

# Scott County Sheriff Office

## Jail Policy Manual

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### 612. Prison Rape Elimination Act

#### 612.1. PURPOSE AND SCOPE

This policy provides guidance for compliance with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards to prevent, detect and respond to sexual abuse and sexual harassment.

#### 612.2. POLICY

The Scott County Jail has zero tolerance with regard to sexual abuse and sexual harassment in this facility and will take appropriate affirmative measures to protect all inmates from sexual abuse and harassment and to promptly and thoroughly investigate all allegations of sexual abuse and sexual harassment.

#### 612.3. DEFINITIONS

Definitions related to this policy include:

Intersex - A person who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Sexual abuse - Any of the following acts, if the inmate does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
- Contact between the mouth and the penis, vulva or anus.
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument.
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse also includes abuse by a staff member, contractor or volunteer as follows, with or without consent of the inmate or detainee:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
- Contact between the mouth and the penis, vulva or anus.
- Contact between the mouth and any body part where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire.



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- Penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire.
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire.
- Any attempt, threat or request by a staff member, contractor or volunteer to engage in the activities described above.
- Any display by a staff member, contractor or volunteer of his/her uncovered genitalia, buttocks or breast in the presence of an inmate or detainee.
- Voyeurism by a staff member, contractor or volunteer (28 CFR 115.6).

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate or detainee by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; 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.

Sexual harassment includes:

- Repeated and unwelcome sexual advances; requests for sexual favors, or verbal comments, gestures or actions of a derogatory or offensive sexual nature by one inmate or detainee directed toward another.
- Repeated verbal comments or gestures of a sexual nature to an inmate or detainee by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

### **612.4. ZERO TOLERANCE**

The Scott County Jail will not hire, promote, assign or transfer any staff, contractor or volunteer to a position that may allow contact with inmates if the member has:

- Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution as defined in 42 USC § 1997.
- 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, or if the victim did not consent or was unable to consent or refuse.



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- Been civilly or administratively adjudicated to have engaged in the activities described in this section.

Before hiring new employees who may have contact with inmates, the Scott County Sheriff will:

- Conduct a criminal background record check.
- Consistent with federal, state and local law, make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

A criminal background record check will be completed before enlisting the services of any contractor or volunteer who may have contact with inmates.

The Scott County Jail will consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor who may have contact with inmates.

The Scott County Jail will conduct criminal background records checks at least every five years on current employees, contractors, or volunteers who may have contact with inmates.

All applicants and employees who may have direct contact with inmates will be asked about previous conduct described in this section in written applications or interviews for hiring or promotion, and in any interviews or written self-evaluations conducted as part of reviews of current employees. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

The Scott County Jail will ensure that any contract for the confinement of Scott County Jail inmates includes the requirement to adopt and comply with the PREA standards including obtaining incident-based and aggregated data, as required in CFR 115.187.

The Scott County Jail will not enter into or renew any collective bargaining agreement or other agreement that limits the jail's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

The Scott County Sheriff will provide information on substantiated allegations involving former employees upon receiving a request from an institutional employer for whom the employee has applied to work.

#### **612.5. PREA COORDINATOR**

The Jail Division Captain or authorized designee will appoint an upper-level manager to be responsible for the implementation and oversight of compliance with PREA standards. The PREA Coordinator will



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review facility policies and practices and make appropriate compliance recommendations to the Jail Division Captain or authorized designee.

### 612.6. PREVENTION AND DETECTION OF SEXUAL ABUSE

#### 612.6.1. SEXUAL VICTIMIZATION SCREENING

All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates. The intake screening shall ordinarily take place within 72 hours of arrival at the facility and will be conducted using an objective screening instrument. The intake screening shall consider, at a minimum, the following criteria:

- Whether the inmate has a mental, physical, or developmental disability.
- Age of the inmate.
- Physical build of the inmate.
- Whether the inmate has previously been incarcerated.
- Whether the inmate's criminal history is exclusively nonviolent.
- Whether the inmate has prior convictions for sex offenses against an adult or a child.
- Whether the inmate is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming.
- Whether the inmate has previously experienced sexual victimization.
- The inmate's perception of their vulnerability.
- Whether the inmate is detained solely for civil immigration purposes.

The initial screening shall consider the following criteria in assessing inmates for risk of being sexually abusive:

- Prior acts of sexual abuse.
- Prior convictions for violent offenses.
- History of prior institutional violence or sexual abuse, as known to the agency.

Within 30 days from the inmate's arrival at the jail, the inmate will be reassessed for their risk of victimization or abusiveness based upon any additional, relevant information received by the jail since the intake screening.

An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information.

Inmates shall not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked in the intake screening.

The screening tool and information will be kept confidential. Access to this information will be restricted to designated staff.



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Inmates who disclose past sexual abuse during screening shall be offered a follow up meeting with a medical or mental health professional within 14 days of the screening.

#### **612.6.2. USE OF SCREENING INFORMATION**

Information from the risk screening will be used to make individualized determinations about how to ensure the safety of each inmate, and to inform housing, bed, work, education, and program assignments.

Decisions regarding housing assignments and programming for transgender and intersex inmates will be made on a case by case basis. Consideration will be given to a transgender or intersex inmate's own views with respect to their safety when making those decisions.

Placement and programming assignments for each transgender or intersex inmate will be reassessed at least twice each year to review any threats to safety experienced by the inmate.

#### **612.6.3. PROTECTIVE CUSTODY**

Inmates at a high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers.

Inmates placed in segregation based solely on their risk level will have access to programs, privileges, education, and work opportunities to the extent possible. If access to those opportunities is restricted, the following will be documented:

- The opportunities limited.
- The duration of the limitation.
- The reason for the limitation.

An inmate shall be placed in involuntary segregation for protection for no more than 30 days, or until an alternative placement can be identified. The basis for involuntary segregation and the reason no alternative housing is available shall be documented.

Inmates placed in involuntary segregation shall have their placement reviewed every 30 days to determine if there is a continuing need for placement.

#### **612.6.4. INMATE EDUCATION**

During the intake process, and prior to being housed outside of the booking area, all inmates will be provided with information about the jail's zero-tolerance policy on sexual abuse and sexual harassment and how to report such incidents.



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This information will be provided to inmates verbally, in a language they understand, as part of a video or personal orientation by staff. Written information, in a language understood by the inmate, will also be provided in the inmate handbook.

Within 30 days of intake, the jail will provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding jail policies and procedures for responding to such incidents.

The jail will provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.

The jail will ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

The jail will maintain documentation of inmate participation in these education sessions.

The jail will ensure that the following are published on the Sheriff's Office website or by other means:

- Jail policy governing investigations of allegations of sexual abuse and sexual harassment or the referral of such investigations of sexual abuse or sexual harassment, unless the allegation does not involve potentially criminal behavior.
- Information on how to report sexual abuse and sexual harassment on behalf of an inmate.

#### **612.7 REPORTING SEXUAL ABUSE AND SEXUAL HARASSMENT**

Any employee, agency representative, volunteer or contractor who becomes aware of an incident of sexual abuse, sexual harassment or retaliation against inmates or staff will immediately notify a supervisor, who will forward the matter to a sexual abuse investigator.

All staff will immediately report to a supervisor any staff neglect or violation of responsibilities that may have contributed to an incident.

Apart from reporting to designated supervisors or officials and designated state or local service agencies, staff is prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security management decisions.

The jail will provide information to all visitors or third parties on how they may report any incident of sexual abuse or sexual harassment on behalf of an inmate.



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Inmates may report sexual abuse, sexual harassment, retaliation incidents in writing, anonymously or from third parties to any staff member they choose. Staff will accommodate all inmate requests to report allegations of sexual abuse or harassment. All verbal reports will be documented in an incident report and forwarded to a supervisor by the end of the shift.

### **612.7.1. REPORTS BY HEALTHCARE PROFESSIONALS**

Unless otherwise precluded by federal, state, or local laws, medical and mental healthcare professionals will be required to report immediately and according to jail policy and procedure, any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility.

It is the duty of Healthcare Professionals to inform inmates of their duty to report incidents of sexual abuse and sexual harassment and the limits of their confidentiality at the initiation of services.

### **612.7.2 REPORTS BY INMATES**

The jail will not impose a time limit on when an inmate may report of sexual abuse.

The jail will not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, will be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and will also be permitted to file such requests on behalf of inmates.

If a third party files such a request on behalf of an inmate, the jail may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

If the inmate declines to have the request processed on his or her behalf, the jail will document the inmate's decision.

The jail may discipline an inmate for filing a report related to alleged sexual abuse only where the jail demonstrates that the inmate filed the report in bad faith.

The jail will ensure that:

- An inmate who alleges sexual abuse may submit a report without submitting it to the staff member who is the subject of the complaint.
- A report of sexual abuse is not referred to a staff member who is the subject of the complaint.



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#### **612.7.3 EMERGENCY GRIEVANCE**

If an emergency grievance is received alleging that an inmate is subject to a substantial risk of imminent sexual abuse, the jail will do the following:

- Forward the grievance to a supervisor so that immediate corrective action may be taken.
- Provide an initial response within 48 hours.
- Issue a final decision within 5 calendar days.

The initial response and final decision will document that jail's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

#### **612.7.4. REPORTING TO OTHER FACILITIES**

If there is an allegation that an inmate was sexually abused while he or she was confined at another facility, the Jail Division Captain or authorized designee will notify the head of that facility as soon as possible but not later than 72 hours after receiving the allegation. The Jail Division Captain or authorized designee will ensure that the notification has been documented.

Unless prohibited by law, the Scott County Jail will provide information on substantiated allegations involving former employees upon receiving a request from an institutional employer for whom the employee has applied to work.

#### **612.7.5. REPORTS FROM OTHER FACILITIES AND AGENCIES**

If another correctional facility or agency reports an allegation that an inmate was sexually abused while he or she was confined at the Scott County Jail, the allegation will be investigated, as outlined in Policy 613: Responding to Sexual Abuse and Sexual Harassment.

#### **612.8 RETALIATION PROHIBITED**

All inmates and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations will be protected from retaliation.

Any inmate who allegedly retaliates against another inmate or staff member will be referred to the formal disciplinary process.

Any staff member who allegedly retaliates against another inmate or staff member will be referred to an administrative investigation.

All staff will immediately report to a supervisor any staff neglect or violation of responsibilities that may have contributed to retaliation.





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Protective measures, including housing changes, transfers, removal of alleged abusers from contact with victims, administrative reassignment or reassignment of the victim or alleged perpetrator to another housing area, and support services for inmates or staff who fear retaliation will be utilized.

If any other individual who cooperates with an investigation expresses a fear of retaliation, the jail will take reasonable measures to protect that individual against retaliation.

The Jail Division Captain or the authorized designee will assign a supervisor to monitor, for at least 90 days, the conduct and treatment of inmates or staff who report sexual abuse or sexual harassment and inmates who were reported to have suffered sexual abuse to determine if there is any possible retaliation. In the case of inmates, such monitoring will also include periodic status checks.

#### **612.9 DISCIPLINARY SANCTIONS FOR STAFF**

Termination will be the presumptive disciplinary sanction for staff members who have engaged in sexual abuse.

Disciplinary sanctions for violations of this policy (other than actually engaging in sexual abuse) will be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

All terminations for violations of sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

#### **612.10 DISCIPLINARY SANCTIONS FOR INMATES**

Inmates will be subject to disciplinary sanctions following a formal disciplinary process and administrative finding that the inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse.

Sanctions will be imposed according to the Inmate Discipline policy. The nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories will be considered when imposing sanctions.

The disciplinary process will consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

The Scott County Jail will discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.



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A report of sexual abuse made in good faith and 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.

The Scott County Jail prohibits all sexual activity between inmates and will discipline inmates for such activity. However, such activity will not constitute sexual abuse if an investigation determines that the activity was not coerced.

### **612.11 SEXUAL ABUSE BY A CONTRACTOR OR VOLUNTEER**

Any contractor or volunteer who engages in sexual abuse within the facility will be immediately prohibited from having any contact with inmates. He or she will be promptly reported to the law enforcement agency that would investigate such allegations and brought to the attention of any relevant licensing bodies.

The jail will take appropriate remedial measures and will consider whether to prohibit further contact with inmates in the case of other violations of sexual abuse or sexual harassment policies by a contractor or volunteer.

### **612.12. REPORTING TO INMATES**

The Jail Division Captain or the authorized designee will inform a victim inmate whether an allegation has been substantiated, unsubstantiated or unfounded. This must be done within 90 days of the initial filing of the grievance.

The 90-day time limit does not include time consumed by inmates preparing any administrative appeal.

The jail may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The jail shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.

If the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial of the grievance.

If a staff member is the accused (unless it has been determined that the allegation is unfounded), the inmate will also be informed whenever:

- The staff member is no longer assigned to the inmate's unit or employed at the facility.
- The jail learns that the staff member has been indicted or convicted on a charge related to sexual abuse within the facility.

If another inmate is the accused, the alleged victim will be notified whenever:



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- The jail learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility.

The jail's obligation to report to the inmate under this standard terminates if the inmate is released from custody prior to the completion of the investigation.

### **612.13. SEXUAL ABUSE INCIDENT REVIEW**

An incident review will be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded (28 CFR 115.86). The review should occur within 30 days of the conclusion of the investigation.

The review team will include upper-level management officials and seek input from line supervisors, investigators and qualified healthcare and or mental health professionals, as appropriate:

- Consider whether the investigation indicates a need to change policy or practice in order to better prevent, detect or respond to sexual abuse.
- Consider whether the incident or allegation was motivated by race, ethnicity, gender identity or lesbian, gay, bisexual, transgender or intersex identification status or perceived status, by gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility.
- Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers may enable abuse.
- Assess the adequacy of staffing levels in the area during different shifts.
- Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
- Prepare a written report of the team's findings, including, but not limited to, determinations made pursuant to this section, and any recommendations for improvement. The report should be submitted to the Jail Division Captain or authorized designee and the PREA Coordinator.

The Jail Division Captain or the authorized designee will implement the recommendations for improvement or document the reasons for not doing so.

### **612.14. DATA REVIEWS**

The jail will conduct an annual review of collected and aggregated incident-based sexual abuse data. Incident-based documents will include reports, investigations files, and sexual abuse incident reviews. The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training by:

- Identifying problem areas.
- Identifying corrective actions taken.



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- Recommending corrective actions.
- Comparing current annual data and corrective actions with those from prior years.
- Assessing the office's progress in addressing sexual abuse.

The reports will be approved by the Jail Division Captain or authorized designee and made available through the office website. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the facility. However, the nature of the redacted material will be indicated.

All aggregated sexual abuse data from Scott County Jail and private facilities with which it contracts will be made available to the public at least annually through the office website. Before making aggregated sexual abuse data publicly available, all personal identifiers will be removed.

#### **612.15. RECORDS**

All case records and reports associated with a claim of sexual abuse and sexual harassment, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment or counseling, will be retained in accordance with privacy laws.

The jail will retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Scott County Sheriff's Office, and according to the records retention schedule of the county.

All other data collected pursuant to this policy will be securely maintained for at least 10 years after the date of the initial collection and according to the records retention schedule of the county, unless federal, state or local law requires otherwise.

#### **612.16. TRAINING**

All employees, volunteers and contractors who may have contact with inmates will receive jail approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The PREA coordinator will be responsible for developing and administering this training as appropriate, covering at a minimum:

- The jail's zero-tolerance policy and inmates' right to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- How to fulfill responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.
- The dynamics of sexual abuse and harassment in confinement settings, including which inmates are most vulnerable.
- The right of inmates and employees to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.



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- How to detect and respond to signs of threatened and actual abuse.
- How to communicate effectively and professionally with all inmates, including gay, lesbian, bisexual, transgender, intersex or gender nonconforming inmates.
- How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
- The common reactions of sexual abuse and sexual harassment victims.
- How to avoid inappropriate relationships with inmates.
- How to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible consistent with security needs.

The jail will maintain documentation that employees, volunteers, contractors and investigators have completed required training and that they understand the training. This understanding will be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with inmates will be trained within one year of the effective date of the PREA standards. The jail will provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

#### **612.17. SPECIALIZED MEDICAL TRAINING**

All qualified healthcare and mental health professionals who work regularly in the facility will receive all of the member training listed above, as well as training that includes:

- How to detect and assess signs of sexual abuse and sexual harassment.
- How to preserve physical evidence of sexual abuse.
- How to respond effectively and professionally to victims of sexual abuse and sexual harassment.
- How and to whom to report allegations or suspicions of sexual abuse.

The jail will maintain documentation that the facility's healthcare and mental health professionals have received the training referenced above, either from this office or elsewhere.

#### **612.18. SPECIALIZED INVESTIGATIVE TRAINING**

Specialized investigative training for investigators shall include the uniform evidence protocol to maximize potential for obtaining useable physical evidence; techniques for interviewing sexual abuse victims; proper use of Miranda and Garrity warnings; sexual abuse evidence collection in confinement settings; and the criteria and evidence required to substantiate a case for administrative action or referral for prosecution.

