HARASSMENT AND SEXUAL ASSAULT/MISCONDUCT

POLICY.

It is the policy of the Deschutes County Sheriff’s Office – Adult Jail (AJ) to maintain zero tolerance for any form of harassment or sexual contact between inmates, staff members, volunteers, professional and official visitors, contract employees or other agency representatives.

It is a violation of the Deschutes County Sheriff’s Office Rules of Conduct for supervisors and managers to disregard allegations of harassment or sexual assault/misconduct with inmates, regardless of who is making the report. All reports of harassment or sexual assault/misconduct will be investigated in a timely manner and appropriate corrective action taken, if necessary, up to and including termination. No employee or inmate will be harassed, intimidated, discharged or otherwise interfered with because they have reported an incident of harassment or sexual assault/misconduct. Every reasonable effort will be made to maintain confidentiality of the person(s) involved, unless or until criminal charges are filed. Retaliation of any type will be grounds for corrective action.

Any harassment, sexual act or sexual contact between any staff member or professional or official visitor and an inmate, is non-consensual, even if the inmate consents, initiates or pursues. Harassment is prohibited and can be illegal. Inmates shall be considered incapable of giving consent to engage in sexual conduct with corrections staff members. An inmate’s consent to and/or initiation or pursuit of sexual conduct with a corrections staff member shall not excuse, negate or mitigate a corrections staff member’s duties, responsibilities and/or penalties under this policy.

PURPOSE.

The purpose of this policy is to inform staff that harassment or sexual conduct in any form, between inmates, staff members, volunteers, professional and official visitors, contract employees, and other agency representative is prohibited, and to establish guidelines for prevention, reporting, investigating and resolving complaints of harassment and staff sexual misconduct with inmate.

Corrections staff must abide by this and related policies, laws, and standards that help prevent, detect, reduce, and punish inmate harassment and sexual assault. Corrections staff must provide prompt and effective intervention and investigation should an assault occur.
DISCUSSION.

Harassment, sexual harassment, sexual assault and sexual misconduct are unacceptable and are prohibited. The AJ will maintain a corrections environment that is free of any form of harassment, sexual harassment, sexual assault or sexual misconduct. Harassment and sexual misconduct with inmates is a separate and distinct problem from workplace sexual harassment and a hostile work environment. All reports of harassment, sexual harassment, sexual assault and sexual misconduct will be investigated.

OREGON JAIL STANDARD:

- A-501 Sexual Harassment
- A-502 Harassment Prohibited
- A-503 Sexual Misconduct
- A-504 Sexual Assault
- A-505 Informing Inmates
- G-203 Emergency Response

REFERENCES:

- ORS 162.405, 162.415, Official Misconduct
- ORS 163.305–163.467, Sexual Offenses
- Deschutes County General Policy 2004-112, Non-Harassment and Non Discrimination Policy
- Deschutes County Sheriff’s Office Policy 3.60, Harassment /Discrimination in the Workplace
- AJ Policy CD-6-3, Rules and Discipline
- AJ Policy CD-2-16, Harassment and Sexual Harassment

DEFINITIONS.

Harassment: Language, behavior or other communication of a derogatory, demeaning or offensive nature which is directed to any other person.

Inmate: A person held in the AJ for arraignment, trial, or pursuant to a judicial order, parole, probation, or post prison supervision sanction, or a person being transported while in the custody of the Deschutes County Sheriff’s Office.

Interference with Official Process: Any attempt to cover up or failure to report an incident of sexual misconduct. Making an allegation or statement that the party or witness knew could not have been true or failure to cooperate with an investigation.
Invasion of Privacy: This includes, but is not limited to, the act or the attempted act of observing or interfering with an inmate’s personal affairs without a reasonable need to do so for the safety and security of the inmate, employee or others within the institution. Violations may include unreasonable intrusive viewing of an inmate’s use of the shower, toilet, areas where inmates dress or anything outside legitimate security needs.

Official Misconduct: Per ORS 162.405 and 162.415, a public servant commits the crime of Official Misconduct in the Second degree if the person knowingly violates any statute relating to the office of the person. A public servant commits the crime of Official Misconduct in the First degree if with intent to obtain a benefit or to harm another, the public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office or the public servant knowingly performs an act constituting an unauthorized exercise in official duties.

Retaliation: Any act, covert or overt, or threat of action taken against an inmate or employee in response to the person’s complaint of harassment, sexual misconduct or cooperation in the reporting or investigation of harassment or sexual misconduct, regardless of the merits or disposition of the complaint. Examples of such acts are: intimidation, unnecessary action involving discipline, changes in housing or work assignments, and unjustified transfers or denials of privileges and/or services.

Sexual Assault: Any unwanted sexual contact, by physical force or threat, for the purpose of arousing or gratifying the sexual desire of either party. It includes sexual intercourse, oral or anal sodomy, sexual touching with an object, and fondling.

Sexual Contact: Per ORS 163.305, sexual contact is any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

Sexual Harassment: Behavior that is unwelcome, personally offensive and/or fails to respect the dignity of coworkers and inmates. This behavior incudes, but is not limited to, sexual advances, requests for sexual favors or other verbal or physical conduct which is of a sexual nature, or based upon gender, where:

a. Submission of such conduct is made, or implied, to be a term or conditions of employment.

b. Submission to, or rejection of, such conduct is used as a basis for employment decisions.

c. Such conduct has the effect of interfering with an employee’s work performance, or creates a work or living environment which is intimidating, uncomfortable or offensive to an inmate or staff member.

Sexual Misconduct: Any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, professional or official visitor, contract employee or other agency representatives. This includes acts or any attempts to commit such acts including, but not limited to, sexual contact, inappropriate behavior of a sexual nature, unreasonable invasion
of privacy, conversations or correspondence that suggests a romantic relationship between an inmate and any party referenced above.

**Sexualized Work Environment:** A work environment in which the behaviors, dress and speech of either staff or inmates creates a sexually charged workplace. Sexually explicit talk, actions, e-mails, posted cartoons, jokes or unprofessional dress characterize a sexually charged work environment. A sexually charged work environment severely erodes the professional boundaries between staff and potentially between staff and inmates.

**Staff:** Employees, volunteers, practicum students, interns, staff members of other agencies, and contract employees of the Deschutes County Sheriff’s Office.

**Visitor:** Any person granted access to the AJ for personal, professional or official reasons that is not a staff member.

**PROCEDURES.**

**SECTION A: PROHIBITED CONDUCT**

A-1. **Prohibited Conduct.** Conduct specifically prohibited that may cause a violation of this policy, including, but not limited to:

a. Any sexual advance by a staff member or visitor towards an inmate.
b. Requests for sexual favors by a staff member or visitor to an inmate.
c. Invasion of an inmate’s privacy beyond what is reasonable or necessary for safety and security of the inmate, staff or others within the institution.
d. Inappropriate touching and acts of fondling, hugging or kissing of an inmate by a staff member or visitor.
e. Any sexual act or contact between inmates, or staff, visitors and inmates.
f. Indecent exposure by a staff member or visitor in front of an inmate.
g. Other verbal and physical conduct of a sexual nature.
h. Any comments, gestures, drawings, pictures, writings or physical conduct that is sexually suggestive, derogatory or offensive.
i. Influencing, promising, or threatening an inmate’s safety, custody level, privacy, housing privileges, work detail, programs status or court proceedings in exchange for sexual favors.
j. Failing to report any suspicious activity of a sexual nature either observed or suspected based on reasonable evidence.
k. Permitting harassment, sexually offensive behavior, sexual harassment or sexual misconduct to continue once its occurrence is known.
l. Interfering with the official process of reporting or investigating incidents or allegations of harassment or sexual misconduct.
m. Masturbating while on county property or in a Sheriff’s Office vehicle.
n. Any offensive comment based upon racial, ethnic, religious or other slurs and any other offensive remarks, jokes or graphic material.
o. Any offensive comments or conduct including offensive verbal, written, physical conduct or hazing.
A-2. **Reporting Harassment or Sexual Harassment or Misconduct.** All AJ employees are required to report all allegations, complaints or observations of harassment or sexual misconduct to their immediate supervisor. The ability to resolve these issues is dependent on staff cooperation in reporting incidents that violate this policy.

A-3. **Reporting Procedure.** The following procedure shall be used when a harassment, sexual assault or sexual misconduct incident/allegation is reported to or observed by a staff member:

a. The staff member will notify the on-duty supervisor immediately. If the offending party is in the staff member’s on-duty supervisor, the staff member will report the incident directly to the next higher level of supervision.

b. The staff member who receives the complaint or observed the incident shall write a detailed report and submit it to their supervisor.

c. The supervisor will immediately notify the Corrections Captain through their chain of command.

d. The supervisor will take any immediate action necessary to separate the parties involved in the alleged harassment or sexual conduct. Action may include relieving a staff member from duty.

e. The supervisor will inform all parties to the complaint that retaliation against the complainant, witnesses or other involved in the complaint or investigation is strictly prohibited, and may result in separate corrective action.

**SECTION B: PREVENTION AND SELF PROTECTION**

B-1. **Risk Management.** Corrections staff will use direct and in-direct supervision, electronic surveillance, and facility design to both monitor inmate behavior and reduce the risk of harassment or sexual assault in all AJ areas.

B-2. **Classification.** Corrections staff will initially classify all inmates before placing them in a holding cell with another inmate or housing an inmate with one or more inmates. Screening for vulnerability to harassment, sexual assault or sexually aggressive behavior will be a part of the classification process for all inmates. At the screening, classifications staff should also ask privately whether the inmate has been a previous victim of sexual assault. Classification staff will immediately contact a supervisor if an inmate reports they are a victim of sexual assault.

B-3. **Initial Health Screenings.** As a part of the intake screening process, health trained deputies should ask if an inmate has been a previous victim of sexual assault at a correctional facility or other location. These questions should be asked in private. Deputies will notify their supervisor and refer any inmate victim to a behavioral health provider for a needs assessment. When applicable, the shift supervisor will initiate an investigation.
B-4. **Staff Training for Sexual Assault.** The Corrections Captain will ensure staff receive training on detecting, preventing, reporting, and responding to sexual assaults at least every two years. Training may vary by position and method. The Deschutes County Sheriff’s Office – Training Unit coordinator will maintain training records and update the records as refresher training is provided. Training should be concurrent with other policy-mandated sexual harassment and sexual misconduct training and should include:

a. Review of this policy.
b. Professional conduct between staff and inmates.
c. Sexual misconduct prevention and response methods.
d. Recognizing the signs of sexual assault.
e. Measures to decrease risk situations for inmates.
f. Identification and referral process should an allegation of sexual misconduct be made.
g. Crime scene and evidence protection.
h. Identification and monitoring of high-risk areas in jail facilities.
i. Emotional and psychological effects of rape on an inmate victim and how to deal with the physical and mental aftercare of the victim.
j. Types of assailants that threaten or commit rape in a jail environment and the reasons for their actions.
k. Tailored efforts to address the needs of vulnerable populations, such as juveniles, women, transgender and developmentally disabled.
l. Volunteer personal appearance, according to basic standards of safety and hygiene, and following the same personal appearance rules as employees.
m. Inmate appearance according to inmate rules.
n. Measures to combat retaliation
o. The penalties for engaging in sexual misconduct.

B-5. **Inmate Instruction.** As a part of orientation and/or the Inmate Manual, deputies will inform inmates of the following:

a. How to protect themselves, which includes:

1) Avoiding isolated areas out of sight of staff.
2) Not accepting an item of value from another inmate.
3) Not displaying body language that can be perceived as weak.
4) Be suspicious of any inmate offering protection.
5) Not giving out information about family, friends, or financial support.
6) Not purchasing large amounts of commissary.
7) Not giving an impression of having money available or of being in need of money

b. How to report sexual assault while in jail.

1) Immediately report the incident to a staff member.
2) Call the abuse reporting line.
3) Telling a staff member in writing by any means.
4) Inmate Request or Health Care Request Form.
5) Grievance
6) Note to a deputy
7) Letter to any jail supervisor
8) Online reporting on the Deschutes County Sheriff’s Office website through third party.
9) Contacting the jail PREA coordinator at the Crook County Sheriff’s Office.

c. Disciplinary and legal repercussions.
d. Support services and programs available for victims.
e. Transmission of sexually transmitted diseases due to sexual conduct or assault.

SECTION C: REPORTING

C-1. Reporting Sexual Harassment and Misconduct. Staff will inform inmates that if, for any reason, an inmate feels uncomfortable reporting the alleged sexual assault to a deputy, he or she may report it using a healthcare request form, a grievance, a letter to a jail official, or use an inmate request (kite). An inmate witness may report it anonymously or be treated as a confidential informant. Inmates may call the abuse reporting line on the inmate phones. Medical or behavioral health staff will inform a shift supervisor when any inmate reports being a victim of a sexual assault. Inmates can also report it third party to a family member. Family members can report incidents by telephone, through the Deschutes County Sheriff’s Office website or to the PREA Coordinator at Crook County Jail.

SECTION D: CORRECTIONS STAFF RESPONSE

D-1. Response to a Sexual Assault Report. Staff shall investigate and complete all reports, per AJ policy, from an inmate or other individuals stating that an inmate has been sexually assaulted. Reports of threats of sexual assault or past sexual assaults shall also be investigated and completed per AJ policy. Staff response will be timely and in a sensitive, supportive, and non-judgmental manner. Staff must safeguard reports, investigations, and confidentiality of victims and informants.

D-2. Verifying a Suspected Sexual Assault. Occasionally, corrections staff will hear of an inmate being threatened with sexual misconduct or rumored to have been assaulted. Some victims of sexual assault may appear to have unexplained injuries, changes in physical behavior such as difficulty walking or abrupt personality changes, such as withdrawn and suicidal behavior. Corrections staff will do the following to respond to an incident of a suspected sexual misconduct:

a. Observe the suspected victim without jeopardizing the inmate’s safety, identity, and confidence.

b. Remove the suspected victim from the area for interviewing.

c. Ask the suspected victim open-ended, neutral questions, such as:

1) How are you doing?
2) Are you being hassled?
3) Would you like to move to another area?
d. If there are no indications of any problem, remind the inmate to contact a deputy or health care staff if help is ever needed.

e. If the inmate has had problems, consider the following:

   1) Advise the inmate that jail staff can help.
   2) If the inmate is afraid of being labeled a “snitch” (informer), advise the inmate that he or she does not have to identify the assailant to get help.
   3) If the inmate was sexually assaulted at any time in the past, mention the importance of getting help to deal with the assault and that trained staff are available.
   4) Make referrals for the appropriate services, such as medical, rape kit evidence collection, formal criminal investigation, and rape counseling.
   5) Whether there is a confirmed incident or not, complete a Jail Incident Report to document the event.

D-3. **Response to a Sexual Harassment, Misconduct or Assault Incident.** Any staff member that witnesses, finds evidence of, or receives a report of a recent sexual assault of an inmate will contact a shift supervisor immediately. The shift supervisor will assign a corrections deputy, or contact the patrol supervisor to conduct a criminal investigation. Results will be forwarded to the PREA Coordinator. If the sexual assault occurred, the shift supervisor will contact the Corrections Captain. (See PREA Checklist Forms 460, 461 and 462). The shift supervisor will make sure corrections staff take the following steps:

   a. Move the victim to a protected area immediately.
   b. Contact medical staff if emergency medical care is needed.
   c. Get a brief account of what happened.
   d. If the assault is less than 120 hours old, inform the victim not to shower, wash, drink, eat or defecate until they have received a Sexual Assault Exam at Saint Charles Medical Center.
   e. Move any alleged inmate assailant to segregation.
   f. Limit access to the area of the alleged assault to avoid evidence contamination.
   g. Identify and secure any evidence related to the assault, such as clothing, undergarments, and bedding. Follow agency specific policy/instruction on evidence collection, processing and storage.
   h. Support the criminal investigators and forensics staff on their need for immediate evidence collection involving the inmate, the alleged assailant, and the assault scene as requested.
   i. Arrange to keep witnesses separate from the alleged suspect. It will be necessary for investigators to interview and obtain statements from all potential witnesses as soon as possible and to question the alleged assailant.
   j. Deputies with knowledge of the incident will write an incident report and any disciplinary report.
   k. Contact the jail chaplain so support and pastoral care can be offered to the victim.
1. Lodge the inmate in protective custody or another housing area or county jail deemed safe and secure for the inmate when the inmate returns from medical treatment or investigation interview.

D-4. **Retaliation.** Corrections staff shall not retaliate against or allow others to retaliate against any person who reports harassment, sexual assault or takes part in its investigation. Staff will encourage inmates to report any retaliation to the deputy promptly.

D-5. **Family and Friends of the Inmate.** Corrections staff should be sensitive to the inmate's wishes and family concerns whether or not the inmate victim tells relatives or friends of the assault.

D-6. **Media Release.** The Sheriff will determine the appropriateness and timing of any media release regarding an allegation of staff sexual misconduct with an inmate.

**SECTION E: HEALTH CARE STAFF RESPONSE**

E-1. **Medical Staff Treatment.** When a sexual assault has occurred, medical staff shall:

   a. Render first aid as needed.
   c. Request transfer of the inmate to a hospital for immediate care:
      1) If serious physical injury is involved.
      2) For appropriate evidence collection at the direction of the supervisor or criminal investigator.
      3) For sexually transmitted disease testing.
      4) For medical measures for reducing the incidence of sexual transmitted diseases, and for a woman, pregnancy.
      5) For other rape treatment intervention.
   d. Schedule the inmate for counseling with a behavioral health professional trained in sexual assault victim as soon as possible. Refer the inmate for additional in-custody counseling for the inmate.

E-2. **Post-Release Treatment and Counseling.** AJ medical and/or behavioral health will provide the inmate with a list of behavioral health providers or rape counselors. The staff member will document in the inmate’s medical file when the information is provided. This will assist the inmate with appropriate information for follow-up treatment after the inmate is released from custody.

**SECTION F: CRIMINAL AND ADMINISTRATIVE ACTIONS**
F-1. **Prosecution.** When an investigation shows there is probable cause to believe sexual misconduct occurred, deputies or the criminal investigator will arrest the alleged assailant (if known) and forward all criminal and/or incident reports to the District Attorney’s Office for evaluation of the investigation and possible criminal charges.

F-2. **Disciplinary Actions for Inmates.** Deputies will initiate disciplinary action against any inmate suspected of harassment, sexual misconduct and/or assault and any inmate victim who fabricates sexual misconduct charges. Corrections staff must coordinate all disciplinary investigation actions with the criminal investigators to avoid the disciplinary investigation from interfering with the criminal investigation. As routine inquiry for the investigation, deputies will assess the victim's role and degree of culpability in the assault. The hearing officer and appellate staff may consider evidence of self-defense against sexual misconduct as a mitigating factor in disciplinary proceedings for fighting.

F-3. **Disciplinary Actions for Staff Members.** If the alleged assailant is a staff member, supervisors will refer to procedures in DCSO Policy 3.60, Harassment / Discrimination in the Workplace, Deschutes County Policy 2004-112, Non-Harassment and Non-Discrimination, and AJ Policy CD-2-16, Harassment and Sexual Harassment, for responding to and handling the allegation.

**SECTION G: FOLLOW-UP**

G-1. **Follow-Up.** Supervisors will conduct a follow-up interview with the victim and document this on a supplemental incident report. The follow-up contact with the victim of harassment, sexual assault or retaliation is to ensure the victim is free from continued assaults or retribution for reporting or taking part in investigations.

G-2. **Data Collection, Reporting, and Access.** The Administrative Lieutenant will collect all data on sexual misconduct and sexual assault of inmates and report them as state and federal authorities request. The Administrative Lieutenant will also report the resolution of sexual complaints by jail, law enforcement, and prosecution authorities. Data on individual inmates should be made available only to staff with a need to know.

**FORMS USED:**

- Health Care Request Form No. 545
- Inmate Request Form No. 103
- Jail Incident Report (JMS)
- PREA Checklist Form No. 460
- PREA Checklist Form A (Within 120 Hours) Form No. 461
- PREA Checklist Form B (More Than 120 Hours) Form No. 462
- Sexual Abuse/Assault Prevention and Intervention Form No. 463