross-gender pat-

down searches, and searches of transgender and intersex inmates. This training shall ensure that such searches are conducted in a professional and respectful manner, in the least intrusive manner possible, and consistent with security needs of the facility housing such inmates. This training shall be documented and kept on file by the CCSD's Jail Administrator.

4.111 Inmates with Disabilities or Limited English Proficiency (115.16/.216)

The CCSD supervisory staff shall take appropriate steps to ensure that inmate with disabilities (including deaf, hard of hearing, blind or who have impaired vision or those who intellectual, psychiatric or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the CCSD's efforts to prevent, detect, and respond to sexual abuse and sexual harassment allegations. Such steps shall include providing access to interpreters (who can interpret effectively, accurately, and impartially using any necessary specialized vocabulary). The CCSD supervisory staff shall ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, who are blind, or have impaired vision. The CCSD is not required to take actions which it can demonstrate would result in a fundamental alteration in the nature of any services, programs, activities, or would add an undue financial and administrative burdens. (Or any other such terms as used in regulations promulgated under Title II of the Americans with Disabilities Act, 28 CFR 35.164.)

The CCSD staff shall not rely on inmate interpreters, readers, and/or other types of inmate assistants, except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, delay, or interfere with the performance of a first-responder's duties. In such cases, the CCSD staff must clearly document the extent the inmate was used and what efforts were made to utilize internal or external resources to assist, rather than utilizing another inmate.

4.112 Hiring and Promotion (115.17/.217)

The CCSD shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor, intern, advocate, or volunteer who may have contact with inmates who has:

- Engaged in sexual misconduct in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution
- Been convicted of engaging or attempting to engage in sexual misconduct 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
- Been civilly or administratively adjudicated to have engaged in sexual misconduct.

The CCSD shall consider any incidents of sexual harassment before hiring, promoting, and before enlisting the services of any contractor who may have contact with inmates.

Before hiring any new employees and as part of any promotional process, the CCSD shall conduct appropriate background checks on all applicants and employees. A criminal background records check shall be conducted before enlisting the services of any contractor who may have contact with inmates.

Consistent with governing law, the CCSD shall contact all former institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

At least every five years, the CCSD's Administrative Assistant shall conduct criminal background checks of current employees, contractors, volunteers, advocates, interns, or any other person who may have contact with an inmate. The PREA Coordinator shall maintain up-to-date information noting that such checks were completed within the time period stipulated.

The CCSD shall ask all employees and applicants who may have contact with inmates about previous sexual misconduct, as described above, in written applications, interviews for hiring, promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees. The CCSD shall also require all staff to disclose any such misconduct. Any material omissions regarding such misconduct shall be grounds for disciplinary action, up to and including termination.

Unless prohibited by law, the CCSD shall provide such information on substantiated allegations of sexual abuse or sexual harassment involving a former employee, upon receiving a request from an employer for whom such employee has applied to work.

4.113 Upgrades to Facilities and Technologies (115.18/.218)

The CCSD shall consider the effect of the design, acquisition, expansion, or modification upon the ability to protect inmates from harm including sexual harassment and/or sexually abusive behaviors when designing or acquiring any new facility or in planning any substantial expansion or modification (including electronic monitoring systems) of the existing facility.

Additionally, the CCSD shall consider how such technology may enhance its ability to protect inmates from sexual harassment and/or sexually abusive behaviors when installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology in any or their facilities.

4.114 Evidence Protocol and Forensic Medical Examinations (115.21/.221)

The CCSD shall follow a uniform evidence protocol which maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. To this end, the CCSD will use as a reference the National Protocol for Sexual Assault Medical Forensic Examinations (Adults/Adolescents, 2nd Edition) and the National Training Standards for Sexual Medial Forensic Examiners (June 2006) manuals to:

- Supplement the CCSD's SHARPP and to meet the PREA Standards
- Provide guidance to the CCSD's investigation and medical staff
- Ensure complete, comprehensive, and thorough sexual assault medical examinations and investigations are completed
- Ensure the needs of victims are being met
- Aid in the development in the CCSD response to victims of sexually abusive behaviors and ensure the accountability and/or persecution of predators

The CCSD shall offer any inmate who experiences sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost. Examinations shall be performed by Sexual Assault Forensic Examiners (SAFE) or Sexual Assault Nurse Examiners (SANE) where possible. If such professionals cannot be made available, the examination can be performed by other qualified medical practitioners. The CCSD staff will document its efforts to conduct such examinations.

It should be noted that the CCSD medical staff does not conduct forensic examinations of any inmate victims of an alleged sexual assault. Sexual assault forensic examinations are undertaken at the local hospital which is staffed with or has access to sexual assault nurse examiners (SANE), if a SANE cannot be made available, the examination can be performed by other qualified medical practitioners. The agency will document its efforts to conduct appropriate examinations. Alleged inmate victims from the CCLEC will be transported to North Central Kansas Medical Center for such examinations, without financial cost.

The CCSD shall investigate all allegations of sexual harassment and/or sexually abusive behaviors involving inmate -on-inmate or an inmate -on-employee, contractor, vendor, volunteer, intern, advocate, or a visitor. The CCSD will triage all in-coming allegations and forward them to the CCSD's PREA Coordinator who shall determine the appropriate investigation avenue in which to address the reported allegation. The PREA Coordinator can either turn the allegation to the Investigator for investigation, retain the allegation and investigate it themselves, or defer the allegation to the Cloud County District Attorney's office for investigation.

After notification of an allegation in which an inmate was the victim of a sexual assault or other sexually abusive behaviors, staff shall immediately take the following actions:

- 1.** Separate and secure the alleged victim from the alleged perpetrator;
- 2.** Notify the Shift Commander, who will then notify the PREA Coordinator, and they will call the investigator;
- 3.** Secure the crime scene;
- 4.** Ensure both the alleged victim and alleged predator do not take any of the following actions which could destroy any potential evidence:
 - a.** Shower, wash-up or clean-up;
 - b.** Brush his/her teeth;
 - c.** Used the toilet;
 - d.** Drink any liquids; or,
 - e.** Change clothing.

5. If appropriate or ordered to do so, escort the alleged victim to the facility medical unit for evaluation and immediate first aid.

6. Complete an Incident Report, prior to the end of shift, detailing his/her involvement/interaction with the alleged victim and/or alleged perpetrator.

Any inmate who reports being a victim of sexual assault, whether at the time of intake, or at any time during his confinement, will be evaluated by a health professional trained in evidence collection and referred to North Central Kansas Medical Center for evidence gathering and treatment, if necessary. The medical and psychological trauma of a sexual assault are minimized as much as possible by prompt and appropriate health evaluation. All such evaluations will be provided free of cost to the client.

The CCSD has entered into a Memorandum of Understanding (MOU) which makes available to the victim an advocate from Domestic Violence Association of Central Kansas (DVACK). DVACK will provide an advocate to accompany and support any victim through medical forensic exams and/or investigation interviews. DVACK will also provide confidential advocacy services including, but not limited to, emotional support, crisis intervention, information, and referrals to victims of sexual assault of all ages.

As requested by the victim, the victim advocate, qualified staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process, investigatory interviews, shall provide emotional support, crisis intervention, information, and referrals.

To the extent the department itself is not responsible for investigating allegations of sexual abuse, the department shall request the investigating agency follow the requirements of paragraphs (1) through (5) of this section.

The requirements of paragraphs (1) through (5) of this section shall also apply to:

- Any State entity outside of the department that is responsible for investigating allegations of sexual abuse in prisons or jails; and
- Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.

4.115 Allegations Referred for Investigations (115.22/.222)

The CCSD shall investigate all allegations of sexual harassment and/or sexually abusive behaviors involving inmate -on-inmate or an inmate -on-employee, contractor, vendor, volunteer, intern, advocate, or a visitor. The CCSD will triage all in-coming allegations and forward them to the CCSD's PREA Coordinator shall determine the appropriate investigation avenue in which to address the reported allegation. The PREA Coordinator can either turn the allegation to the Investigator for investigation, retain the allegation and investigate it themselves, or defer the allegation to the Cloud County District Attorney's office for investigation. If sufficient information or evidence is obtained during the investigation, a disciplinary report shall be issued or referral for criminal prosecution shall be made.

The CCSD shall ensure that an administrative or criminal investigation is completed for all allegations of sexual harassment/abuse utilizing those staff members who have received specialized training in sexually harassment and/or sexually abusive behaviors.

The assigned trained sexual assault investigator shall ensure that all evidence collected at the facility or at any hospital (Sexual Assault Evidence Collection Kit/Rape Kit, etc.) is transported to the CCSD and put into the evidence room as soon as possible. Any evidence needing tested for DNA or other will be sent to the KBI Laboratory as soon as possible. Evidence retained in excess of twenty-four (24) hours (weekends/holidays), shall be properly refrigerated.

Potential witnesses shall be interviewed, in an attempt to gather information, corroborate the victim's statements, and/or to identify any suspect(s). Care should be taken to ensure the safety and security of potential witnesses from retribution or retaliation, and, if necessary and warranted, potential inmate witnesses shall be afforded opportunities for changes in housing assignment, more secure housing, and/or accelerated classification for transfer.

The PREA Coordinator shall ensure that an inmate's risk level is reassessed upon a referral or request for a reported incident of sexual abuse, receipt of additional information that bears on the inmate's risk of sexual victimization, or abusiveness. A new Housing Risk Assessment is to be completed on the inmate predator and/or inmate victim. The new Housing Risk Assessment will be utilized to inform housing, work assignment, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

The CCSD shall request periodic updates on any allegation for investigation referred to an agency, not affiliated, with the CCSD. The PREA Manager and/or the supervisory staff making such referrals shall document such referrals, updates, and the final disposition from the agency conducting the investigation. This information shall be maintained in by PREA Coordinator.

4.116 Employees, Contractors, Advocates, Volunteers, and Intern Training & Education (115.31 & .32/.231 & .232)

The CCSD's PREA Compliance Manager, in consultation with the CCSD's PREA Coordinator, shall develop a comprehensive training curriculum and shall provide ongoing training and education to ensure employees, contractors, advocates, volunteers, and interns are trained and educated regarding their responsibilities to prevent, detect, and respond to reported allegations of sexual harassment or sexually abusive behaviors. In addition, specialized training shall be provided for those employees who respond to and investigate PREA incidents (investigative staff, medical and mental health staff). All training participants shall document, through signature or electronic verification that they have received and understand the training presented. Refresher training for all shall take place every two years to ensure they remain current with the CCSD's SHARPP and PREA standards.

The CCSD Supervisory staff shall ensure anyone who may have contact with inmates receive the following training:

- 1) Zero tolerance of any form of sexual harassment or sexually abusive behaviors towards any inmate, by another inmate or by a staff member, contractor, volunteer, advocate, or intern toward an inmate and their responsibilities and obligations with.
- 2) Responsibilities of ALL relative to the CCSD's SHARPP (in the prevention, detection, and response to all allegations of sexual harassment and sexually abusive behaviors).
- 3) Inmate's rights to be free from sexual abuse and sexual harassment
- 4) The rights of inmates, employees, and contractors to be free from retaliation for reporting any allegations of sexual harassment and/or sexually abusive behaviors.
- 5) The dynamics of sexual abuse and sexual harassment in confinement facility.

- 6) The common reactions/signs of sexual abuse and sexual harassment victims/survivors.
- 7) How to detect and respond to signs of threatened and actual sexual abuse.
- 8) How to avoid inappropriate relationships with inmates.
- 9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex (LGBTI) or gender nonconforming inmates.
- 10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

4.117 Inmate Education (115.33/.233)

During the Intake process, inmate shall receive information explaining the CCSD's zero tolerance policy regarding sexual harassment and/or sexually abusive behaviors and how to report any such allegations and their rights to be free from any such incidents or retaliation for reporting them.

Furthermore, within 30 days of intake, the CCSD shall provide comprehensive education to inmates (normally done during Orientation) either in person or through video regarding their rights to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents, and regarding the department's policies and procedures for responding to such incidents.

The CCSD provides inmate education in formats accessible to all, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well those inmates who have limited reading skills. These inmates shall be identified during the Intake process and shall meet with Supervisory Staff to address their individual needs.

ALL inmate participation in the aforementioned educational trainings (to include Inmate Orientation) shall be documented in each inmate respective case folder.

The CCSD's facility PREA Manager shall ensure educational information regarding the prevention, detection, and response to sexual harassment and/or sexually abusive behaviors (as well as sexual trauma support services) are readily available or visible to

inmates (posters, inmate handbooks, or other written formats) within the facility and/or assigned Housing Unit.

4.118 Investigator's Specialized Training (115.34/.234)

In addition to the general training provided to ALL staff, in accordance with 115.31/.231, the CCSD requires sexual abuse investigators to receive general training at the Kansas Law Enforcement Training Center and specialized training thru the PREA website in the following:

- 1) A comprehensive overview of sexual harassment and sexually abusive investigations in a confinement facility DOJ Prison and Jails and Communitary Confinement Standards, 2013);
- 2) Understanding the DOJ PREA definitions (115.5 & .6);
- 3) Working knowledge and demonstrated competency of evidence protocol and forensic medical examinations (overview of the DOJ's National Protocol for Sexual Assault Medical Forensic Examinations;
- 4) Interviewing alleged victims and alleged perpetrators;
- 5) Miranda and Garrity Warnings';
- 6) Investigation outcomes;
- 7) Administrative investigations and criminal investigations;
- 8) Documentation – forms and process; and,
- 9) Post allegation tracking and monitoring.

The CCSD's PREA Coordinator shall maintain documentation that the investigative staff have completed the required specialized training.

4.119 Medical and Mental Health Care Specialized Training (115.35/.235)

All full and part-time medical and mental health care practitioners who work regularly in the CCSD facility, in addition to the general training provided to ALL staff (in

accordance with 115.31/.231), shall receive specialized training in the following, at a minimum:

- How to detect and assess signs of sexual abuse and sexual harassment;
- How to preserve physical evidence of sexual abuse (this is not inclusive of any evidence obtain through a forensic examination);
- How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and,
- How and to whom to report allegations or suspicions of sexual abuse and sexual harassment – through the CCSD SHARPP Response Plan.

The CCSD's PREA Coordinator shall maintain documentation that medical and mental health practitioners have received the specialized training as required.

4.120 Screening for Risk Victimization and Abusiveness (115.41/.241)

The CCSD shall assess all inmates during their intake screening for their risk of victimization or predatory behaviors. Intake screening shall ordinarily take place within 72 hours of arrival at the facility. Such assessments shall be conducted using an objective screening instrument developed by the Jail Administrator and Sheriff. The intake screening shall consider, at a minimum, the following criteria to assess inmates at risk for sexual victimization:

- Whether the inmate has a mental, physical, or developmental disability;
- The age of the inmate;
- The physical build of the inmate;
- Whether the inmate has previously been incarcerated;
- Whether the inmate's criminal history is exclusively nonviolent;
- Whether the inmate has prior convictions for sex offenses against an adult or child;
- Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex (LGBTI), or gender nonconforming;

- Whether the inmate has previously experienced sexual victimization;
 - The inmate's own perception of vulnerability; and,
- Whether the inmate is detained solely for civil immigration purposes.

Furthermore, the initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence of sexual abuse, as known to the CCSD, in assessing inmates for the risk of being sexually abusive.

Within 30 days from the arrival at the facility, the inmate will be reassessed for their risk of victimization or abusiveness based upon any additional, relevant information received since the intake screening or when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. Inmates shall not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked above.

The CCSD shall control the dissemination within the facility of responses to questions asked during this screening in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates. Such information is on a need-to-know basis only.

4.121 Use of Screening Information (115.42/.242)

The CCSD shall use information from the risk screening (required by 981.20 (115.41/.241) for consideration in the type of facility (male/female), housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive to the extent possible. The CCSD Classification process shall make individualized determinations about how to ensure the safety of each inmate.

In deciding whether to assign a transgender or intersex inmate to a male/female housing unit and in making other housing and programming assignments. The CCSD shall also consider, on a case-by- case basis, whether such placement would ensure the inmate's health and safety, and whether the placement would present management or security problems within the unit of assignment and/or the facility overall. A transgender or intersex inmate's personal view with respect to his/her own safety shall be given serious consideration in the decision-making process as well.

The PREA Manager shall ensure the Supervisory staff reassess housing and programming assignments at least twice each year to review any potential threats to safety of any inmate identified as transgender or intersex. These shall be documented and kept in the inmate's respective case folder.

Transgender and intersex inmates shall be given the opportunity shower separately from other inmates within the housing unit of assignment. This information shall be documented by using the appropriate form and shall be maintained in the inmate's case folder (ATTACHMENT 2)

The CCSD shall not place LGBTI inmates in dedicated units solely on the basis of such identification or status, unless such placement is in a dedicated unit established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

4.122 Protective Custody (115.43)

CCSD inmates at high risk for sexual victimization shall not be involuntarily placed in Restrictive Housing (RH) (formally known as segregation) unless all available housing alternatives have been explored and there are no available and/or alternative means of separation from likely abusers. The CCSD shall conduct such assessments immediately and may hold an inmate involuntarily in RH for less than 24 hours while completing the assessment as a means of ensuring the inmate's safety.

Inmates placed involuntarily in RH for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If restrictions to programs, privileges, education, or work opportunities are imposed, the following shall be documented:

- Which opportunities have been limited;
- The duration of those limitations; and,
- The reasons for such limitations.

Inmates placed involuntarily in Restrictive Housing until an alternative means of separation from likely abusers can be arranged, shall not ordinarily exceed a period of 30 days and shall be reviewed every 30 days thereafter to determine if there is a need to continue the current housing assignment and separation from the general

population. Furthermore, any such housing assignment shall be documented to include the following at a minimum:

- The basis for the departments concerns for the inmate's safety, and
- The reason why no alternative means of separation can be arranged.

4.123 Inmate Reporting (115.51/.215)

The CCSD provides multiple internal ways for inmates to confidentially report sexual harassment, sexually abusive behaviors, and/or retaliation for reporting such allegations, by way of; other inmates or staff, and staff neglect or violation of responsibilities that may have contributed to such.

1. CCSD Internal Report Process:

Inmates may report sexual abuse or sexual harassment allegations to any CCSD staff member, contractor, volunteer, intern, and/or advocate. All reports, whether verbally, in writing, anonymously, and from third parties, shall be documented in writing and forwarded as soon as possible to the facility Shift Supervisor, PREA Manager, or PREA Coordinator by the end of the staff member's shift. The reports shall then be reviewed and forwarded through the CCSD's Investigator.

Inmates may confidentially report any sexual abuse or sexual harassment allegations using the Kiosk in the housing unit using the PREA inquiry tab.

2. CCSD External Reporting Process:

Inmates may confidentially report sexual abuse or sexual harassment allegations using the DVACK or Crime Stoppers Hotline. Using an inmate authorized telephone, the inmate must first choose a language when asked. The inmate will then choose Option 1 for direct pay and then enter 74 to speak with DVACK or 75 to speak with Crime Stoppers.

Additionally, inmates may also report sexual abuse or sexual harassment by writing to:

Jail Administrator: Captain Matthew Nevins

Address: 2090 Fort Kearney St, Concordia, KS 66901

Telephone Number: (785)243-8164

Email Address: MNEVINS@CLOUDCOUNTYKS.ORG

CCSD staff members may also privately report sexual abuse and sexual harassment of inmates to the Crime Stoppers Hotline by dialing 1-800-794-4512 or DVACK by dialing (785)827-5862 or 1-800-874-1499.

3. Third Party Reporting:

The CCSD shall accept any report of an allegation of sexual harassment and/or sexual abuse to any department staff or via a call into the facility. The CCSD's Main Number (785)243-8164. All allegations will be forwarded the CCSD's PREA Coordinator.

4.124 Exhaustion of Administrative Remedies (115.52/.252)

The CCSD does not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual harassment and/or sexual abuse. However, applicable time limits shall be applied to any portion of a grievance which does not allege an incident(s) of sexual harassment or sexual abuse (ATTACHMENT 3).

The department shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

Nothing in this section shall restrict the CCSD's ability to defend against an inmate lawsuit on the grounds that the applicable statute of limitations has expired. The CCSD shall ensure:

- 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
- No grievance shall be referred to a staff member who is the subject of the /grievance/complaint.

A final decision on the merits of any portion of a grievance alleging sexual harassment or sexual abuse shall be issued within 90 days of the initial filing of the

grievance. Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.

The CCSD may impose an extension of time to respond, of up to 70 days, if the normal time-period for response is insufficient to make an appropriate decision. The CCSD shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.

At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level.

Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates.

If a third-party file such a request on behalf of an inmate, the department may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. If the inmate declines to have the request processed on his/her behalf, the CCSD shall document the inmate's decision.

Any inmate who believes he/she is subject to a substantial risk of imminent sexual abuse may file an Emergency Grievance alleging. All such Emergency Grievances shall be provided with an initial response within 48 hours, and a final decision shall be issued within 5 calendar days. The initial response and final decision shall document and what, if any, appropriate measures were taken to address the inmate's concerns of being at risk of imminent sexual abuse.

The CCSD shall discipline inmates who knowingly filing a grievance, in bad faith, related to an allegation of sexual harassment and/or sexual abuse, when it can be clearly demonstrated through an investigation that inmate knowingly filed in bad faith.

4.125 Inmate Access to Outside Confidential Support Services (115.53/.253)

The CCSD inmates with access to outside victim advocates for emotional support services related to sexual abuse. The CCSD has entered into a Memorandum of Understanding (MOU) with Domestic Violence Association of Central Kansas (DVACK). Inmates may confidentially contact, DVACK located in Concordia at 336 W. 5th St. Concordia, KS 66901 or Salina, KS at 148 N Oakdale Ave, Salina, KS 67401. This service is for sexual assault victims/survivors and anyone affected by it of all ages – this may or may not be as an avenue for inmates to report an allegation for investigative purposes.

4.126 Third Party Reporting (115.54/.254)

Any friend and or family member, Third Party of an CCSD inmate may report sexual harassment and/or sexual abuse to:

Jail Administrator: Captain Matthew Nevins

Address: 2090 Fort Kearney St, Concordia, KS 66901

Telephone Number: (785)243-8164

Email Address: MNEVINS@CLOUDCOUNTYKS.ORG

4.127 Staff and CCSD Reporting Duties (115.61/.261)

The CCSD requires all staff to immediately report to the Shift Supervisor, 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 this agency; retaliation against inmates or staff who reported such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Any such reports shall be documented in writing prior to the reporting party leaving at the end of their respective shift.

Staff shall not reveal any information related to any reported allegations of sexual harassment and/or sexually abusive behaviors to anyone other than when necessary to make treatment, investigation, and other security and management decisions.

Unless otherwise precluded by Federal, State, or local laws, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (1)

of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person's statute, the CCSD shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws. Reported allegations of sexual abuse and sexual harassment, including third party and anonymous reports, shall be forwarded to PREA Coordinator.

4.128 CCSD Protection Duties (115.62/.262)

Upon notification, the CCSD staff shall take the necessary and immediate action to protect any inmate from substantial risk of imminent sexual abuse shall take immediate action to protect the inmate. The Shift Supervisor shall be notified of any such action taken relative to any allegation made, as well as, complete a written report being made by staff documenting the actions taken prior to staff leaving shift.

4.129 Reporting to Other Confinement Facilities (115.63/.263)

Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the PREA Coordinator or designee shall notify the head of that facility or appropriate office where the alleged abuse occurred. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The PREA Coordinator or designee shall document that notification was provided (ATTACHMENT 4).

Upon receiving an allegation that an inmate was sexually abused while confined at this facility, the PREA Coordinator or designee shall ensure, to the extent possible, that the allegation is investigated. Request for periodic updates shall be made and documented by the CCSD's PREA Coordinator, and upon completion of the investigation, a request shall be made for the final report.

4.130 Staff First Responder Duties (115.64/.264)

Upon learning of an allegation that an inmate was sexually assaulted, the first responding staff member shall:

1) Responding Staff:

- Notify the Shift Commander;
- Separate the alleged victim from the alleged perpetrator;
- Assess the needs for immediate care or potentially life-threatening or serious injuries;
- Instruct the alleged victim and perpetrator not to wash, drink, shower, brush their teeth, or use restroom;
- Secure the scene;
- Notify PREA Coordinator who will contact investigator;
- Notify a nurse or other health care provider;
- Get the victim seen by medical to determine if a trip to outside hospital for SANE exam; and,
- Ensure all appropriate Incident Reports are written prior to the end of shift.

2) Sexual Assault Investigator:

- Confirm the crime scene is secured;
- Ensure the alleged victim is taken to be seen by medical staff to determine if transportation to outside hospital is needed;
- Collect any evidence, if applicable;
- Interview any witnesses;
- Issue Miranda and Garrity warnings;
- Manage and coordinate all interviews;
- Prepare final investigation report;
- Notify PREA coordinator/manager of outcome of case; and,

- Conduct 90-day retaliation review of victim.

If the First Responder is not a security staff member, the First Responder shall be required to request the alleged victim/perpetrator not take any actions that could destroy physical evidence, and then notify security staff.

4.131 Coordinated Response (115.65/.256)

The fundamental objective of the CCSD is to ensure the safety of all persons, whether it be employees, contractors, volunteers, inmates, or third parties. To this end, it is an integral part of everyone's role with the CCSD to immediately report and respond to all allegations of sexual harassment/sexually abusive behavior in accordance with the assigned duties of each person's respective assigned responsibilities. This institution shall maintain an Emergency Response Plan and sexual assault response kits containing the items necessary to facilitate their response to sexual assault allegations. Response plans shall be maintained in the Control Room, PREA Coordinator's office, the Investigator's office, and Medical Room, and shall contain the following actions:

1. Immediate Response to Sexually Abusive Behavior Allegation:

- a. Immediately notify the Shift supervisor;
- b. Secure the scene, if warranted, for subsequent crime scene processing;
- c. Separate alleged victim and perpetrator;
- d. Ensure that the victim and/or perpetrator do not take any action that would destroy physical evidence (e.g., using restroom, washing, eating, drinking, brushing teeth, changing clothes, etc.);
- e. Immediately escort the inmate victim to the Medical Room for emergency medical care/mental health treatment;
- f. Investigator will receive the reporter's information on what took place. Make note of the behavior and appearance of the inmate(s) involved and identify any witness(es) to the incident; and,
- g. Enter detailed information on an Incident Report before the end of the shift.

2. Medical Response to Sexually Abusive Behavior Allegation:

- a.** Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services. A qualified health care professional shall evaluate and document the extent of the physical injury and provide emergency medical treatment as needed;
- b.** An emergency mental health referral to a mental health professional shall be made following the completion of the medical evaluation;
- c.** Upon completion of the medical and mental health evaluation, the PREA Coordinator/designee, in consultation with medical and mental health personnel, shall determine whether a referral to an outside hospital with a rape crisis unit and SANE program services is warranted. Factors to be considered include, but are not limited to, the time frame between the alleged assault and complaint, as well as the extent and nature of the allegation;
- d.** If the determination is made that the inmate victim should be sent to an outside hospital, and if the inmate victim consents, the inmate victim shall be transported to an outside hospital with a SANE program where he/she shall receive essential medical intervention, including preventative treatment for HIV, sexually transmitted diseases, and pregnancy, if appropriate (at no cost to the alleged victim).
- e.** In the event that the inmate has injuries warranting immediate medical treatment, the inmate will be taken to the local hospital for stabilization before being seen by a SANE nurse for an examination;
- f.** Upon return from the outside hospital, the inmate victim shall be brought to the Medical Room for appropriate follow-up care, including a mental health screening by qualified contractual health care personnel. If, during this screening, there are any indications that the inmate victim is at risk to hurt him/herself or others, a mental health professional shall be immediately notified. Otherwise, the inmate victim shall be seen by a mental health professional within 24 hours, or no later than the next business day, to assess the need for crisis intervention and long-term counseling;
- g.** An inmate victim may be allowed to refuse facility and/or rape crisis intervention treatment at an outside hospital. Before the refusal is accepted, the CCSD's medical and mental health provider shall attempt to encourage the inmate to go to the outside hospital for treatment;
- h.** In cases where the inmate victim continues to refuse treatment, the inmate victim shall sign a Refusal of Treatment form. Provisions shall be made for testing sexually

transmitted diseases (e.g., HIV, gonorrhea, hepatitis) as well as prophylactic treatment, follow-up care and counseling (at no cost to the alleged victim);

i. Once cleared by medical and mental health staff, the PREA Coordinator/designee shall determine an appropriate housing assignment for the inmate victim;

j. Community based victim advocacy services shall be offered to the inmate as part of the SANE examination at the local hospital. The CCSD has entered into a Memorandum of Understanding (MOU) with DVACK to provide these services. Any contracted advocate or community-based advocate assigned shall be coordinated by the PREA Coordinator. The advocate assigned shall accompany and support any victim through medical forensic exams and/or investigatory interviews, informational meetings, and referrals.

k. DVACK services shall be provided at no cost to the alleged victim unless the allegation of being sexually assaulted was done in bad faith and only when determined through the CCSD criminal investigation process.

3. Security Response to Sexual Abusive Behavior Allegations:

a. All reports of sexual activity are to be considered PREA until a full investigation indicates otherwise;

b. Whenever possible, evidence collection shall be conducted by a trained Sexual Assault Investigator prior to the inmate's transport to an outside hospital;

c. Evidence collected at an outside hospital involving allegations of inmate-on-inmate sexually abusive behavior shall be retained by the transporting officer or Investigator. In instances where the alleged perpetrator is a staff member, the local hospital staff shall notify the PREA Coordinator who shall transport any evidence collected to the Investigator.

d. Any staff member receiving such a complaint shall follow CCSD's notification procedures, including the filing of an incident report prior to the end of shift; and,

e. As appropriate, the PREA Coordinator or Investigator shall be notified during normal business hours (Monday-Friday 8:00am – 4:00pm) by telephone. After hours notifications shall be made to the Shift Supervisor.

f. If the PREA Coordinator and/or designee believes a felony may have been committed, he/she in consultation with the Investigator, shall notify the appropriate District Attorney's Office and shall ensure that the CCSD seek assistance and begin a cooperative investigation with that agency. If an inmate's involvement in the alleged sexually abusive behavior is suspected, he/she shall be placed in a secure setting pending investigation.

g. The PREA Coordinator or designee shall ensure that a PREA database case is opened for all investigations and that all appropriate documentation is recorded.

4. Investigation Response to Sexual Harassment/Sexually Abusive Behavior Allegations:

a. The CCSD shall ensure that an administrative or criminal investigation is completed for all allegations of sexual harassment/abuse utilizing those staff members who have received specialized training as it relates to a PREA investigation;

b. The assigned trained sexual assault investigator shall ensure that all evidence collected at the facility or at any hospital (Sexual Assault Evidence Collection Kit/Rape Kit, etc.) is transported to the CCSD as soon as possible. Evidence retained more than 24 hours (weekends/holidays), shall be properly refrigerated;

c. Potential witnesses shall be interviewed to gather information, corroborate the victim's statements, and/or to identify any suspect(s). Care should be taken to ensure the safety and security of potential witnesses from retribution or retaliation, and, if necessary and warranted, potential inmate witnesses shall be afforded opportunities for changes in housing placement, more secure housing, and/or accelerated classification for transfer; and,

d. If sufficient information or evidence is obtained during the investigation, a disciplinary report shall be issued.

5. Classification Response to Sexual Harassment/ Sexually Abusive Behavior Allegations:

The PREA Coordinator and/or designee shall ensure that an inmate's risk level is reassessed upon a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. A

new Inmate Housing Risk Assessment is to be completed on the inmate predator and/or inmate victim. The new Inmate Housing Risk Assessment will be utilized to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

4.132 Protecting Inmates from Contact with Abusers (115.66 /.266)

The CCSD's supervisory staff shall remove alleged staff sexual abusers from contact with any inmate's pending the outcome of an investigation or if a determination of whether and to what extent discipline is warranted.

Nothing shall restrict the creation or the modification of policies which govern:

- The conduct of the disciplinary process, as long as such policies are not inconsistent with the provisions of 115.72/.272 or 115.76/.276.
- Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

4.133 Protection Against Retaliation (115.67/.267)

The CCSD protects all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff. The PREA Coordinator or designee are responsible for monitoring and/or investigating any allegations of reports of retaliation.

The CCSD employs multiple protection measures, such as housing changes or transfers 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, sexual harassment, or for cooperating with investigations.

For at least 90 days following a report of sexual abuse, the PREA Coordinator and/or designee shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who reported to have suffered sexual abuse to see if there

are changes that may suggest possible retaliation by inmates or staff and shall act promptly to remedy any such retaliation. Items to be monitored include, but not limited to any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments by staff. Monitoring will continue beyond 90 days if the initial monitoring indicates a continuing need. The documentation of monitoring for retaliation (inmate and or staff) must be recorded and must be kept in the investigative file (ATTACHMENT 5).

If any other individual who cooperates with an investigation expresses a fear of retaliation, the department shall take appropriate measures to protect that individual against retaliation and shall document its efforts to do so.

The obligation to monitor for retaliation shall terminate if the department determines, through the investigation process, the allegation is Unfounded.

4.134 Post-allegation Protective Custody (115.68)

Any use of Restrictive Housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of 115.43.

4.135 Criminal and Administrative Investigations (115.71/.271)

The CCSD shall conduct its own investigations into all allegations of sexual abuse and sexual harassment and shall ensure that such investigations are done so promptly, thoroughly, and objectively, including third party and anonymous reports.

Where inmate -on-inmate or staff-on-inmate sexual abuse is alleged, CCSD shall only use investigators who have received specialized training in sexual abuse investigations pursuant to 115.34, or when warranted, by the Cloud County District Attorney's Office. The PREA Coordinator, in consultation with the Investigator will review the allegations and make the appropriate referral for investigation.

Investigator 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.

When the quality of evidence appears to support criminal prosecution, the investigator shall conduct compelled interviews, only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

The credibility 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. No agency shall 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.

Investigations:

- Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and,
- 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.

Criminal Investigations:

- Shall be documented in a written report that contains a thorough description of evidence and attaches copies of all documentary evidence where feasible.
- Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

The CCSD shall retain all written reports referenced in paragraphs (6) and (7) of this section for as long as the alleged abuser is incarcerated or employed by the department, plus five years.

The departure of the alleged abuser or victim from the employment or control of the CCSD shall not provide a basis for initiating or terminating an investigation.

Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

When outside agencies investigate sexual abuse, the CCSD shall cooperate with outside investigators and shall endeavor to remain informed about the progress and final determination of the investigation. All efforts in this regard shall be documented and maintained by the PREA Coordinator or designee. The inmate shall remain updated on the progress and final conclusion of any such investigation and these updates shall be documented as well.

4.136 Evidentiary Standard Administrative Investigations (115.72/.272)

The CCSD shall not impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

4.137 Reporting to Inmates (115.73/.273)

Following an investigation into an inmate's allegation that he/she suffered sexual abuse at the facility, the CCSD shall inform the inmate as to whether the allegation has been determined to be Substantiated, Unsubstantiated or Unfounded.

If the CCSD did not conduct the investigation, it shall request the relevant information from the investigative agency to inform the inmate and shall document the efforts made to do so.

Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate whenever:

- The staff member is no longer permitted within the inmate's housing unit;
- The staff member is no longer employed by the CCSD;
- The CCSD learns that the staff member has been indicted on a charge related to sexual abuse within the facility; and,
- The CCSD learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Following an inmate's allegation that he/she was sexually abused by another inmate the agency shall subsequently inform the alleged victim whenever:

- The CCSD learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; and,
- The CCSD learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

The obligation to report shall be done by indicating any of the applicable options stated above (attachment 6) and shall terminate if the inmate is released from the CCSD's custody.

4.138 Disciplinary Sanctions for Staff (115.76/.276)

Staff shall be subject to disciplinary sanctions up to and including termination for violating the CCSD's zero tolerance towards sexual harassment and/or sexually abusive behavior (SHARPP) involving any of the inmates in the custody of the CCSD. Termination shall be the presumptive disciplinary sanction for staff who engaged in sexual abuse.

Disciplinary sanctions for violating CCSD's SHARPP relating to sexual abuse or sexual harassment shall be commensurate with the nature and circumstance of the acts committed, the staff member's disciplinary history and the sanctions imposed for comparable offenses by other staff with similar history.

All terminations for violation of department sexual abuse or sexual harassment policies, 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.

4.139 Corrective Action for Contractors, Interns, Volunteers and or Advocates (115.77/.277)

Any contractor, intern, volunteer and/or advocate who engages in sexual harassment and or sexually abusive behaviors towards inmates in the care, custody and control of the CCSD shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

The CCSD shall take appropriate remedial measures and shall consider whether to prohibit further contact with inmates, in the case of any other violation of CCSD SHARPP by contractors, interns, volunteers, and or advocates.

4.140 Disciplinary Sanctions for Inmates (115.78/.278)

Inmates shall be formally disciplined following an administrative finding that the inmate engaged in inmate -on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.

Sanctions 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. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed.

The CCSD may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact. As such, allegations shall be considered for referral to the Cloud County District Attorney's Office for possible prosecution.

For the purpose of disciplinary action, a report of alleged sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

However, any inmate who knowingly makes a false allegation of sexual harassment and or sexually abusive behaviors shall be subject to disciplinary actions.

The CCSD prohibits all sexual activity between inmates

and shall discipline inmates for such activity ("Consensual, but Unauthorized"). The department may not, however, deem such activity to constitute sexual abuse if it determines that the activity was consensual between the two inmates.

4.141 Medical and Mental Health Screenings: History of Sexual Abuse (115.81)

If during an Intake screening process, (pursuant to 115.41) staff determine that an inmate has experienced prior sexual victimization or was a perpetrator of sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the Intake screening. All Intake screening and any follow-up meetings shall be documented. Additionally, PREA or designee shall be notified and shall maintain an up-to-date list of victims and perpetrators, by facility, and continue to monitor both groups throughout their respective stays.

Any information related to sexual victimization or abusiveness which occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans, security, and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State or local law.

Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.

4.142 Access to Emergency Medical and Mental Health Services (115.82/.282)

Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to the professional judgment.

If no qualified medical or mental health practitioners are available at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to §115.62 and shall immediately notify the appropriate medical and mental health practitioners.

Inmate victims of sexual abuse while incarcerated shall be offered timely information and time access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, when medically appropriate. Treatment services shall be 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 alleged incident.

4.143 Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers (115.83/.283)

The CCSD offers medical and mental health evaluations and, as appropriate, treatment to all inmates who have been victimized by sexual abuse or inmates of who have perpetrated sexual abuse in any prison, jail, lockup or juvenile facility. Each inmate victim or perpetrator shall be individually assessed. All such assessments shall be documented.

The evaluation and treatment of such victims shall 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. Medical and mental health services provided shall be consistent with the community level of care. All such care shall be documented. Inmate victims/perpetrators of sexual abuse, while incarcerated, shall be offered tests for sexually transmitted diseases, at no cost, and as medically appropriate.

The CCSD shall conduct a mental health evaluation of all known inmate -on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners. All such treatment shall be documented.

4.144 Sexual Abuse Incident Reviews (115.86/.286)

The CCSD has established a PREA committee comprised of the PREA Coordinator, PREA Manager, Investigator, medical, and/or mental health practitioners. The PREA committee shall conduct monthly, documented meetings to assess site specific sexual harassment/abuse issues and ensure compliance with DOJ PREA standards and SHARPP. The committee's activities are to be overseen by the PREA Coordinator, in conjunction with input from the PREA Manager.

This committee shall also include a sexual harassment /abuse incident review at the conclusion of all substantiated and unsubstantiated investigations. Investigations which result in a determination of "unfounded" do not need to be formally reviewed as part of the aforementioned incident review meeting. These Incident reviews shall ordinarily occur within 30 days of the conclusion of the investigation. The date of the conclusion of an investigation is the date the PREA Coordinator/designee enters the official outcome of the investigation.

Review Team Responsibilities:

- a.** Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual harassment/abuse;
- b.** Consider whether the incident or allegation was motivated by race, ethnicity, gender identity, sexual orientation, transgender, or intersex (LGBTI) identification status or perceived status, gang affiliation, or whether the incident was motivated or otherwise caused by other group dynamics at the institution;
- c.** Examine where the incident allegedly occurred to assess whether physical barriers in the area may have enabled the incident;
- d.** Assess the adequacy of staffing levels where the incident allegedly occurred during various shifts;
- e.** Assess whether monitoring technology should be deployed or enhanced to supplement supervision by staff; and,
- f.** Document the review process. The committee shall document its findings, including, but not limited to, determinations made pursuant to the above and any recommendations for improvement. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so.

4.145 Data Collection (115.87/.287)

The CCSD collects accurate, uniform data for every allegation of sexual harassment/abuse at its facility. The CCSD's PREA Coordinator shall aggregate the incident-based sexual abuse data at least annually and submit a report to the DOJ as required using the uniform data collected. The incident-based data collected shall include, at a minimum, the data necessary to answer all inquiries and or surveys by the DOJ.

The CCSD maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. Upon request, the PREA Coordinator shall provide all such data from the previous calendar year to the DOJ no later than June 30.

4.146 Data Collection for Corrective Action (115.88/.288)

On an annual basis, the PREA Coordinator and Manager shall review data collected and aggregated pursuant to 115.87 in order to assess and improve the effectiveness of SHARPP, training in its efforts in the prevention, detection, and response to all allegations of sexual harassment and sexually abusive behaviors to include:

- Identifying problem areas;
- Initiating ongoing corrective action, if needed; and,
- Preparing an annual report of its findings and corrective actions for each facility, as well as the CCSD as a whole (ATTACHMENT 9).

Additionally, the PREA Coordinator shall prepare an Annual PREA Report, which shall include a comparison to the previous year and an assessment of progress in addressing sexual misconduct in its facility. This report shall be approved by the Sheriff and made readily available to the public via the CCSD's website. Any redactions to the public report shall be limited to specific materials where publication would present a clear and specific threat to the safety and security to the CCSD facility, and/or the confidentiality of the alleged victims and/or perpetrators.

4.147 Data Storage (115.89/.289)

The CCSD shall ensure any data collected before, during, and after any investigation into an allegation of sexual harassment and/or sexual abusive behaviors is securely retained and only shared with individuals, facilities, and/or agencies, on a "need to know basis."

The CCSD shall make all aggregated sexual harassment/abuse data from the facility and any private facilities with which it contracts with to house CCSD inmates, readily available to the public at least annually through the CCSD's website. Before making aggregated sexual harassment/abuse data publicly available, the Department shall remove all personal identifiers.

The CCSD shall maintain collected sexual harassment/abuse for at least ten (10) years after the date of the initial collection. Destruction of any records shall be done in accordance with the latest Kansas Statewide Records Retention Schedule.

4.148 Audits of Standards (115.93/.293)

The CCSD shall conduct DOJ PREA audit (pursuant to 115.401 through 115.405) every three years for its facility.

4.149 Auditing and Corrective Action 115.401

During its auditing cycle, the CCSD shall ensure its facilities adhere to the following:

- Each facility is audited within a three-year period;
- The CCSD shall utilize the DOJ's audit instruments as a means of providing guidance relative to the conduct of and contents of the DOJ PREA audit;
- The CCSD shall bear the burden of demonstrating compliance with the standards as outlined in the Prisons and Jail and Community Confinement Standards (28 C.F.R. Part 115);
- The CCSD shall, at a minimum, provide a sampling of relevant document, policies, and other records and information for the most recent one-year period;
- The CCSD shall make available for interviews a representative sample of inmates, volunteers, intern, contractors, supervisors, and administrators on each shift. All such interviews conducted by the auditor shall be permitted to be conducted in private.
- Prior to the actual on-site part of the DOJ audit process, inmates shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

4.150 Auditor Qualifications 115.402

In entering into a contract for a DOJ PREA audit, the CCSD shall ensure the auditor selected to conduct the facility audits is:

- A member of a correctional monitoring body that is not part of, or under the authority of the department (but may be part of, or authorized by, the relevant state or local government);

- A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the agency; or,
- Other outside individuals with relevant experience.

All auditors shall be certified by the DOJ. The Department of Justice shall develop and issue procedures regarding the certification process, which shall include training requirements. Verification of such training and or certification can be made through the DOJ's PREA Resource Center website.

No audit will be conducted by an auditor who has received financial compensation from the CCSD (except for compensation received for conducting prior PREA audits) within the three years prior to the retention of the auditor by the CCSD.

The CCSD shall not employ with, contract with, or otherwise financially compensate the auditor for three years subsequent to the CCSD's retention of the auditor, with the exception of contracting for subsequent PREA audits.

4.151 Audit Contents and Findings 115.403

The CCSD shall ensure that each audit include a certification by the auditor that no conflict of interest exists with respect to his/her ability to conduct an audit of the CCSD. The audit reports shall also state whether CCSD's SHARPP and other policies and procedures comply with relevant PREA standards.

For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds standard (substantially exceeds requirement of standard); Meets standard (substantial compliance, complies in all material ways the standard for the relevant review period); Does not meet standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.

Audit reports should describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.

The CCSD shall ensure the DOJ auditor redacts any personally identifiable inmate or staff information from their reports, but shall provide such information to the CCSD upon request, and may provide such information to the Department of Justice, if requested.

The CCSD will ensure that the auditor's final report is published on its website, if it has one, or is otherwise made readily available to the public.

4.152 Audit Corrective Action Plan 115.404

In the event that a finding of "does not meet standard" with one of more standards in one or more of the CCSD's facilities, a 180-day corrective action period shall be imposed. The auditor and the CCSD's PREA Coordinator shall jointly develop a corrective action plan to achieve compliance during this period of corrective action. The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility. After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action. Should the CCSD not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

4.153 Audit Appeals 115.405

The CCSD has the right to lodge an appeal with the DOJ regarding any specific audit finding which it believes to be incorrect. Any such appeal shall be lodged within 90 days of the auditor's final determination. Should the DOJ determine that the CCSD has stated good cause for a re-evaluation, the CCSD may commission a re-audit by an auditor mutually agreed upon by the Department and the agency. The agency shall bear the costs of this re-audit. The findings of the re-audit shall be considered final.

4.154 Review Date

These regulations shall be reviewed annually from the effective date.

4.155 Severability Clause

If any article, section, subsection, sentence, clause or phrase of 103 CCSD 981.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the

authority of the Sheriff or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of this policy.