

Lorain/Medina Community Based Correctional Facility

Prison Rape Elimination Act- Investigation Referral & Process

Effective Date: 11/5/13

PREA # 115.222

a. The agency will ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. b. The agency will have in place a policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency will publish such policy on its website or, if it does not have one, make the policy available through other means. The agency will document all such referrals. c) If a separate entity is responsible for conducting criminal investigations, such publication will describe the responsibilities of both the agency and the investigating entity. d) Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities will have in place a policy governing the conduct of such investigations. e) Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities will have in place a policy governing the conduct of such investigations.

PREA # 115.263

a. Upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation will notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. b. Such notification will be provided as soon as possible, but no later than 72 hours after receiving allegation. c. The agency will document that it has provided such notification. d. The facility head or agency office that receives such notification will ensure that the allegation is investigated in accordance with these standards.

Reviewed: 10/29/13

Revised:

Approved By:

Policy

It is the policy of the Lorain/Medina C.B.C.F. that the facility completes an administrative or criminal investigation for all allegations of sexual abuse and sexual harassment.

Procedures

The Lorain/Medina C.B.C.F. upon receipt of either verbal or written reporting of a sexual harassment or sexual abuse allegation, the facility will conduct an administrative investigation. If the allegation involves potentially criminal behavior, it is referred to the legal authority having jurisdiction, the Lorain County Sheriff's Department, for criminal investigation.

The facility publishes the policy governing the conduct of the administrative investigation, as well as the referral process for criminal investigations. Publication of the policy governing the conduct of the criminal investigation is the responsibility of both the facility and the Lorain County Sheriff's Department.

Any State or Department of Justice entity responsible for conducting administrative or criminal investigations of sexual

abuse or sexual harassment for this facility will have in place a policy governing the conduct of such investigations.

Administrative Investigation:

1. Non-consensual sexual contact and threats of sexual abuse; and attempted and completed sexual abuse will be administratively investigated by the designated facility investigator.

All reports of sexual misconduct, that does not involve potentially criminal behavior are investigated. Any reports of retaliation are also investigated. All findings are documented in writing.

Criminal Investigation:

1. All allegations of sexual misconduct that involves potentially criminal behavior is referred to the Lorain County Sheriff's Department for a criminal investigation.

All referrals to the Lorain County Sheriff's Department are documented by the PREA Investigator.

Upon receiving an allegation that a resident was sexually abused while confined at another facility, the Lorain/Medina C.B.C.F. will notify the head of the facility or appropriate office of the agency where the alleged abused occurred. Such notification will be provided as soon as possible, but no later than 72 hours after receiving the allegation. The Lorain/Medina C.B.C.F will document that it has provided such notification. The facility head or agency office that receives such notification will ensure that the allegation is investigated in accordance with these standards.

Lorain/Medina Community Based Correctional Facility

Prison Rape Elimination Act-Criminal & Administrative Investigations

Effective Date: 3/17/14

PREA # 115.271

a) When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it will do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. b) Where sexual abuse is alleged, the agency will use investigators who have received special training in sexual abuse investigations pursuant to 115.234. c) Investigators will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; will interview alleged victims, suspected perpetrators, and witnesses; and will review prior complaints and reports of sexual abuse involving the suspected perpetrator. d) When the quality of evidence appears to support criminal prosecution, the agency will conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. e) The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as resident or staff. No agency will require a resident 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. f) Administrative investigations: 1. will include an effort to determine whether staff actions or failures to act contributed to the abuse; and 2. will 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. g) Criminal investigations will be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. h) Substantiated allegations of conduct that appears to be criminal will be referred for prosecution. i) The agency will retain all written reported referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. j) The departure of the alleged abuser or victim from the employment or control of the facility or agency will not provide a basis for terminating an investigation. k) Any State entity or Department of Justice component that conducts such investigations will do so pursuant to the above requirements. l) When outside agencies investigate sexual abuse, the facility will cooperate with outside investigators and will endeavor to remain informed about the progress of the investigation.

PREA # 115.272

The agency will impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

PREA # 115.273

a) Following an investigation into a resident's allegation of sexual abuse suffered in an agency facility, the agency will inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. b) If the agency did not conduct the investigation, it will request the

PREA # 115.273 (continued)	<p>relevant information from the investigative agency in order to inform the resident.</p> <p>c) Following a resident's allegation that a staff member has committed sexual abuse against the resident, the agency will subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:</p> <ol style="list-style-type: none"> 1. The staff member is no longer posted within the resident's unit; 2. The staff member is no longer employed at the facility; 3. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or 4. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. <p>d) Following a resident's allegation that he or she has been sexually abused by another resident, the agency will subsequently inform the alleged victim whenever:</p> <ol style="list-style-type: none"> 1. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or 2. The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. <p>e) All such notifications or attempted notifications will be documented;</p> <p>f) An agency's obligation to report under this standard will terminate if the resident is released from the agency's custody.</p>
Reviewed: 10/29/13	
Revised:	Approved By:

Policy

It is the policy of the Lorain/Medina C.B.C.F. that facility has policies and procedures which governs its criminal and administrative investigations.

Procedures

Where sexual abuse is alleged, the facility will use investigators who have received special training in sexual abuse investigations pursuant to 115.234. The Lorain/Medina C.B.C.F. imposes no standard higher than a preponderance of the evidence in determining whether allegations of sexual harassment or sexual abuse are substantiated. Once an allegation of sexual abuse is determined to be substantiated by internal investigators, the Lorain County Sheriff's Department will be contacted to take over the remainder of the investigation following investigator/evidence protocols as outlined in the PREA Uniform Evidence and Investigation Protocol- Appendix A. The Lorain County Sheriff's Department's investigators conducting such investigations have received training in conducting investigations in community confinement settings.

The Lorain County Sheriff's Department conducts investigations into substantiated sexual abuse allegations and does so in pursuant to the minimum PREA standard requirements. The Lorain/Medina C.B.C.F. cooperates fully with the Lorain County Sheriff's Department investigators and will remain informed about the progress of the investigation.

Investigators from the Lorain County Sheriff's Department will:

- a. Gather and preserve direct and circumstantial evidence;
- b. Any available physical and DNA evidence;
- c. Any available electronic monitoring data;
- d. Interview alleged victims, suspected perpetrators, and witnesses; and
- e. Review prior complaints and reports of sexual abuse involving the suspected perpetrator.

The designated victim support person may consult with the investigator on the case and offer assistance as is appropriate based on their training. With the victim's consent, the victim support person may sit in on administrative

interviews with the resident. The victim support person may not obstruct or interfere in the course of the investigation. In addition, the victim support person may accompany the victim to Nord Rape Crisis Center or hospital emergency room through the forensic medical examination process and may provide emotional support, crisis intervention, information, and referrals.

When the quality of evidence appears to support criminal prosecution, the Lorain County Sheriff's Department will 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 will be assessed on an individual basis and will not be determined by the person's status as resident or staff.

The Lorain/Medina C.B.C.F., nor the Lorain County Sheriff's Department will require a resident 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.

Administrative investigations, conducted by the facility will:

- a. When the facility conducts its own investigations into allegations of sexual harassment and abuse, it will do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
- b. Include an effort to determine whether staff actions or failures to act contributed to the abuse;
- c. Will be documented in written reports that includes a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

Criminal investigations, conducted by the Lorain County Sheriff's Department:

- a. Will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence;
- b. Will interview alleged victims, suspected perpetrators, and witnesses; and will review prior complaints and reports of sexual abuse involving the suspected perpetrators;
- c. Will be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and where feasible, all documentary evidence is attached;
- d. Once determined to be a substantiated allegation of conduct that appears to be criminal will be referred for prosecution.

The Lorain/Medina C.B.C.F. will retain all written reports referenced in the above paragraphs of this policy and procedure for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. The departure of the alleged abuser or victim from the employment or control of the Lorain/Medina C.B.C.F. will not provide a basis for terminating an investigation.

Procedures and Investigation of an Alleged Attempted or Completed Recent Sexual Abuse:

- a. If the alleged attempted or completed sexual abuse is recent, as defined by the PREA Uniform Evidence and Investigation Protocol- Appendix A should be followed, unless directed otherwise by the Lorain County Sheriff's Department investigators.
 1. The investigator or facility staff member will place the alleged resident abuser in isolation until the investigation is complete, unless other circumstances require the transfer or other placement of the alleged abuser. If the alleged abuser is an employee, Administration will determine whether the employee should be placed on administrative

leave. During the course of the investigation, the victim and the alleged aggressor will remain separated.

1. The investigator or facility staff member will secure the crime scene.
2. Nord Rape Crisis Center or emergency hospital room medical personnel will conduct an examination for the presence of physical trauma and perform follow-up testing for sexually transmitted diseases and pregnancy testing, as appropriate. Medical services will refer the resident to mental health services through Nord Rape Crisis for evaluation and counseling and offer the resident appropriate prophylactic treatment for sexually transmitted diseases.

Procedures and Investigation of an Alleged Attempted or Completed Sexual Abuse that is Not Recent

a. If the alleged attempted or completed sexual abuse is not reported or discovered within a time frame to consider the incident as recent, as defined by the PREA Uniform Evidence and Investigation Protocol- Appendix A, the requirements Appendix A will be followed unless directed otherwise by the Lorain County Sheriff's Department Investigators.

1. The investigator or facility staff member will secure the crime scene, if feasible. The alleged abuser, if known, will be placed in isolation while under investigation.
2. Nord Rape Crisis Center or emergency hospital room medical personnel will conduct an examination for the presence of physical trauma and perform follow-up testing for sexually transmitted diseases and pregnancy testing, as appropriate. Medical services will refer the resident to mental health services through Nord Rape Crisis for evaluation and counseling and offer the resident appropriate prophylactic treatment for sexually transmitted diseases.
3. Priority medical/forensic treatment and provision of care to the sexual abuse victim will always be provided regardless of when the sexual abuse occurred. If it is within 96 hours (4 full days) after an attack, evidence should always be collected. Research and evidence analysis indicates that some evidence may be available beyond 96 hours after the assault. Decisions about whether to collect evidence will be made by the Lorain County Sheriff's Department, in conjunction with the Nord Rape Crisis Center and will be made on a case-by-case basis, guided by the knowledge that outside time limits vary due to factors such as the location of the evidence and type of sample collected. Cases in which evidence should be collected beyond 96 hours occur where an exam may corroborate chronic injury, excessive force or significant trauma.

Completion of an Investigation.

- a. A final decision on all allegations of sexual abuse will be issued by the PREA Investigator within 90 calendar days of the initial filing.
- b. If 90 calendar days is not sufficient to make an appropriate decision, the PREA Investigator may extend the decision up to 70 calendar days. The resident will be notified in writing of such an extension and be provided a date by which a decision will be made.

Lorain/Medina C.B.C.F. Reporting to Resident.

Following a resident's allegation that he or she has been sexually abused by another resident, the Lorain/Medina C.B.C.F. will subsequently inform the alleged victim whenever:

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

All such notifications or attempted notifications will be documented, however the Lorain/Medina C.B.C.F.'s obligation to report under this standard will terminate if the resident is released from the facility's custody.

After an investigation into a resident's allegation of sexual abuse is completed, the facility will inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. If the Lorain County Sheriff's Department conducted the investigation, the facility will request all relevant information from their department's investigators in order to inform the resident.

Following a resident's allegation that a staff member has committed sexual abuse against the resident, the Lorain/Medina C.B.C.F. will subsequently inform the resident (unless the facility has determined that the allegation is unfounded) whenever:

- a. The staff member is no longer posted within the resident's unit;
- b. The staff member is no longer employed at the facility;
- c. The facility learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
- d. The facility learns that the staff member has been convicted on a charge related to sexual abuse within the facility.