



**BARNSTABLE COUNTY SHERIFF'S OFFICE
POLICY AND PROCEDURE**



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<i>Title: Sexually Abusive Behavior Prevention and Intervention/Prison Rape Elimination Act (PREA)</i>		
<i>Section: Security and Control Management</i>		
<i>ACA Standard/s:</i> 4-ALDF 2A-29, 2A-34, 4C-08, 4D-22-1, 4D-22, 4D-22-2, 4D-22-3, 4D-22-4, 4D-22-5, 4D-22-6, 4D-22-7, 4D-22-8		
<i>Source:</i> <i>M. G. L. Ch. 268 s. 21A</i> <i>Prison Rape Elimination Act</i>	<i>Annual Review Date:</i> <p align="center">08/04/2017</p>	<i>No. Pages:</i> <p align="center">26</p>

POLICY:

The purpose and scope of this policy is to provide guidelines to address prohibited and/or illegal sexually abusive behavior involving inmate perpetrator against inmate victim or Sheriff's Office employee, contractor or volunteer perpetrator against an inmate victim.

Barnstable County Sheriff's Office (hereinafter 'Sheriff's Office') is committed to Zero Tolerance prevention and elimination of sexual abuse perpetrated against inmates by staff members or other inmates. Meeting the objectives set forth within the Prison Rape Elimination Act of 2003 is a major priority for the Sheriff's Office and an ongoing focus for staff efforts at all levels of this organization.

The Sheriff's Office is committed to investigating, disciplining and referring for prosecution, Sheriff's Office employees, contractors, volunteers and inmates who engage in sexually abusive behavior. This policy is intended to complement and not replace or contradict Policy 220.03 Sexual Harassment and Policy 220.04 Staff Sexual Misconduct with Inmates.

The goals of this policy are to:

- Increase the timely reporting of incidents by Sheriff's Office employees, contractors or volunteers and inmates;
- Develop a process to identify and manage inmates who are potential predators or victims;
- Provide ongoing education to Sheriff's Office employees, contractors and volunteers regarding their responsibility toward prevention, intervention, and reporting when incidents are observed or made known to them;
- Provide effective and ongoing orientation to inmates regarding how to avoid victimization and how to report incidents of sexual abuse;

- Provide for a thorough investigation of reported incidents and certain discipline and /or prosecution of perpetrators when appropriate;
- Provide effective short and long term treatment for victims of sexually abusive behavior.

CANCELLATION:

This policy cancels all previous Sheriff's Office policy statements, bulletins, directives, orders, notices rules or regulations which are inconsistent with this policy.

APPLICABILITY:

This policy applies to all Sheriff's Office managers, employees, volunteers/student interns and contracted personnel.

ACCESS TO POLICY:

This policy will be maintained within the central policy file of the Sheriff's Office (Policy and Procedure Office) and will be accessible to all employees. The policy is available to all staff members electronically through the intranet and is posted on the BCSO website.

DEFINITIONS:

Allegation: Any event that has been reported to a Sheriff's Office staff person, contractor or volunteer, but which not yet has been verified or investigated.

At Risk: Inmates who exhibit characteristics consistent with potential victims or perpetrators of sexually abusive behavior. The Sheriff's Office is committed to working with the National Institution of Corrections and other outside agencies to develop tools to increase the likelihood of identifying potential victims and perpetrators.

Critical Incident Review Board: A multi-disciplinary panel of senior managers who routinely meet to review major incidents that occur inside the BCCF and the Sheriff's Office.

Employee: Any employee, contractor, intern or volunteer of the Sheriff's Office.

Exigent Circumstances: Any emergency situation requiring immediate action.

Gender Expression: A person's expression of his/her gender identity including appearance, dress, mannerisms, speech and social interactions.

Gender Identity: A person's internal, deeply felt sense of being male/female, regardless of the person's sex at birth.

Gender Nonconforming: A person whose gender identity and/or expression do not conform to gender stereotypes generally associated with his or her biological sex.

Intersex: A condition usually present at birth that involves reproductive, genetic, or sexual anatomy that does not seem to fit the typical definitions of male and female.

Intimacy: Any behavior not defined as sexual contact or sexual abuse of an inmate including kissing, touching parts of the body or any other related acts including, but not limited to, sending and/or receiving letters/cards/gifts or receiving phone calls from an inmate that are not defined under sexual abuse. Intimate relationships between staff and inmates are expressly prohibited.

LGBTI Population: Acronym for lesbian, gay, bi-sexual, transgender and intersex inmates.

Massachusetts Staff Sexual Misconduct Law: MGL c 268 § 21A – This law removes the ability of an inmate in any correctional institution to consent to engage in sexual relations with any Sheriff's Office employee, contractor or volunteer. Violation of this statute is a felony with a term of imprisonment of up to five years or a fine of up to \$10,000.00. Violation of this law constitutes rape and/or sexual assault.

Offender Fraternization: Prohibited activities with offenders and ex-offenders. Engaging in any non-professional association, contact, or personal relationship with offenders, ex-offenders, or members of their families, which compromises the employee's ability to effectively discharge their professional duties. Exceptions include family members and previously established relationships.

Physical Assault: Any action taken by an individual which is deemed as causing injury or potential injury to another individual. Any deliberate contact, either physical via an object or through bodily fluids, perpetrated by one individual toward another.

PREA: Prison Rape Elimination Act: Federal legislation (Public Law No. 108-79), enacted in 2003 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.

PREA COORDINATOR: A person assigned/appointed by the Sheriff who coordinates the BCSO's compliance with the Department of Justice's (DOJ) Rule on the National Standards to prevent, detect and respond to prison rape pursuant to the Prison Rape Elimination Act of 2003 (PREA).

PREA Task Force: A committee appointed by the Sheriff to provide ongoing advice and counsel.

Rape: The penetration, no matter how slight of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

SANE (Sexual Assault Nurse Examiner) Program: Delivers coordinated expert forensic and medical care necessary to increase successful prosecution of sex offenders and to assure essential medical intervention to victims of assault who are examined at SANE designated emergency hospital.

Sexual Abuse: Shall include but not be limited to the subjecting of another person who is incapable of giving consent by reason of their custodial status to sexual contact by persuasion, inducement, enticement or forcible compulsion.

Sexual Contact: Shall include but not be limited to carnal knowledge, sodomy, sexual assault with an object or sexual fondling or molestation of a person. It does not matter whether or not it is against their will, rape, or otherwise sexually exploiting another person, e.g. compelling them to perform acts of prostitution.

Sexually Abusive Behavior: The term used in this policy to describe all prohibited sexual behavior. Sexually abusive behavior includes acts of intimacy, sexual contact, sexual abuse and staff sexual misconduct as defined in this policy. However, an activity that is not coerced shall not be deemed to constitute sexual abuse.

Sexual Assault Investigator: Sheriff's Office employee assigned by the Superintendent and/or Assistant Superintendent to investigate allegations of sexually abusive behavior.

Staff Sexual Misconduct: Any verbal, physical or offensive conduct of a sexual nature by a Sheriff's Office employee, contractor or volunteer directed toward an inmate under the care, custody and supervision of the Sheriff's Office. Prohibited sexual acts include but are not limited to an attempt, threat, request or the completed act of the intentional act of touching of the genitalia, anus, groin, breast, inner thigh, or buttocks, either directly or through clothing, with the intent to abuse, arouse, or gratify sexual desire or occurrences of indecent exposure, invasion of privacy or staff voyeurism for sexual gratification. Sexual advances, requests for sexual favors or other verbal, physical or offensive conduct of a sexual nature are also expressly prohibited. Examples of sexual harassment include but are not limited to demeaning references to an inmate's gender, derogatory comments about an inmate's body or clothing, jokes about sex or gender specific traits, abusive, threatening, profane or degrading sexual comments, touching, attention or conduct of a sexual nature or threats of retaliation for refusing sexual advances. All sexual contact between an inmate and employee, contractor or volunteer is considered sexual misconduct even if the inmate seemingly "consents" because inmates are deemed incapable of "consent".

Standard of Proof: The level of evidence required to prove sexual abuse shall be by a preponderance of the evidence.

Transgender: A term describing persons whose gender identity and/or expression do not conform to the gender roles assigned to them at birth.

Victim Advocate: The staff member(s) assigned by the Superintendent to meet with inmates victimized by sexually abusive behavior in order to educate them as to the treatment services available to them and to inform them as to the status of the investigation, disciplinary and classification processes pertaining to the alleged claim of sexually abusive behavior.

GENERAL PROCEDURES

All Sheriff's Office employees, contractors and volunteers are to immediately report to the Facility Shift Supervisor any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred either in the Barnstable County Correctional Facility or any other facility. Any 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 are also to be reported.

All allegations and incidents of inmate on inmate, staff on inmate, or inmate on staff sexually abusive behavior, whether reported verbally, in writing, anonymously or by 3rd parties, shall be immediately reported by Sheriff's Office employees, contractors or volunteers to the Facility Shift Supervisor verbally, and followed up with a report to the Superintendent before the end of their shift. During non-business hours these allegations shall be reported to the Facility Shift Supervisor and Duty Officer who shall ensure that the Superintendent/Assistant Superintendent is immediately notified. Failure of any Sheriff's Office employee, contractor or volunteer to report these allegations may result in disciplinary action up to and including termination.

Staff shall not reveal any information related to a sexual abuse report to anyone other than those involved in the investigation.

The Superintendent shall notify the Sheriff, Special Sheriff and the Assistant Superintendent of any incident of alleged sexually abusive behavior. If the allegations involve a possible violation of state law, the Superintendent shall immediately notify the Sheriff who shall authorize the notification of the District Attorney's Office.

PREVENTION

All Sheriff's Office employees, contractors and volunteers, are responsible for contributing to the prevention of sexually abusive behavior perpetrated by staff on inmate, inmate on staff or by inmate on inmate as outlined in this policy.

The Sheriff's Office shall present orientation material on sexual abuse prevention and intervention to inmates through an orientation and the Inmate Handbook. Inmates shall be responsible for familiarizing themselves with the provided PREA information. Inmates are responsible for reporting allegations in a timely fashion to an employee, contractor or volunteer, in order to ensure their safety and the safety of others.

The Sheriff's Office shall be responsible for planning and implementing measures to prevent sexually abusive behavior from occurring. The Sheriff's Office strives to create a safer environment for employees, contractors and inmates, which is free from sexual harassment and exploitation. In this regard, the Sheriff's Office shall provide for the following resources and practices:

A. Training and Education

The Training Division in conjunction with the PREA Task Force shall develop and maintain a training plan to ensure that Sheriff's Office employees, contractors and

volunteers are educated regarding their responsibilities to prevent and report incidents of sexually abusive behavior. The Training Division is responsible for educating employees, contractors and volunteers regarding their responsibilities to prevent and report incidents of sexually abusive behavior and have documented that they understand they training they received.

Training for employees, contractors and volunteers shall include, but not be limited to the following:

1. Sheriff's Office zero-tolerance policy for sexual abuse and sexual harassment.
2. Responsibilities in preventing, detecting, reporting and response to sexual abuse and sexual harassment.
3. The right of inmates to be free from sexual abuse and sexual harassment.
4. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment.
5. The dynamics of sexual abuse and sexual harassment in confinement.
6. The common reactions of sexual abuse and sexual harassment victims.
7. How to detect and respond to signs of the threat of sexual abuse and actual sexual abuse.
8. How to avoid inappropriate relationships with inmates.
9. How to communicate effectively and professionally with inmates, including LGBTI or gender non-conforming inmates.
10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Additional training for Health Services shall include, but not be limited to the following:

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

Training conforms to both male and female inmates.

B. Identification, Reporting, and Screening During Admission

All inmates are screened within 72 hours of arrival at BCCF for potential vulnerabilities as victim or for potential sexually aggressive or predatory behavior (PREA Screening Instrument).

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

1. Inmates at risk or who have a history of inmate sexual abuse victimization:

- a. All inmates entering BCCF and upon subsequent transfers from other institutions, shall be screened within twenty four (24) hours by a qualified medical professional for a history of and the risk for sexual abuse victimization in accordance with Policy 602.02, Admission Medical Screening/Health Appraisal & Examinations/Access to Health Services and within 72 hours by Intake Officers and/or Classification staff using the PREA Screening Instrument. Inmates identified through the PREA Screening Instrument, self-reports, medical reports or other criminal record information as having a history of sexual abuse victimization and/or at risk of being a victim of inmate sexual abuse shall be referred to a mental health clinician for assessment, monitoring, and counseling for follow-up within 14 days of intake. Documentation will be made in the CorEMR chart notes. Medical and Mental Health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting. The Facility Shift Supervisor shall be notified to ensure that appropriate steps (e.g., investigation, housing assignment) are taken.
 - b. Upon learning that an inmate has been identified as having been a victim or predator or is at risk for such, the Facility Shift Supervisor shall carefully assess the immediate needs and housing assignment of the inmate. Where double bunking is necessary, the staff members making cell assignments shall rely upon standard guidelines for cell matching and good judgment in selecting a cellmate for the inmate. Cell assignments shall be made by Classification, Facility Shift Supervisor and/or Unit Team Manager.
 - c. Special Operations will be notified for monitoring purposes of those inmates identified as potential for sexual abuse victimization.
2. Inmates with a history of engaging in predatory sexually abusive behavior:
 - a. Intake Officers and/or Classification Staff shall screen inmates for a history of sexually abusive behavior by conducting PREA screening and a review of criminal record information, (e.g., judgment and commitment orders, institutional six part folder, board of probation). Inmates identified as having a history of sexually abusive behavior not previously identified shall be documented appropriately. The Facility Shift Supervisor shall be notified. Staff shall also ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.
 - b. Special Operations will be notified for monitoring purposes of those inmates identified as potential sexual predators.
- C. Inmate Education
 The Superintendent/designee shall assure that new inmates to the BCCF receive written, verbal and/or video presentations about prisoner sexual violence in English and/or Spanish within 30 days of admission. All written orientation materials about sexually

abusive behavior will be provided in Spanish when appropriate. When a literacy problem exists a staff member assists the inmate in understanding the problem.

Inmates who are transferred from one facility to another shall be educated on their right to be free from sexual abuse and harassment and to be free from retaliation for reporting such incidents.

D. Public Education

The Superintendent/designee shall work closely with the PREA Task Force to develop and implement a communication plan to inform agency constituents, other state agencies, work release employers and the general public regarding the PREA initiative undertaken by the Sheriff's Office and how they can support these efforts. This may include informational pamphlets, video presentations, discussion forums, postings on the Sheriff's Office internet page and news releases as appropriate.

E. Classification

1. The Sheriff's Office shall use all relevant information to make classification and programming decisions with the goal of keeping all inmates safe and free from sexual abuse.
2. LGBTI status shall not be an indicator of likelihood of being sexually abusive.
3. Within a set time period, but not to exceed 30 days from the inmate's arrival, the Sheriff's Office will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.
4. An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.
5. Vulnerable inmates will be classified in the least restrictive environment that is operationally feasible.
6. Inmates shall be segregated from other inmates only as a last resort when least restrictive measures are inadequate. This segregation shall only last until alternative measures can be arranged. A review will be conducted every 30 days to assess whether continued segregation from other inmates is necessary.
7. Inmates who are classified away from the general population into an At-Risk housing unit because of risk of victimization or abusiveness shall receive the opportunity to exercise/shower daily and shall receive any legally required educational programming.
8. Housing and program assignments for transsexual and intersex inmates shall be made on a case by case basis.

9. LGBTI inmates shall not be classified based solely on identification or status.

DATA COLLECTION and ANALYSIS

Documentation of all incidents of sexually abusive behavior is critical to the success of the Sheriff's Office's PREA initiative. All incidents of this nature shall be documented in a timely and accurate manner by referencing specific definitions consistent with those found in the PREA policy and disciplinary charges found in BCSO Policy 511.01, Disciplinary Actions-Inmates.

The Sheriff's Office shall collect accurate, uniform data from every allegation of sexual abuse and will review aggregated data on these allegations at least annually in order to assess the effectiveness of policies, procedures and training in combating sexual abuse, including:

- Identification of problem areas
- Taking corrective action on an ongoing basis
- Preparing an annual report of its findings and corrective action for the facility as well as the agency as a whole.

The annual report shall include:

- comparison of current years data and prior years and shall provide an assessment of the agency's progress in addressing sexual abuse
- a review and approval by signature from the Sheriff or his/her designee
- be made readily available to the public through the BCSO website
- safety and security of the facility shall be maintained through redaction of specific sensitive material, although the nature of the material shall be evident in the report.

Other sources may be queried to develop intelligence information which may become useful to prevent sexually abusive behavior. These may include but not be limited to inmate correspondence, inmate grievances and institution climate reports.

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.

INTERVENTION

- A. Pursuant to BCCF protocol a vulnerability assessment of the facility shall be conducted as needed. The vulnerability reports shall be confidential and submitted directly to the Superintendent for appropriate action.
- B. The Superintendent shall routinely review operational practices in light of PREA. It is important that the Superintendent and the Assistant Superintendent make every attempt to identify and eliminate blind spots within the facility. The Superintendent shall develop and maintain a PREA Environmental Safety Plan which documents areas of concern within the facility and management issues relating to prevention that may require

prevention strategies unique to that facility.

- C. The Superintendent shall ensure that reports by Sheriff's Office employees, contractors, and volunteers regarding suspicions of sexually abusive behavior or related activities are disseminated to those that are on a need to know basis. Local investigators should follow-up on such reports by interviewing staff and inmates and developing intelligence as appropriate.
- D. On an as needed basis the Superintendent and his/her designee shall ensure that all Sheriff's Office employees, contractors and volunteers' home phone numbers are checked against the inmate telephone database. Any positive matches/hits shall be reported to the Assistant Superintendent for appropriate action.
- E. A hotline shall be designated within the inmate telephone system that inmates may use to alert appropriate staff about possible cases of sexually abusive behavior. The hotline telephone number is 508-563-4484. This number shall allow for universal and unimpeded access by all inmates within the BCCF. Inmates will also have the option of reporting sexually abusive behavior to a designated staff member other than an immediate point of contact line officer.
- F. The Sheriff's Office will attempt to maintain a MOU with Community service providers to provide inmates with confidential support services related to sexual abuse.
- G. The Sheriff's Office shall provide inmates with the ability to contact a 3rd party public or private entity that is not part of the Sheriff's Office to report sexual abuse or harassment.
- H. Inmates shall be able to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia except in exigent circumstances.
- I. Staff of the opposite gender shall have their presence announced when entering an inmate housing area. This announcement is to be entered in SIRS.
- J. Cross gender strip/pat searches shall not be conducted except in exigent circumstances and shall be documented. Security staff shall be trained accordingly.
- K. The Command Staff, Captains, Lieutenants and/or Sergeants shall make unannounced rounds to identify and deter sexual misconduct and sexual abuse on all three shifts. Staff will not alert staff of such unannounced rounds. These rounds will be documented in SIRS after they have been conducted.
- L. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.
- M. The Sheriff's Office shall not physically exam a transgender or intersex inmate for the sole purpose of determining the inmate's genital status unless it is done as part of a broader medical examination conducted in private by a medical practitioner.

- N. The Sheriff's Office shall take appropriate steps to ensure that inmates with disabilities and limited English proficiency have an equal opportunity to participate in or benefit from all aspects of the Sheriff's Office efforts to prevent, detect, and respond to sexual abuse and sexual harassment.
- O. Use of inmate interpreters, inmate readers or other types of inmate assistants is prohibited except in limited circumstances where an extended delay in obtaining an interpreter would compromise the inmate's safety, performance of medical duties or investigation of the inmate's allegation.

PROCEDURE:

The security and safety of all persons, whether Sheriff's Office employees, contractors, volunteers or inmates, is a fundamental objective of the Sheriff's Office. As such, it is an integral part of every employee's job to prevent and report sexually abusive behavior.

A. Immediate Response to Sexually Abusive Behavior Complaints

In the event that an inmate reports that they have been sexually abused by an inmate, employee, contractor or volunteer the Sheriff's Office employee, contractor, or volunteer receiving such a complaint shall take the following steps:

1. Immediately separate the victim from the assailant
2. Immediately notify the Facility Shift Supervisor.
3. If the inmate reports they have been sexually abused when no medical or mental health services staff are available, the Shift Supervisor will assign a First Responder Security Staff to respond to the location and also contact the BCSO Communications Division for the Bourne Rescue Service to transport the alleged victim to Falmouth Hospital.
4. Request that the Facility Shift Supervisor secure the scene if warranted, for subsequent crime scene processing.
5. The Facility Shift Supervisor shall notify the Superintendent and the Assistant Superintendent.
6. During non-business hours these allegations shall be reported to the Facility Shift Supervisor and Duty Officer who shall insure that the Superintendent/Assistant Superintendent is immediately notified.
7. Make note of the behavior and appearance of all parties and identify any witnesses to the event.
8. Ensure that the inmate victim is immediately taken to the facility medical department for emergency medical care/mental health treatment.

9. If the abuse occurred within a time period that still allows for the collection of physical evidence, neither the victim nor the alleged abuser will be allowed to take any action that could destroy physical evidence including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.
10. Complete a detailed report to include documentation of immediate separation of the victim and the assailant by the end of their business day.
11. Complete a detailed INCIDENT REPORT – MUST CHECK OFF BOX THAT INDICATES [CONFIDENTIAL FOR SUPERINTENDENT ONLY]; in order to ensure its confidentiality. It is imperative that you DO NOT SAVE the document until you CHECK OFF this box and until the Facility Shift Supervisor reviews the report content.
12. Upon submission of the Confidential Incident Report to the Superintendent the Facility Shift Supervisor must e-mail the following staff: Superintendent, Assistant Superintendent to immediately alert them of notification of said incident.

B. Medical Response to Sexually Abusive Behavior Complaints:

1. At the initiation of services, medical and mental health practitioners shall inform the sexual abuse victim of the practitioner's duty to report, and the limitations of confidentiality.
2. A qualified health care professional shall evaluate the extent of the physical injury and provide medical treatment as needed. Appropriate agency notifications shall be made if the victim is an elderly or vulnerable individual.
3. An emergency mental health referral to the on-site mental health professional shall be made following the completion of the medical evaluation. Both medical and mental health services shall be consistent with the community level of care.
4. Upon completion of the medical and mental health evaluation, the Superintendent or their designee in consultation with medical and/or Mental Health personnel shall determine whether a referral to an outside hospital with a rape crisis unit is warranted. Factors to be considered are the time frame between the alleged assault and the complaint, as well as the extent and nature of the allegation.
5. If the determination is made that the inmate victim should be sent to an outside hospital and if the inmate victim consents, the inmate victim shall be transported to an outside hospital with a SANE program where they shall receive essential medical intervention to include preventative treatment for HIV, sexually transmitted diseases and pregnancy if appropriate. If pregnancy results from the described sexually abusive behavior, the victim will receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services. The

guidelines for referring an inmate to an outside hospital for rape crisis intervention services shall be found in BCSO Policy 326.01, Outside Hospital Security.

6. Upon return from the outside hospital the inmate victim shall be seen by a medical staff member for appropriate follow-up care to include a Mental Health Screening by qualified health care personnel. If during this screening there are any indications that the inmate victim is at risk to hurt themselves or others, a Mental Health professional shall be immediately notified. Otherwise, the inmate victim shall be seen by a Mental Health professional no later than the next business day to assess the need for crisis intervention and long-term counseling pursuant to BCSO Policy 608.01, Suicide Prevention/Protocol.
7. To avoid the potential for secondary victimization an inmate victim may be allowed to refuse rape crisis intervention treatment at an outside hospital. Before the refusal is accepted, the Sheriff's Office's medical and mental health provider shall attempt to persuade the inmate to go to the outside hospital for treatment.

In cases where the inmate victim continues to refuse, the inmate shall be required to sign a Refusal of Treatment Form (attached) pursuant to BCSO Policy 605.01, Inmate Medical Records. Provisions shall be made for testing for sexually transmitted diseases (e.g., HIV, gonorrhea, hepatitis) and pregnancy as well as for prophylactic treatment, follow-up care and counseling pursuant to BCSO Policy 606.02, Communicable Disease and Infection Control Program.

8. Once cleared by the medical and mental health staff, the Classification Supervisor shall determine an appropriate housing assignment for the inmate victim by the next business day.
9. A victim advocate will be assigned to meet with the inmate. The advocate will keep the inmate victim informed of their status and as appropriate, the disciplinary and criminal prosecution of the alleged perpetrator. The advocate shall make the inmate victim aware of the short and long term services available to them.
10. Inmate victims of sexual abuse shall be offered referrals for continued care even when the inmate is no longer incarcerated in the facility.
11. Treatment services including forensic medical exams are offered without financial cost to the victim.

C. Security Response to Sexually Abusive Behavior Complaints:

1. If the Sheriff and/or his designee believe that a felony may have been committed, the District Attorney's Office and the State Police Detective Unit assigned to the District Attorney's Office shall be notified and the Sheriff's Office shall seek assistance and begin a cooperative investigation with these agencies. Criminal investigations shall

- be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attached copies of all documentary evidence where feasible.
2. The Assistant Superintendent shall ensure that all evidence collected at any hospital (Sexual Assault Evidence Collection Kit/Rape Kit) is transported to the State Police Laboratory as soon as possible. All evidence shall be handled in accordance with BCSO Policy 305.01, Searches and Contraband. Evidence retained in excess of twenty-four (24) hours (weekends/holidays), shall be properly refrigerated in the armory.
 3. Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the requirements of PREA.
 4. When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. Any relevant information from the investigative agency shall be used to inform the inmate.
 5. If an inmate's involvement in the alleged sexually abusive behavior is suspected, they shall be placed in a secure setting pending investigation.
 6. The Superintendent shall ensure that the incident is appropriately documented.
 7. Any potential witnesses shall be interviewed in an attempt to corroborate the victim's statements or to identify any suspect(s). Care should be taken to ensure the safety and security of potential witnesses from retribution and retaliation. If necessary and warranted, potential inmate witnesses shall be afforded opportunities for changes in housing placement, more secure housing and/or accelerated classification for transfer.
 8. If sufficient information or evidence is obtained during the investigation, a Disciplinary Report shall be issued by Special Operations according to BCSO Policy 511.01, Disciplinary Actions-Inmates.

D. Classification Response to Sexually Abusive Behavior Complaints:

The Superintendent shall ensure that the Classification Supervisor is notified of sexually abusive behavior complaints. The Classification Supervisor upon such notification shall schedule an Internal Classification Status Review of the inmate predator and/or inmate victim, when sufficient facts are known, in order to determine appropriate classification in accordance with BCSO Policy 420.01, Classification.

INVESTIGATION OF SEXUALLY ABUSIVE BEHAVIOR COMPLAINTS

The Sheriff's Office shall use all available means to fully investigate and address all allegations and incidents of sexually abusive behavior. Within seventy-two (72) hours of the reported incident it shall be the responsibility of the Critical Incident Review Board and Superintendent or designee to review and assess all reports of allegations and incidents of sexually abusive

behavior and determine if the appropriate course of action has been followed. The review shall include input from line supervisors, investigators, and medical or mental health practitioners.

If an inmate makes an allegation that they were sexually abused while confined at another facility, the Sheriff or his/her designee shall notify within 72 hours the head of the facility or appropriate office of the agency where the alleged sexual abuse occurred. This notification shall be documented.

A. Sexually Abusive Behavior Between Inmates:

1. Investigations of reported incidents of sexually abusive behavior between inmates shall be initiated by the Superintendent and the Assistant Superintendent. The Assistant Superintendent shall be responsible for producing an investigative report within seven business days unless the time is extended by the Superintendent.
2. 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.
3. Following an inmates allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever;
 - a) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - b) The agency learns that the alleged abuser has been convicted on a charge related to sexual Abuse within the facility; and
 - c) All such notifications or attempted notifications shall be documented.

B. Staff Accused of Sexually Abusive Behavior with Inmates:

1. If a staff member is accused of sexually abusive behavior with an inmate, the Superintendent shall initiate an investigation pursuant to BCSO Policy 220.04, Staff Sexual Misconduct with Inmates. The staff member may be placed by the Sheriff or Superintendent on a “no inmate contact status” or “suspended with or without pay status” pending an investigation of the matter. Contractors who are accused of sexually abusive behavior may be removed from the facility until the investigation is completed. All volunteers who are accused shall be barred from entering the correctional facility until the investigation is completed.
2. Following an inmate allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate whenever;
 - a) The staff member is no longer posted within the inmates unit;
 - b) The staff member is no longer employed at the facility
 - c) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - d) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility; and

e) All such notifications or attempted notifications shall be documented.

C. Investigation:

1. There shall be two or more BCSO investigators trained to conduct investigations. Appropriate non-legal investigators shall include both male and female staff who are known for their impartiality. In the event of an outside agency investigation, the facility will cooperate with the investigators and endeavor to remain informed about the progress of the investigation.
2. After receiving the complaint, the allegation will be investigated promptly in a fair, impartial and expedient manner. The level of evidence required to prove sexual abuse shall be by a preponderance of the evidence. The credibility of an alleged victim, suspect or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No inmate who alleges sexual abuse shall be required to submit to a polygraph examination or other truth telling devices as a condition for proceeding with the investigation of such an allegation.
3. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.
4. The investigation will include a private interview with the person filing the complaint, the harasser (alleged to have committed sexual harassment, harassment, and/or discrimination) and any witness(es). Prior complaints and reports of sexual abuse involving the suspected perpetrator shall also be reviewed.
5. When the investigation is completed to the extent appropriate, the person filing the complaint and the person alleged to have committed the inappropriate conduct shall be informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. Notification shall be documented.
6. Throughout the investigation as well as at the conclusion of the investigation the investigator will deliver the report(s) to the Sheriff's Office Administration who will review the investigation and determine what action to take based upon the investigation.
7. If an inmate from the Barnstable County Correctional Facility is housed at another facility and is sexually abused, the Barnstable County Sheriff's Office will work with that agency to ensure the investigation is conducted to PREA standards. Such notification shall be made as soon as possible but no later than 72 hours after receiving the notification and shall be documented.
8. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation.

9. In the event the inmate is released from custody, the Sheriff's Office will no longer be under obligation to report to the inmate the status of the allegation.
10. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence, and any available electronic monitoring data.
11. Administrative investigations shall include an effort to determine whether staff actions or failures to act, contributed to the abuse and shall 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.

D. Retaliation:

Retaliation by any employee against another employee, contractor, volunteer or an inmate for reporting complaints of sexually abusive behavior, for assisting in making such a report, or for cooperating in the investigation of such a complaint regardless of the merits or disposition of the complaint is prohibited. Any such occurrence is a very serious matter that may result in discipline up to and including termination in accordance with BCSO Policy 220.03, Sexual Harassment, Harassment, and Non-Discrimination.

Special Operations PREA investigators or their designee shall monitor for at least 90 days following a report of sexual abuse 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 shall act promptly to remedy any such retaliation. In the case of inmates, such monitoring shall also include periodic status checks. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. Monitoring obligation terminates if allegation is unfounded.

Housing changes or transfers for inmate victims or abusers shall be considered as protective measures for inmates who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. The removal of alleged staff or inmate abusers from contact with victims and emotional support services for inmates or staff - that may fear retaliation will also be considered.

DISCIPLINARY

1. All intentional acts of sexually abusive behavior, sexual harassment, or intimacy between an inmate and a Sheriff's Office employee, contractor or volunteer, or between an inmate and another inmate regardless of consensual status, are prohibited and the perpetrator shall be subject to administrative and criminal and/or disciplinary sanctions up to and including termination.
2. Termination shall be the presumptive disciplinary sanction for staff who has engaged in sexual abuse.

3. All terminations for violations of agency sexual abuse or sexual harassment policies or resignations by staff who was to have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
4. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
5. The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates in the case of any other violation of agency sexual abuse or sexual harassment policies.

CASE RECORDS

All case records associated with claims of abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling are retained for 10 years or five years after the length of incarceration, whichever is greater.

GRIEVANCES

The Sheriff's Office does not impose a time limit on when an inmate may file an institutional grievance regarding an allegation of sexual abuse or harassment. An inmate may use an informal grievance process or otherwise attempt to resolve an alleged incident of sexual abuse. An inmate who alleges sexual abuse may file a grievance without submitting the grievance to a staff member who is the subject of the complaint. The grievance will not be referred to a staff member who is the subject of the complaint.

A final agency decision on the merits of any portion of a grievance alleging sexual abuse shall be issued within 90 days of the initial filing of the grievance. Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal. The Sheriff's Office may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate

decision. The agency shall notify the inmate in writing of any such extension and provide a date by which a decision will be made. At any level of the administrative process, including the final level, if the inmate does not received a response within the time allotted for reply, including any properly noticed extension; the inmate may consider the absence of the response to be a denial at that level.

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

If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her

behalf, and may also require the alleged victim to personally pursue any subsequent steps independently. If an inmate declines third-party assistance, this decision will be documented.

An inmate may file an emergency grievance alleging they are subject to substantial risk of imminent sexual abuse.

When an emergency grievance alleging substantial risk of imminent sexual abuse is received, it shall be immediately forwarded to the Facility Shift Supervisor for immediate corrective action to be taken. The response shall be within 48 hours and the grievance is to provide a final decision within 5 calendar days. The initial response and the final decision shall document the determination whether the inmate was in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

FALSE ALLEGATIONS

If the Sheriff's Office investigation reveals that an inmate, Sheriff's Office employee, contractor or volunteer has knowingly made false allegations or made a material statement which they could not have believed to be true, then the Sheriff's Office may take appropriate disciplinary action, and/or criminal action under the Massachusetts General Laws as appropriate. This information shall be included in any orientation booklet as well as within the training to Sheriff's Office employees, contractors or volunteers and inmates.

CRITICAL INCIDENT REVIEW BOARD

All incidents of sexually abusive behavior shall be investigated by the Superintendent. The Superintendent, if he deems it appropriate, may request that the incident be reviewed by the Critical Incident Review Board to include:

- Whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse,
- Whether the incident or allegation was motivated by race, ethnicity, sexual gender, identity biases, status or perceived status or gang affiliation; or was motivated/otherwise caused by other group dynamics at the facility.
- Whether physical barriers in the area of the alleged incident occurred may have enabled abuse,
- Whether adequate staffing levels in the area contributed to alleged abuse,
- Whether monitoring technology should be deployed or improved to assist staff supervision,
- A report of its findings not necessarily limited to determinations made with above considerations and any recommendations for improvement. The report will be submitted to the Superintendent.

EMERGENCIES

Whenever, in the opinion of the Sheriff, an emergency exists which requires the suspension of all

or part of this policy, the Superintendent may order such suspension. However, any such suspension lasting beyond forty-eight (48) hours must be authorized by the Sheriff.

RESPONSIBLE STAFF:

The Sheriff, Special Sheriff, Superintendent, Assistant Superintendent and the Assistant Deputy Superintendents shall be responsible for implementing and monitoring this policy.

ANNUAL REVIEW DATE:

The Policy and Procedure Office shall ensure that this policy is reviewed annually.

SEVERABILITY CLAUSE:

If any article, section, subsection, sentence, clause or phrase is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Sheriff or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of these regulations.

- Attachments (1): Medical Dept./Refusal of Medical Treatment Form (1 pg.)
(2): Classification Dept./PREA Risk Assessment (2 pgs.)
(3): PREA Assessment/Transfer Form (1 pg.)
(4): PREA Assessment/30-Day Review (1 pg.)
(5): Training Dept./PREA Sign Off Sheet (1 pg.)

[Click here to sign off on policy](#)

Barnstable County Correctional Facility

6000 Sheriff's Place, Bourne, MA 02532
Phone 508.563.4416 Fax: 508.563.4585

PREA ASSESSMENT / Transfer Form

Date: _____ Classification Officer: _____

Inmate Name: _____ MSA#: _____

1. How was the inmate classified upon intake*? (Check as appropriate)

*Attach Initial Assessment

_____ Known Victim

_____ Potential Victim

_____ Known Predator

_____ Potential Predator

_____ None of the Above

2. Was the inmate involved in any PREA related incidents during their incarceration at BCSO? Yes/No
(circle one)

If yes, explain _____

3. Were there any other incident reports involving this inmate? Yes/No (circle one)

If yes, explain _____

4. Did the inmate file any grievances? Yes/No (circle one)

If yes, explain _____

5. Did the inmate have any Disciplinary Reports? Yes/No (circle one)

If yes, explain _____

6. Would you classify the inmate in any of the following categories:

_____ Known Victim

_____ Potential Victim

_____ Known Predator

_____ Potential Predator

_____ None of the Above

Please explain classification:

Referral to PREA Manager: Yes or No

Classification Signature & Title: _____ Date: _____

Barnstable County Correctional Facility

6000 Sheriff's Place, Bourne, MA 02532
Phone 508.563.4416 Fax: 508.563.4585

PREA ASSESSMENT / 30-Day Review

Date: _____ Classification Officer: _____

Inmate Name: _____ MSA#: _____

1. How was the inmate classified upon intake*? (Check as appropriate)

*Attach Initial Assessment

_____ Known Victim

_____ Potential Victim

_____ Known Predator

_____ Potential Predator

_____ None of the Above

2. Was the inmate involved in any PREA related incidents during their incarceration at BCSO? Yes/No (circle one)

If yes, explain _____

3. Were there any other incident reports involving this inmate? Yes/No (circle one)

If yes, explain _____

4. Did the inmate file any grievances? Yes/No (circle one)

If yes, explain _____

5. Did the inmate have any Disciplinary Reports? Yes/No (circle one)

If yes, explain _____

6. Would you classify the inmate in any of the following categories:

_____ Known Victim

_____ Potential Victim

_____ Known Predator

_____ Potential Predator

_____ None of the Above

Please explain classification:

Classification Signature & Title: _____ Date: _____



BARNSTABLE COUNTY SHERIFF'S OFFICE TRAINING DEPARTMENT



PRISON RAPE ELIMINATION ACT (PREA) SIGN-OFF SHEET

This information is for all employees, volunteers, vendors or contractors who come onto the grounds of any property/activity under the control of the Barnstable County Sheriff's Office. This is an informational guide to inform you of the standards held by the Barnstable County Sheriff's Office. Please read the PREA guidelines below and sign off on the bottom of this form indicating that you have read and understand the PREA guidelines. Thank you.

- In 2003 Congress passed a law called the Prison Rape Elimination Act (PREA)
- The law states that the issue of prison rape and sexual assault will be discussed in every correctional facility across the country.
- The Barnstable County Sheriff's Office (BCSO) is committed to providing an environment free of sexual assault, takes a zero tolerance stance toward the sexual abuse of people in confinement, and complies with the PREA standards to eliminate any occurrence of sexual assault.
- It is the BCSO's policy to provide a safe, humane, and appropriately secure environment free from the threat of sexual assault by maintaining a program of prevention, detection, response, investigation and tracking.
- Sexual contact in any form with inmates is a violation of PREA. This not only applies to inmates in custody but also to work release, pre-release and to electronic incarceration program custody levels such as furlough and supervised work release. It applies to same-sex as well as to opposite sex encounters.
- A sexual assault would entail any contact between the sex organ of one person and the sex organ, mouth, or anus of another person or any intrusion of any part of the body of one person, of any object into the sex organ, mouth or anus of another person.
- You are also responsible to immediately report any known or suspected act or allegation of sexual misconduct, sexual assault, or retaliation to the facility Superintendent through the appropriate chain of command.
- All employees, volunteers, vendors or contractors are responsible for adhering to these guidelines by ensuring that their conduct does not constitute or promote any type of sexual misconduct or sexual assault, or in any other way violates these guidelines. Physical contact between volunteers/student interns / contractors and inmates shall be kept professional at all times.

Employee/Volunteer

Vendor/Contractor: _____

Print Name

Signature

Date ____/____/____

BCSO Staff Witness: _____

Print Name

Signature

Date ____/____/____

Original: Training Dept.

Copy: Employee/Volunteer/Vendor/Contractor