

	CHAPTER:	Administration and Management
	POLICY NUMBER:	106.0
	POLICY TITLE:	Prison Rape Elimination Act
	RESPONSIBLE AUTHORITY:	Major
	EFFECTIVE DATE:	
	ANNUAL REVIEW DATE:	
	RELATED SC STANDARDS AND STATUTES:	SC Code of Laws §44-23-1150; Public Law 108-79 (PREA); 1049
	RELATED PREA STANDARDS:	115.11(a), 115.12(a), 115.12 (b), 115.13(a) - (d), 115.16(a), 115.16(c), 115.17(a) - (f), 115.18(a), 115.18(b), 115.21(a) - (h), 115.22(a) - (d), 115.31(a) - (d), 115.32(a) - (c), 115.33(a) - (f), 115.34(a) - (c), 115.35(a) - (d), 115.43 (a) - (e), 115.52(a) - (g), 115.53(a) - (c), 115.54(a), 115.61 (a) - (e), 115.62(a), 115.63(a) - (c), 115.64(a) - (b), 115.65(a), 115.67(a) - (f), 115.68(a), 115.71 (a) - (j), 115.72(a), 115.73 (a) - (f), 115.76(a) - (d), 115.77 (a) - (b), 115.78(a) - (g), 115.82(a) - (d), 115.83(a) - (h), 115.115.86(a) - (e), 115.87(a) - (f), 115.88(a) - (d), 115.89(a) -(d)

POLICY STATEMENT: In order to uphold the safety and security of the detention facility, inmates, staff and others, the Spartanburg County Detention Facility (SCDF) will establish guidelines and procedures in compliance with the requirements of the Prison Rape Elimination Act of 2003 and published standards related to the same. The SCDF will uphold a zero tolerance policy on all forms of sexual harassment, sexual assault, and sexual abuse of inmates as defined under PREA. Any staff member, contractor, or volunteer found, upon investigation, to have been involved in any incident of inmate sexual abuse, assault, harassment, rape, attempted rape or sexual misconduct will be subject to disciplinary action, up to and including immediate termination of employment, services, or contract, consistent with Sheriff's Officer personnel or County policies and procedures. Staff, volunteers and contractors may be criminally prosecuted for such behavior, consistent with South Carolina statutes regarding the same. Inmates found, upon investigation, to be the perpetrators of sexual abuse, misconduct, harassment, assault, rape, and/or attempted rape, will be subject to disciplinary action, to include criminal prosecution, if applicable.

CROSS REFERENCES: Policy 102.0 – *Rules of Conduct*; Policy 104.0 – *Employee Training/Records*; Policy 105.0 – *Inmate Supervision and Head Counts*; *Staffing Plans*; Policy 208.1 – *PREA Intake Screening*; Policy 209.0 – *Security/Supervision of New Admissions*; Policy 300.0 □

Classification; Policy 301.0 – Administrative Separation; Policy 501.0 – Inmate Discipline; Policy 502.0 – Disciplinary Hearing; Policy 503.0 – Miranda Warnings; Policy 704.0 – Inmate Grievance System; Policy 901.0 – Volunteers; 1001.0 – Maintenance Plan; Policy 1200.0 – Inmate Release and Transfer Procedures. Spartanburg County Sheriff's Office General Order 410.2, Selection Process.

DEFINITIONS:

1. **Employee or Staff** refers to a person(s) who is employed or works directly for the SCDF or the Spartanburg County Sheriff's Office or a person who provides direct services to inmates in a facility on a recurring basis according to a contractual agreement with the agency (e.g., contracted medical and mental health providers; contracted food service providers; contract maintenance employees, etc.). This definition is also used to encompass volunteers who donate their time and effort on a recurring basis to enhance the activities and programs of the agency and who have contact with inmates.
2. **Inmate** refers to any individual in the custody or under the supervision of the SCDF or any of SCDF's contracted service providers. This includes, but is not limited to, sentenced, pre-trial, designated facility state inmates, inmate workers, trustees, and any other person in the custody of or under the direct supervision of the SCDF under an contractual agreement with another outside agency, i.e. U.S. Marshal Services, ICE, etc.
3. **PREA** refers to the Prison Rape Elimination Act of 2003.
4. **PREA Coordinator** refers to an upper-management level position that reports directly to the Major. The PREA coordinator's responsibilities include developing, implementing, and overseeing the SCDF's plan to comply with the PREA standards. At a minimum, the PREA Coordinator is responsible for overseeing the PREA inmate orientation process; ensuring a training plan is developed to fulfill training standards mandated under PREA; monitoring inmate grievances and complaints regarding PREA violations; ensuring PREA data is documented as required under PREA standards; assisting and overseeing the development of inmate and staff literature and materials to promote their knowledge and understanding of PREA; assisting and overseeing the inmate screening process and procedures, investigative process, and medical/mental health treatment according to PREA; and collecting and maintaining all relevant documentation and supportive documentation to substantiate the SCDF's compliance with related PREA standards.
5. **Qualified Staff Member** refers to an individual who has been screened for appropriateness to provide rape crisis intervention and related assistance such as those services outlined in 42 U.S.C. 14043g(b)(2)(C) to victims of sexual assault and who has received education concerning sexual assault, forensic examinations and related issues.
6. **Sexual Abuse** refers to any of the following, as further described below: (a) inmate-on-inmate sexual abuse, (b) inmate-on-inmate sexual harassment, (c) staff-on-inmate sexual abuse, and (d) staff-on-inmate sexual harassment.
 - A. **Inmate-on-inmate sexually abusive contact:** Non-penetrative touching (either directly or through the clothing) of the genitalia, anus, groin, breast, inner thigh, or buttocks without penetration by an inmate of another inmate without the latter's consent, or of an inmate who is coerced into sexual contact by threats of violence, or of an inmate who is unable to consent or refuse.

- B. **Inmate-on-inmate sexually abusive penetration:** Penetration by an inmate of another inmate without the latter's consent, or of an inmate who is coerced into sexually abusive penetration by threats of violence, or of an inmate who is unable to consent or refuse. The sexual acts included are: contact between the penis and the vagina or the anus; contact between the mouth and the penis, vagina, or anus; or penetration of the anal or genital opening of another person by a hand, finger, or other object.
- C. **Inmate-on-inmate sexual harassment:** Repeated and unwelcome sexual advances, requests for sexual favors, verbal comments, or gestures or actions of a derogatory or offensive sexual nature by one inmate directed toward another.
- D. **Staff-on-inmate sexually abusive contact:** Non-penetrative touching (either directly or through the clothing) of the genitalia, anus, groin, breast, inner thigh, or buttocks by a staff member of an inmate with or without the latter's consent that is unrelated to official duties.
- E. **Staff-on-inmate sexually abusive penetration:** Penetration by a staff member of an inmate with or without the latter's consent. The sexual acts included are contact between the penis and the vagina or the anus; contact between the mouth and the penis, vagina, or anus; or penetration of the anal or genital opening of another person by a hand, finger, or other object.
- F. **Staff-on-inmate indecent exposure:** The display by a staff member of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate.
- G. **Staff-on-inmate voyeurism:** An invasion of an inmate's privacy by staff for reasons unrelated to official duties or when otherwise not necessary for safety and security reasons, such as peering at an inmate who is using a toilet in his or her cell; 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 and distributing or publishing them.
- H. **Staff-on-inmate sexual harassment:** Repeated verbal comments or gestures of a sexual nature to an inmate by a staff member. Such statements include demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
7. **Sexually Abusive Inmate** refers to an inmate whose past behavior indicates he/she is prone to victimize other inmates, especially with regard to sexual behavior.
8. **Vulnerable Inmate** refers to an inmate who is at high risk to become a victim of sexual assault by another inmate due to characteristics related to, but not limited to, age, physical stature, criminal history, and/or physical or mental disabilities, or past history of being victimized.
9. **Zero Tolerance** means that no sexual act, contact or harassment, will be tolerated between any inmate with another inmate and/or facility staff as stated in South Carolina Code of Laws §44-23-1150. Staff found guilty of such violations will be subject to immediate termination and may be subject to criminal prosecution. Inmates will be subject to internal disciplinary action, and may be subject to criminal prosecution.

SPECIFIC PROCEDURES:

1. **PREA Coordinator:** The Major will designate an employee in senior level management position as the PREA Coordinator for the SCDF. The PREA Coordinator will have sufficient time to perform the duties of PREA Coordinator. At a minimum, the PREA Coordinator will be responsible for the following activities/duties:
 - A. Assist in the development and/or review and modification of policies and procedures to identify, monitor and track sexual misconduct incidents reported at the SCDF;
 - B. Collect, maintain and report statistics and data related to PREA incidents, programs, and activities, to include documentation and data related to corrective action plans as required under the PREA Standards 115.87(a) - (f) and 115.88(a) - (d) and 115.89(a) -(d);
 - C. Provide oversight of all investigations related to PREA incidents, i.e., monitor timelines, ensure compliance with PREA Standards related to investigations, ensure all investigative processes are documented and recorded, etc.;
 - D. Conduct audits to ensure compliance with SCDF policies and procedures and PREA Standards, and make recommendations to the Major and Sheriff regarding needed resources or funding to promote facility compliance;
 - E. Collect and maintain documentation and records to support compliance with PREA Standards;
 - F. Assist in the development and/or review of all staff and inmate training materials and literature regarding PREA to ensure compliance with PREA standards;
 - G. Monitor all reports of noncompliance with PREA related standards and provide oversight and direction of any corrective action necessary to conform with the requirements included in PREA Standards. Maintain documentation and records of all corrective action taken to comply with standards;
 - H. Initiate reports to the Major and others recommending any adjustments to the staffing plan, monitoring security equipment and/or facility design in order to prevent sexual incidents.
 - I. Assist in the development and identification of outside providers able to provide services to victims of sexual abuse, harassment, assault, misconduct, rape and attempted rape. Assist in the development and execution of contracts or Memorandum of Agreements (MOAs) with these providers and maintain documentation of all MOA's and efforts to enter into MOA's.
 - J. Assist the Major/designee in conducting an annual, formal review of the detention center's staffing plan and deployment of video monitoring devices and other monitoring devices/technologies to ensure staff/technology levels are sufficient for compliance with PREA. (See, also, Policy 105.0 – *Inmate Supervision and Counts; Staffing Plans, Specific Procedure #3*, for additional information.)
 - K. Complete and maintain written follow-up reports to be provided to victims of sexual abuse or harassment to inform them of the results of any investigation related to their

reported incident and any action taken regarding the perpetrator, i.e., termination of employment, reassignment, transfer, indictment, criminal prosecution, etc.

- L. Assist in the development, implementation and documentation of corrective action plans designed to further improve facility and staff compliance with PREA Standards.
- M. Assist in the development and maintenance of a written, facility plan to designed to outline and coordinate the actions necessary to be taken in response to an incident of sexual abuse among staff first responders, medical and mental health care providers, investigators, and facility heads and management staff.
- N. Other duties as deemed necessary by the Major or by PREA related standards.

2. **Inmate Education and Orientation:**

- A. All inmates will receive information about PREA, sexual misconduct and the SCDF zero tolerance policy during inmate orientation. At a minimum, the following information will be presented to inmates and will be included on all inmate commissary kiosks throughout the facility. Such information will also be included in any inmate orientation literature provided to inmate at the time of their admission and orientation to the SCDF.
 - 1). An explanation and presentation of the SCDF's zero tolerance policy against any sexual assault, consensual sexual contact, sexual abuse, sexual coercion, rape and/or sexual harassment by any inmate towards another inmate or by any staff member or employee against an inmate;
 - 2). An explanation and description of the procedures in place at the facility to report sexual abuse and/or harassment incidents;
 - 3). An explanation of the investigative procedures that will be initiated to thoroughly and confidentially investigate all allegations and reports of sexual abuse;
 - 4). An explanation that any inmate who reports sexual abuse will be protected by SCDF staff against any retaliation by other inmates, staff or employees.
 - 5). An explanation of any treatment and counseling services available for inmates who have reported incidents of sexual abuse or harassment;
 - 6). An explanation of the procedures that will be initiated to discipline and prosecute any inmate or staff member who is found to have committed a sexually abusive offensive.
- B. Orientation information provided in writing to inmates will be presented in both English and in Spanish versions. When necessary, interpretive services will be made available to inmates in compliance with the requirements of the Americans with Disabilities Act and with PREA Standards. Inmates will also be afforded the opportunity to ask questions related to the information provided to them of any staff member.
- C. The detention center will not rely on inmate interpreters, inmate readers, or other types of inmate assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegations.

- D. Inmate receipt of PREA orientation and educational materials presented during intake will be documented and made accessible to the PREA Coordinator for record keeping purposes.

3. **Prevention:**

A. **Staff Training:**

- 1). All staff and inmates will be trained to be alert to detect the signs or potential situations in which sexual abuse or harassment might occur. Signs may include, but are not limited to:
 - a. Staff/inmates being overly friendly with one another;
 - b. Offering favors, privileges, commissary items or other items to inmates by any staff, employee or volunteer,
 - c. Any overt sexual activity that raises security or safety concerns;
 - d. Facility design obstacles that may prevent employees from effectively viewing areas of the facility where potential sexual abuse could occur.
- 2.) Staff will be trained to immediately document any such information on an *Incident Report* for immediate submission through the supervisory chain-of-command to the detention center Major and PREA Coordinator so that corrective action can be taken or the matter internally investigated. Should an officer have reason to believe supervisory staff may be involved in such incidents, the officer may remove these individuals from distribution and bring the matter directly to the attention of the next highest ranking official.
- 3). All detention center employees and staff, to include contractors and volunteers, with direct contact with inmates will receive documented PREA training during orientation and during in-service training as described in Policy 104.0 – *Employee Training/Records*. (**NOTE:** Comprehensive PREA Training will be provided employees bi-annually (every two years); during alternative years, staff will be required to be trained on this policy and will be re-tested on their comprehension of this policy. All training, policy review, and policy retesting will be documented by the Training Sergeant and will be made accessible to the PREA Coordinator.) All training will be documented by the Training Sergeant and will be maintained in each employee's personnel file. At a minimum, PREA training will include the following:
 - a. Review of this policy and successful completion of a test to ensure understanding of the same;
 - b. Overview of the *Prison Rape Elimination Act* and related standards;
 - c. Overview of basic staff and inmate reporting procedures, confidentiality requirements, and security procedures;
 - d. Prevention, investigation, and prosecution of sexual abuse cases,
 - e. Search procedures and requirements related to PREA;
 - f. Overview of the role of the PREA Coordinator;
 - g. Classification and housing recommendations related to victimization, to include the recognition of sexual misconduct; sexual abuse; predatory inmates; potential victims; and/or staff involvement;
 - h. Disciplinary sanctions and criminal prosecution requirements;
 - i. Staff ethics and Code of Conduct (as described in Policy 102.0 – *Rules of Conduct*;

- j. Any other applicable state, federal or local laws pertaining to sexual abuse and PREA.

B. **Security Rounds:**

- 1). Staff will be required to conduct security rounds at least twice per hour for all general population areas or more often for inmates requiring more intensive supervision due to their medical, mental health or security status. (See Policy 105.0 – *Inmate Supervision and Head Counts* and Policy 209.0 – *Security/Supervision of New Admissions* for additional information.)
- 2). Security staff and employees will be mindful of their surroundings at all times. Security staff will be responsible for ensuring that all windows and doors are free of clutter and not covered to cause line-of-sight obstructions. Any lighting issues will be properly reported and rectified consistent with detention center maintenance procedures (see Policy 1001.0 – *Maintenance Plan* for additional information).
- 3). Supervisory staff will be required to conduct unannounced, random rounds of the facility on both day and evening shifts to deter possible sexual abuse and/or harassment incidents. All such rounds will be documented and such information will be accessible to the PREA Coordinator for documentation and record keeping purposes. Any noted issues identified by supervisory staff will be documented on an *Incident Report* to be immediately forwarded through the chain-of-command to the Major and to the PREA Coordinator for investigation, if necessary.

- C. **Complaints and Allegations:** The SCDF will offer inmates and staff various avenues by which allegations and complaints regarding sexual abuse and harassment can be reported. All complaints and allegations will be processed and investigated without fear of retaliation as described in Specific Procedures 4, below.

- D. **Post-Admission Screening Tools:** Consistent with PREA Standards, and as further described in Policy 208.1 – *PREA Intake Screening*, the Spartanburg County Detention Facility (SCDF) will ensure all inmates are assessed by security staff within 72 hours of their admission to the facility and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive towards other inmates. An objective screening tool will be developed by SCDF personnel to be used for this purpose. At a minimum, the tools will be developed to consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the SCDF, in assessing inmates for risk of being sexually abused.

E. **Classification and Protective Custody:**

- 1). **Classification:** The SCDF will develop and implement a classification system to identify, assess and manage inmates with special needs, including those who are potentially vulnerable and potentially dangerous, to provide safe housing; adequate protection; and programmatic resources to meet their needs in accordance with applicable standards, statutes and laws. (See Policy 300.0 □ *Classification* and Policy 301.0 □ *Administrative Separation* for additional information.)
- 2). **Protective Custody:** Inmates deemed to be at high risk for sexual victimization should not be placed in involuntary segregation (or protective custody) unless an immediate assessment is conducted of all other available,

alternative means of housing the inmate. In cases such as this, the PREA Coordinator and the Facility Major/designee will be contacted by classification personnel to assist in the assessment. If an assessment is unable to be conducted immediately, inmates may be placed in involuntary protective custody for no more than 24 hours while the assessment is made. If, upon review, a decision is made to continue placement of the inmate in protective custody, the following requirements must be met:

- a. Written documentation will be made by the PREA Coordinator and approved by the Major/designee, clearly setting forth the rationale and reasons for maintaining the inmate in protective custody status;
- b. Written documentation will be made by the PREA Coordinator and approved by the Major/designee, that clearly sets forth the reasons why no alternative means of separation can be made. (**NOTE:** This should include attempts made to seek transfer of the inmate to another facility);
- c. The inmate must be provided the same access to programs, services, privileges and work opportunities as general population inmates. If there is any restriction made that limits an inmate's access to the same, documentation must be maintained that support the reasons used for the limitation, the duration of the limitation, and the name/type of program, service, privilege or opportunity limited.
- d. To the extent possible, the inmate will not be maintained in this status for longer than 30 days. If the length of stay exceeds 30 days, the inmate will be reassessed every 30 days by classification personnel and the PREA Coordinator to determine the need to maintain the inmate in this status.

See Policy 301.0 – *Administrative Separation*, for additional information.

- E. **Hiring and Promotions:** The Spartanburg County Detention Facility will uphold a strict hiring and promotional policy designed to assist in the prevention of sexual abuse. To this end, SCDF staff will not recommend or approve for hire or for promotion anyone who may have contact with inmates and will not enlist the services of any contractor who may have contact with inmates who has engaged in any form of sexual abuse in a prison, jail, lock-up or other correctional confinement facility; 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, of if the victim did not consent or was unable to consent or refuse; and/or has been civilly or administratively adjudicated to have engaged in any of the aforementioned activities. Additional information related to hiring and promotional regulations that include requirements designed to assist in the prevention of sexual abuse within the detention facility are included in Spartanburg County Sheriff's Office General Order 410.2, *Selection Process*.

4. **Reporting Incidents:**

- A. **Initial Reporting--Inmates:** Inmates may report sexual abuse or harassment in any of the following manners:
- 1). Inmates who believe they are victims of sexual abuse or harassment as defined in this policy will be free to report this information to any staff member without fear of retaliation. Staff members will be required to complete an *Incident Report* describing the inmate's allegations for

- immediate submission to the Detention Facility Major and PREA Coordinator so that an official report can be filed and a formal PREA investigation can be initiated.
- 2). Inmates may also report sexual abuse and harassment allegations using *PREA Report Forms* available on all SCDF commissary kiosks. Completed forms will be immediately forwarded directly to the Detention Facility Major and the PREA Coordinator so that a formal investigation can be initiated.
 - 3). Inmates may also submit grievances as outlined in Policy 704.0 – *Inmate Grievance System*. (**NOTE:** Certain grievance requirements will be modified or revised to ensure compliance with PREA. Please refer to the Addendum made to Policy 704.0 – *Inmate Grievance System* for information related to these changes.)
 - 4). Inmates may utilize the SCDF phone system and contact Crime Stoppers to report allegations of sexual abuse or harassment. Information concerning Crime Stoppers will be included on all inmate phone systems and will be communicated to inmates during their inmate orientation. Crime Stoppers will accept anonymous reports of sexual abuse. SCDF officials will be contacted by Crime Stoppers when allegations of sexual abuse at the SCDF are reported on their hotline so the appropriate steps can be taken to investigate the matter. In addition, outside parties may report allegations of sexual abuse they have been informed of by inmates through the Crime Stoppers hotline. Notification by Crime Stoppers should be made within one (1) hour to the PREA Coordinator.
 - 5). Inmates may also dial *9999# free of charge using the inmate phone system. This will direct the call to Crime Stoppers where they can speak with a live person regarding any allegations of sexual abuse. Crime Stoppers will take a detailed report of the allegations and will make notification to the PREA Coordinator. Typically, notification should be made in one (1) hour to the PREA Coordinator.
 - 6). Should an inmate enter the detention center due to a transfer from another facility and report an allegation of sexual abuse while confined in the transferring facility, the inmate will be referred to the health care provider to be assessed and evaluated. The intake officer receiving the inmate will complete an *Incident Report* for dissemination to the Major and PREA Coordinator. The Major, PREA Coordinator or designee will be responsible for contacting the administrator of the transferring facility to advise him/her of the allegation. All notifications will be documented and maintained by the PREA Coordinator. Notifications to the transferring agency head should be made within 72 hours of receiving the allegation.

B. **Initial Reporting--Staff:**

- 1). Regardless of its source, staff, employees, contractors, and volunteers who receive information concerning sexual abuse, harassment or assault or who have reasonable cause to suspect the same, will immediately report the information or incident directly to their immediate supervisor or another member of supervisory correctional staff. Any information known to staff that may have contributed to the incident, i.e., failure of an employee to act; failure of an employee to follow policy and procedure, etc., will also be required to be reported to a supervisor. The supervisor will immediately contact the detention center Major and PREA Coordinator or designee who

will, in turn, initiate an investigation and institute other procedures as described in Specific Procedure #5, below.

- 2). Reporting staff, employees, contractors, and volunteers will be required to complete an *Incident Report*. Should a contractor or volunteer need assistance to complete an *Incident Report*, supervisory staff will assist. *Incident Reports* regarding sexual abuse and/or harassment will only be shared with supervisory staff and with other staff members that may need to know information in order to effectively treat, investigate, manage, or provide for the safety, security and well being of the inmate.
- 3). Correctional staff will not reveal any information related to a sexual abuse report to anyone other than designated supervisors. The only allowable exceptions will be when the relay of such information is necessary to make treatment, investigation, and other security and management decisions, and then only to the extent necessary to protect the security, safety and wellbeing of the inmate.

- C. **Initial Reporting--Outside Parties:** Any outside party, i.e., inmate's friend, relative, associate, counsel, etc., may report a sexually abusive incident by contacting Crime Stoppers or the detention center Major or PREA Coordinator directly. SCDF staff will investigate all reported incidents to determine their validity and will initiate investigative measures as described in Specific Procedure #5, below, should the incident be verified. The SCDF will make information regarding third party reporting of sexual abuse available on its website and will provide written notification of the same to visitors. Written notification will be made available in the form of pamphlets or handouts provided to visitors and may be provided in the form of written notices strategically placed in areas of the main lobby for visitor review.

D. **False Reports:**

- 1). **Inmates:** Substantiated, deliberately malicious or false reports by inmates will result in disciplinary action and/or criminal charges consistent with the procedures outlined in Policy 501.0 – *Inmate Disciplinary System* and Policy 502.0 – *Disciplinary Hearings*.
- 2). **Others:** Any employee, contractor, volunteer, or staff member who fails to report an allegation or who coerces or threatens another person to submit inaccurate, incomplete, or untruthful information with the intent to alter a report, may face disciplinary action, up to and including immediate termination or termination of their volunteer status or contract.

(**NOTE:** For the purposes of staff or inmate disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred will not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.)

E. **Retaliation:**

- 1). Retaliation against inmates, employees or other parties for reporting sexual abuse or harassment will not be tolerated by the SCDF. Those who retaliate may face disciplinary action, up to and including immediate termination, consistent with Spartanburg County Sheriff's Office personnel policies and procedures.
- 2). The SCDF PREA Coordinator will monitor the conduct and treatment of an inmate(s) or staff member(s) who reports sexual abuse or harassment to ensure there is no possible retaliation by others. Such monitoring will take

place for at least 90 days following the submission of the report, or longer upon the discretion of the Coordinator. The PREA Coordinator will, at a minimum, ensure the following monitoring activities are periodically completed during this 90 day period to ensure any activities or incidents are not related to the inmate or staff member's report of sexual abuse or harassment. All reviews will be documented by the Coordinator for record keeping purposes:

- a. Review of inmate disciplinary reports;
- b. Review of an inmate housing or program changes;
- c. Consult with the inmate to check on his/her status;
- d. Review of any negative performance reviews or reassignments (employees only).

(NOTE: Should an investigation reveal an allegation of sexual abuse or harassment to be unfounded, the SCDF's obligation to monitor will immediately terminate. Termination will be documented by the PREA Coordinator.)

- 3). The SCDF will take the steps necessary to ensure the safety of any individual who cooperates with an investigation involving an incident of sexual abuse and/or harassment and expresses a fear of retaliation due to the same. The PREA Coordinator will be contacted in these cases and will be responsible for documenting any agreed upon steps or actions to be taken, and will periodically monitor the implementation of such steps/actions. **(NOTE:** Should an investigation reveal an allegation of sexual abuse or harassment to be unfounded, the SCDF's obligation to monitor will immediately terminate. Termination will be documented by the PREA Coordinator.)

F. **Confidentiality:**

- 1). Any information provided to an employee or staff member concerning sexual abuse incidents will be deemed confidential. Any information provided to staff will only be shared consistent with and according to standards required by state statute, professional licensure and ethical standards.
- 2). It will be the responsibility of SCDF staff to ensure the safety and security of any inmate who reports sexual abuse, harassment, or assault or who is a victim of the same. Any person found to be revealing confidential information to unauthorized authorities or any person found to be retaliating against a victim or against a reporting party will be subject to disciplinary action, up to and including immediately termination.

5. **Intervention/Investigation, Services, Post-Investigative Follow-up and Reports:**

- A. **Intervention/Investigation:** Staff who receive an initial report of inmate-inmate or staff-inmate sexual abuse or misconduct will report this information directly to their immediate supervisor. Staff will be trained to maintain the confidentiality of all reported incidents. The SCDF will ensure that an administrative or criminal investigation is initiated and completed for all allegations of sexual abuse and harassment. All allegations will be investigated promptly and objectively, generally by the end of the shift in which the incident occurred. The release or transfer of the alleged victim(s) or perpetrator(s), or the termination, suspension or voluntary departure of an employee(s) involved in the incident, will **not** be grounds to terminate any investigation. Under no circumstances will any member of SCDF or SCSO staff lessen to any degree the credibility of any victim, witness or suspect

because of the person's status as a inmate or detainee. Similarly, no member of SCDF or SCSO staff will boost the credibility of any witness or suspect because the individual is a staff member. To uphold their zero tolerance policy, the SCDF will be committed to criminally prosecuting any substantiated allegations of inmate-inmate or staff-inmate abuse or misconduct to the fullest extent of the law. No exceptions will be made. The SCDF and SCSO will institute no standard higher than the preponderance of the evidence when determining whether an allegation of sexual abuse or harassment is substantiated. (**NOTE:** Should a contractor or volunteer receive information from an inmate, the contractor/volunteer will be trained to immediately report this information to a supervisor.) Upon notification, staff will:

- 1). Separate the victimized inmate from the alleged assailant to protect the victim and prevent further violence. Once separated, a supervisor will be contacted immediately to ensure enough staff is deployed to assist in maintaining control of the area and the health care provider will be contacted to assist the victimized inmate.
- 2). Secure the scene of the alleged incident to preserve any evidence and immediately contact Sheriff's Office dispatch to request a deputy sheriff and/or Criminal Investigative Division (CID) investigator(s) to process the scene consistent with Sheriff's Office investigative protocols and with the requirements of contained in PREA Standards. At a minimum, investigators assigned to conduct such investigations will receive specialized training in the following areas. All training will be documented by the Training Sergeant and will be made accessible to the PREA Coordinator, as needed.
 - i. Interviewing sexual abuse victims, suspected perpetrators, and witnesses, to included prohibitions regarding the compelling victims of sexual abuse to submit to polygraph testing as a condition of any further criminal investigation into the incident;
 - ii. Proper use of Miranda and Garrity warnings during such investigations;
 - iii. Sexual abuse evidence collection in a jail setting, to include proper techniques for gathering and preserving direct and circumstantial evidence, to include DNA evidence and any available electronic monitoring data;
 - iv. Criteria and evidence required to substantiate a case for administrative action and/or criminal prosecution, to include the collection and review of any prior allegations and/or reports of sexual abuse involving the suspected perpetrator.
 - v. Maintenance of accurate and detailed written reports pertaining to the investigation and related documents pertaining to the investigation, to include descriptions of physical, testimonial and documentary evidence.

(**NOTE:** In compliance with PREA Standards, the SCDF will ensure that investigative protocols for all allegations of sexual abuse and harassment are included on their website. At a minimum, the website will include information that specifies that Spartanburg County Sheriff's Office investigators will be responsible for conducting all investigations and will describe the responsibilities of both the SCDF and Sheriff's Office investigators. In addition, the SCDF Major will advise the Sheriff of the need for the Sheriff's Office to have a separate policy in place that addresses investigations related to PREA violations at the detention center. This policy will include provisions for following uniform evidence protocols for sexual

assaults. At a minimum, evidence protocols included in policy will be developmentally appropriate for youth (under 18) and should be based on protocols developed after 2011. The facility Training Sergeant will maintain all training reports for all investigators and will make these reports available to the PREA Coordinator, upon request.)

- 3). Health care providers at the facility will assess the medical and mental health care needs of the victimized inmate. If applicable, medical staff will ensure the inmate is transported to an outside medical facility so a sexual assault medical examination of the inmate consistent with PREA Standards can be conducted by trained medical personnel. Generally, such examinations are required if the sexual abuse occurred within 72 hours of the reported incident. **(NOTE:** The SCDF will ensure that any outside providers contracted to conduct sexual examinations utilize Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs). Documentation will be maintained by the PREA Coordinator and made available for examination by PREA Auditors, upon request.)
- 4). SCDF health care providers will attempt to conduct or arrange to be conducted through outside providers, a mental health evaluation of any known inmate-on-inmate abuser within 60 days of learning of their abuse history. Appropriate treatment will be arranged for such inmates as deemed appropriate by the mental health care provider conducting the evaluation.
- 5). The PREA Coordinator will assess the victimized inmate to determine their threat or propensity to suicide and will arrange for an evaluation by a qualified mental health care professional for crisis intervention counseling and follow-up through a local, contracted, outside provider. In the case of rape, the facility will make every effort to afford the inmate access to a victim advocate from a rape crisis center or other local, community based organization qualified to provide such services. If this is not possible, the SCDF will provide the inmate access to a *qualified staff member* (see DEFINITIONS Section, above) trained to provide such services. The PREA Coordinator will be responsible for maintaining documentation of all efforts made to contract with any outside rape crisis network organizations.
- 6). Responding officers will complete an *Incident Report* for dissemination to the PREA Coordinator and the Facility Major as soon as possible, but no later than the end of the shift.
- 7). The responding supervisor will contact the PREA Coordinator who will make notifications to appropriate staff, i.e., Classification Sergeant for housing reassignment, etc.
- 8). The responding supervisor or other higher officials will ensure the detention center's Classification Sergeant and housing supervisors are made aware of the incident so that arrangements can be made to initiate separate housing assignments for the victim and his/her assailant.
- 9). If, at the conclusion of the investigation, the SCDF and the SCSO believe evidence collected during the investigation supports criminal prosecution of the suspected perpetrator, investigators will consult with prosecutors to determine whether compelled interviews may be an obstacle for such prosecution.
- 10). For investigations that are administrative in nature, an effort will be made to determine whether staff actions, failures to act, or failure of staff to follow policies and procedures contributed to the incident so that corrective action and, if needed, staff re-training can be initiated by the Training Sergeant and

PREA Coordinator. All administrative investigations will be documented in writing and will include investigative findings and facts based on physical evidence, testimonial evidence, and an objective assessment of the same.

B. Services:

- 1). The PREA Coordinator, in consultation with the Major and other administrators, will develop procedures for providing available services to inmates who allege they are victims of sexual abuse. To this end, the PREA Coordinator/designee will make every effort to enter into MOA's with outside agencies trained to assess and provide counseling services for sexual abuse victims or will ensure that such services are made available in-house by qualified staff through the contract health care provider. At a minimum, these services will include:
 - a. Mental health crisis intervention and treatment;
 - b. Social, family, and peer support; and
 - c. Medical treatment, including testing for HIV and other sexually transmitted diseases, emergency contraceptives, and pregnancy testing (if applicable), provided such services are authorized via accepted standards of care and are deemed medically appropriate.

(NOTE: All treatment provided will be provided without cost to the victim, regardless of whether the victim names the perpetrator or cooperates with an investigation into the alleged sexual abuse.)
- 2). A victimized inmate may at any time request a victim advocate or other qualified agency staff member or contracted organization to accompany him/her through the forensic medical examination process or investigatory interview process. Victim advocates, qualified staff members or approved organizations may also be requested by the inmate to provide emotional support, crisis intervention, information and referrals. Inmates desiring such support will make a confidential, written request to the facility PREA Coordinator who will, upon receipt of the request, meet with the inmate to arrange for such services. To the extent possible consistent with security and safety requirements, the facility will provide inmates with confidential access to such services and will provide the inmates access to such individuals and/or organizations via mail or telephone/telephone hotline services. The facility will inform inmates prior to giving them access to such services, numbers and addresses, the extent to which the facility may monitor communications in accordance with mandatory reporting laws. **(NOTE:** The SCDF will maintain or attempt to enter into Memoranda of Agreement (MOA) with community service providers able to provide inmates with confidential emotional support services and victim advocacy services related to sexual abuse. The PREA Coordinator will be responsible for maintaining documentation related to all attempts to enter into such MOA's for compliance with this PREA requirement.)
- 3). The SCDF will offer medical and mental health evaluations and, as deemed appropriate by health care providers, treatment to all inmates who have been victimized by sexual abuse while under the confinement or jurisdiction of the SCDF. The evaluation and treatment will, at a minimum and as appropriate, include the following services: follow-up services, treatment plans and, when necessary, referrals for continued care following their release from the SCDF or transfer to or placement in other facilities. The health care provider will be responsible for confidentially ensuring such referrals are provided to

the inmate prior to his/her release or to the receiving facility prior to an inmate's transfer.

- 4). Should a victimized inmate refuse medical or mental health attention following a sexual abuse incident, staff will document the inmate's refusal on a *Medical Treatment Refusal Form* consistent with the health care provider's medical protocol. All *Refusal Forms* will be maintained in the inmate's medical record for documentation and record keeping purposes.

C. **Post Investigation Follow-up:**

- 1). Following any allegation by an inmate that he/she has been the victim of sexual abuse or harassment, the PREA Coordinator will be responsible for informing the inmate, both verbally and in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. The PREA Coordinator will maintain copies of all written follow-up reports for documentation purposes.
- 2). The PREA coordinator will also be responsible for informing the inmate, in writing, of any of the following actions taken for any substantiated investigations. The PREA Coordinator will maintain copies of all written follow-up reports for documentation purposes. (**NOTE:** The PREA Coordinator's obligation to report information to the victim will be authorized to be terminated if the inmate is released from the custody of the SCDF.)
 - i. If the alleged perpetrator was a staff member, whether the staff member has been reassigned to a post or position outside the inmate's unit;
 - ii. If the alleged perpetrator was a staff member, whether he/she is no longer employed by the facility;
 - iii. If the alleged perpetrator was a staff member, whether he/she has been indicted on a charge of sexual abuse within the facility and/or has been convicted of such a charge.
 - iv. If the alleged perpetrator was another inmate, whether he/she has been indicted on a charge of sexual abuse within the facility and/or has been convicted of such a charge.

The PREA Coordinator's obligation to report information to the victim will be authorized to be terminated if the inmate is released from the custody of the SCDF.

D. **Disciplinary Action:**

- 1). **Staff:**
 - a. Staff will be subject to disciplinary action up to and including termination for violating any agency sexual abuse or harassment policies. For staff who are found to have engaged in any form of sexual abuse, termination will be mandated. Spartanburg County personnel policies regarding discipline will be followed for all employees of the SCDF.
 - b. Disciplinary sanctions for violations of agency policies *relating* to, but not *engaging* in, sexual abuse or harassment will be commensurate with the nature and circumstances of the acts committed; the disciplinary history of the staff member; and the

- sanctions imposed for comparable offenses by other staff with similar histories.
- c. All terminations for violations of the SCDF zero tolerance policies or resignations by staff who may have been terminated for such violations will be reported to SCSO, unless the activity was not criminal in nature. In addition, such violations will be reported to any licensing agencies applicable to the staff member involved. The PREA Coordinator will be responsible for making such notifications, and for maintaining copies of the same in the relevant employee's personnel, contractor or volunteer file. (**NOTE:** For contract employees with direct contact with inmates and for volunteers with direct contact with inmates, the contract employee or volunteer's services will be immediately terminated and the contractor/volunteer will be reported to their representative agency's personnel department. Should an investigation reveal the contract employee or volunteer engaged in criminal behavior, he/she will be reported to the SCSO for subsequent criminal prosecution.)
- 2). **Inmates:** Inmate discipline will be implemented pursuant to the procedures outlined in Policy 501.0 – *Inmate Discipline*; Policy 502.0 – *Disciplinary Hearing*; Policy 503.0 – *Miranda Warnings* with the following exceptions. These exceptions will be included as an Addendum to Policy 501.0 and Policy 502.0. :
- a. Disciplinary action is typically taken against an inmate when an officer witnesses or has reason to believe a violation has recently occurred. For incidents involving sexual abuse or harassment, victims may be reluctant to immediately report such incidents to an officer or others. Therefore, it is not unlikely for lapses to occur between the time the incident occurred and the time it was reported. Therefore, staff are prohibited from lessening the severity of the reported offense/incident solely because of such lapses or because they did not directly witness the incident. For purposes of sexual abuse or harassment, disciplinary procedures will be considered initiated on the date the incident was reported or upon the completion of an investigation intended to substantiate the incident.
 - b. For incidents involving sexual abuse or harassment, the disciplinary hearing officer will consider whether an inmate's mental disabilities or mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed. The hearing officer may consider whether to require an inmate to participate in therapy, counseling or other interventions designed to correct underlying reasons or motivations for the abuse, if such programs or interventions are available.
 - c. An inmate may be disciplined for sexual contact with staff, only upon a finding that the staff member **did not** consent to such contact.
 - d. Inmates may be disciplined for sexual contact with other inmates; however, such behavior will not be classified as sexual abuse as defined above, if the activity in question was not coerced or consensual.

- 3.) **Contractors and Volunteers:** Any contractor or volunteer who engages in sexual abuse will be immediately reported to the Major and to the PREA Coordinator. Such contractors and volunteers will be prohibited from any future contact with inmates and will be reported to the Sheriff's Office law enforcement division and, if necessary, to relevant licensing bodies. All documentation regarding such referrals will be maintained by the PREA Coordinator. (See, also, Policy 901.0 – *Volunteers*.)

E. **Reports:**

- 1). The PREA Coordinator will document and track all sexual abuse reports to collect relevant data on victims, assailants, crime characteristics and action taken consistent with the data and reporting requirements contained in PREA Standards.
- 2). The Spartanburg County Sheriff's Office CID Division will conduct an annual review of all investigations conducted related to PREA violations and will make recommendations for detention center improvements. All recommendations will be provided to the Detention Center Major and PREA Coordinator, in writing.
- 3). The SCDF will retain all written reports, *Incident Reports*, initial reports of abuse or harassment by an inmate, and any documents pertaining to all investigations involving sexual abuse, misconduct and/or harassment for as long as the perpetrator is confined or employed by the SCDF or SCSO, plus five (5) years. This includes all documents related to physical and testimonial evidence and all documentation related to the criminal prosecution of the perpetrator, if applicable.
- 4). If the alleged victim of sexual abuse or harassment is under the age of 18 or is considered a vulnerable adult under state law, the PREA Coordinator will report the incident as required under South Carolina state statutes.

6. **Facility Sexual Abuse Incident Review Team:**

- A. The Facility Major will ensure that a Sexual Abuse Incident Review Team is established to review all substantiated and unsubstantiated allegations of sexual abuse or harassment. Allegations deemed unfounded upon investigation will not be subject to review by the Sexual Incident Review Team. At a minimum, the team will be composed of the following members: A member of upper-management staff at the level of Captain who will serve at the team leader; Shift Supervisor(s); Correction Officer(s); Investigator(s); and at least one health care provider. The Major will be responsible for assigning staff to participate as members of the team at the conclusion of any sexual abuse or harassment investigation deemed substantiated or unsubstantiated. The team will be provided at least 30 days to complete their review of the incident and submit a written report to the Facility Major and PREA Coordinator of their findings and recommendations. Should the team need longer than 30 days to complete their report or review, the team leader will be responsible for submitting a written request for extension to the Facility Major outlining the reasons for the extension and the estimated completion date. The Facility Major may, based on the reasons for the extension, approve or deny the extension. Under no circumstances will extensions of 15 days or more be approved.
- B. The team will, at a minimum, be responsible for:

- 1). Determining whether a need exists to revise, modify or develop new policies and procedures to prevent, detect, or respond to sexual abuse;
 - 2). Assessing whether the incident was motivated by race; ethnicity; gender identity, lesbian, gay, bisexual, or intersex identification status or perceived status; gang affiliation; or by other factors or group dynamics at the facility;
 - 3). Examination of the area of the facility where the incident occurred to determine if any physical barriers existed which may have enabled the abuse;
 - 4). Assessment of staffing levels to determine whether a need exists to improve or reassign staff to prevent future incidents;
 - 5). Assessment of monitoring technology to determine whether improvement need to be made to augment staff supervision and prevent future incidents.
- C. The team will be required to present and submit a written report of finding and recommendations to the Facility Major and PREA Coordinator. To the extent possible within the realm of the Facility Major's funding capabilities, the corrective action recommendations included in the team's report will be implemented. If recommendations are unable to be implemented, the reasons for the same will be documented by the Facility Major and/or PREA Coordinator. In addition, any means taken to attempt to implement recommendations will also be documented to include such items as funding requests for additional staff, monitoring equipment, facility design improvements, etc. The PREA Coordinator will be responsible for maintaining all documentation for record keeping purposes.
7. **New or Renewed Contracts:** Should Spartanburg County or the SCDF enter into any contract for the confinement of any SCDF inmates with another agency, public or private, the contract will include specific language of the contractor's obligation to adopt and comply with PREA Standards. Spartanburg County, SCDF or an outside entity contracted by the County or by SCDF, will be responsible for monitoring the contractor's compliance with PREA Standards and for maintaining documentation regarding such activity.
8. **New Construction/Renovation/Upgrades to Facility:** In compliance with PREA Standards, any new facility construction, building acquisition, design modifications, expansion, or addition, will be evaluated with consideration given to the agency's ability to protect inmates from sexual abuse. This provision will also apply to situations when the facility is considering upgrading or installing electronic monitoring equipment, video surveillance systems, or other monitoring equipment. The Detention Facility Major or designee will be responsible for maintaining documentation to certify that he/she and, at a minimum, the PREA Coordinator, reviewed all plans with consideration given to continued agency compliance with PREA Standards.

S/ _____
Sheriff, Spartanburg County

Date/ _____