Chapter: Personnel

SUBJECT: Internal Affairs Investigations

REFERENCE: WV Minimum Jail Standards 95CSR1, 4.10;
Policy and Procedure statement 3052, Prevention and Intervention of Inmate Sexually Abusive behavior and Staff Sexual Misconduct;
Policy and Procedure statement 9036, Evidence / Contraband Handling and Disposal;
National PREA Standards, 28CFR Part 115, 2012

CANCELLATION: Policy and Procedure Statement Number 3036, dated 15 May 1997.

POLICY: During the course of normal operation of regional jails, the need for the conduct of internal affairs investigations will arise from time to time. Such need may result from the occurrence of unusual incidents or allegations of inappropriate or illegal conduct of inmates or staff, such as: any incident involving the use of force, any allegations of staff sexual misconduct, any allegations of inmate-on-inmate sexual abuse, any incidents where a person needs medical attention, or any incidents that have to be reported to an outside agency.

The Chief of Internal Affairs or the designee will investigate all reported allegations from other agencies to include Court Complaints, Attorney Complaints and Lawsuits to include all Legal Allegations filed against the WVRJA.

When **Intent to Sue** or **Official Suit** is received by the Central Office the identified Jail Administrator will be notified for an official response within 5 working days back to Legal Services at the Central Office.

PROCEDURE A: General

1. Each employee of the Authority has an affirmative duty to report unusual incidents and/or allegations of inappropriate or illegal conduct of inmates or staff to the Administrator, and Chief of Internal Affairs.

a. Incident Reports are not to be sent to the Internal Affairs division if the matter can be handled within the jail.

b. Only reports that need to be further reviewed should be sent to the Internal Affairs unit.

c. It is the Lieutenants job to review and determine what reports should be sent to the Internal Affairs Unit.

d. The designated Facility PREA Compliance Officer will field all grievances and allegations of inmate-on-inmate sexual abuse. All observed inmate sexual abuse and Staff sexual misconduct allegations will be immediately reported to the Chief of Operations and Chief of Internal Affairs for investigation.

2. Upon notification of such allegations, the Chief of Internal Affairs will provide further direction regarding the process of the investigation.

3. Depending upon the seriousness of the allegation or incident, the Chief of Internal Affairs or designee shall conduct an investigation regarding the facts and circumstances of the allegations within a reasonable time.

4. If the Chief of Internal Affairs designates a staff member to complete the investigation, said staff member shall submit his or her findings to the Chief of Internal Affairs within a time period specified by the Chief of Internal Affairs. The Chief of Internal Affairs shall review the findings and report actions taken on minor matters to the Executive Director/Deputy Director or designee.

5. If the Chief of Internal Affairs conducts the investigation, he or she shall do so in a timely manner and report the findings of the investigation to the Executive Director/Deputy Director or designee.

6. Any staff member interviewed during the investigation, internal or otherwise, will not discuss, record, or indicate to anyone the facts or

circumstances of said investigation, unless required by a designated investigator.

7. Any staff member questioned by a designated investigator is required to provide relevant, truthful and complete information. Failure to do so will result in disciplinary action, up to and including dismissal.

8. Depending upon the severity of the allegation against a staff member, said staff member may be placed on non-disciplinary suspension from duty, without pay, for a period of time pending the outcome of an investigation of said allegations.

    a. The purposes of said non-disciplinary suspension is to preserve the integrity of the investigation, protect the accused from further allegations, protect the accuser from retaliation or retribution, and protect the security of the facility, staff, inmates and the general public.

    b. If allegations for which a staff member is suspended without pay are found, through investigation, to be groundless, the staff member will be reinstated to duty with reimbursement for wages lost as a result of the suspension.

    c. If the allegations for which a staff member is suspended are found to be true, or any evidence of wrong doing is proven during an investigation, the staff member will be subject to disciplinary action based upon the investigation results, up to and including dismissal from employment. The presumptive disciplinary action for substantiated Staff sexual misconduct with inmates will be immediate dismissal.

9. If during the course of an investigation the investigating officer determines that an unlawful act has been committed, they will immediately contact the Chief of Internal Affairs with their findings, and await further instructions. It will be the responsibility of the Chief of Internal Affairs or designee to notify the appropriate authority and to forward all information to that authority for review and disposition, unless otherwise specified in this policy.

PROCEDURE B: Allegations of Sexual Abuse

1. All allegations of sexual misconduct, including third-party and anonymous reports, will be taken seriously and investigated thoroughly by trained investigators.
    a. When available, the agency will make every attempt to provide specialized training to investigators tasked with conducting such investigations.

2. Upon learning that an inmate was sexually abused within a time period that still allows for the collection of physical evidence, generally up to 96 hours, the first security staff member to respond to the report shall be required to;
    a. Ensure the victim's safety, ensure the alleged victim and the aggressor are physically separated;
    b. Ensure that the victim is immediately escorted to the facility's medical unit; All victims of sexual abuse shall be provided access to forensic medical examinations;
    c. Attempts should be made to preserve any evidence such as discouraging the victim from showering, eating, brushing teeth, or drinking until after evidence collection;
    d. If the first staff responder is not a security staff member, the responder shall request the victim not to take any actions that could destroy physical evidence, and immediately notify security staff.

3. The Administrator shall immediately notify the Chief of Operations and Chief of Internal Affairs. An agency investigator will ensure protocol is followed to investigate the sexual abuse, misconduct or assault.

4. The WV State Police will be notified immediately of observed sexual abuse, and requested to begin a criminal investigation.

5. The agency Investigator and the WV State Police shall work together with local County Prosecutors to ensure appropriate criminal prosecution of sexual abuse and staff sexual misconduct.

6. The WV State Police and the agency Investigator will typically conduct separate interviews of the alleged perpetrator. If requested by the victim, a Rape Crisis Center advocate or qualified agency

staff member shall be permitted to sit in on any investigatory interviews or forensic medical examination process of the inmate victim.

7. The agency Investigator and the WV State Police shall work together with local County Prosecutors to ensure appropriate criminal prosecution of sexual abuse and staff sexual misconduct.

8. The departure of the alleged abuser or victim from the employment or control of the Regional Jail Authority shall not provide a basis for terminating an investigation.

9. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

10. 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 inmate who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

11. Written reports shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

12. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the alleged inmate-on-inmate sexual abuse.

13. Should the alleged perpetrator be a staff member, that staff member will be immediately placed on non-punitive, non-disciplinary suspension pending the outcome of the internal and criminal investigations.
    a. Where evidence suggests that such actions took place by a staff member, his/her employment will be terminated immediately.
    b. All terminations for violations of sexual abuse / harassment policies, or resignations by staff that would have been

terminated if not for their resignation, shall be reported to law enforcement agencies, unless the act was clearly not criminal.

14. Protection of witnesses and the victim shall be paramount throughout the investigation process.

PROCEDURE C:

1. A report of investigation shall be completed by the designated Investigator, At a minimum, the report shall contain:

    a. **ROI NUMBER** (Report of Investigation): The Chief of Internal Affairs or designee will maintain a log of, and assign all reports of the investigation numbers. Beginning with the first day of the calendar year, assign a sequence number beginning with the number of the month (e.g. 02 for February), the calendar year (e.g.2013), the three or four letter facility abbreviation (e.g. SRJ for Southern Regional Jail or NCRJ for North Central Regional Jail, and a four number sequence beginning with the first report of the calendar year (e.g. 0001). This log will also contain the name of the investigating officer assigned, subject of investigation, and investigation status.

    b. **INCIDENT TYPE:** Enter the description of the incident. (e.g. Use of Force, Contraband, etc.)

    c. **INVESTIGATION STATUS:** Complete or pending. This will require updates to the Chief of Internal Affairs as the investigation progresses.

    d. **INCIDENT LOCATION:** The specific location where the incident occurred.

    e. **INCIDENT DATE:** Day, month, year and time of incident occurrence (e.g. 25 Dec 95, 1800 hrs. to 1830 hrs.).

f. **DATE AND TIME OF INCIDENT/REPORTED:** The date and time of the incident was reported to proper authority, to include month, day, year, and hour.

g. **VICTIM DATA:** The name of the individual or institution suffering a loss, damage, or injury, and all available videos and photographs (if applicable).

h. **SUBJECT OF INVESTIGATION:** A description of the alleged incident, to include any violation of law or policy involved.

i. **ACCUSED/SUSPECT:** Complete physical description to include inmate/employee identification numbers and criminal history, and all available videos and photographs (if applicable).

j. **ACTION TAKEN:**

1) What information was reported to the Officer by the Complainant, witness, and/or victim.

2) What physical evidence was collected and its disposition.

3) A written narrative identifying statements, facts and information obtained throughout the investigation.

k. **WTINESS:** Names, addresses, and telephone numbers of all persons involved in, or witness to the incident, and to what each has the ability to testify to (if applicable)

l. **ATTACHMENTS:** Written statements, transcripts, logs, incident reports, or other documents relevant to the investigation.

1) Statements: The investigator may obtain a signed written statement from any or all persons having knowledge relevant to the investigation.

2) If needed, a taped interview may be conducted.

m. **EVIDENCE:** Evidence will be documented by a written description of items collected that are relevant to the investigation. A complete description of items collected to include location where discovered, quantity, time and date obtained, and from whom received and/or delivered to. All obtained evidence will be properly secured, identified, and maintained by the investigator pending the completion of the investigation.

n. **CONCLUSION:** At the end of every investigation there will be a conclusion written as to what the facts are. Every person(s) involved will need to be identified along with the Policy and Procedures that they have violated.

o. **SIGNATURE:** Signature of staff member completing investigation.

PROCEDURE C: Supplementary Report

1. A supplementary report shall be written anytime information is received that will modify, change, or alter previous information submitted in an earlier report.

3/22/13
Effective Date

Joe DeFony
Executive Director