DEPARTMENT OF CORRECTIONS

Policy Number: 107.007
Title: Criminal Investigations
Effective Date: 4/21/20

PURPOSE: To provide procedures for conducting criminal investigations of criminal activity by offenders and criminal activity witnessed by office of special investigations (OSI) fugitive apprehension unit (FAU) staff and for assisting law enforcement agencies with conducting criminal investigations involving paid employees, volunteers, contractors, and visitors within the department. Completed investigations are forwarded to the appropriate authority for referral to the appropriate county attorney offices for criminal prosecution.

APPLICABILITY: Department-wide

DEFINITIONS:
Blind sequential line up – a line-up conducted by someone who does not know who the suspect is.

Chain of custody – the movement and location of physical evidence from the time it is obtained through the tine it is presented in court. See Policy 301.035, "Evidence Management."

Double blind sequential line up – a line-up used when neither the administrator nor the witness knows who the suspect is.

Evidence repository – see Policy 301.035, "Evidence Management."

PROCEDURES:
A. Office of Special Investigations (OSI) staff must:
1. Respond to the scene, as applicable, and detain witnesses and secure known suspect(s).

2. Contact the deputy director or the deputy director's designee.

3. Secure and process the scene for evidence or advise other trained staff in the process. If the criminal investigation is conducted at a facility and evidence is being processed, refer to Policy 301.035, "Evidence Management."

4. Secure all evidence with chain of custody documentation and maintain the integrity of the evidence until needed by the prosecuting authority.
   a) If the investigation is of a sexual assault that took place within 120 hours of the report, a health services staff person must inform the victim of the need for a sexual assault exam.

   b) All evidence must be placed in the evidence repository.

5. Secure a case number through the Augmented Criminal Investigation Support System (ACISS) case management system as soon as possible.

6. Electronically record and upload to the electronic file any witness, victim, and suspect interviews. Upload any additional evidence into ACISS.

7. Interview suspect(s) and adhere to their legal rights (e.g., Miranda, Scales, Garrity rulings). If the investigation is of an alleged sexual assault, the special investigator must offer the victim the right to have a victim advocate present during any stage of the investigation.

B. When appropriate, OSI staff use the blind or double-blind sequential line up for identification purposes.

C. A special investigator or fugitive apprehension unit member (FAUM) sends a draft of the completed investigation to the deputy director of OSI -investigations/FAU for approval.

1. After approval, the deputy director of OSI – investigations/FAU directs the facility special investigator/FAUM to refer the report to the appropriate county attorney's office for criminal prosecution.

2. The deputy director of OSI investigations/FAU forwards the report to the OSI director, and the appropriate assistant or deputy commissioner.

3. The special investigator/FAUM completes additional investigative work if requested during the review process.

D. Upon approval, the special investigator/FAUM forwards the report electronically to the appropriate county attorney's office. If applicable, a copy of the report is also given to the appropriate warden, and/or appointing authority, and/or discipline supervisor.

E. The special investigator/FAUM tracks all referred cases to conclusion and reports dispositions, ensuring that any dispositional paperwork received from the county attorney's office is scanned into ACISS.

1. Special investigators report quarterly the status of all criminal investigations to the warden and OSI deputy director – investigations.

2. A FAUM who receives dispositions which indicate timeframes for evidence destruction/disposal is responsible for destruction of the evidence while ensuring chain of custody.

3. Any controlled substances must be given to the OSI deputy director – FAU for appropriate disposal as determined by the OSI director or designee.

F. When a special investigator learns that sexual abuse against an offender took place in a non-DOC custodial setting, the special investigator must relay the reported information to the appropriate agency administrator within 72 hours of learning the information. The special investigator must document the notification in COMS Obligation under the PREA intake screening follow-up and also include it in ACISS.

G. When a special investigator learns that sexual abuse against an offender took place in a DOC custodial setting, the investigator must relay the information to the facility appointing authority immediately upon learning the information. The investigator must also notify the investigatory arm of the custodial setting where the alleged abuse took place. The investigator must document the notification in COMS Obligation under the PREA intake screening follow-up.

H. Law enforcement agencies conducting criminal investigation involving staff/offender sexual abuse/assault must be familiar with the Prison Rape Elimination Act (PREA) guidelines.

I. DOC staff must record and track allegations of sexual abuse in the PREA Incidents Management System.

J. Record retention on allegations of sexual abuse
The agency must retain all written reports of investigation of sexual abuse for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

K. Any investigative data revealing criminal activity outside of the department is referred to the appropriate law enforcement agency.

L. OSI staff follow the procedures in Investigative Data (attached) outlining parameters for the gathering and dissemination of information regarding offenders within the department.

INTERNAL CONTROLS:

A. All criminal case information is stored in the ACISS.

B. The agency retains all written reports of sexual abuse investigation according to the retention schedule.

ACA STANDARDS: 1-ABC-1F-02, 4-4231

REFERENCES:
Minn. Stat. § 152.02
Policy 107.005, "Office of Special Investigations"
Prison Rape Elimination Act (PREA), 28 C.F.R. §115 (2012)
Policy 301.035, "Evidence Management"
State v Scales, 518 N.W.2d 587 (Minn. 1994)
Garrity v New Jersey, 385 U.S. 93, 875.Ct. 616, 17L. Ed. 2d 562 (1967)
Miranda v Arizona, 384 U.S. 436, 865 Ct 1602, 16L.Ed.2d 694 (1966)

REPLACES:
Policy 107.007, "Criminal Investigations," 4/2/19.
All unit and facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Investigative Data (107.007A)

APPROVALS:
Deputy Commissioner, Community Services
Deputy Commissioner, Facility Services
Assistant Commissioner, Operations Support
Assistant Commissioner, Strategic Planning, Implementation, and Employee Development