

WINNEBAGO COUNTY JUVENILE DETENTION CENTER	POLICY NUMBER: 9.6	PAGE: 1 of 4
EFFECTIVE DATE: 05//19/2023	REVIEWED:04/1/2023 REVISED: 05/12/2023	APPROVED BY: Julie McCray- Grotto
CHAPTER: Prison Rape Elimination Act of 2003		SUBJECT: PREA- Investigations
PREA: 115.371, 115.372, 115.373		
AOIC: 9.1, 9.2, 9.3		
IDJJ: 2602.50		

I. POLICY:

The federal Prison Rape Elimination Act (PREA) of 2003 establishes a zero-tolerance standard for resident sexual abuse and sexual harassment; ensures that prevention of resident sexual abuse and sexual harassment is of utmost importance and develops/implements national standards for the detection, prevention, and punishment of sexual abuse and sexual harassment.

It is the policy of Winnebago County Juvenile Detention Center (WCJDC) to provide a safe, humane, and secure environment for all residents. Winnebago County Juvenile Detention Center mandates zero tolerance towards all forms of sexual abuse and sexual harassment. In accordance with this procedural manual, all staff members, contractors, and volunteers have an affirmative duty to report all allegations, knowledge or suspicion of sexual abuse, sexual harassment or sexual contact that takes place within the WCJDC. All cases of alleged sexual conduct in accordance with PREA policy 19.1 shall be promptly, thoroughly, and objectively investigated.

The purpose of this policy is to define Winnebago County Juvenile Detention Center's administrative and criminal investigation policy for all allegations of sexual abuse and sexual harassment.

II. DEFINITIONS: None.

III. PROCEDURES:

A. Criminal and administrative agency investigations [115.371]

1. An administrative or criminal investigation shall be completed for all allegations of Sexual Abuse and Sexual Harassment.

2. Investigations shall be conducted promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. Investigations are to be initiated promptly, following the receipt of the allegation. [115.371(a)]
3. All allegations that could lead to prosecution are referred to local law enforcement for investigation. Administrative investigations will take place in addition to a criminal investigation for all allegations. Administrative investigations will not interfere with criminal investigations.
4. The WCJDC shall utilize investigators who have received specialized training in sexual abuse investigations in the confinement setting pursuant to Standard 115.334 [115.371(b)].
5. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. [115.371(c)]
6. When the quality of evidence appears to support criminal prosecution, WCJDC shall await local law enforcement to conduct compelled interviews. Compelled interviews shall be conducted only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. [115.371(e)]
7. The credibility of an alleged victim, suspect or witness shall be assessed on an individual basis and shall not be determined by the person's status as a resident in the WCJDC. WCJDC shall not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation [115.371(f)]
8. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse [115.371(g) (1)]
9. Administrative investigations shall be documented in written reports that include a description of the physical and testimonial evidence, reasoning behind credibility assessments, investigative facts and findings. [115.371(g) (2)]
10. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of documentary evidence where feasible. [115.371(h)]

11. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. [115.371(i)]
12. WCJDC shall retain all written reports for as long as the alleged abuser is incarcerated or employed by the agency, plus five (5) years. [115.371(j)]
13. The release of the alleged abuser or victim from employment or custody of the WCJDC shall not provide a basis for terminating an investigation. [115.371(k)]
14. The victim or source of the allegation recanting their statement shall not provide basis for terminating an investigation.
15. The WCJDC shall cooperate with local law enforcement and shall endeavor to remain informed about the progress of the investigation. [115.371(m)]

B. Evidentiary standard for administrative investigations [115.372]

1. The WCJDC imposes that a preponderance of evidence or lower standard of proof is necessary for determining an allegation of sexual abuse or sexual harassment as substantiated.

C. Reporting to Residents

1. Following an investigation into a resident's allegation of sexual abuse, WCJDC shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. If the WCJDC did not conduct the investigation, the Superintendent or designee shall request the relevant information from the investigative agency to inform the resident.
3. Following a resident's allegation that a staff member has committed sexual abuse against the resident, WCJDC shall subsequently inform the resident (unless the allegation was deemed unfounded) whenever:
 - a. The staff member is no longer working within the resident's pod.
 - b. The staff member is no longer employed at WCJDC.
 - c. WCJDC learns that the staff member has been indicted on a charge related to sexual abuse within the facility.
 - d. WCJDC learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

4. Following a resident's allegation that they were sexually abused by another resident, WCJDC shall subsequently inform the alleged victim whenever:
 - a. WCJDC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility.
 - b. WCJDC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
5. All such notifications or attempted notifications shall be documented.
6. WCJDC's obligation to report shall terminate if the resident is released from the facility's custody.

Note: This policy will be reviewed annually and revised as needed.