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## Prison Rape Elimination Act

### 612.1 PURPOSE AND SCOPE

This policy provides guidance for compliance with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect and respond to sexual abuse and sexual harassment. This policy shall be posted on the Sheriff's Office website.

#### 612.1.1 DEFINITIONS

Definitions related to this policy include:

**Contractor-** a person who provides services on a recurring basis pursuant to a contractual agreement with the Sheriff's Office. It includes, but is not limited to, food service employees, medical and mental health employees, inmate phone and kiosk employees.

**Direct Staff Supervision-** Security staff are in the same room with, and within reasonable hearing distance of, an inmate.

**Employee-** A person who works directly for the Sheriff's Office.

**Exigent Circumstances-** Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of the jail.

**Facility-** The Kittitas County Corrections Center.

**Gender nonconforming** - A person whose appearance or manner does not conform to traditional societal gender expectations.

**Inmate-** Any person incarcerated or detained in the jail.

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

**Jail-** The Kittitas County Corrections Center

**Medical practitioner-** A health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care of patients within the scope of his or 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-** A mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care of patients within the scope of his or her professional practice. A "qualified mental health practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

**Pat down search-** A running of the hands over the clothed body of an inmate by an employee to determine whether the individual possesses contraband.

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**Office-** The Kittitas County Sheriff's Office

**Security staff-** Employees primarily responsible for the supervision and control of inmates within the facility.

**Staff-** Employees.

**Strip search-** A search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breast, buttocks, or genitalia.

**Substantiated allegation-** An allegation that was investigated and determined to have occurred.

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

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument
- 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 (28 CFR 115.6)

Sexual abuse also includes abuse by a staff member, contractor or volunteer as follows, with or without consent of the inmate, detainee or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Contact between the mouth and any body part where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- 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, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Any attempt, threat or request by a staff member, contractor or volunteer to engage in the activities described above
- Any display by a staff member, contractor or volunteer of his/her uncovered genitalia, buttocks or breast in the presence of an inmate, detainee or resident

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- Voyeurism by a staff member, contractor or volunteer (28 CFR 115.6)

**Sexual harassment** - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one inmate, detainee or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to an inmate, detainee or resident by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6).

**Transgender** - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

**Unfounded allegation** - An allegation that was investigated and determined not to have occurred.

**Unsubstantiated allegation** - An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

**Volunteer** - An individual who donates time and effort on a recurring basis to enhance the activities and programs of the Sheriff's Office.

**Voyeurism by a staff member, contractor or volunteer** - An invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet 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 (remanded) and incarcerated in a jail.

#### **612.2 POLICY**

This office has zero tolerance with regard to all forms of sexual abuse and sexual harassment in this facility and will take appropriate affirmative measures to protect all inmates, staff, contractors and volunteers from sexual abuse and harassment and to promptly and thoroughly investigate all allegations of sexual abuse and sexual harassment (28 CFR 115.11).

#### **612.3 PREA COORDINATOR (28 CFR 115.11)**

The Jail Commander shall appoint an upper-level supervisor to be responsible for the implementation and oversight of compliance with PREA standards under 28 CFR 115.11 through 115.93. The PREA Coordinator shall review facility policies and practices and make appropriate compliance recommendations to the Jail Commander (28 CFR 115.11).

##### **612.3.1 COORDINATED RESPONSE (28CFR 115.65)**

The PREA Coordinator shall develop a written plan to coordinate actions taken in response to an incident of sexual abuse among first responders, medical and mental health practitioners, investigators and jail leadership.

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**612.4 REPORTING INCIDENTS (28 CFR 115.21, 115.52, 115.54, AND 115.61)**

Inmates shall be provided with multiple internal ways to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse or sexual harassment and staff neglect or violation of responsibilities that may have contributed to such incidents. Inmates may make reports verbally to any staff member and in writing by either:

- (a) By addressing a letter to the PREA Coordinator; or
- (b) By addressing a letter to the Jail Commander

Inmates should not use the grievance process to file such complaints. If the Sergeant should receive a complaint of sexual abuse or sexual harassment the PREA Coordinator or the Jail Commander shall be notified as soon as practicable. The Sergeant shall respond to the inmate, in writing, indicating that the complaint has been received and forwarded for investigation outside of the grievance process and under the Sheriff's Office PREA Policy. The grievance policy and timelines do not apply to reports of sexual abuse and sexual harassment.

Inmates shall also be provided with at least one way to report abuse or harassment to a public or private entity or office that is not part of the Sheriff's Office. This entity or office must be able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to the PREA Coordinator or Jail Commander and allow the inmates to remain anonymous upon request. The Jail Commander or designee is responsible to secure a written agreement from an outside public or private entity for these purposes.

Information on ways for inmates to report both internally and outside of the Sheriff's Office shall be provided in the inmate handbook.

Staff shall accept reports made by inmates or third parties or any other person in the following forms:

- (a) Verbally
- (b) In writing
- (c) Anonymously

Staff shall as soon as practicable reduce to writing all complaints made verbally. Staff shall immediately notify their supervisor of all reports of sexual abuse or sexual harassment.

Staff are able to report privately to their supervisor any sexual abuse and sexual harassment of inmates and the fact they made a report shall only be released on a need-to-know basis and in accordance with the law.

**612.4.1 STAFF AND SHERIFF'S OFFICE REPORTING DUTIES (28 CFR 115.61)**

Staff shall immediately report to their supervisor any knowledge, suspicion or information regarding the following types of incidents.

- (a) Any sexual abuse or sexual harassment that occurs or occurred in the jail.
- (b) Retaliation against inmates or staff who reported any incident of sexual abuse or sexual harassment.

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- (c) Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Apart from reporting to their supervisor, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation and other security and management decisions.

Medical and mental health practitioners shall report any sexual abuse as outlined above. Practitioners shall inform inmates of their duty to report, and the limitations of confidentiality at the initiation of services.

All allegations of sexual abuse and sexual harassment, including third party and anonymous reports, shall be reported to the on-duty supervisor for investigation.

At any time when a staff member learns that an inmate is subject to a substantial risk of imminent sexual abuse, that staff member shall take immediate action to protect the inmate and report such action to their supervisor as soon as practicable.

#### 612.4.2 THIRD PARTY REPORTING (28 CFR 115.54)

The Sheriff's Office takes reports of sexual abuse and sexual harassment from anyone, in any form. These reports may be made in any of the following ways:

- (a) Verbally to any staff member
- (b) In writing format, either by letter or any electronic format (i.e. email)

#### 612.4.3 INMATES DETAINED SOLELY FOR CIVIL IMMIGRATION PURPOSES

Inmates detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.

#### **612.5 OFFICE PROTECTION AGAINST RETALIATION (28 CFR 115.67)**

All inmates and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation.

Protective measures, including housing changes, transfers, removal of alleged abusers from contact with victims, administrative reassignment or reassignment of the victim or alleged perpetrator to another housing area, and support services for inmates or staff who fear retaliation shall be utilized (28 CFR 115.67).

The PREA Coordinator or the authorized designee shall assign a supervisor to monitor, for at least 90 days, the conduct and treatment of inmates or staff who report sexual abuse or sexual harassment and inmates who were reported to have suffered sexual abuse to determine if there is any possible retaliation. The supervisor shall act promptly to remedy any such retaliation. The assigned supervisor should consider inmate disciplinary reports, housing or program changes, or negative performance reviews or reassignment of staff members. Monitoring may continue beyond 90 days if needed. Inmate monitoring shall also include periodic status

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checks. The PREA Coordinator should take reasonable steps to limit the number of people with access to the names of individuals being monitored and should make reasonable efforts to ensure that staff members who pose a threat of retaliation are not entrusted with monitoring responsibilities.

If any other individual who cooperates with an investigation expresses a fear of retaliation, the facility shall take reasonable measures to protect that individual against retaliation (28 CFR 115.67).

The obligation to monitor shall be terminated if the allegation is unfounded.

**612.6 FIRST RESPONDERS (28 CFR 115.64)**

If an allegation of inmate sexual abuse is made, the first corrections officer to respond shall:

- (a) Separate the alleged victim and abuser.
- (b) Request medical assistance as appropriate. If no qualified health care or mental health professionals are on-duty when a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate qualified health care and mental health professionals.
- (c) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.
- (d) Contact and report incident to the Jail Commander via the chain of command.
- (e) If the time period allows for collection of physical evidence, request that the alleged victim, and ensure that the alleged abuser, do not take any actions that could destroy physical evidence (i.e., washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating)
- (f) Consider whether a change in classification or housing assignment for the victim is needed or whether witnesses to the incident need protection, both of which may include reassignment of housing.
- (g) Determine whether the alleged abuser should be administratively segregated or administratively transferred during the investigation.

If the first responder is not corrections officer, the responder shall request the alleged victim to refrain from any actions that could destroy physical evidence and then immediately notify corrections officer.

Should an investigation involve inmates who have disabilities or who have limited English proficiency, the first responder shall not rely on inmate interpreters, inmate readers or other types of inmate assistants, except in limited circumstances where an extended delay in obtaining an interpreter could compromise inmate safety, the performance of first responder duties or the investigation of sexual abuse or sexual harassment allegations (28 CFR 115.16).

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**612.7 SEXUAL ABUSE AND SEXUAL HARASSMENT INVESTIGATIONS**

An administrative investigation, criminal investigation or both shall be completed for all allegations of sexual abuse and sexual harassment (28 CFR 115.22). Administrative investigations shall include an effort to determine whether the staff's actions or inaction contributed to the abuse (28 CFR 115.71). Only investigators who have completed office-approved training on sexual abuse and sexual harassment investigation shall be assigned to investigate these cases.

When practicable, an investigator of the same sex as the victim should be assigned to the case. Sexual abuse and sexual harassment investigations should be conducted promptly and continuously until completed. Investigators should evaluate reports or threats of sexual abuse and sexual harassment without regard to an inmate's sexual orientation, sex or gender identity. Investigators should not assume that any sexual activity among inmates is consensual.

If the investigation is referred to another agency for investigation, the referral shall be documented.

If criminal acts are identified as a result of the investigation, the case shall be presented to the appropriate prosecutor's office for filing new charges.

Evidence collection shall be based on a uniform evidence protocol that is developmentally appropriate for youth, if applicable, and adapted from or otherwise based on the most recent edition of the DOJ's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011 (28 CFR 115.21).

When directed by the investigator corrections staff may transport the victim to the hospital for collection of forensic evidence. The inmate may be accompanied by a corrections member who can provide the inmate with support if warranted. The support person will not be counted as part of the transport detail.

Inmates alleging sexual abuse shall not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with an investigation.

If a victim is under 18 or considered a vulnerable adult under state law, the assigned investigator shall report the allegation to the Department of Social and Health Services, Child Protective Services for anyone under 18 or Adult Protective Services for adult vulnerable persons. A vulnerable adult is defined by law as :

- (a) A person 60 years of age or older who lacks the functional, physical or mental ability to care for him or herself.
- (b) An adult with a developmental disability per 71A.10.020
- (c) An adult with a legal guardian per RCW 11.88
- (d) An adult living in a long-term care facility (an adult family home, boarding home or nursing home)
- (e) An adult living in their own or family's home receiving services from an agency or contracted individual provider or
- (f) An adult self-directing their care per law (RCW 74.39.050) (28 CFR 115.61(d))

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**612.7.1 INVESTIGATIVE FINDINGS**

All completed investigations shall be forwarded to the Jail Commander or if the allegations may reasonably involve the Jail Commander, to the Undersheriff. The Jail Commander or Undersheriff shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.72).

The staff shall be subject to disciplinary sanctions, up to and including termination, for violating this policy. Termination shall be the presumptive disciplinary sanction for staff members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

All terminations for violations of sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to the Kittitas County Sheriff's Office Major Crimes Unit and to any relevant licensing bodies (28 CFR 115.76).

**612.7.2 REPORTING TO INMATES (28 CFR 115.73)**

The Jail Commander or the authorized designee shall inform a victim inmate whether an allegation has been substantiated, unsubstantiated or unfounded. If the Sheriff's Office did not conduct the investigation the Jail Commander or designee shall request the relevant information from the investigative agency in order to inform the inmate.

If a staff member is the accused (unless the Office has determined that the allegation is unfounded), the inmate shall also be informed whenever:

- (a) The staff member is no longer assigned to the inmate's unit or employed at the facility.
- (b) The Office learns that the staff member has been indicted (charged by the prosecutor) or convicted on a charge related to sexual abuse within the facility.

If another inmate is the accused, the alleged victim shall be notified whenever the Office learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility.

All notifications or attempted notifications shall be documented.

This Office's obligation to report under this policy shall be terminated if the inmate is released from incarceration at the jail.

**612.8 SEXUAL ABUSE AND SEXUAL HARASSMENT BETWEEN STAFF AND INMATES**

Sexual abuse and sexual harassment between staff, volunteers or contract personnel and inmates is strictly prohibited. The fact that an inmate may have initiated a relationship or sexual contact is not a defense to violating this policy.

Any incident involving allegations of staff-on-inmate sexual abuse or sexual harassment shall be referred to the Major Crimes Unit detectives for investigation.

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**612.8.1 CORRECTIVE ACTION FOR CONTRACTORS OR VOLUNTEERS (28 CFR 115.77)**

Any contractor or volunteer who engages in sexual abuse within the facility shall be immediately prohibited from having any contact with inmates. He/she shall be promptly reported to the law enforcement agency that would investigate such allegations and brought to the attention of any relevant licensing bodies.

The Jail Commander or designee shall consider whether to prohibit further contact with inmates in the case of any non-criminal sexual abuse or sexual harassment by a contractor or volunteer.

**612.9 SEXUAL ABUSE VICTIMS**

Inmates who are victims of sexual abuse shall be transported to the nearest appropriate location to handle the treatment of injuries, the collection of evidence and to receive crisis intervention services (28 CFR 115.82). Depending on the severity of the injuries, transportation may occur by a staff member or by ambulance, in either case with appropriate security to protect the staff, the inmate and the public, and to prevent escape.

A victim advocate from a rape crisis center should be made available to the victim. If a rape crisis center is not available, the Office shall make available a qualified member of a community-based organization, or a qualified health care or mental health professional from this facility. Efforts to secure services from a rape crisis center shall be documented. A rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 USC § 14043g(b)(2)(C), to victims of sexual assault of all ages. A rape crisis center that is part of a government unit may be used as long as it is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a non-governmental entity that provides similar victim services.

**612.10 EXAMINATION, TESTING AND TREATMENT**

Examination, testing and treatment shall include the following:

- (a) Examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs), where possible. If SAFEs or SANEs are not available, the examination can be performed by other qualified medical practitioners. The Office shall document its efforts to provide SAFEs or SANEs (28 CFR 115.21).
- (b) If requested by the victim, a victim advocate, qualified office staff member or a qualified community organization's staff member shall accompany the victim through the forensic medical examination process and investigatory interviews. That person will provide emotional support, crisis intervention, information and referrals.
- (c) Provisions shall be made for testing the victim for sexually transmitted diseases (28 CFR 115.82).
- (d) Counseling for the treatment of sexually transmitted diseases, if appropriate, shall be provided (28 CFR 115.21).

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- (e) Victims shall be offered information about, and given access to, emergency contraception and sexually transmitted infections prophylaxis and follow-up for sexually transmitted diseases (28 CFR 115.82). This shall be done in a timely manner.
- (f) Victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results, such victims shall receive comprehensive information about, and access to, all lawful pregnancy-related medical services (28 CFR 115.83). This shall be done in a timely manner.
- (g) Victims shall be provided with follow-up services, treatment plans and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities or release from custody (28 CFR 115.83).
- (h) 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 incident (28 CFR 115.83).

**612.11 PROTECTIVE CUSTODY (28 CFR 155.43)**

Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. If the classification unit is unable to conduct such an assessment immediately, the inmate may be held in involuntary segregated housing for less than 24 hours while completing the assessment and with the approval of the supervisor on duty.

If an involuntary segregated housing assignment is made pursuant to the above paragraph, classification shall clearly document and have approved the Lieutenant the following:

- (a) The basis for the concern for the inmate's safety and
- (b) The reason no alternative means of separation can be arranged.

Such housing assignments shall only be until an alternative means of separation from likely abusers can be arranged. Such assignments shall not ordinarily last longer than 30 days.

Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education and work opportunities to the extent possible. If an inmate is restricted access to programs, privileges, education and work opportunities classification shall document the following:

- (a) The opportunities that have been limited
- (b) The duration of the limitation
- (c) the reasons for such limitations

Every 30 days the Lieutenant shall review the involuntary segregated housing assignment of an inmate to determine whether there is a continuing need for separation from the general population. This review will be documented.

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#### **612.12 SEXUAL ABUSE INCIDENT REVIEW (28 CFR 115.86)**

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded (28 CFR 115.86). The review should occur within 30 days of the conclusion of the investigation.

The review team shall include upper-level management officials and seek input from line supervisors, investigators and qualified health care and or mental health professionals, as appropriate. The review team shall:

- (a) Consider whether the investigation indicates a need to change policy or practice in order to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race, ethnicity, gender identity or lesbian, gay, bisexual, transgender or intersex identification status or perceived status, by gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers may enable abuse.
- (d) Assess the adequacy of staffing levels in the area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
- (f) Prepare a written report of the team's findings, including, but not limited to, determinations made pursuant to paragraphs (a)-(e) of this section, and any recommendations for improvement. The report should be submitted to the Jail Commander and the PREA Coordinator.

The Jail Commander or the authorized designee shall implement the recommendations for improvement or document the reasons for not doing so.

#### **612.12.1 UNANNOUNCED ROUNDS**

Sergeants, Lieutenants and the Jail Commander shall conduct and document unannounced rounds within the jail to identify and deter sexual abuse and sexual harassment. Such rounds shall occur on all shifts. Staff are prohibited from alerting other staff members, by any means, that these unannounced rounds are occurring, unless directed otherwise by the individual conducting the rounds.

Sergeants shall make at least one unannounced round per shift.

Lieutenants shall make at least one unannounced round per week.

The Jail Commander shall make at least one unannounced round per month.

These rounds shall be logged in the master log with times, initials and personnel number of the individual conducting the round.

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#### **612.13 DATA COLLECTION AND REVIEW FOR CORRECTIVE ACTION (28 CFR 115.87 AND 115.88)**

The PREA Coordinator shall collect accurate, uniform data for every allegation of sexual abuse at the facilities under the direct control of the Sheriff's Office using a standardized instrument and set of definitions. The incident based data collected shall include, at minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. All available incident-based documents, including reports, investigative files and sexual abuse reviews shall be used to collect data as needed.

If the Office contracts with a private facility for confinement of its inmates the Jail Commander shall also obtain incident-based data for each such facility.

At least annually, the incident-based data shall be aggregated.

Upon request this Office shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

This office shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training by:

- (a) Identifying problem areas.
- (b) Taking corrective action on an ongoing basis.
- (c) Preparing an annual report of findings from data review and corrective actions for the jail and agency as a whole.

Such annual reports shall include:

- (a) Comparing current annual data and corrective actions with those from prior years.
- (b) Assessing the office's progress in addressing sexual abuse.

Reports shall be approved by the Sheriff and made available through the office website. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the facility. However, the nature of the redacted material shall be indicated (28 CFR 115.88).

#### **612.13.1 DATA STORAGE, PUBLICATION AND DESTRUCTION (28 CFR 115.89)**

All aggregated sexual abuse data from [agencyName] facilities and private facilities with which it contracts shall be made available to the public at least annually through the [agency\_office] website. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.89).

#### **612.14 RECORDS**

All case records and reports associated with a claim of sexual abuse and sexual harassment, including incident reports, investigative reports, offender information, case disposition, medical

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and counseling evaluation findings, and recommendations for post-release treatment or counseling, shall be retained in accordance with confidentiality laws.

The Office shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Office, plus five years (28 CFR 115.71) unless the State Retention Schedule requires a longer retention period.

**612.15 CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS (28 CFR 115.71)**

If the Sheriff's Office conducts an investigation into allegations of sexual abuse or sexual harassment, those investigations shall be done promptly, thoroughly and objectively for all allegations, including third-party and anonymous reports.

Where sexual abuse is alleged, the Sheriff's Office shall use investigators who have special training in sexual abuse investigations as outlines in C 612.23.

Investigators shall:

- (a) Gather and preserve direct and circumstantial evidence, including ant available physical and DNA evidence.
- (b) Gather any available electronic monitoring data.
- (c) Interview alleged victims, suspected perpertrators and witnesses and
- (d) Review prior complaints and reports of sexual abuse involving the suspected perpertrator.

The credibility of an alleged victim, suspect or wirness shall be assessed on an individual basis and shall not be determined by the individual's status as an inmate or staff. An inmate who alleges sexual abuse shall not be required to submit to a polygraph examination or other truth verification examination or device as a condition for proceeding with the invesrigation of an allegation.

Administrative investigations shall:

- (a) Include an effort to determine whether staff actions or failures to act contributed to the abuse and
- (b) Be documented in written reports that include a description of physical, testimonial, and documentary evidence, the reasoning behind the credibility assessments, and investigative facts and findings.

In an administrative investigation, prior to any compelled interviews, the investigator shall consult with the prosecutin attorney's officeas to whether compelled interviews may be an obstical for subsequent criminal prosecution.

Criminal investigations shall:

- (a) Be documented in a written report that contains a thorough description of physical, testimonial and documentary evidence and include a copy of all documentary evidence where feesable and
- (b) Be refered to the prosecuting attorney's office for a determination of potential prosecution.

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The departure of the alleged abuser or victim from the employment or control of the Sheriff's Office shall not provide a basis for terminating an investigation.

Staff shall cooperate with investigators, whether internal or from an outside agency. The PREA coordinator shall be the point of contact for such investigations and shall endeavor to remain informed about the progress of the investigation.

**612.16 CONTRACTING WITH OTHER ENTITIES FOR CONFINEMENT OF JAIL INMATES  
(28 CFR 115.12)**

The Jail Commander shall ensure that any new contract or contract renewal for the confinement of jail inmates, whether with another private entity or other governmental agency shall include contract language requiring the private entity or other governmental agency to adopt and comply with the PREA standards. The contract shall also provide for the ability of the Sheriff's Office, through the Jail Commander to monitor to ensure the contractor is complying with the PREA standards.

**612.17 SUPERVISION AND MONITORING (28 CFR 115.13)**

The Jail Commander shall develop a written staffing plan that provides for adequate levels of staffing and where applicable, video monitoring to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, the Jail Commander shall take into consideration the following:

- (a) Generally accepted correctional practices
- (b) Any judicial findings of inadequacy
- (c) Any findings of inadequacy from Federal investigative agencies
- (d) Any findings of inadequacy from internal or external oversight bodies
- (e) All components of the facility's physical plant (including "blind-spots" or areas where the staff or inmates may be isolated
- (f) The composition of the inmate population
- (g) The number and placement of supervisory staff
- (h) Institution programs occurring on a particular shift
- (i) Any applicable state or county ordinances, regulations or standards;
- (j) the prevalence of substantiated and unsubstantiated incidents of sexual abuse
- (k) Any other relevant factors

The staffing plan is documented daily on the staff roster. The shift supervisor shall note any deviations from the staffing plan on the daily staff roster and include written documentation of why the staffing plan was not adhered to for that shift.

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Whenever possible, but no less frequently than once each year, the Jail Commander, in consultation with the PREA Coordinator shall assess, determine and document whether adjustments are needed to:

- (a) The staffing plan
- (b) The deployment of video monitoring and other monitoring technologies
- (c) The resources available to commit to ensure adherence to the staffing plan.

**612.18 YOUTHFUL INMATES (28 CFR 115.14)**

A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound or physical contact with any adult inmate through use of a dayroom or any other common space, shower area or sleeping quarters.

In areas outside of a housing unit, staff must provide direct supervision whenever a youthful inmate and adult inmates are within an area in which they have sight, sound or physical contact,

Staff will make all reasonable efforts to avoid placing youthful inmates in isolation in order to comply with this policy.

Absent exigent circumstances, youthful inmates shall not be denied daily large-muscle exercise and any legally required educational services. Whenever youthful inmates are provided these services it shall be documented in the master log.

Youthful inmates shall also have access to other programs and work opportunities to the extent possible while complying with this policy.

It is the policy of this jail not to hold youthful inmates unless they have been remanded to adult superior court.

**612.19 LIMITS ON CROSS-GENDER PAT SEARCHES AND VIEWING (28 CFR 115.15)**

- (a) Staff shall not conduct cross-gender strip searches, except in exigent circumstances and with the approval of a supervisor. Any cross-gender strip search conducted under exigent circumstances will be fully documented.
- (b) Staff shall not conduct cross-gender body cavity searches. Only medical personnel may perform body cavity searches. Correctional staff present during such a search must be of the same gender. Any body cavity search will be fully documented by corrections staff and medical staff.
- (c) Cross-gender pat searches of female inmates are prohibited, except in exigent circumstances. Any cross-gender pat search conducted under exigent circumstances will be logged in the master log. Staff will log the inmate's name, the name of the officer conducting the search and the name of the officer witnessing the search. Female inmates' access to jail programs or other out of cell opportunities shall not be restricted due to this cross-gender pat search policy.

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**612.19.1 CROSS-GENDER VIEWING**

At the beginning of the shift staff members shall announce when they enter into a housing unit of inmates of the opposite gender. The staff member shall announce that a cross-gender staff member is on-duty and will be entering the housing unit during their assigned hours.

Unless exigent circumstances exist non-medical staff members shall not view inmates of the opposite gender who are changing clothes, taking showers or while performing bodily functions. This includes viewing via video camera system.

The viewing of opposite gender inmate's breasts, buttock or genitalia, except when such viewing is incidental to a routine cell check or under exigent circumstances, is prohibited. If while conducting a routine cell check, a non-medical staff member sees an opposite gender inmate under the above circumstances, the incidental viewing shall be fully documented in the Master Log. If the viewing is due to exigent circumstances, the incident shall be fully documented. For the purposes of this policy an inmate's placement on suicide watch or who has displayed self-harming behavior shall qualify as exigent circumstances.

**612.19.2 TRANSGENDER AND INTERSEX INMATES**

Staff shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, staff shall attempt to make the determination through conversation with the inmate or by reviewing medical records. If these measures are unsuccessful in determining the genital status of the inmate, then a medical practitioner is authorized to perform a broader medical examination, conducted in private.

**612.19.3 CROSS-GENDER AND TRANSGENDER/INTERSEX INMATE SEARCH TRAINING**

All corrections officers shall receive training on how to conduct cross-gender pat-down searches and searches of transgender and intersex inmates. Staff is required to conduct these searches in a professional, respectful and least intrusive manner possible.

This training shall be documented in the officer training file. A copy of the curricula for this training will be maintained by the training manager along with training logs showing the date of the training, the printed name of the staff member and their signature.

**612.20 EQUAL OPPORTUNITY: DISABLED OR LEP INMATES (28 CFR 115.16)**

Inmates who are disabled or have limited English proficiency shall have equal opportunity to participate in or benefit from all aspects of the jails efforts to prevent, detect and respond to sexual abuse and sexual harassment. Examples of disabilities include but are not limited to:

- (a) Inmates who are deaf or hard of hearing
- (b) Inmates who are blind or have low visual acuity or
- (c) Inmates who have intellectual, psychiatric or speech disabilities.

Written PREA materials are translated into Spanish and shall be provided for all those who require this translation of materials. For inmates who do not read, speak or understand English or Spanish

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staff shall use language line services or other available interpretive services in order to provide education and access to services under the jail's PREA policies.

Staff shall not use other inmates as interpreters, readers or other types of assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of the first responder duties or the investigation of the inmate's allegations. Staff shall fully document in an incident report any circumstances where inmate interpreters, readers or other types of inmate assistants are used.

**612.21 HIRING AND PROMOTIONAL DECISIONS (28 CFR 115.17)**

The Sheriff's Office shall not hire or promote anyone who may have contact with inmates and shall not enlist the services of any contractor who may have contact with inmates who:

- (a) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution as defined in 42 U.S.C 1997;
- (b) Has been convicted of engaging or attempting to engage in sexual activity 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;
- (c) Has been civilly or administratively adjudicated to have engaged in an activity described above.

The Sheriff's Office shall consider any incidents of sexual harassment in determining whether or not to hire or promote anyone or enlist the services of any contractor who may have contact with inmates.

**612.21.1 BACKGROUND CHECKS**

Prior to hiring a new employee who may have contact with inmates the investigator shall:

- (a) Perform a criminal background check and;
- (b) Consistent with Federal, State and local law, make their best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

Sheriff's Office background investigators shall make all reasonable efforts to ferret out any of the above situations during the pre-hire investigation by contacting all known current and past employers and conducting records checks with all known law enforcement agencies where the applicant has been during their lifetime.

Prior to enlisting the services of any contractor who may have contact with inmates, a criminal background records check shall be completed and documented by jail staff.

For all existing employees, the Office shall conduct and document criminal background records checks and driver's license checks at least every five (5) years.

For all existing contractors, jail staff shall conduct and document criminal background records checks and driver's license checks at least every five (5) years.

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**612.21.2 APPLICANT INTERVIEWS**

The background investigator shall directly ask all applicants for employment, who may come in contact with inmates, about previous misconduct outlined in C612.21. The background investigator shall also review the questions on the background questionnaire or personal history statement that apply to this subject during the background interview of the applicant.

**612.21.3 CONTINUING DUTY TO DISCLOSE AND MATERIAL OMISSIONS**

All employees have a continuing affirmative duty to disclose any misconduct outlined in C 612.21. Material omissions regarding such conduct or the provisions of materially false information shall be grounds for termination.

**612.21.4 PROMOTIONAL INTERVIEWS**

During any promotional interview for employees who may have contact with inmates, the employee shall be asked directly about previous misconduct outlined in C 612.21 and their answer shall be recorded.

**612.21.5 PROVIDING INFORMATION TO OTHER INSTITUTIONAL EMPLOYERS**

Unless prohibited by law, the Sheriff's Office shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a current or former employee upon receiving a request from an institutional employer for who such employee has applied for work.

**612.22 UPGRADES TO FACILITY AND TECHNOLOGY (28 CFR 155.18)**

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the Jail Commander shall consider the effect of the design, acquisition, expansion or modification upon the Sheriff's Office ability to protect inmates from sexual abuse. These considerations should be documented in facility design, renovation, modification or expansion documents.

When installing or updating a video monitoring system, electronic surveillance system or other monitoring technology, the Jail Commander shall consider how such technology may enhance the Sheriff's Office ability to protect inmates from sexual abuse. These considerations should be documented in meeting notes or in proposals for such work.

**612.23 EVIDENCE PROTOCOL AND FORENSIC MEDICAL EXAMINATIONS(28 CFR 115.21)**

The Sheriff's Office Major Crimes Unit or high level supervisor with sexual assault investigation training will be responsible to conduct administrative investigations involving allegations of sexual abuse and sexual harassment involving employees of this office.

To the extent that Sheriff's Office Major Crimes Unit is responsible for investigating allegations of sexual abuse, the investigation shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecution. A victim of sexual abuse shall be offered access to a forensic medical examination, without cost, where evidentiary or medically appropriate. Such examinations

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shall be performed by Sexual Assault Nurse Examiners (SANE) or Sexual Assault Forensic Examiners (SAFE). If SAFEs or SANEs are not available, the examination shall be performed by other qualified medical practitioners. The investigator shall document whether a SAFE, SANE or other qualified medical practitioner performed the examination.

In the event that an outside agency is responsible for investigating allegations of sexual abuse the PREA Coordinator shall request in writing that the investigators comply with 28 CFR115.21 (a) through (e).

The PREA Coordinator will attempt make available to the victim a victim advocate through local victim advocate programs. If or when these services are not available to provide victim advocate services the PREA Coordinator will provide a qualified agency staff member.

If requested by the victim, a victim advocate of qualifies agency staff member shall accompany and support the victim through the forensic medical examination process and investigative interviews and provide emotional support, crisis intervention, information and referrals.

For the purposes of this policy a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examinations in general.

**612.24 REFERRALS OF ALLEGATIONS FOR INVESTIGATION (28 CFR 115.22)**

It is the policy of the Kittitas County Corrections Center that an administrative and/or criminal investigation is completed for allegations of sexual abuse and sexual harassment.

This includes both criminal investigations and administrative (inmate discipline) investigations involving inmate-on-inmate sexual abuse and administrative (inmate discipline) investigations involving inmate-on-inmate sexual harassment. In cases involving inmate-on-inmate sexual abuse, even when one party claims the sex acts were consensual, there will be full and complete criminal and administrative investigation conducted. All criminal investigations are completed by the law enforcement agency outlined in C 612.21.

The Sheriff's Office Major Crimes Unit or an higher level supervisor with sexual abuse investigation training is responsible to conduct administrative investigations involving allegations of sexual abuse and sexual harassment in which an office employee is the subject of the investigation. A higher level supervisor is responsible to conduct administrative investigations when the allegation does not involve potentially criminal behavior. Administrative investigations are generally suspended pending the completion of the criminal investigation, if applicable, unless otherwise directed by the Jail Commander.

**612.25 EMPLOYEE TRAINING (28 CFR 115.31)**

All employees who may have contact with inmates shall be trained in the following topics.

- (a) Zero tolerance for sexual abuse and sexual harassment.
- (b) How to fulfill their responsibilities under office sexual abuse and sexual harassment prevention, detection, reporting and response policies and procedures.

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- (c) Inmates' rights to be free from sexual abuse and sexual harassment.
- (d) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment.
- (e) The dynamics of sexual abuse and sexual harassment in confinement.
- (f) Common reactions of sexual abuse and sexual harassment victims.
- (g) How to detect and respond to signs of threatened and actual sexual abuse.
- (h) How to avoid inappropriate relationships with inmates.
- (i) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex or gender nonconforming inmates.
- (j) How to comply with relevant laws relating to mandatory reporting of sexual abuse to outside authorities.

Such training shall be tailored to the gender of the inmates housed at the facility.

Refresher training shall be provided at least every two (2) years to ensure that all employees know the office's current sexual abuse and sexual harassment policies and procedures. In the years which an employee does not receive training, refresher information on current sexual abuse and sexual harassment policy and procedure will be issued in the form of a training bulletin or email.

All initial and refresher training shall include employee signature or electronic verification that the employee understands the training they have received.

**612.26 VOLUNTEER AND CONTRACTOR TRAINING (28 CFR 115.32)**

All volunteers and contractors who have contact with inmates shall be trained on their responsibilities under the office's policies and procedures regarding sexual abuse and sexual harassment prevention, detection and response. The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with inmates. At a minimum all volunteers and contractors who have contact with inmates shall be notified of the office's zero-tolerance policy regarding sexual abuse and sexual harassment and that suspected incidents must be reported to corrections staff.

All initial and refresher training shall include volunteer or contractor signature or electronic verification that the he/she understands the training they have received.

**612.27 INMATE EDUCATION (28 CFR 115.33)**

During the intake process inmates shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment as well as information on how to report incidents or suspicions of sexual abuse or sexual harassment.

For inmates with limited english proficiency, alternative means of educating them will be made.

Within 30 days of incarceration the agency shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual

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harassment and to be free from retaliation for reporting such events and regarding agency policies and procedures for responding to such incidents.

The Sheriff's Office ensures key information about its PREA policy is continuously and readily available or visible to inmates through any of the following formats:

- (a) Posters
- (b) Inmate Handbook
- (c) Brochures
- (d) Videos
- (e) any other written format

**612.28 SPECIALIZED TRAINING: INVESTIGATIONS ( 28CFR 115.34)**

In addition to general training provided to all employees pursuant to 28 CFR 115.31 the Sheriff's Office shall ensure that its investigators of sexual abuse in the jail have received training in such investigations in confinement settings.

Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garity Warnings (if applicable), sexual abuse evidence collection in confinement settings and the criteria and evidence required to substantiate a claim for administrative action or prosecution referral. The record of this training will be maintained in the Sheriff's Office employee training file.

**612.29 SPECIALIZED TRAINING: MEDICAL AND MENTAL HEALTH CARE (28 CFR 115.35)**

Training records shall be kept and maintained documenting that all medical and mental health practitioners, full or part-time, have received training as outlined in this policy whether that training was received at the Sheriff's Office or not.

All medical and mental health practitioners employed by the office shall be trained in the following areas.

- (a) How to detect and assess signs of sexual abuse and sexual harassment.
- (b) How to preserve physical evidence of sexual abuse.
- (c) How to respond effectively and professionally to victims of sexual abuse and sexual harassment.
- (d) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

Jail medical staff shall not conduct forensic examinations involving allegations of sexual abuse.

Contracted medical practitioners shall be trained as outlined in sections 612.25 and 612.26 of this policy.

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#### **612.30 SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS (28CFR 115.43)**

Within 72 hours of arrival all inmates shall be assessed the booking and classification process for their risk of being sexually abused by other inmates or being sexually abusive toward other inmates. The jail uses an objective tool to screen for these risks. The tool considers, at a minimum, the following criteria to assess inmates for risk of sexual victimization or abusiveness:

- (a) Whether the inmate has mental, physical or developmental disabilities.
- (b) The age of the inmate.
- (c) The physical build of the inmate.
- (d) Whether the inmate has previously been incarcerated.
- (e) Whether the inmate has prior convictions of sex offenses against adults or children.
- (f) Whether the inmate's criminal history is completely non-violent.
- (g) Whether the inmate is perceived to be or is gay, lesbian, bisexual, transgender, intersex or gender nonconforming.
- (h) Whether the inmate has previously experienced sexual victimization.
- (i) The inmate's own perception of vulnerability.
- (j) Whether the inmate is detained solely for civil immigration purposes
- (k) Prior acts of sexual abuse, prior convictions of violent offenses and history of institutional violence as known to the Jail.

Inmates shall not be disciplined for refusing to answer, or for not disclosing complete information in response to the following questions:

- (a) Whether the inmate has physical, mental or developmental disabilities.
- (b) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming.
- (c) Whether the inmate had previously experienced sexual victimization and
- (d) The inmate's own perception of vulnerability.

Information obtained during this screening shall only be shared on a need-to-know basis and in compliance with the law.

If the screening conducted indicates that an inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall immediately notify medical and mental health staff and document who was notified.

#### **612.30.1 USE OF SCREENING INFORMATION**

The information collected shall be used to inform housing, bed, work, education and programing assignments with the goal of keeping separate those inmates identified as high risk of being sexually victimized from those at high risk of being sexually abusive.

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Classification shall document how this information was used to make these decisions. Classification shall make individualized determinations about how to ensure the safety of each inmate.

Lesbian, gay, bisexual, transgender or intersex inmates shall not be placed in dedicated facilities, housing units or wings solely on the basis of such identification or status unless such placement is in a dedicated facility, housing unit or wing established in connection with a consent decree, legal settlement or legal judgment for the purposes of protecting such inmates. The jail is not subject to such consent decrees, legal settlements or legal judgments for the purposes of protecting such inmates.

**612.30.2 TRANSGENDER OR INTERSEX INMATES**

In deciding whether to assign a transgender or intersex inmate to a housing unit for male or female inmates and in making other housing and program assignments, classification shall consider on a case by case basis whether the placement would ensure the inmate's health

and safety and whether the placement would present management or security problems. Classification shall reassess at least twice each year the placement and programming assignments for each transgender or intersex inmate to review threats to safety experienced by the inmate.

The transgender or intersex inmate's own views with respect to his or her own safety shall be seriously considered.

Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

**612.31 INMATE ACCESS TO OUTSIDE CONFIDENTIAL SUPPORT SERVICES (28 CFR 115.53)**

Inmates shall be provided access to outside victim advocates for emotional support services related to sexual abuse by the following means.

- (a) Classification shall give inmates mailing addresses and telephone numbers (including toll-free hotline numbers where available) for local, state and national victim advocacy or rape crisis organization.
- (b) Classification shall give inmates mailing addresses and telephone numbers (including toll-free hotline numbers where available) for immigration service agencies for persons detained solely for immigration purposes.

Classification shall explain to the inmate that phone communications are subject to the normal recording procedures and that under state law the outside service provider may be required to manditory report any disclosures of sexual abuse made to them. The inmate shall be told to make sure they discuss the extent of confidentiality with the service provider at the beginning of their call.

The PREA Coordinator shall attempt to enter into memoranda of understanding with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse.

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The PREA Coordinator shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

**612.32 COLLECTIVE BARGAINING AGREEMENTS (28 CFR 115.66)**

The Sheriff's Office and Kittitas County shall not enter into or renew any collective bargaining agreement or other agreement that limits the Sheriff's Office ability to remove alleged staff sexual abusers from contact with any inmates pending

the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

Noting in this policy shall restrict the entering into or renewal of agreements that govern:

- (a) The conduct of the disciplinary process so long as such agreements are not inconsistent with the provisions of 28 CFR 115.72 and 115.76 (see section 612.7.1)
- (b) 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.

**612.33 DISCIPLINARY SANCTIONS FOR INMATES (28 CFR 115.78)**

Inmates shall be subject to disciplinary sanctions, under the Office's formal disciplinary process, under the following circumstances:

- (a) An administrative finding that the inmate engaged in inmate-on-inmate sexual abuse; or
- (b) 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 Classifications clerk under the disciplinary process, shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, to impose.

If offered, an offending inmate shall be required to participate in therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for abuse as a condition of access to programming or other benefits at the jail.

An inmate may not be disciplined for sexual contact with staff unless there is a finding that the staff member did not consent to such contact.

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

All sexual activity between inmates is prohibited and inmates may be disciplined for violation of this jail rule. Sexual activity between inmates may not be found to be sexual abuse if the investigation determines that the activity is not coerced. A fully documented investigation shall be completed even if both inmates claim the activity was consensual.

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**612.34 MEDICAL AND MENTAL HEALTH SCREENING; HISTORY OF SEXUAL ABUSE (28 CFR 115.81)**

If the screening conducted during the booking or classification process indicates that an inmate has experienced prior sexual victimization, whether in an institutional setting or in the community, and upon notifications of the classification staff, the inmate will be offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decision, including housing, bed, work, education and program assignments or as may otherwise be 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.

**612.35 ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH SERVICES (28 CFR 115.82)**

Inmates who are victims of sexual abuse shall receive documented, timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by treating medical and mental health practitioners according to their professional judgment. Depending on the severity of the injuries transportation to the nearest medical facility may be necessary, by a staff member or by ambulance; in either case with appropriate security to protect the staff, the inmate and the public and to prevent escape.

If no qualified medical or mental health practitioners are on duty at the time of a report of recent abuse is made, corrections staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners and document this in their incident reports.

Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. This shall be documented by the medical and mental health practitioners.

A victim advocate from a rape crisis center should be made available to the victim. If a rape crisis center is not available, the Office shall make available a qualified member of a community-based organization or a qualified health care or mental health professional. Efforts to secure services from a rape crisis center shall be documented. A rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 USC § 14043g (b)(2) (C), to victims of sexual assault of all ages. A rape crisis center that is part of a government unit may be used as long as it is not part of the criminal justice system (such as a law enforcement

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agency) and offers a comparable level of confidentiality as a non-government entity that provides similar victim services.

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 incident.

**612.36 ONGOING MEDICAL AND MENTAL HEALTH CARE FOR SEXUAL ABUSE VICTIMS AND ABUSERS (28 CFR 115.83)**

Medical and mental health evaluations and, as appropriate, treatment shall be offered to all inmates who have been victimized by sexual abuse in any prison, jail, lockup or juvenile facility. 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 release from custody. All medical and mental health services provided shall be consistent with the community level of care.

Any inmate victim of sexually abusive vaginal penetration while incarcerated shall be offered a pregnancy test. If pregnancy results, victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.

Inmate victims of sexual abuse while incarcerated shall be offered a test for sexually transmitted infections as 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 incident.