CORE POLICY



Sheriff Nicholas Cocchi

CORE POLICY

Chapter 3 Institutional Operations	Section 5 Inmate Rights	Number 3 PREA Plan

3.5.3 PREA Plan

Current Effective Dates	Previous Review Dates:	Staff Responsible For Review:
April 1, 2026 through March 31, 2027	4/2013, 2/2014, 8/2014, 3/2015, 2/2016, 3/2017, 3/2018, 2/2019, 3/2020, 3/2021, 3/2022, 3/2023, 3/2024, 3/2025, 3/2026	PREA Coordinator, CIU Commander, Facility PREA Compliance Managers

Authorizing Signature: _____

Matthew Roman, PREA Coordinator

TABLE OF CONTENTS:

RECENT MAJOR CHANGES: 1
POLICY STATEMENT: 2
BACKGROUND: 3
DEFINITIONS: 4
PROTOCOLS: 9
REFERENCES: 41
FORMS: 53

RECENT MAJOR CHANGES:

None

POLICY STATEMENT:
This document is available to all Hampden County Sheriff's Office (HCSO) Employees, Volunteers, Contractors and Interns. It provides mandatory information on issues of Sexual Misconduct (See P&P 1.3.1 Human Resource Manual Protocol 28) and regulations from the Prison Rape Elimination Act (PREA). All Employees, Volunteers, Contractors, and Interns are expected to abide by this policy and protocols. This policy and protocol is reviewed annually and/or updated as necessary.

The HCSO maintains a working environment free from all forms of sexual harassment, retaliation or intimidation. Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature will not be condoned or permitted.

In accordance with M.G.L. Chapter 268, Section 21A the HCSO will investigate and prosecute any Employee, Contractor, Volunteer, or Intern found to have engaged in any sexual relations with any inmate. In criminal prosecution of such misconduct, the law deems an inmate is incapable of consent. Acts of sexual contact or sexual misconduct with an inmate, as well as retaliation against an inmate are prohibited. In addition, invasion of privacy, acts of intimacy, or anything other than purely professional relationships with inmates are prohibited and violators are subject to appropriate discipline.

Employees are required to report any and all instances, real or rumored, of sexual misconduct or sexual harassment to their direct supervisor. The Sheriff's Office is required to report any and all instances of sexual misconduct with inmates to the appropriate law enforcement authorities.

Employees are required to report any and all incidents of sexual harassment/misconduct or inmate sexual misconduct. There is "zero tolerance" for any inmate to inmate sexual encounters or staff to inmate sexual encounters.

The HCSO provides mechanisms to process reports of allegations of sexual misconduct by staff and/or inmates.

All Employees are Criminal Offender Record Information (CORI) checked prior to job hire and CORI is reviewed as part of all promotions. Provisions exist for review of any staff CORI when necessary.

In order to maintain a safe and secure environment, staff and post assignments are assigned by shift as necessary. The Assistant Superintendent of Human Resources maintains a complete listing of Post Assignments for all facilities. The Assistant Superintendent of Human Resources and the Chief of Security maintains and reviews annually the shift relief factor for each facility as to maintain optimum staffing to meet the safety, security, and care & custody of the inmate population.

BACKGROUND:
The Prison Rape Elimination Act (PREA) was passed in 2003 with unanimous support from both parties in Congress. The purpose of the act was to "provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape." (Prison Rape Elimination Act, 2003)In addition to creating a mandate for significant research from the Bureau of Justice Statistics and through the National Institute of Justice, funding through the Bureau of Justice Assistance and the National Institute of Corrections supported major efforts in many state correctional, juvenile detention, community corrections, and jail systems.

The act also created the National Prison Rape Elimination Commission and charged it with developing draft standards for the elimination of prison rape. Those standards were published in June 2009, and were turned over to the Department of Justice for review and passage as a final rule. That final rule became effective August 20, 2012.

In 2010, the Bureau of Justice Assistance funded the National PREA Resource Center to continue to provide federally funded training and technical assistance to states and localities, as well as to serve as a single-stop resource for leading research and tools for all those in the field working to come into compliance with the federal standards.

In regards to the C.J.R. Act, a prisoner of a correctional institution, jail or house of correction that has a gender identity, as defined in section 7 of chapter 4, that differs from the prisoner's sex assigned at birth, with or without a diagnosis of gender dysphoria or any other physical or mental health diagnosis, shall be:

1. Addressed in a manner consistent with the prisoner's gender identity;

2. Provided with access to commissary items, clothing, programming, educational materials and personal property that is consistent with the prisoner's gender identity;

3. Searched by an Officer of the same gender identity if the search requires an inmate to remove all clothing or includes a visual inspection of the anal cavity or genitals; provided, however, that the Officer's gender identity shall be consistent with the prisoner's request; and provided further, that such search shall not be conducted for the sole purpose of determining genital status; and

4. Housed in a correctional facility with inmates with the same gender identity; provided further, that the placement shall be consistent with the prisoner's request, unless the commissioner, the Sheriff or a designee of the Commissioner or Sheriff certifies in writing that the particular placement would not ensure the prisoner's health or safety or that the placement would present management or security problems.

DEFINITIONS:

Agency:
The unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

Agency Head:
The principal official of an agency.

Allegation:

Substantiated Allegation:
An allegation that was investigated and determined to have occurred.

Unfounded Allegation:
An allegation that was investigated and determined not to have occurred.

Unsubstantiated Allegation:
An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Community Confinement Facility:
A community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post- release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

Contractor:
A person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Detainee:
Any person detained in a lockup, regardless of adjudication status.

Direct Staff Supervision:
That security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.

Employee:
A person who works directly for the agency or facility.

Exigent Circumstances:
Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Facility Head:
The principal official of a facility.

Full Compliance:
Means compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.

Gender Identity:
A person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth (in accordance with M G L c. 4 S 7, Part 59). Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose.

Gender Non-conforming:
A person whose appearance or manner does not conform to traditional societal gender expectations.

Inmate:
Any person incarcerated or detained in a prison or jail.

Intern:
An individual/student who works without pay at an occupation in order to gain work experience.

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.

Jail:
A confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

Juvenile:
Any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

Juvenile Facility:
A facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.

Lockup:
A facility that contains holding cells, cell blocks, or other secure enclosures that is:

(1) Under the control of a law enforcement, court, or custodial officer; and

(2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

Medical Practitioner:
A health professional that, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of their professional practice. A "qualified medical practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental Health Practitioner:
A mental health professional that, by virtue of their education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of their professional practice. A "qualified mental health practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Preponderance of the Evidence:
The greater weight of the evidence required in a civil (non-criminal) lawsuit for the trier of fact (jury or judge without a jury) to decide in favor of one side or the other. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.

Qualified Agency Staff Member (Qualified Community-Based Staff Member):
An individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

Rape Crisis Center:
Refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g (b) (2) (C), to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

Resident:
Any person confined or detained in a juvenile facility or in a community confinement facility.

Secure Juvenile Facility:
A juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.

Security Staff:
Employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

Sexual Abuse:
For purposes of this part, Sexual Abuse includes;

(1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and

(2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, volunteer, or intern.

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

(4) 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 of an inmate, detainee, or resident by a staff member, contractor, volunteer, or intern includes any of the following acts, with or without consent of the inmate, detainee, or resident:

(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Contact between the mouth and any body part where the staff member, contractor, volunteer, or intern has the intent to abuse, arouse, or gratify sexual desire;

(4) 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, volunteer, or intern has the intent to abuse, arouse, or gratify sexual desire;

(5) 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, volunteer or intern has the intent to abuse, arouse, or gratify sexual desire;

(6) Any attempt, threat, or request by a staff member, contractor, volunteer or intern to engage in the activities described in paragraphs (1)-(5) of this section;

(7) Any display by a staff member, contractor, volunteer, or intern of their uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and

(8) Voyeurism by a staff member, contractor, volunteer, or intern.

Sexual Harassment includes:

(1) 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, detainee, or resident directed toward another; and

(2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, intern, 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.

Visual Search:
A search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

Voyeurism:
(By a staff member, contractor, intern, or volunteer) – an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in their cell to perform bodily functions; requiring an inmate to expose their buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Youthful Detainee:
Any person under the age of eighteen (18) who is under adult court supervision and detained in a lockup.

Youthful Inmate:
Any person under the age of eighteen (18) who is under adult court supervision and incarcerated or detained in a prison or jail.

FORMS:
PREA Sexual Abuse/Misconduct Notification
PREA Sexual Harassment Notification
PREA Incident Review
PREA Inmate Orientation Sign-Off
PREA Vendor, Volunteer, Intern Contractor Sign-Off
Concern/EAP Informed Consent & Limits of Confidentiality
PREA Notification Report Form
PREA Sexual Abuse Retaliation Monitoring

PROTOCOLS:

PROTOCOL 1: PREVENTION & PLANNING 10
PROTOCOL 2: RESPONSIVE PLANNING 16
PROTOCOL 3: TRAINING AND EDUCATION 18
PROTOCOL 4: SCREENING FOR RISK OF SEXUAL VICTIMIZATION & ABUSIVENESS 21
PROTOCOL 5: REPORTING 24
PROTOCOL 6: OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT 27
PROTOCOL 7: INVESTIGATIONS 32
PROTOCOL 8: DISCIPLINE 35
PROTOCOL 9: MEDICAL AND MENTAL CARE 36
PROTOCOL 10: DATA COLLECTION AND REVIEW 38
PROTOCOL 11: AUDITING AND CORRECTIVE ACTION 40

PROTOCOL 1: PREVENTION & PLANNING

A. The Hampden County Sheriff's Office (HCSO) promotes a zero tolerance of sexual abuse and sexual harassment.

1. This policy & protocol outlines the HCSO's approach to preventing, detecting, and responding to such conduct and is published on the Sheriff's Office website.

2. The Sheriff has appointed an agency-wide PREA Coordinator with the authority to develop, implement, and oversee the compliance with the PREA standards in all of its facilities.

3. Each facility has a designated PREA Compliance Manager with the authority to coordinate the facility's compliance with the PREA standards in conjunction with the HCSO PREA Coordinator.

a. The Sheriff has designated Matthew Roman as the PREA Coordinator.

b. The Sheriff has designated the following staff as PREA Managers:

- **All Inclusive Support Services (AISS)(**PREA Liaison)) Madeline Fernandez
- **Main Institution (MI)** Ben Mastay
- **Stonybrook Stabilization & Treatment Center (SSTC)** Vincent Corbett
- **Western Massachusetts Recovery & Wellness Center (WMRWC)** Diane Bator
- **Women's Correctional Center (WCC)** Tina Mateus

B. Contracting with Other Entities for the Confinement of Inmates

1. When the HCSO contracts for the confinement of its inmates with private agencies or other entities, including other government agencies, any new contract or contract renewal shall include the entity's obligation to adopt and comply with the PREA standards.

2. Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

C. Supervision and Monitoring

1. The HCSO ensures that each facility develops, documents, and makes best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, the facilities shall take into consideration:

   a. Generally accepted detention and correctional practices;

   b. Any judicial findings of inadequacy;

   c. Any findings of inadequacy from Federal investigative agencies;

   d. Any findings of inadequacy from internal or external oversight bodies;

   e. All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated);

   f. The composition of the inmate population;

   g. The number and placement of supervisory staff;

   h. Institutional programs occurring on a particular shift;

   i. Any applicable State or local laws, regulations, or standards;

   j. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and

   k. Any other relevant factors.

2. In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.

3. Whenever necessary, but no less frequently than once each year, for each facility the HCSO operates, in consultation with the PREA coordinator, the facility shall assess, determine, and document whether adjustments are needed to:

   a. The staffing plan established pursuant to paragraph (a) of this section;

   b. The facility's deployment of video monitoring systems and other monitoring technologies; and

c. The resources the facility has available to commit to ensure adherence to the staffing plan

4. The HCSO has a policy and practice of having supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment (see Supervisor Post Orders). This policy and practice is implemented for all shifts (see MI/WCC P&P 3.1.1/3.1.3 Pod/Unit Supervision, 3.4.1/3.4.3 Restrictive Housing Unit, and 4.1.8/3.5.6 Inmate Orientation). It is a violation for staff to alert other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

D. Youthful Inmates (See MI/WCC P&P 4.1.7/3.5.2 Court Ordered Holding of Juveniles)

1. The HCSO will not place a youthful inmate in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters. The HCSO shall make best efforts to avoid placing youthful inmates in isolation to comply with this provision.

2. In areas outside of housing units, the HCSO shall either:

a. Maintain sight and sound separation between youthful inmates and adult inmates, or

b. Provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact.

3. Absent exigent circumstances, the HCSO shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible.

E. Limits to Inmate Cross-Gender Viewing and Searches.

1. The HCSO does not conduct cross-gender visual searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners

2. The HCSO does not permit cross-gender pat-down searches of female inmates, absent exigent circumstances.

3. All cross-gender strip searches and cross-gender visual body cavity searches of female inmates must be authorized by the appropriate Supervisor and shall be documented.

4. All cross-gender pat-down searches of female residents are documented.

5. Inmates will be able to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks.

6. A facility-wide announcement is made by the Central Control Room (CCR) informing inmates that staff of the opposite gender of the inmate population will be entering the inmate housing unit to provide care, custody and services throughout the shift. This announcement is made at the beginning of each shift.

7. In order to be consistent with PREA Standard 115.15 Limits to Cross-Gender Viewing and Searches that requires staff of the opposite gender to announce their presence when entering an inmate housing unit, staff maintain the following protocol.

    a. PREA Standard 115.15 requires staff of the opposite gender to announce their presence when entering an inmate housing unit. This is sometimes referred to as the "cover-up rule" and is intended to put inmates on notice when opposite-gender staff may be viewing them. The announcement is required anytime an opposite-gender staff enters a housing unit and may be fully realized by requiring the announcement only when an opposite-gender staff enters a housing unit where there is not already another cross-gender staff present. For example, at the Main Facility, this means that an announcement is not required if the Pod Floor Officer is female and vice versa for the WCC.

    b. This announcement is documented in POWS in the shift log under code "GA" for Gender Announcement. To accomplish this, simply click the icon located in the lower left corner titled "PREA Announcement." This will display a message to scan the employee badge number (or type the 6-digit ID#). Simultaneously, scan the employee badge while activating the pod intercom system. A pre-recorded message of "Female on the Unit" or conversely at the WCC "Male on the Unit" will then play and the shift log code of "GA" and synopsis of "Female on the Unit" or conversely at the WCC "Male on the Unit" will automatically be updated in POWS. Females/Males with a visitor pass that enter the housing unit will be announced in the same manner with the exception being the Pod Floor Officer will not scan their employee badge number but will click on the "Female" or "Male" button.

c. Consistent with PREA standard 115.16 the agency shall take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Accordingly, the Pod Floor Officer will display the female laminated placard to supplement the verbal cross-gender announcement in male units with inmates who are deaf or hard of hearing (and vice versa at the WCC). Any unit housing deaf or hard of hearing inmates shall display the placard whenever a cross gender staff member is present on the unit.

8. The HCSO staff does not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

9. HCSO shall train security staff in 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 and policy.

F. Inmates with Disabilities and Inmates who are Limited English Proficient (See MI/WCC P&P 4.5.9/4.2.10 Special Needs Inmates).

1. The HCSO takes appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the HCSO's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. These steps shall include (when necessary to ensure effective communication with inmates who are deaf or hard of hearing) providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the HCSO ensures that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision. The HCSO is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

2. The HCSO takes reasonable steps to ensure meaningful access to all aspects of the HCSO's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

3. The HCSO does not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under Protocol 6D, Staff First Responder Duties of this P&P, or the investigation of the inmate's allegations.

G. Hiring and Promotion Decisions.

1. In reference to the HCSO Human Resources Policy, the HCSO does not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who—

   a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

   b. Has 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; or

   c. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (1) (b) of this section.

2. The HCSO considers 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.

3. Before hiring new employees who may have contact with inmates, the HCSO will:

   a. Perform a criminal background records check;

   b. Consistent with Federal, State, and local law, make its best efforts 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.

4. The HCSO also performs a criminal background records check before enlisting the services of any contractor who may have contact with inmates.

5. The HCSO conducts a criminal background records check at least every five (5) years of current Employees, Contractors, Volunteers and Interns who may have contact with inmates.

6. The HCSO shall ask all applicants and employees who may have contact with inmates directly about previous sexual abuse misconduct described in paragraph (1) of this section in written applications and/or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The HCSO also imposes upon employees a continuing affirmative duty to disclose any such misconduct.

7. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

8. Unless prohibited by law, the HCSO provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

H. Upgrades to Facilities and Technologies.

1. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the HCSO considers the effect of the design, acquisition, expansion, or modification upon the HCSO's ability to protect inmates from sexual abuse.

2. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the HCSO considers how such technology may enhance the HCSO's ability to protect inmates from sexual abuse.

PROTOCOL 2: RESPONSIVE PLANNING

A. Evidence Protocol and Forensic Medical Examinations (See P&P 4.5.11 Medical/Legal Issues)

1. To the extent the HCSO is responsible for investigating allegations of sexual abuse; the HCSO follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

2. The HCSO offers all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility (Baystate Medical), without financial cost, where evidentiary or medically appropriate. These examinations will be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The HCSO documents its efforts to provide SAFEs or SANEs.

3. The HCSO makes available to the victim a Victim Advocate from the YWCA Rape Crisis Center. If the YWCA Rape Crisis Center is not available to provide victim advocate services, the HCSO has a qualified staff member. The HCSO's staff will document the efforts to secure services from the YWCA Rape Crisis Center.

4. As requested by the victim, the victim advocate or qualified HCSO staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

5. The requirements of paragraphs (1) through (4) of this section shall also apply to:

   a. Any State entity outside of the HCSO that is responsible for investigating allegations of sexual abuse in prisons or jails; and

   b. Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.

B. Policies to Ensure Referrals of Allegations for Investigations.

1. The HCSO ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

2. The HCSO ensures that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The HCSO documents all such referrals.

3. Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

4. Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

PROTOCOL 3: TRAINING AND EDUCATION

A. Employee Training

1. The HCSO trains all employees who may have contact with inmates on:

   a. Its zero-tolerance policy for sexual abuse and sexual harassment;

   b. How to fulfill their responsibilities under HCSO sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;

   c. Inmates' right to be free from sexual abuse and sexual harassment;

   d. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;

   e. The dynamics of sexual abuse and sexual harassment in confinement;

   f. The common reactions of sexual abuse and sexual harassment victims;

   g. How to detect and respond to signs of threatened and actual sexual abuse;

   h. How to avoid inappropriate relationships with inmates;

   i. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and

   j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

2. The training is tailored to the gender of the inmates at the employee's facility. The employee receives additional training if they are reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa.

3. All current employees who have not received such training are trained within one (1) year of the effective date of the PREA standards (August 20, 2012), and the HCSO provides each employee with refresher training every two (2) years to ensure that all employees know the HCSO's current sexual abuse and sexual harassment policies and procedures. In years in which employees do not receive refresher training, the HCSO provides refresher information on current sexual abuse and sexual harassment policies.

4. The HCSO documents via employee signature or electronic verification, those employees understand the training they have received.

B. Volunteer, Intern, and Contractor Training

1. The HCSO ensures that all volunteers, interns, and contractors who have contact with inmates have been trained on their responsibilities under the HCSO's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

2. The level and type of training provided to volunteers, interns and contractors is based on the services they provide and level of contact they have with inmates, but all volunteers, interns, and contractors who have contact with inmates shall be notified of the HCSO's zero-tolerance policy regarding sexual abuse and sexual harassment and informed on how to report such incidents.
3. The HCSO maintains documentation confirming that volunteers, interns, and contractors understand the training they have received.

C. Inmate Education

1. During the intake process, inmates receive information (English & Spanish) explaining the HCSO's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

2. Within thirty (30) days of intake, each facility provides a comprehensive education program for the inmates regarding their rights to be free from sexual abuse and sexual harassment, to be free from retaliation for reporting such incidents, and regarding HCSO policies and procedures for responding to such incidents.

3. Each facility provides 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.

4. Each facility maintains documentation of inmate participation in these education sessions.

5. In addition to providing such education, the HCSO ensures that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

D. Specialized Training

1. Investigations

a. In addition to the general training provided to all employees pursuant to Protocol 3: A, the HCSO ensures that, to the extent the HCSO itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

b. Specialized training shall include 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 prosecution referral.

c. The HCSO maintains documentation that investigators have completed the required specialized training in conducting sexual abuse investigations.

2. Medical and Mental Health Care

a. The HCSO ensures that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:

i. How to detect and assess signs of sexual abuse and sexual harassment;

ii. How to preserve physical evidence of sexual abuse;

iii. How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and

iv. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

b. If medical staff employed by the HCSO conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

c. The HCSO shall maintain documentation that medical and mental health practitioners have received the training.

d. Medical and mental health care practitioners shall also receive the training mandated for employees under Protocol 3:A or for contractors, interns, and volunteers under Protocol 3:B, depending upon the practitioner's status at the facility.

PROTOCOL 4: SCREENING FOR RISK OF SEXUAL VICTIMIZATION & ABUSIVENESS

A. Screening for Risk of Sexual Victimization and Abusiveness

1. 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 or sexually abusive toward other inmates. The assessment is conducted using an objective screening instrument in the PREA Database.

2. The Intake screening takes place within seventy-two (72) hours of their arrival at the facility.

3. The Intake screening considers, at a minimum, the following criteria to assess inmates for risk of sexual victimization:

   a. Whether the inmate has a mental, physical, or developmental disability;

   b. The age of the inmate;

   c. The physical build of the inmate;

   d. Whether the inmate has previously been incarcerated;

   e. Whether the inmate's criminal history is exclusively nonviolent;

   f. Whether the inmate has prior convictions for sex offenses against an adult or child;

   g. Whether the inmate is or may be perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;

   h. Whether the inmate has previously experienced sexual victimization; and

   i. The inmate's own perception of vulnerability.

4. The initial screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the HCSO, in assessing inmates for risk of being sexually abusive.

5. Within a set time period, not to exceed thirty (30) days from the inmate's arrival at the facility (exigent any security or safety concerns, i.e. temporary hospitalization, etc.), the staff reassesses the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by staff since the intake screening.

6. An inmate's risk level shall be reassessed by their Counselor/CCW 30 days after the initial date of entry and again when warranted due to a referral, request, incident of sexual abuse/harassment, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

7. Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, screening questions asked pursuant to:

    a. Whether the inmate has a mental, physical, or developmental disability;

    b. Whether the inmate is or may be perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;

    c. Whether the inmate has previously experienced sexual victimization;

    d. The inmate's own perception of vulnerability.

8. The HCSO implements appropriate controls on the dissemination of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.

B. Use of Screening Information and Transgender/Intersex Inmates

1. The HCSO uses the information from the Risk Screening Tool to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

2. The HCSO makes individualized determinations about how to ensure the safety of each inmate.

3. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the HCSO considers on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.

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

5. A transgender or intersex inmate's own views with respect to their own safety will be given serious consideration.

6. Transgender and intersex inmates will be given the opportunity to shower separately from other inmates.

7. The HCSO does not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

8. In regards to the C.J.R. Act, the fact that a prisoner is lesbian, gay, bisexual, transgender, queer or intersex or has a gender identity or expression or sexual orientation uncommon in general population shall not be grounds for placement in Restrictive Housing.

C. Protective Custody

1. Inmates at 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. If the facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than twenty-four (24) hours while completing the assessment.

2. Inmates placed in segregated housing for this purpose will have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility will document:

   a. The opportunities that have been limited;

   b. The duration of the limitation; and

c. The reasons for such limitations.

3. The facility will assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of thirty (30) days.

4. If an involuntary segregated housing assignment is made pursuant to paragraph (1) of this section, the facility shall clearly document:

   a. The basis for the facility's concern for the inmate's safety; and

   b. The reason why no alternative means of separation can be arranged.

5. Every thirty (30) days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

PROTOCOL 5: REPORTING

A. Inmate reporting

1. The HCSO provides multiple internal ways for inmates to privately report sexual abuse, sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

2. The HCSO provides toll free calls via the pod/unit phones for inmates to report sexual abuse or sexual harassment to the YWCA Rape Crisis Center (who will work with the inmate to report the sexual abuse/harassment to HCSO officials).

3. Staff accepts reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports.

4. The HCSO contracts with Concern/EAP of the River Valley Counseling Center to provide a method for staff to privately report sexual abuse and sexual harassment of inmates

B. Exhaustion of Administrative Remedies

1. The HCSO does not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.

2. The HCSO may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.

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

4. Nothing in this section shall restrict the HCSO's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired.

5. The HCSO will ensure that;

   a. An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and

   b. Such grievance is not referred to a staff member who is the subject of the complaint.

6. The HCSO shall issue a final decision on the merits of any portion of a grievance alleging sexual abuse within ninety (90) days of the initial filing of the grievance.

7. Computation of the ninety (90) day time period shall not include time consumed by inmates in preparing any administrative appeal.

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

9. At any level of the administrative process, including the final level, 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 at that level.

10. 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.

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

12. If the inmate declines to have the request processed on their behalf, the HCSO will document the inmate's decision.

13. The HCSO has a procedure for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse.

14. After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the facility will immediately forward the grievance to a level of review at which immediate corrective action may be taken, will provide an initial response within forty-eight (48) hours, and will issue a final HCSO decision within (5) five calendar days. The initial response and final HCSO decision shall document the determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

15. The HCSO may discipline an inmate for filing a grievance related to alleged sexual abuse where the HCSO demonstrates that the inmate filed the grievance in bad faith. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

C. Inmate Access to Outside Confidential Support Services

1. The HCSO provides inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The HCSO enables reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible.

2. Staff informs inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

3. The HCSO maintains a memorandum of understanding (MOU) with the YWCA Rape Crisis Center who provides the inmates with confidential, emotional support services related to sexual abuse. The HCSO maintains copies of these agreements.

D. Third-Party Reporting.

1. The HCSO has established a method to receive third-party reports of sexual abuse and sexual harassment and distributes publicly

(via the website) information on how to report sexual abuse and sexual harassment on behalf of an inmate.

PROTOCOL 6: OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

A. Staff and Office Reporting Duties

1. The HCSO requires all staff to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the HCSO; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

2. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in HCSO policy, to make treatment, investigation, and other security and management decisions.

3. Unless otherwise precluded by Federal, State, or Local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to part (A)(1) of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

4. If the alleged victim is under the age of eighteen (18) or considered a vulnerable adult under a State or Local vulnerable person's statute, the HCSO shall report the allegation to the designated State or Local services agency under applicable mandatory reporting laws.

5. Staff shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to designated investigator(s) which may be the Criminal Investigation Unit, PREA Coordinator, and/or Facility PREA Manager.

B. HCSO Protection Duties

1. When the HCSO learns that an inmate is subject to a substantial risk of imminent sexual abuse, it will take immediate action to protect the inmate.

C. Reporting to Other Confinement Facilities

1. Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.

2. Such notification shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.

3. The HCSO shall document that it has provided such notification.

4. The facility/HCSO head that receives such notification will ensure that the allegation is investigated in accordance with these standards.

D. Staff First Responder Duties

1. Security Staff - Upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to:

a. Separate the alleged victim and abuser;

b. Notify area supervisor to report to the area;

c. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;

d. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and

e. If the abuse occurred within a time period that still allows for the collection of physical evidence, 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.

f. 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.

2. Security Supervisor Responsibilities

a. Ensure the victim and the perpetrator has been separated.

b. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate,

washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and

c. Ask the questions- WHO assaulted you? WHEN did they assault you? WHERE did they assault you? HOW did they assault you?

d. Notify CIU and Medical.

e. Ensure reports have been written by the reporting staff member.

3. Non Security Responsibilities

a. Separate the alleged victim and abuse

b. Notify the nearest security staff

c. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;

E. Coordinated Response

1. The HCSO has written institutional plans to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, inmate advocate, and HCSO leadership (See MI/WCC P&P 4.5.9/4.2.10 Special Needs Inmates and 3.1.7/3.1.26 Special Teams.)

2. When a staff member is made aware of an incident of sexual abuse and they are not security staff, they will immediately notify security staff.

3. Security staff will notify Special Operations Supervisor of any incidents of sexual abuse. Security staff will separate the alleged victim and alleged abuser. The Special Operations Supervisor acts as the Incident Site Commander.

4. The Special Operations Supervisor will ensure that the crime scene is secured to prevent any possible contamination.

5. The Special Operations Supervisor is responsible for notifying Medical. The Special Operations Supervisor ensures that all involved parties are brought to Medical for evaluation.

6. Medical will conduct an evaluation to document the extent of physical injury (if applicable) and to determine whether referral to Baystate Hospital is indicated.

7. If exam indicates that the victim is to be referred to Baystate Hospital, the Medical Supervisor will contact the Special Operations Supervisor. Medical will also make mental health referrals. The Special Operations Supervisor is responsible for

coordinating the transportation of the individual to the hospital.

8. The Special Operations Supervisor is responsible for notifying the CIU Commander. If the CIU Commander is not available, a member of the Criminal Investigation Unit will be activated.

9. The CIU Commander/designee is responsible for notifying the emergency chain of command to include:

   a. Facility Administrator,

   b. Chief of Security,

   c. Assistant Superintendent of Operations,

   d. Assistant Superintendent of Reentry Services and Transitional Services,

   e. Superintendent and

   f. The Sheriff.

   g. If the incident of sexual abuse is staff involved, the Assistant Superintendent of Human Resources will be contacted.

10. The CIU Commander/designee will ensure a report is made to the Sheriff/Facility Administrator and Chief of Security to effect a separation of the victim from their assailant in their housing assignments and immediately begin a criminal investigation. Also see Policy and Protocol 3.1.7 Special Teams Protocol 3: Criminal Investigative Unit (CIU).

11. The CIU Commander/designee will also report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated Investigator (CIU), PREA Coordinator, and Facility PREA Manager.

12. The Facility PREA Manager is responsible for facilitating a PREA investigation with a certified Sexual Assault Investigator in a Confinement Setting. The PREA Manager will ensure that the CIU team, medical response team and Special Operations duties are completed in a timely manner.

13. Per the Memorandum of Understanding with the YWCA, Baystate Hospital staff will contact the YWCA for any individual who is the responsibility of HCSO who presents for medical care and/or a sexual assault nurse's examination.

14. The Medical Department will make a referral to the Forensic Mental Health Department for a qualified mental health

professional for crisis intervention counseling and long-term follow-up.

15. Prophylactic treatment and follow-up care for sexually transmitted or other communicable diseases (e.g., HIV, Hepatitis B) are offered to all victims, as appropriate via the Medical Department.

F. Preservation of Ability to Protect Inmates from Contact with Abusers

1. Neither the Office nor any other governmental entity responsible for collective bargaining on the Office's behalf will enter into or renew any collective bargaining agreement or other agreement that limits the Office'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.

2. Nothing in this policy shall restrict the entering into or renewal of agreements that govern:

   a. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of Protocols 7: B (Evidentiary Standard for Administrative Investigations) and 8: A (Disciplinary Sanctions for Staff); or

   b. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

G. HCSO Protection against Retaliation.

1. The HCSO has established this policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and designates which staff members/departments are charged with monitoring retaliation.

2. The HCSO employs multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

3. For at least ninety (90) days following a report of sexual abuse, the HCSO shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and will act promptly to remedy any such retaliation. The HCSO will monitor any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The HCSO will continue this monitoring beyond 90 days if the initial monitoring indicates a continuing need.

4. In the case of inmates, this monitoring will also include periodic status checks.

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

6. The HCSO obligation to monitor for retaliation will terminate if the PREA Manager determines that the allegation is unfounded.

H. Post-Allegation Protective Custody.

1. Any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of Protocol 4: C (Protective Custody).

PROTOCOL 7: INVESTIGATIONS

A. Criminal and Administrative Department Investigations.

1. When the HCSO conducts its own investigations into allegations of sexual abuse and sexual harassment, it will do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

2. Where sexual abuse is alleged, the Office will use investigators who have received special training in sexual abuse investigations pursuant to Protocol 3:D:1 Specialized Training: Investigations.

3. Investigators will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; will interview alleged victims, suspected perpetrators, and witnesses; and will review

prior complaints and reports of sexual abuse involving the suspected perpetrator.

4. When the quality of evidence appears to support criminal prosecution, the HCSO will conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

5. The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as inmate or staff. The HCSO will not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

6. Administrative Investigations:

   a. Will include an effort to determine whether staff actions or failures to act contributed to the abuse; and

   b. Will be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

7. Criminal investigations will be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence with attached copies of all documentary evidence, where feasible.

8. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.

9. The HCSO will retain all written reports referenced in paragraphs (6) Administrative Investigations and (7)Criminal Investigations of this section for as long as the alleged abuser is incarcerated or employed by the HCSO, plus five years.

10. The departure of the alleged abuser or victim from the employment or control of the HCSO will not provide a basis for terminating an investigation.

11. Any State entity or Department of Justice component that conducts such investigations will do so pursuant to the above requirements.

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

B. Evidentiary Standard for Administrative Investigations

1. The HCSO imposes no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

C. Reporting to Inmates

1. Following an investigation into an inmate's allegation that they suffered sexual abuse in a HCSO facility, the HCSO will inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

2. If the HCSO did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.

3. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the HCSO will subsequently inform the inmate (unless the HCSO has determined that the allegation is unfounded) whenever:

   a. The staff member is no longer posted within the inmate's unit;

   b. The staff member is no longer employed by the HCSO;

   c. The HCSO learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

   d. The HCSO learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

4. Following an inmate's allegation that they had been sexually abused by another inmate, the HCSO shall subsequently inform the alleged victim whenever:

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

   b. The HCSO learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

5. All such notifications or attempted notifications will be documented.

6. The HCSO obligation to report under this policy will terminate if the inmate is released from the Office's custody.

PROTOCOL 8: DISCIPLINE

A. Disciplinary Sanctions for Staff

1. Staff will be subject to disciplinary sanctions up to and including termination for violating HCSO sexual abuse or sexual harassment policies.

2. Termination will be the presumptive disciplinary sanction for staff who has engaged in sexual abuse.

3. Disciplinary sanctions for violations of HCSO policies relating to sexual abuse or sexual harassment (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.

4. All terminations for violations of HCSO 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.

B. Corrective Action for Contractors, Interns, and Volunteers

1. Any contractor, intern, or volunteer who engages in sexual abuse will be prohibited from contact with inmates and will be reported to law enforcement agencies (unless the activity was clearly not criminal) and to relevant licensing bodies.

2. The HCSO will take appropriate remedial measures, and will consider whether to prohibit further contact with inmates, in the case of any other violation of HCSO sexual abuse or sexual harassment policies by a contractor, volunteer, or intern.

C. Disciplinary Sanctions for Inmates

1. Inmates will be subject to disciplinary sanctions/mandated programming pursuant to a formal disciplinary process following an 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.

2. Sanctions will be commensurate with the nature and circumstances of the abuse committed the inmate's disciplinary history, and the sanctions imposed/mandated programming for comparable offenses by other inmates with similar histories.

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

4. The HCSO may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

5. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

6. The HCSO prohibits all sexual activity between inmates and will discipline inmates for such activity.

PROTOCOL 9: MEDICAL AND MENTAL CARE

A. Medical and Mental Health Screenings; History of Sexual Abuse.

1. If the screening pursuant to Protocol 4: A (Screening for Risk of Sexual Victimization and Abusiveness) indicates that an inmate has experienced prior sexual victimization and/or has previously perpetrated sexual abuse (whether it occurred in an institutional setting or in the community), staff will ensure that the inmate is referred for a follow-up meeting with a medical and mental health practitioner within fourteen (14) days of the intake screening.

2. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or Local law.

3. Medical and mental health practitioners will obtain informed consent from the inmate before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of eighteen (18) years.

B. Access to Emergency Medical and Mental Health Services

1. Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

2. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders will take preliminary steps to protect the victim pursuant Protocol 6:B (HCSO Protection Duties)and will immediately notify the appropriate medical and mental health practitioners.

3. Inmate victims of sexual abuse while incarcerated will be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

4. Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

C. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers

1. The HCSO offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

2. The evaluation and treatment of such victims includes, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

3. The HCSO provides such victims with medical and mental health services consistent with the community level of care.

4. Inmate victims of sexually abusive vaginal penetration while incarcerated will be offered pregnancy tests.

5. If pregnancy results from the conduct described in paragraph (4) of this section, such victims will receive timely and

comprehensive information about, and timely access to, all lawful pregnancy-related medical services.

6. Inmate victims of sexual abuse while incarcerated will be offered tests for sexually transmitted infections as medically appropriate.

7. Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

8. All facilities will attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

PROTOCOL 10: DATA COLLECTION AND REVIEW

A. Sexual Abuse Incident Reviews

1. The HCSO conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

2. These reviews ordinarily occur within thirty (30) days of the conclusion of the investigation.

3. The review team includes upper-level management officials, line supervisors, investigators, and medical or mental health practitioners.

4. The review team will:

   a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

   b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the HCSO;

   c. Examine the area in the HCSO where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

d. Assess the adequacy of staffing levels in that area during different shifts;

e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

f. Complete a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (4)(a)-(4)(e) of this section, and any recommendations for improvement and submit the report to the facility Superintendent, PREA Coordinator, and facility PREA Manager.

5. The HCSO will implement the recommendations for improvement, or will document its reasons for not doing so.

B. Data Collection

1. The HCSO collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using the PREA, Trax Case Management, HealthTrax, and SOU databases.

2. The incident-based data is collected at least annually and will include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice.

3. The HCSO will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

4. The HCSO also obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.

5. Upon request, the HCSO will provide all such data from the previous calendar year to the Department of Justice no later than June 30.

C. Data Review for Corrective Action

1. The HCSO reviews data collected and aggregated pursuant to Protocol 10: B (Data Collection) in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

a. Identifying problem areas;

b. Taking corrective action on an ongoing basis; and

c. Preparing an annual report of its findings and corrective actions for each facility, as well as the HCSO as a whole.

2. The HCSO's report will be approved by the Sheriff or designee and made available to the public through its website.

3. These reports will include a comparison of the current year's data and corrective actions with those from prior years and will provide an assessment of the HCSO's progress in addressing sexual abuse.

4. The HCSO will redact specific material from the reports when publication would present a clear and specific threat to the safety and security of the HCSO's facilities, but must indicate the nature of the material redacted.

D. Data Storage, Publication, and Destruction

1. The HCSO will ensure that data collected pursuant to Protocol 10: B (Data Collection) is securely retained.

2. The HCSO will make all aggregated sexual abuse data, readily available to the public at least annually through its website.

3. Before making aggregated sexual abuse data publicly available, the Office will remove all personal identifiers.

4. The HCSO will maintain sexual abuse data collected pursuant to Protocol 10: B (Data Collection) for at least 10 years after the date of the initial collection unless Federal, State, or Local law requires otherwise.

PROTOCOL 11: AUDITING AND CORRECTIVE ACTION

A. Frequency and Scope of Audits.

1. During the (3) three-year period starting on August 20, 2013, and during each (3) three-year period thereafter, the HCSO shall ensure that each facility operated by the Office is audited at least once.

2. During each (1) one-year period starting on August 20, 2013, the HCSO will ensure that at least (1/3) one-third of each facility type operated by the Office is audited.

3. The HCSO will utilize the Department of Justice's audit instrument that will provide guidance on the conduct and contents of the audit.

4. The HCSO will bear the burden of demonstrating compliance with the standards.

5. The audits shall review, at a minimum, a sampling of relevant documents, policies, and other records and information for the most recent one-year period.

6. The auditor will interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators on each shift.

7. The auditor will be permitted to conduct private interviews with inmates, residents, and detainees.

8. Inmates, residents, and detainees will be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

B. Audit Contents and Findings.

1. Audit reports shall state whether Office-wide policies and procedures comply with relevant PREA standards.

2. For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.

3. Auditors will provide such information to the Office upon request, and may provide such information to the Department of Justice.

4. The HCSO shall ensure that the auditor's final report is published on the HCSO website.

REFERENCES:

CMR:
103 CMR: 914.01(1t), 914.02(4), 914.05(1)

914.01: Personnel Manual

(1) Each county correctional facility shall provide a personnel manual which includes, but is not limited to, policy and procedure for the following areas:

(a) Organizational structure;

(b) Recruitment and selection;

(c) Equal employment opportunity provisions;

(d) Reasonable accommodation to the known impairments of an employee or applicant having a disability;

(e) Job qualifications, descriptions and responsibilities;

(f) Job classification plan;

(g) Wage and benefit plan;

(h) Holidays, leaves and work hours;

(i) Personnel records;

(j) Performance evaluations;

(k) Promotions, retirements, resignations, layoffs and terminations;

(l) Employee-management relations;

(m) Physical fitness;

(n) Employee discipline;

(o) Grievances and appeals;

(p) Insurance and professional liability provisions;

(q) Code of ethics to include statement regarding conflict of interest;

(r) Drug-free workplace;

(s) Sexual harassment prohibition;

(t) Sexual misconduct; and

(u) Domestic violence.

914.02: Selection and Hiring

(1) Written policy and procedure shall specify that the selection, retention, and promotion of all personnel are on the basis of merit and specified qualifications to include the following:

(a) Eligibility for appointment as a correction officer or other security employee a person shall be at least 19 years old, have

a high school diploma or its equivalent, and be physically fit; and,

(b) Eligibility requirements for professional, treatment, administrative and other positions shall be established by the Sheriff/facility administrator in accordance with the duties and responsibilities of the position and with any legal requirements for certification, licensing or training.

(2) Written policy and procedure shall encourage promotion from within the organization.

(3) Written policy and procedure shall specify that equal employment opportunity exists for all positions. There shall be no discrimination in hiring on the grounds of, race, color, religion, national origin, handicap, creed, or sex.

(4) In accordance with state and federal statutes, the county correctional facility shall conduct a criminal record check on all new employees to ascertain whether there are criminal convictions which may have a specific relationship to job performance.

(5) Written policy and procedure shall provide that all employees who have daily direct contact with inmates receive a physical examination prior to job assignment. All other employees shall receive a medical screening prior to job assignment. Provisions shall exist for re-examination when necessary.

914.05: Minimum Staff Requirements

(1) The Sheriff/facility administrator shall systematically determine the workload requirements for all categories of personnel and review them on an ongoing basis in order to ensure inmate access to staff, availability of support services and adequate security supervision of the inmates, staff, and the facility. A Security Staff Post Analysis, to include the calculation of a shift relief factor, shall be conducted, reviewed annually and updated as necessary.

(2) Written policy, procedure and practice shall require that when both males and females are incarcerated in the county correctional facility at least one male and one female staff members is on duty at all times.

(3) Written policy and procedure shall provide for provisional appointments or reserve security staff to ensure the availability of trained personnel for short-term, full-time or part-time work in special or emergency situations.

ACA:
5-ALDF:
2A-14, 2A-29, 4D-22-2, 4D-22-3, 4D-22-4, 4D-22-5, 4D-22-6, 4D-22-7, 7B-03, 7E-01,

4-ACRS: 2A-3, 6A-5, 7B-5,

5-ALDF-2A-13
(Ref. 4-ALDF-2A-14)

A comprehensive staffing analysis is conducted annually. The staffing analysis is used to determine staffing needs and plans. Relief factors are calculated for each classification of staff that is assigned to relieved posts or positions. Essential posts and positions, as determined in the staffing plan, are consistently filled with qualified personnel.

5-ALDF-2A-27
(Ref. 4-ALDF-2A-29)

Information is provided to inmates about sexual abuse/assault including:

- Prevention/intervention
- Self-protection
- Reporting sexual abuse/assault
- Treatment and counseling
- The information is communicated orally and in writing, in a language clearly understood by the inmate, upon arrival at the facility.

5-ALDF-4D-23
(Ref. 4-ALDF-4D-22-2)

An investigation is conducted and documented whenever a sexual assault or threat is reported.

5-ALDF-4D-24
(Ref. 4-ALDF-4D-22-2)

Detainees identified as high risk with a history of sexually assaultive behavior are assessed by a mental health or other qualified professional. Detainees with a history of sexually assaultive behavior are identified, monitored, and counseled.

5-ALDF-4D-25
(Ref. 4-ALDF-4D-22-4)

Detainees identified as a risk for sexual victimization are assessed by a mental health or other qualified professional. Detainees at risk for sexual victimization are identified, monitored, and counseled.

5-ALDF-4D-26
(Ref. 4-ALDF-4D-22-5)

Sexual conduct between staff and detainees, volunteers or contract personnel and detainees, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions

5-ALDF-4D-27
(Ref. 4-ALDF-4D-22-6)

Victims of sexual assault are referred under appropriate security provisions to a community facility for treatment and gathering of evidence. If these procedures are performed in-house, following guidelines are used:

- A history is taken by health care professionals who conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated. With the victim's consent, the examination includes collection of evidence from the victim, using a kit approved by the appropriate authority.

- Provision is made for testing for sexually transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases) and counseling, as appropriate.

- Prophylactic treatment and follow-up for sexually transmitted diseases are offered to victims, as appropriate.

- Following the physical examination, there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up.

- A report is made to the facility or program administrator or designee to assure separation of the victim from his or her assailant

5-ALDF-4D-28
(Ref. 4-ALDF-4D-22-7)

Detainees who are victims of sexual abuse have the option to report the incident to a designated staff member as well as others: duty officer/3rd party reporting/or safe helpline.

5-ALDF-7B-03
(Ref. 4-ALDF-7B-03)

A criminal record check is conducted on all new employees, contractors, and volunteers prior to their assuming duties to identify whether there are criminal convictions that have a specific relationship to job performance. This record will include comprehensive identifier information to be collected and run against law enforcement indices. If suspect information on matters with potential terrorism connections is returned on a desirable applicant, it is forwarded to the local Joint Terrorism Task Force (JTTF) or another similar agency.

5-ALDF-7E-01
(Ref. 4-ALDF-7E-01)

There is a personnel policy manual that is available to each employee and is explained at employee orientation. The manual is reviewed annually and revised as needed. This manual includes, at a minimum:

- Affirmative action program
- Equal employment opportunity program
- Policy for selection, retention, and promotion of all personnel on the basis of merit and specified qualifications
- Code of Ethics
- Rules for probationary employment
- Compensation and benefit plan
- ADA
- Sexual harassment/sexual misconduct
- Grievance and appeal procedures

- Infection control plan
- Employee disciplinary procedures.

4-ACRS-2A-03
(Ref. 3-ACRS-1C-19, 3A-03)

The facility administrator and/or governing authority systematically determine and review staffing requirements at least annually. Staffing plans are implemented.

Comment:
To provide offenders access to staff and services, staff requirements should reflect goals to be accomplished, character and needs of offenders, and other duties required of staff. The staffing pattern concentrates staff when most offenders are in the facility. Many offenders who work or attend school during the day are in the facility during the late afternoon and evening. A large number of staff should be available during those hours.

4-ACRS-6A-05

Offenders are not subjected to sexual harassment.

4-ACRS-7B-05
(Ref. 3-ACRS-1C-11)

A criminal record check is conducted on all new employees and volunteers in accordance with state and federal statutes.

Comment:
The facility administrator should know of any criminal conviction that could directly affect an employee's job performance.

NCCHC: J-F-06, J-F-03

J-F-03 MENTAL HEALTH SERVICES
Essential

Standard

Mental health services are available for all inmates who require them.

Compliance Indicators

1. Patients' mental health needs are addressed on-site or by referral to appropriate alternative facilities.

2. Outpatient services include, at a minimum:

    a. Identification and referral of inmates with mental health needs

    b. Crisis intervention services
    c. Psychotropic medication management, when indicated

    d. Individual counseling

    e. Group counseling and/or psychosocial/psycho-educational programs and

    f. Treatment documentation and follow-up

3. When commitment or transfer to an inpatient psychiatric setting is clinically indicated:

    a. Required procedures are followed and

    b. The transfer occurs in a timely manner

    c. The patient is safely housed and adequately monitored until the transfer occurs

4. Outpatients receiving mental health services are seen as clinically indicated and as prescribed in their individual treatment plans.

5. Mental health, medical, and substance abuse services are sufficiently coordinated such that patient management is appropriately integrated, medical and mental health needs are met, and the impact of these conditions on each other is adequately addressed.

6. All aspects of the standard are addressed by written policy and defined procedures.

Discussion

The responsible health authority must ensure that inmates with mental health problems maintain their best level of functioning while in custody.

In the correctional setting, as in most other environments, the immediate objective of mental health treatment is to alleviate symptoms of mental disorders and prevent relapses in order to sustain patients' ability to function safely in their environment. Mental health treatment is more than prescribing psychotropic medications. Treatment goals include self-understanding, self-improvement, and development of skills to cope with and overcome disabilities associated with various mental disorders.

Acute mental health residential units, when provided on-site, should be consistent with their defined scope of care to provide for patients who are psychotic, mentally unstable, or suicidal. These residential units should have continuous (24 hours a day, 7 days a week) coverage by mental health staff; orientation and training for correctional officers assigned to the unit; daily (7 days a week) patient evaluation by mental health staff; programming or appropriate therapies, if indicated; individual treatment plans; and housing in a safe and therapeutic environment conducive to symptom stabilization and maintenance of good personal hygiene.

Crisis intervention and provision of psychotropic medications are expected for inmates with short lengths of stay and in facilities that transfer inmates with serious mental health problems to other facilities. Facilities housing significant numbers of mental health patients with longer lengths of stay are expected to offer more extensive mental health programming.

The use of an integrated and multidisciplinary team (including correctional staff) to develop treatment plans for inmates displaying manipulative behavior can be effective. These treatment plans may include behavioral contracts with the patient to reinforce positive behavior.

Health staff should obtain necessary records from community mental health clinicians for patients treated previously in the community.

Ideally, individual counseling, group counseling, self-help groups, residential programs, and clinical management are coordinated. In any event, policy and procedures define the roles of the treatment team and the health care team, as well as the areas of mutual interest and collaboration. Community self-help initiatives such as Alcoholics Anonymous and Narcotics Anonymous may be an appropriate supplement or alternative to counseling provided by staff.

For further guidance in providing services, see NCCHC's *Standards for Mental Health Services in Correctional Facilities* and *Psychiatric Services in Correctional Facilities* (American Psychiatric Association).

J-F-06 RESPONSE TO SEXUAL ABUSE

Essential

Standard

Facility staff ensures that victims of *sexual abuse* receive appropriate intervention.

Compliance Indicators

1. The facility has guidelines or protocols regarding the detection, prevention, and reduction of sexual abuse.

2. Health staff is trained in how to:

    a. Detect, assess, and respond to signs of sexual abuse and sexual harassment

    b. Preserve physical evidence of sexual abuse.

3. Emergency contraception is available to female victims of sexual assault.

4. Recent sexual assault is either referred to a community facility for treatment and gathering of evidence, or if these procedures are performed in-house, the following guidelines are used:

    a. A history is taken and qualified health care professionals conduct an examination to document the extent of physical injury and to determine whether referral to another medical facility is indicated.

    b. Personnel trained in examination of sexual abuse victims will conduct the exam.

    c. Whenever possible, the examiner will not have a therapeutic relationship with individuals involved in the incident.

    d. With the victim's consent, the examination includes collection of evidence from the victim, using a kit approved by the local legal authority.

5. In all cases, whether the victim is treated in-house or referred to an outside facility, the following activities occur:

    a. Prophylactic treatment and follow-up care for sexually transmitted infections or other communicable diseases (e.g., HIV, hepatitis B) are offered to all victims, as appropriate.

    b. There is an evaluation by a qualified mental health professional for crisis intervention counseling and follow-up.

    c. A report is made to the correctional authorities to effect a separation of the victim from the abuser in their housing assignments.

6. All aspects of the standard are addressed by written policy and defined procedures.

Definitions

Sexual abuse is an unwanted sexual act that is coercive or assaultive in nature, and that occurs with or without the use or the threat of force.

Preserving physical evidence means, for the purpose of this standard, that such evidence is not contaminated or destroyed. It does not mean collecting or handling physical evidence.

Discussion

The medical and psychological trauma of sexual abuse should be minimized as much as possible by prompt and appropriate intervention.

Correctional facilities should comply with applicable federal law. The Prison Rape Elimination Act of 2003 addresses the many aspects of sexual abuse in correctional facilities, including the actions to be taken by correctional administrators.

Emergency contraception should be available at intake and at any time during incarceration as indicated. Many resources offer guidance on the issue of emergency contraception (e.g., National PREA Resource Center, American College of Obstetricians and Gynecologists). Where medically appropriate, inmate victims of sexual abuse should be offered timely information, counseling, and emergency contraception and prophylaxis to prevent transmission of HIV and sexually transmitted infections.

With the sexual abuse victim's written consent, qualified health care professionals (e.g., sexual assault nurse examiners) who are trained to evaluate sexual assault victims are permitted to gather forensic evidence from the victim, even though, under this standard, they are not permitted to gather forensic evidence from the alleged abuser. However, with consent, medical information may be obtained from the alleged abuser so that appropriate medical intervention can be initiated for the victim. The persons gathering information and evidence from either the victim or alleged abuser should not have a therapeutic relationship with the individual they are examining.

When collecting evidence in-house, the examiner should not have a therapeutic relationship with individuals involved in the incident. Taking this precaution is vital to ensure that the patient-provider relationship is not jeopardized when forensic information may be collected.

Immediate response to an act of sexual abuse is of the utmost importance. Separation of the victim and alleged abuser is needed to protect the victim and to prevent further violence.

Psychological trauma may occur to individuals other than the victim of a sexual abuse act. Mental health staff should be available to provide support and assistance to those in need. Sexual abuse is especially traumatic to adolescents; therefore, when an adolescent is the victim of sexual abuse, the potential for suicide should be carefully assessed.

MGL:
Chapter 152
Chapter 151 B
MGL 268, Section 21 A

Chapter 127, Section 32: Treatment of prisoners

Section 32
The superintendents of the institutions under the supervision of the department of correction shall treat the prisoners with the kindness which their obedience, industry and good conduct merit.

Section 32A
A prisoner of a correctional institution, jail or house of correction that has a gender identity, as defined in section 7 of chapter 4 that differs from the prisoner's sex assigned at birth, with or without a diagnosis of gender dysphoria or any other physical or mental health diagnosis shall be:

1. Addressed in a manner consistent with the prisoner's gender identity;

2. Provided with access to commissary items, clothing, programming, educational materials and personal property that is consistent with the prisoner's gender identity;

3. Searched by an officer of the same gender identity if the search requires an inmate to remove all clothing or includes a visual inspection of the anal cavity or genitals; provided, however, that the officer's gender identity shall be consistent with the prisoner's request; and provided further, that such search shall not be conducted for the sole purpose of determining genital status; and

4. Housed in a correctional facility with inmates with the same gender identity; provided, that the placement shall be

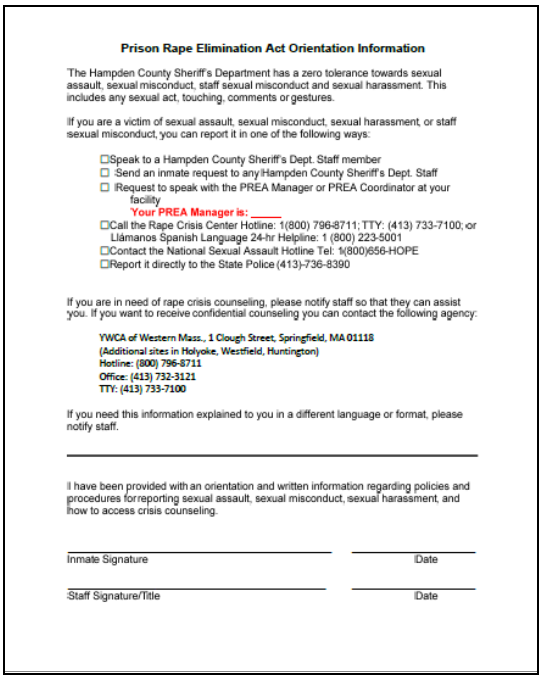
consistent with the prisoner's request, unless the commissioner, the sheriff or a designee of the commissioner or sheriff certifies in writing that the particular placement would not ensure the prisoner's health or safety or that the placement would present management or security problems.

CFR:
28 C.F.R. Part 115
Docket No. OAG-131
RIN 1105-AB34
May 17, 2012 2

PREA:
All

FORMS:

PREA Inmate Orientation Sign-Off



Prison Rape Elimination Act Orientation Information

The Hampden County Sheriff's Department has a zero tolerance towards sexual assault, sexual misconduct, staff sexual misconduct and sexual harassment. This includes any sexual act, touching, comments or gestures.

If you are a victim of sexual assault, sexual misconduct, sexual harassment, or staff sexual misconduct, you can report it in one of the following ways:

- ☐ Speak to a Hampden County Sheriff's Dept. Staff member
- ☐ Send an inmate request to any Hampden County Sheriff's Dept. Staff
- ☐ Request to speak with the PREA Manager or PREA Coordinator at your facility
  Your PREA Manager is: _____
- ☐ Call the Rape Crisis Center Hotline: 1(800) 796-8711; TTY: (413) 733-7100; or Llámanos Spanish Language 24-hr Helpline: 1 (800) 223-5001
- ☐ Contact the National Sexual Assault Hotline Tel: 1(800)656-HOPE
- ☐ Report it directly to the State Police (413)-736-8390

If you are in need of rape crisis counseling, please notify staff so that they can assist you. If you want to receive confidential counseling you can contact the following agency:

YWCA of Western Mass., 1 Clough Street, Springfield, MA 01118
(Additional sites in Holyoke, Westfield, Huntington)
Hotline: (800) 796-8711
Office: (413) 732-3121
TTY: (413) 733-7100

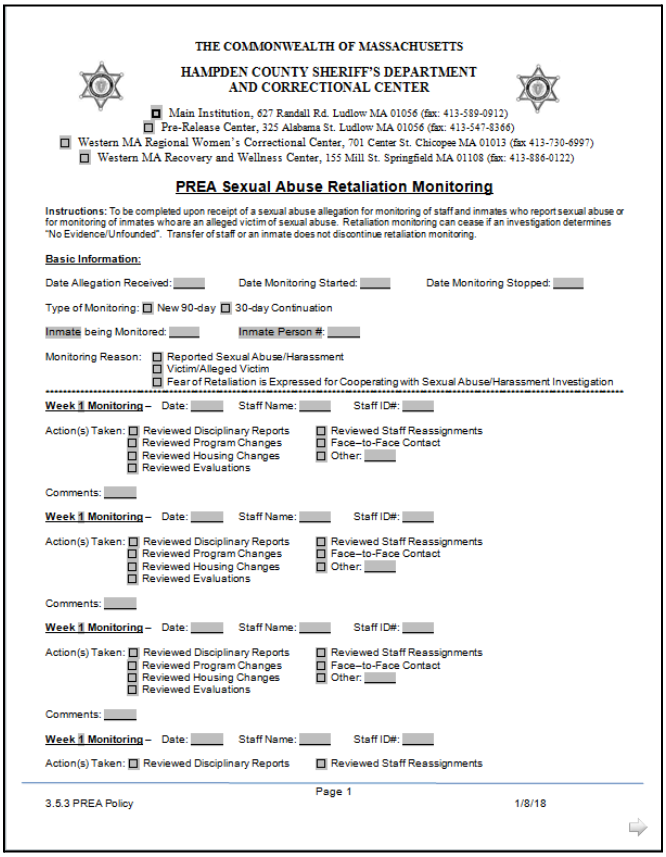
If you need this information explained to you in a different language or format, please notify staff.

I have been provided with an orientation and written information regarding policies and procedures for reporting sexual assault, sexual misconduct, sexual harassment, and how to access crisis counseling.

Inmate Signature _____ Date _____

Staff Signature/Title _____ Date _____

PREA Sexual Abuse Retaliation Monitoring



THE COMMONWEALTH OF MASSACHUSETTS

HAMPDEN COUNTY SHERIFF'S DEPARTMENT
AND CORRECTIONAL CENTER

☒ Main Institution, 627 Randall Rd. Ludlow MA 01056 (fax: 413-589-0912)
☐ Pre-Release Center, 325 Alabama St. Ludlow MA 01056 (fax: 413-547-8366)
☐ Western MA Regional Women's Correctional Center, 701 Center St. Chicopee MA 01013 (fax 413-730-6997)
☐ Western MA Recovery and Wellness Center, 155 Mill St. Springfield MA 01108 (fax: 413-886-0122)

PREA Sexual Abuse Retaliation Monitoring

Instructions: To be completed upon receipt of a sexual abuse allegation for monitoring of staff and inmates who report sexual abuse or for monitoring of inmates who are an alleged victim of sexual abuse. Retaliation monitoring can cease if an investigation determines "No Evidence/Unfounded". Transfer of staff or an inmate does not discontinue retaliation monitoring.

Basic Information:

Date Allegation Received: _____ Date Monitoring Started: _____ Date Monitoring Stopped: _____

Type of Monitoring: ☐ New 90-day ☐ 30-day Continuation

Inmate being Monitored: _____ Inmate Person #: _____

Monitoring Reason: ☐ Reported Sexual Abuse/Harassment
☐ Victim/Alleged Victim
☐ Fear of Retaliation is Expressed for Cooperating with Sexual Abuse/Harassment Investigation

Week 1 Monitoring – Date: _____ Staff Name: _____ Staff ID#: _____

Action(s) Taken: ☐ Reviewed Disciplinary Reports ☐ Reviewed Staff Reassignments
☐ Reviewed Program Changes ☐ Face–to-Face Contact
☐ Reviewed Housing Changes ☐ Other: _____
☐ Reviewed Evaluations

Comments: _____

Week 1 Monitoring – Date: _____ Staff Name: _____ Staff ID#: _____

Action(s) Taken: ☐ Reviewed Disciplinary Reports ☐ Reviewed Staff Reassignments
☐ Reviewed Program Changes ☐ Face–to-Face Contact
☐ Reviewed Housing Changes ☐ Other: _____
☐ Reviewed Evaluations

Comments: _____

Week 1 Monitoring – Date: _____ Staff Name: _____ Staff ID#: _____

Action(s) Taken: ☐ Reviewed Disciplinary Reports ☐ Reviewed Staff Reassignments
☐ Reviewed Program Changes ☐ Face–to-Face Contact
☐ Reviewed Housing Changes ☐ Other: _____
☐ Reviewed Evaluations

Comments: _____

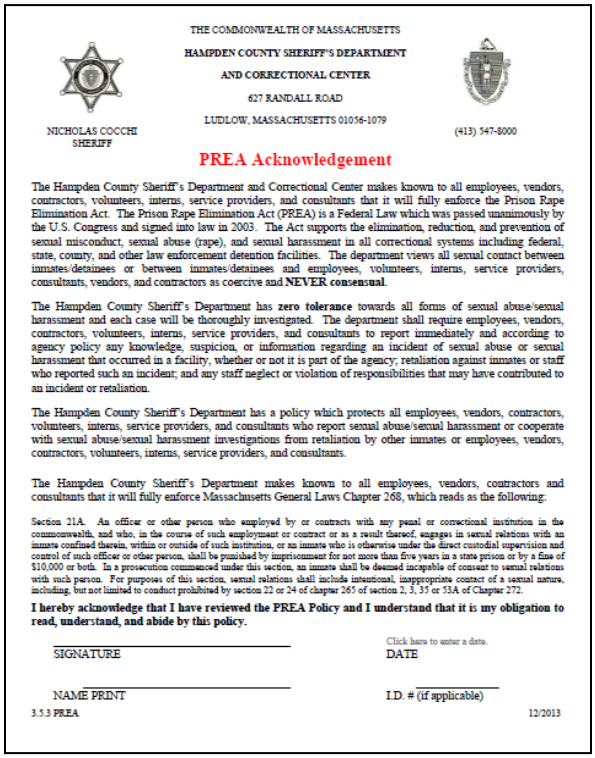
Week 1 Monitoring – Date: _____ Staff Name: _____ Staff ID#: _____

Action(s) Taken: ☐ Reviewed Disciplinary Reports ☐ Reviewed Staff Reassignments

Page 1

3.5.3 PREA Policy 1/8/18

PREA Acknowledgement Vendor/Volunteer/Contractor/Intern Sign-off



THE COMMONWEALTH OF MASSACHUSETTS
HAMPDEN COUNTY SHERIFF'S DEPARTMENT
AND CORRECTIONAL CENTER
627 RANDALL ROAD
LUDLOW, MASSACHUSETTS 01056-1079

NICHOLAS COCCHI
SHERIFF

(413) 547-8000

PREA Acknowledgement

The Hampden County Sheriff's Department and Correctional Center makes known to all employees, vendors, contractors, volunteers, interns, service providers, and consultants that it will fully enforce the Prison Rape Elimination Act. The Prison Rape Elimination Act (PREA) is a Federal Law which was passed unanimously by the U.S. Congress and signed into law in 2003. The Act supports the elimination, reduction, and prevention of sexual misconduct, sexual abuse (rape), and sexual harassment in all correctional systems including federal, state, county, and other law enforcement detention facilities. The department views all sexual contact between inmates/detainees or between inmates/detainees and employees, volunteers, interns, service providers, consultants, vendors, and contractors as coercive and **NEVER consensual**.

The Hampden County Sheriff's Department has **zero tolerance** towards all forms of sexual abuse/sexual harassment and each case will be thoroughly investigated. The department shall require employees, vendors, contractors, volunteers, interns, service providers, and consultants to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

The Hampden County Sheriff's Department has a policy which protects all employees, vendors, contractors, volunteers, interns, service providers, and consultants who report sexual abuse/sexual harassment or cooperate with sexual abuse/sexual harassment investigations from retaliation by other inmates or employees, vendors, contractors, volunteers, interns, service providers, and consultants.

The Hampden County Sheriff's Department makes known to all employees, vendors, contractors and consultants that it will fully enforce Massachusetts General Laws Chapter 268, which reads as the following:

Section 21A. An officer or other person who employed by or contracts with any penal or correctional institution in the commonwealth, and who, in the course of such employment or contract or as a result thereof, engages in sexual relations with an inmate confined therein, within or outside of such institution, or an inmate who is otherwise under the direct custodial supervision and control of such officer or other person, shall be punished by imprisonment for not more than five years in a state prison or by a fine of $10,000 or both. In a prosecution commenced under this section, an inmate shall be deemed incapable of consent to sexual relations with such person. For purposes of this section, sexual relations shall include intentional, inappropriate contact of a sexual nature, including, but not limited to conduct prohibited by section 22 or 24 of chapter 265 of section 2, 3, 35 or 53A of Chapter 272.

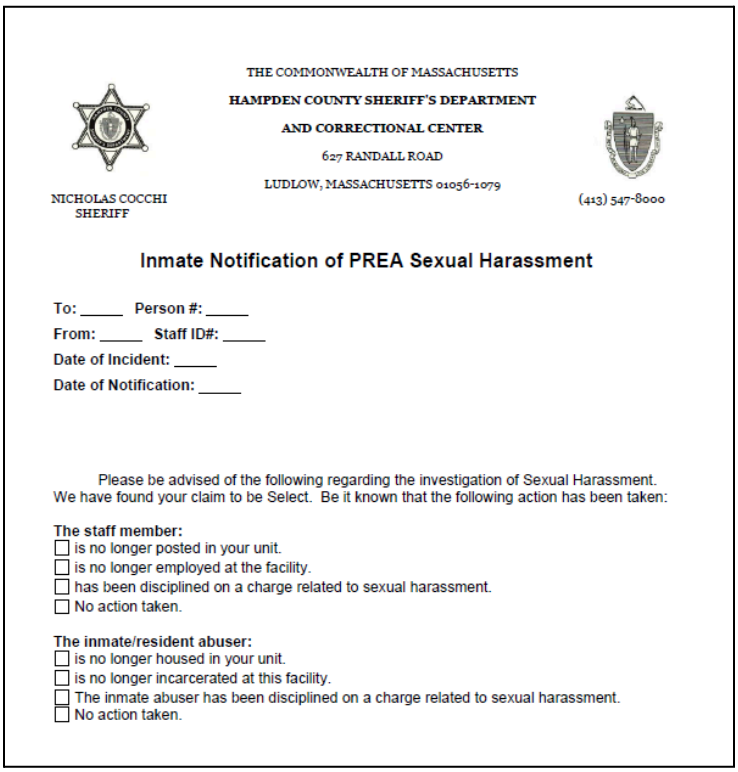
I hereby acknowledge that I have reviewed the PREA Policy and I understand that it is my obligation to read, understand, and abide by this policy.

_____ Click here to enter a date.
SIGNATURE DATE

_____ _____
NAME PRINT I.D. # (if applicable)

3.5.3 PREA 12/2013

PREA Inmate Notification of Sexual Harassment



THE COMMONWEALTH OF MASSACHUSETTS
HAMPDEN COUNTY SHERIFF'S DEPARTMENT
AND CORRECTIONAL CENTER
627 RANDALL ROAD
LUDLOW, MASSACHUSETTS 01056-1079

NICHOLAS COCCHI
SHERIFF

(413) 547-8000

Inmate Notification of PREA Sexual Harassment

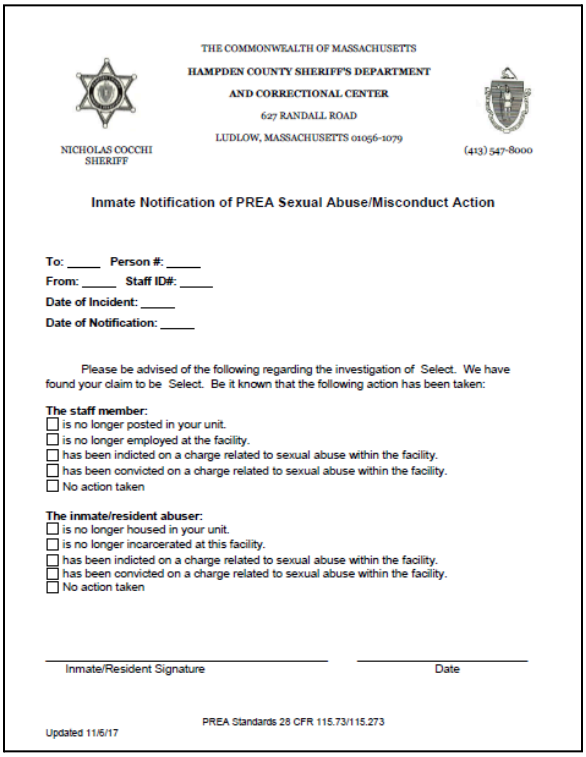
To: _____ **Person #:** _____
From: _____ **Staff ID#:** _____
Date of Incident: _____
Date of Notification: _____

Please be advised of the following regarding the investigation of Sexual Harassment. We have found your claim to be Select. Be it known that the following action has been taken:

The staff member:
☐ is no longer posted in your unit.
☐ is no longer employed at the facility.
☐ has been disciplined on a charge related to sexual harassment.
☐ No action taken.

The inmate/resident abuser:
☐ is no longer housed in your unit.
☐ is no longer incarcerated at this facility.
☐ The inmate abuser has been disciplined on a charge related to sexual harassment.
☐ No action taken.

PREA Inmate Notification of Sexual Abuse/Misconduct



THE COMMONWEALTH OF MASSACHUSETTS
HAMPDEN COUNTY SHERIFF'S DEPARTMENT
AND CORRECTIONAL CENTER
627 RANDALL ROAD
LUDLOW, MASSACHUSETTS 01056-1079

NICHOLAS COCCHI
SHERIFF

(413) 547-8000

Inmate Notification of PREA Sexual Abuse/Misconduct Action

To: _____ **Person #:** _____
From: _____ **Staff ID#:** _____
Date of Incident: _____
Date of Notification: _____

Please be advised of the following regarding the investigation of Select. We have found your claim to be Select. Be it known that the following action has been taken:

The staff member:
☐ is no longer posted in your unit.
☐ is no longer employed at the facility.
☐ has been indicted on a charge related to sexual abuse within the facility.
☐ has been convicted on a charge related to sexual abuse within the facility.
☐ No action taken

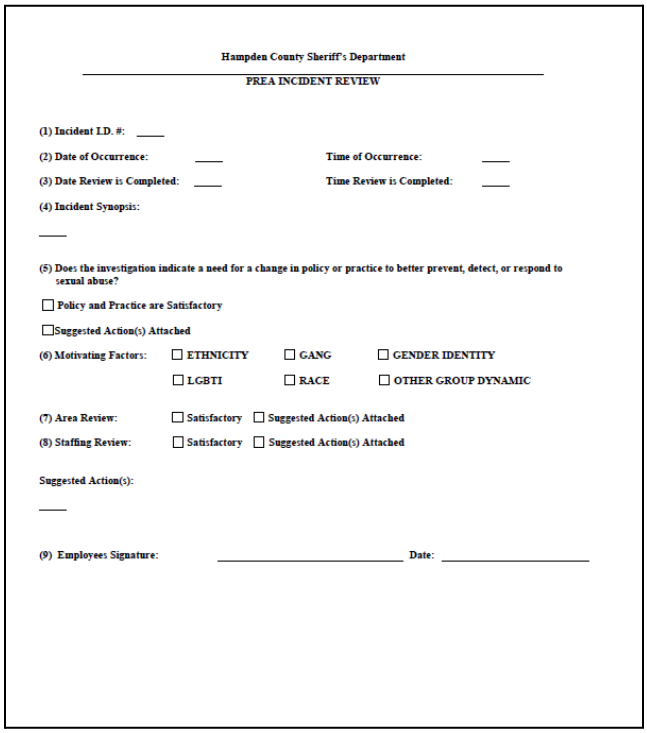
The inmate/resident abuser:
☐ is no longer housed in your unit.
☐ is no longer incarcerated at this facility.
☐ has been indicted on a charge related to sexual abuse within the facility.
☐ has been convicted on a charge related to sexual abuse within the facility.
☐ No action taken

_____ _____
Inmate/Resident Signature Date

PREA Standards 28 CFR 115.73/115.273

Updated 11/6/17

PREA Incident Review



Hampden County Sheriff's Department

PREA INCIDENT REVIEW

(1) Incident I.D. #: ____

(2) Date of Occurrence: ____ Time of Occurrence: ____

(3) Date Review is Completed: ____ Time Review is Completed: ____

(4) Incident Synopsis:

____

(5) Does the investigation indicate a need for a change in policy or practice to better prevent, detect, or respond to sexual abuse?

☐ Policy and Practice are Satisfactory

☐ Suggested Action(s) Attached

(6) Motivating Factors: ☐ ETHNICITY ☐ GANG ☐ GENDER IDENTITY ☐ LGBTI ☐ RACE ☐ OTHER GROUP DYNAMIC

(7) Area Review: ☐ Satisfactory ☐ Suggested Action(s) Attached

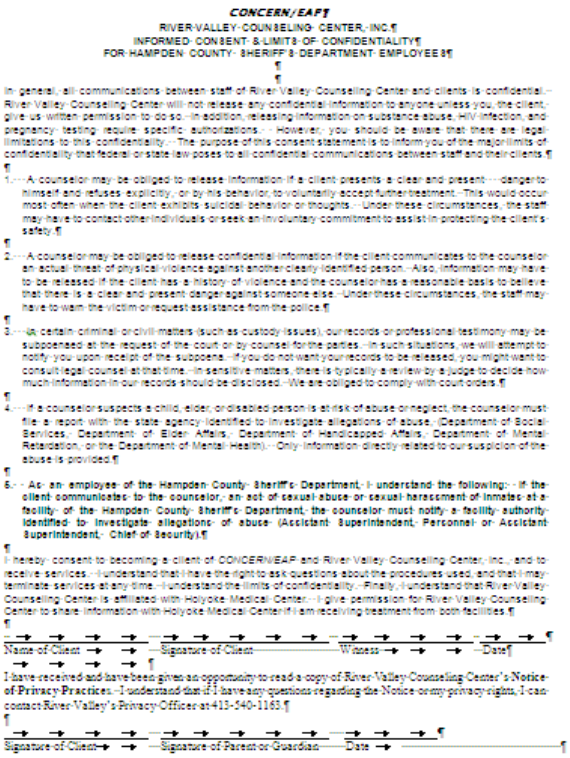
(8) Staffing Review: ☐ Satisfactory ☐ Suggested Action(s) Attached

Suggested Action(s):

____

(9) Employees Signature: _____ Date: _____

Concern/EAP Informed Consent & Limits of Confidentiality



CONCERN/EAP

RIVER VALLEY COUNSELING CENTER, INC.
INFORMED CONSENT & LIMITS OF CONFIDENTIALITY
FOR HAMPDEN COUNTY SHERIFF'S DEPARTMENT EMPLOYEES

In general, all communications between staff of River Valley Counseling Center and clients is confidential. River Valley Counseling Center will not release any confidential information to anyone unless you, the client, give us written permission to do so. In addition, releasing information on substance abuse, HIV infection, and pregnancy testing require specific authorizations. However, you should be aware that there are legal limitations to this confidentiality. The purpose of this consent statement is to inform you of the major limits of confidentiality that federal or state law poses to all confidential communications between staff and their clients.

1. A counselor may be obliged to release information if a client presents a clear and present danger to himself and refuses explicitly, or by his behavior, to voluntarily accept further treatment. This would occur most often when the client exhibits suicidal behavior or thoughts. Under these circumstances, the staff may have to contact other individuals or seek an involuntary commitment to assist in protecting the client's safety.

2. A counselor may be obliged to release confidential information if the client communicates to the counselor an actual threat of physical violence against another clearly identified person. Also, information may have to be released if the client has a history of violence and the counselor has a reasonable basis to believe that there is a clear and present danger against someone else. Under these circumstances, the staff may have to warn the victim or request assistance from the police.

3. In certain criminal or civil matters (such as custody issues), our records or professional testimony may be subpoenaed at the request of the court or by counsel for the parties. In such situations, we will attempt to notify you upon receipt of the subpoena. If you do not want your records to be released, you might want to consult legal counsel at that time. In sensitive matters, there is typically a review by a judge to decide how much information in our records should be disclosed. We are obliged to comply with court orders.

4. If a counselor suspects a child, elder, or disabled person is at risk of abuse or neglect, the counselor must file a report with the state agency identified to investigate allegations of abuse. (Department of Social Services, Department of Elder Affairs, Department of Handicapped Affairs, Department of Mental Retardation, or the Department of Mental Health). Only information directly related to our suspicion of the abuse is provided.

5. As an employee of the Hampden County Sheriff's Department, I understand the following: If the client communicates to the counselor, an act of sexual abuse or sexual harassment of inmates at a facility of the Hampden County Sheriff's Department, the counselor must notify a facility authority identified to investigate allegations of abuse (Assistant Superintendent, Personnel or Assistant Superintendent, Chief of Security).

I hereby consent to becoming a client of CONCERN/EAP and River Valley Counseling Center, Inc., and to receive services. I understand that I have the right to ask questions about the procedures used and that I may terminate services at any time. I understand the limits of confidentiality. Finally, I understand that River Valley Counseling Center is affiliated with Holyoke Medical Center. I give permission for River Valley Counseling Center to share information with Holyoke Medical Center if I am receiving treatment from both facilities.

Name of Client _____ Signature of Client _____ Witness _____ Date _____

I have received and have been given an opportunity to read a copy of River Valley Counseling Center's Notice of Privacy Practices. I understand that if I have any questions regarding the Notice or my privacy rights, I can contact River Valley's Privacy Officer at 413-540-1163.

Signature of Client _____ Signature of Parent or Guardian _____ Date _____