

Chippewa County Correctional Facility <u>Policy & Procedure</u>	Effective Date: 2/27/2023	Policy Number: 5 . 1 . 10
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Section: Security & Control	Reference: NDS 2019 DHS 115.16,115.64	
Subject: Criminal & Administrative Investigations - SAAP	Authority: Michael D. Bitnar , Sheriff	
Rescinds: All Previously Issued Policies, Procedures, Directives, or Memoranda Relative to this Topic		

I. PROCEDURAL GUIDELINES

- A. If a detainee alleges sexual abuse and assault, a sensitive and coordinated response is necessary. The Chippewa County Correctional Facility shall coordinate with ICE/ERO and other appropriate investigative agencies to ensure that an administrative and/or criminal investigation is completed for all allegations of sexual abuse and assault.
- B. All investigations of alleged sexual abuse and assault shall be prompt, thorough, objective, and fair and conducted by specially trained, qualified investigators.
- C. Where an alleged victim of sexual abuse and assault that occurred elsewhere is subsequently transferred to the Chippewa County Correctional Facility, the facility shall cooperate with any administrative or criminal investigative efforts arising from the incident.
- D. The first security staff member to respond to a report of sexual abuse and assault, or his or her supervisor, shall preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence. If the abuse occurred within a time period that still allows for the collection of physical evidence, the responder shall request the alleged victim not to take any actions, and shall ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.
- E. Where evidentiarily or medically appropriate, at no cost to the inmate/detainee, and only with the inmate/detainee's consent, the facility shall

arrange for an alleged victim to undergo a forensic medical examination by qualified health care personnel, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel.

- F.** As requested by a victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, shall be allowed for support during a forensic exam and investigatory interviews.
- G.** The results of the physical examination and all collected physical evidence will be provided to the investigative entity. Part of the investigative process may also include an examination and collection of physical evidence from the suspected assailant(s).
- H.** Upon conclusion of a criminal investigation where the allegation was substantiated, or in instances where no criminal investigation has been completed, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Substantiated allegation means an allegation that was investigated and determined to have occurred. Unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS and the assigned criminal investigative entity.
- I.** The administrative investigation will include the following provisions:
 - a.** Preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;
 - b.** Interviewing alleged victims, suspected perpetrators, and witnesses;
 - c.** Reviewing prior complaints and reports of sexual abuse and assault involving the suspected perpetrator;
 - d.** Assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and

without requiring any detainee who alleges sexual abuse and assault to submit to a polygraph;

e. An effort to determine whether actions or failures to act at the facility contributed to the abuse;

f. Documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings; and

g. Retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years.

J. Such procedures shall govern the coordination and sequencing of administrative and criminal investigations to ensure that the criminal investigation is not compromised by an internal administrative investigation.

K. When an administrative investigation is undertaken, the facility shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse and assault are substantiated.

L. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation.

M. When outside agencies investigate sexual abuse and assault, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

N. Following an investigation conducted by the facility into a detainee's allegation of sexual abuse and assault, the facility shall notify ICE/ERO of the results of the investigation and any responsive actions taken so that the information can be reported to ICE/ERO headquarters and to the detainee.

O. The agency shall review and approve the facility policy and procedures for coordination and conduct of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference with criminal investigations.