I. PURPOSE

The purpose of this policy is to identify who is responsible for assigning investigations to the appropriate investigative body, and to set forth the criteria for determining the appropriate investigative body to conduct an investigation based on the nature of the complaint/allegation and the role in the Department of the person to be investigated; to establish how investigations are conducted and to ensure that employees assigned to investigative functions utilize approved investigative techniques in accordance with Department of Corrections policies, procedures and rules, and state and federal law.

PRINCIPLES: The basic principles which underlie this policy are that an investigation must be assigned in such a way that an objective and impartial investigation will be conducted in a timely manner. The authorities mentioned as assigning responsibility for conducting investigations are expected to communicate with one another to assure the most effective entity within the Department, or in exceptional cases outside the department, is investigating the matter.

II. DEFINITIONS

A. Conflict of Interest: A conflict of interest is a set of circumstances that creates a risk that an investigator’s professional judgment or actions regarding a primary interest will be unduly influenced by a secondary interest. This secondary interest could be a familial, personal, or
organizational relationship to the subject of the investigation that would make an objective and reasonable person perceive that the primary interest in a fair and unbiased investigation cannot be obtained or realized.

B. **Contraband**: Any article or thing which an inmate is prohibited by statute, rule or order from obtaining or possessing or which the inmate is not specifically authorized to obtain or possess, or which the inmate alters without authorization.

C. **Controlled Substance**: A drug or its immediate precursor classified in Schedules I through V under the Federal Controlled Substances Act, 21 U.S.C. sections 811 to 812.

D. **Department of Corrections (DOC) Contractor**: Any person under contractual arrangement to provide services to the department; any person employed by private or public sector agencies who is serving under department sanctioned assignment to provide services or support to department programs.

E. **Department of Corrections (DOC) Employee**: Any person employed full-time, part-time or under temporary appointment of DOC.

F. **Electronic Surveillance Devices**: Video and/or audio recording devices used in an investigation to monitor the activities of DOC inmates and/or DOC/OCE staff, contractors or volunteers that is not part of the security system of a DOC or OCE institution or facility.

G. **Functional Unit Manager**: Any person within DOC who reports to the Director, Deputy Director, an Assistant Director, or an administrator and has responsibility for delivery of program services or the coordination of program operations.

H. **High Risk Conduct**: Any act or omission of an act by an employee, contractor, volunteer, or inmate that exposes DOC or OCE and/or its employees or inmates to injury and/or potential criminal or civil penalties, including but not limited to, felony crimes and misdemeanors which threaten the safety and security of DOC institutions and other facilities, its employees or inmates, and conduct which opens DOC to liability and the likelihood of legal action.

I. **Inmate**: Any person under the supervision of DOC who is not under parole, probation or post-prison supervision status.

J. **Inmate Informant**: Any inmate in the custody of DOC that provides verified credible information to staff on issues that could affect the security and/or safety of another inmate, staff, institution or facility.

K. **Investigation**: A fact finding activity for the specific purpose of addressing complaints or allegations. Investigations may include, but are not limited to interviews, surveillance, review of electronic and paper records, correspondence and other information storage devices of an employee or inmate of DOC or an employee of Oregon Corrections Enterprises (OCE).

L. **Offender**: Any person under the supervision of DOC, the local supervisory authority or community corrections who is on probation, parole, or post-prison supervision status.

M. **Oregon Corrections Enterprises (OCE) Contractor**: Any person under contractual agreement to provide services to OCE; any person employed by private or public sector agencies who is serving under OCE-sanctioned assignment to provide services or support to OCE programs.
N. Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time or part-time, or under temporary appointment by OCE.

O. Outside Investigator: In exceptional cases, the nature of the complaint or the departmental authority of the subject of the investigation may require an investigator from an outside entity or a contract investigator be assigned to assist the department in fulfilling the principles and objectives of this policy.

P. Volunteer: An approved person who donates time, knowledge, skills and effort to enhance the mission, activities and programs of the department. Volunteers serve at the pleasure of the department and are not considered employees.

III. POLICY

A. Expectations of Employees

Employees, contractors and volunteers are expected to report any conduct which violates state or federal law, or DOC rules, policies, or procedures in accordance with the DOC Code of Conduct policy 20.1.3., the Volunteer Statement of Professionalism and Ethics, and the Contractor Statement of Conduct and Ethics. Based on such a report, an investigation may be initiated in accordance with this policy.

B. Expectations of Persons Assigned to Conduct Investigations

It is the policy of the Department of Corrections that persons authorized to conduct investigations will:

1. Conduct fair and objective investigations regarding complaints alleging misconduct;

2. Exercise professionalism at all times during the course of an investigation;

3. Employ sound investigative techniques in accordance with state and federal law, DOC rules, policies and procedures, and labor agreements; and

4. Communicate to the assigning authority if a conflict of interest exists and recuse themselves from the investigation if an actual or perceived conflict of interest exists.

C. Process for Reporting Misconduct

1. Reporting of misconduct by a DOC/OCE employee, contractor or volunteer who is not a functional unit manager, should be made through their immediate supervisor or human resources manager whenever practicable.

   a. If the immediate supervisor is the subject of the alleged misconduct, the employee, contractor, or volunteer may go to the next level supervisor and report.

   b. An employee, contractor or volunteer may also report directly to the functional unit manager, the Human Resources Director, or to the Office of the Inspector General, if the allegation involves high risk conduct or the employee, contractor or volunteer feels uncomfortable reporting up the chain-of-command.

   c. Misconduct may also be reported confidentially utilizing the Inspector General hotline.
which will be reviewed each business day.

d. Allegations of fraud, waste, or abuse may be made confidentially by contacting the Secretary of State via mail, website, or hotline.

2. An allegation against an employee, contractor, volunteer or inmate from any source may be verbal or in writing. Verbal and written complaints/allegations must contain sufficient information for an investigation to be considered. Information must be detailed to the greatest extent possible and meet the guidelines established in this policy.

3. All complaints and allegations will be reviewed, however not all complaints and allegations must be formally investigated. It is the responsibility of the functional unit manager, the Inspector General or designee, Human Resources Director or designee, or Internal Audit Administrator to determine if initiating an investigation is reasonable or if failure to initiate an investigation could compromise security, endanger employees, inmates and other persons or create a work environment that is contrary to DOC policy.

D. Investigation Responsibility

The entities named below will communicate with each other and work together to determine which entity will lead an investigation. The entities will focus on the nature of the complaint or allegation, the subject of the investigation, and apply this policy in making the decision as to which entity will lead the investigation. It is the expectation that all entities will work together and coordinate to complete the investigation.

When uncertainty arises as to who should lead an investigation, it is the duty of the Inspector General or designee to work with the Human Resources Director and/or the functional unit manager to determine the appropriate investigative entity.

1. **Human Resources Division** personnel are responsible for the investigation of issues relating to:

   a. Labor relations;

   b. Sexual harassment of employees, customers, clients, contractors and visitors as defined in policy 20.6.1 (Promotion and Maintenance of a Respectful Workplace);

   c. Collective bargaining agreement grievances;

   d. Employment issues;

   e. Discrimination;

   f. Hostile work environment; and

   g. Respectful workplace.

2. **Office of the Inspector General** is responsible for the investigation of:

   a. Investigations of employee misconduct consisting of criminal acts in state correctional facilities which require collaboration with the Oregon State Police pursuant to the Interagency Agreement so that a criminal and administrative investigation can be completed if necessary;
b. Inmate misconduct, including weapons, controlled substances, and other contraband cases, both administrative and criminal;

c. Fugitive apprehension;

d. Outside law enforcement agency assists for criminal investigations that occur outside of state correctional facilities in which the subject of the investigation is an employee, contractor, volunteer, or inmate;

e. Conducting use of force full reviews;

f. Any non-staff related (suspect is an inmate) PREA Investigations deemed appropriate by the Inspector General, PREA Coordinator, or designee of the Inspector General; and

g. PREA allegations of sexual abuse or sexual harassment of an inmate by a staff member, contractor, or volunteer as defined by DOC policy 40.1.13:

(1) Following the initial screening, allegations involving staff, contractors, or volunteers shall be forwarded to the Office of Inspector General for review by the PREA Coordinator or another designee of the Inspector General.

(2) The review shall determine whether 1) the Office of Inspector General will conduct the investigation; 2) another appropriate investigating body should be notified; or 3) the investigation will remain with the functional unit.

3. **Functional Unit Managers** or their designees are responsible for investigating issues involving:

a. Employee conflict and employee misconduct that is less serious than defined in Section 2a of this policy;

b. Performance;

c. Code of conduct;

d. Operational issues within their area of responsibility;

e. Initial screening of all PREA sexual abuse or sexual harassment (including the OIC/PREA Checklist); and

f. PREA investigations:

(1) After the initial screening, allegations of sexual abuse or harassment of an inmate by a staff member as defined by DOC policy 40.1.13 shall be forwarded to the Office of the Inspector General for review by the PREA Coordinator or another designee of the Inspector General. The functional unit manager or their designee will have responsibility for those investigations not conducted by the Office of the Inspector General following that review.

(2) After the initial screening, allegations of sexual abuse or sexual harassment of an inmate by an inmate as defined by DOC policy 40.1.13, will be forwarded to the PREA Compliance Manager, and if appropriate, the Office of Inspector General, or the Oregon State police will be notified for investigation.
4. **Internal Audit's** primary function is to act in accordance with its charter. In accordance with the charter, Internal Audit will assist the Inspector General's office in support of criminal or administrative investigations including, but not limited to, the following investigative areas:

   a. Purchase, sales, and payroll schemes;

   b. Complex financial fraud;

   c. Invoice kickbacks and illegal gratuities;

   d. Asset and revenue irregularities;

   e. Misuse of inventory/assets; and

   f. Internal control issues.

5. The **Oregon State Police** have the primary role in certain types of criminal investigations and are the Department of Corrections' primary law enforcement partner in conducting criminal investigations arising from criminal acts alleged to have been committed in state correctional facilities or another property occupied by the department. The State Police have responsibility for the investigation of:

   a. Inmate deaths;

   b. Felonies as outlined in the intergovernmental agreement with DOC;

   c. PREA cases that allege a criminal act, including but not limited to: custodial sexual misconduct, rape, sodomy and sexual abuse;

   d. Deadly use of force;

   e. Bomb threats and suspicious packages;

   f. Official misconduct and other employee misconduct constituting criminal acts; and

   g. Other criminal cases occurring off DOC property with a nexus to state correctional facilities.

E. **Investigative Resources**

There are a variety of investigative resources available to investigative entities. Investigators may utilize investigative resources that are appropriate to the type of investigation being conducted.

1. **Forensics and Polygraph Examination:** The Oregon State Police provide the above listed investigative resources.

   a. Requests to process evidence must be made in writing. Evidence submitted to the laboratory must be related to an official investigation as authorized by a functional unit manager or designee.

   b. Evidence to be processed for fingerprints must be secured and preserved in
accordance with the department’s policy on Criminal Evidence Handling, 70.1.3.

2. Investigative Electronic Surveillance: The Office of the Inspector General is authorized to use investigative (covert) electronic surveillance for the purpose of conducting investigations in accordance with the department’s policy on Use of Electronic Surveillance Devices, 70.1.5. No other division or unit of DOC may possess and/or utilize covert electronic surveillance devices.


4. Inmate Informants: Inmate informants provide verified credible information to assist DOC in maintaining the safety and security of its facilities. Information obtained from inmate informants shall be protected to the extent possible to maintain the safety of the informant or other involved persons.

5. Information Technology Services (ITS) Investigations: ITS will assist in an inquiry or an investigation as requested by the office of Human Resources, or the Inspector General or his or her designee in accordance with the department’s policy on Electronic Mail, Internet Usage and Computer Investigations 60.1.2.

F. General Provisions

1. The Human Resources Division, functional unit managers, Office of the Inspector General, and Internal Audit shall cooperate with the entity responsible for the investigation pursuant to this policy. If the high risk conduct is criminal in nature, the Office of the Inspector General will cooperate with the appropriate law enforcement agency conducting criminal investigations arising from criminal acts alleged to have been committed by an employee outside of a state correctional facility or another property occupied by the department.

2. When an allegation involving high risk conduct is made against a DOC/OCE employee, contractor or volunteer, a member of the DOC/OCE executive management team will be notified as soon as practicable.

3. All notifications required under this policy shall be made in a timely manner.

4. Employee/Contractor/Volunteer Investigations:

   a. Functional unit managers shall forward all requests for employee, contractor or volunteer investigations to the appropriate investigative entity. Requests to the Office of the Inspector General will be submitted using the Investigative Request form, CD 1831.

   b. Investigations of DOC/OCE employees, contractors or volunteers will be conducted with the knowledge of the supervising functional unit manager unless circumstances dictate otherwise.

   c. Staff authorized to conduct investigations involving employees, contractors, or volunteers are authorized to interview employees, contractors, volunteers, inmates, and other involved persons regarding administrative matters that could result in discipline.

   d. Any DOC or OCE employee, contractor or volunteer who is the subject of an investigation will be afforded all rights under state and federal law and DOC/OCE rules, policies, procedures, and labor agreements.
e. DOC/OCE employees, contractors, and volunteers may be compelled to answer questions relating to matters under investigation. When an employee, contractor, or volunteer is compelled to answer questions, the individual shall be informed of his/her rights in accordance with applicable law.

f. All records, evidence, documents, photographs, and files pertaining to employee, contractor or volunteer investigations shall be kept confidential and will only be disclosed in accordance with state or federal law or DOC/OCE rules, policies or procedures.

5. Fugitive Apprehension:

a. In general, the Office of the Inspector General is the primary liaison with law enforcement and will receive all information regarding escapees, and transitional leave violators from the affected institution or community corrections.

b. The Office of the Inspector General will coordinate intelligence information regarding escapes and transitional leave violators.

c. All searches and/or surveillance conducted by the Office of the Inspector General must be approved by an Office of the Inspector General, supervisor or designee in advance. Searches and/or surveillance conducted off DOC property require coordination with the appropriate law enforcement agency in advance.

d. All activity involving the apprehension of fugitives and transitional leave violators will be done in accordance with the department’s policies on Escape Notification 70.1.1 and All Points Bulletin and Arrest Warrants 70.1.2.

6. Drug, Weapon and Contraband Investigations:

a. Investigations involving drugs, weapons, and contraband shall be referred to the Office of the Inspector General when there is any indication of criminal conduct.

b. When investigations lead to non-DOC facilities and/or persons, the Office of the Inspector General will work with the appropriate law enforcement agency.

c. Any controlled substances or contraband of a criminal nature found or seized shall be processed in accordance with the department’s policy on Criminal Evidence Handling 70.1.3.

7. Investigations regarding PREA allegations:

a. All allegations of sexual abuse and sexual harassment as defined by DOC policy 40.1.13 shall be investigated.

b. All allegations of sexual abuse or sexual harassment as defined by DOC policy 40.1.13 against a staff member, contractor, or volunteer shall be reviewed by the Inspector General or designee to determine whether the Office of Inspector General or another appropriate investigating body should conduct the investigation.

c. Every PREA allegation will be assessed and reported to the state PREA coordinator for recording processes.

d. Nothing in this section shall preclude or delay notification to the Oregon State Police and Special Investigations Unit regarding PREA cases that allege a criminal act.
e. Evidence acquired during the investigative process will be processed in accordance with the department policy on Criminal Evidence Handling 70.1.3.

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

8. Requests for Investigative Assistance:
   a. Requests for assistance by non-DOC public safety agencies, other than assistance to the Oregon State Police provided pursuant to the intergovernmental agreement, must be received in writing and include the following: Name of agency and person making the request, date of request and specific details regarding the nature of the request.

   b. DOC employees will not provide investigative assistance to private sector agencies/organizations, persons, and the general public unless specifically provided for in state or federal law or DOC rules, policies, or procedures.

9. Inmate Investigations:
   a. DOC inmates may be interviewed regarding allegations of criminal misconduct, administrative violations, and/or routine operational issues and intelligence.

   b. DOC employees shall follow state and federal law when interviewing inmates on criminal matters. An inmate shall not be forced through threat of punishment or coercion to incriminate themselves in a criminal matter.

   c. Inmates, their cells, work areas, and personal belongings are subject to search without a warrant at any time in accordance with the department’s rule on Searches (Inmate) (OAR 291-041).

   d. Evidence of a crime or administrative misconduct shall be handled in accordance with the department’s policy on Criminal Evidence Handling 70.1.3 and the department’s rule on Searches (OAR 291-041).

10. Inmate Death: All inmate deaths shall be reported to the Oregon State Police and the Office of Inspector General.

IV. IMPLEMENTATION

This policy will be adopted immediately without further modification.

Certified: ______signature on file____________________
Michelle Mooney, Rules Coordinator

Approved: ______signature on file____________________
Brian Belleque, Deputy Director

Effective: 11/20/18