

<b>WORCESTER COUNTY SHERIFF'S OFFICE – West Boylston, Massachusetts</b>		
<b>PREA</b>		
<b>Prison Rape Elimination Act</b>		
Review Schedule:	August	Effective date: August 25, 2020
Responsible AS:	AS Jason Rives	Interim Revisions:
Responsible Captain:	Keith Hamilton	
Approved by:	David H. Tuttle, Superintendent	<i>D. H. Tuttle</i>
Reference Standards:	N/A	

**TABLE OF CONTENTS**

- (1) PURPOSE ..... 3
- (2) DEFINITIONS ..... 3
- (3) POLICY ..... 6
  - A. Policy Statements ..... 6
  - B. Prohibited Conduct..... 7
  - C. Department Response to Alleged Abuse (General Statement) ..... 7
  - D. Searches ..... 8
  - E. Training ..... 8
  - F. Classification ..... 8
  - G. Human Resources ..... 10
  - H. Filing a Grievance / Submitting a Complaint..... 11
  - I. Staff Allegations ..... 11
- (4) PROCEDURES ..... 11
  - A. General ..... 11
  - B. Prevention..... 12
  - C. Intervention / Medical and Mental Health Services..... 13
  - D. Investigations / Evidence..... 15
  - E. Allegations Against Staff, Contractors or Volunteers..... 16

F.	Response to Investigation, Notification, Review Panel, etc. ....	16
G.	Case Records .....	18
H.	Training .....	18
I.	Public Education.....	19
J.	Data Collection / Analysis.....	19
K.	Emergencies .....	19
(5)	EFFECTIVE DATE .....	19

**ATTACHMENT 1 –SHERIFF’S APPOINTMENT LETTER**

**ATTACHMENT 2 –OMS FORM – Internal Housing Risk**

**ATTACHMENT 3 –OMS FORM – RE-ASSESSMENT SCREENING**

**ATTACHMENT 4 –PREA INCIDENT FORM**

**ATTACHMENT 5 –SEXUAL ABUSE/ ASSAULT/ PREA  
ACKNOWLEDGEMENT**

**ATTACHMENT 6 –SEXUAL ABUSE/ ASSAULT/ PREA  
ACKNOWLEDGEMENT - SPANISH**

**ATTACHMENT 7– REFUSAL OF TREATMENT – WELLPATH**

**ATTACHMENT 8 -PREA RETALIATION REVIEW**

**ATTACHMENT 9 – NOTICE OF PREA FINDING**

**ATTACHMENT 10– INMATE NOTIFICATION (Inmate)**

**ATTACHMENT 11 – INMATE NOTIFICATION (Staff)**

## **(1) PURPOSE**

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

Worcester County Sheriff's Office (WCSO) 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.

## **(2) DEFINITIONS**

### **Allegation**

An oral, written or electronic statement that sexual abuse has occurred or might occur that is provided to a staff member or outside agency.

### **Critical Incident Review Board**

A multi-disciplinary panel of senior managers who routinely meet to review major incidents that occur inside the Worcester County Sheriff's Department and the Sheriff's Office.

### **Credibility Assessment**

An investigator's process of conducting interviews and weighing evidence to determine the truthfulness of victim, witness, and suspect statements.

### **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 or female, regardless of the person's sex at birth.

### **Gender Nonconforming**

A person whose appearance or manner does not conform to traditional societal gender expectations.

### **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.

### **LGBTI Population**

Acronym for lesbian, gay, bi-sexual, trans-gender, and intersex inmates.

### **Need to know**

A criterion for limiting access of certain information to individuals who require the information to make decisions or take action with regard to an inmate's safety or treatment or to the investigative process.

## **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 Superintendent who coordinates the WCSO 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).

### **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 hospitals.

### **Inmate / Inmate Sex Acts**

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:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.

### **Inmate / Inmate Sexual Abuse**

Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and intentional touching, either directly or through the clothing, of genitalia, anus, groin, breast, inner thigh, or buttocks of any person.

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.

### **Inmate / Inmate Sexual Harassment**

Sexual Harassment includes- Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed towards another.

Written or verbal communications, gestures such as simulated acts of a sexual nature.

### **Staff Sexual Misconduct**

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

- Contact between the mouth and the penis, vulva, or anus;
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described within this section;
- Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means 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 his cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

#### **Staff / Inmate Sexual Harassment**

Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Written or verbal communications, gestures such as simulated acts of a sexual nature.

#### **Staff**

Any employee, contractor, intern or volunteer of the Department.

#### **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.

#### **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.

### **Victim Advocate**

A Community Service provider (Pathways for Change Inc.) that will provide inmates with confidential emotional support services related to sexual abuse. This service will be provided at the hospital.

### **(3) POLICY**

All intentional acts of sexually abusive behavior 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, criminal and/or disciplinary sanctions. 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 [914.11 – Sexual Harassment](#) or Policy [914.12 – Staff/ Inmate Relations](#).

#### **The goals of this policy are to:**

- Increase the timely reporting of incidents by Sheriff's Office employees;
- Develop a process to identify and manage inmates who are potentially at risk;
- 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; and
- Collect data in accordance with federal law and to better identify potential predators and victims.

#### **A. Policy Statements**

1. The Department has a zero tolerance policy for any conduct that constitutes sexual relations with or sexual abuse of inmates. (PREA 115.11)
2. The Department has a zero tolerance policy for discrimination and mistreatment of inmates on the basis or sexual orientation or gender identity.
3. The Department shall appoint a PREA Coordinator. The PREA Coordinator shall be appointed by the Superintendent or his designee. The PREA Coordinator will have direct access to the administration and sufficient time to prioritize the implementation and monitoring of PREA. (PREA 115.11(b))

## **B. Prohibited Conduct**

1. Staff sexual relations with inmates are prohibited and are a violation of criminal law. (WCSO 914.12 - Staff / Inmate Relations)
2. Staff sexual abuse of inmates including sexual contact and sexually abusive penetration are prohibited and are a violation of criminal law. (PREA 115.6 and [WCSO 914.12 - Staff / Inmate Relations](#))
3. Inmates cannot legally consent to sexual relations. ([WCSO 914.12 - Staff / Inmate Relations](#))
4. Staff sexual abuse of inmates including staff on inmate indecent exposure, voyeurism, and sexual harassment are prohibited. (PREA 115.6 and [WCSO 914.12 Staff / Inmate relations](#))
5. All acts of retaliation against inmates who refuse to engage in sexual relations are prohibited. ([WCSO 914.12 Staff / Inmate relations](#))

## **C. Department Response to Alleged Abuse (General Statement)**

All reports of alleged violations of this policy will be investigated pursuant to the Department's policies and procedures.

1. The Department shall take immediate action when an inmate is at substantial risk of imminent sexual abuse.
2. If an allegation of sexual misconduct arises, the Senior Shift Officer will immediately notify the Superintendent who will discuss the allegations with the Assistant Superintendent of Operations, the Assistant Deputy Superintendent of Special Services and the PREA Coordinator.
  - a. The Department will take appropriate disciplinary action against an inmate who makes false allegations or material statements that he could not have believed in good faith were true. ([WCSO 914.11 - Sexual Harassment](#))
  - b. Any staff member who violates this policy (PREA) will be the subject of disciplinary action up to and including termination and any other appropriate action necessary to ensure that such activity does not occur again. Termination will be the presumptive disciplinary sanction for staff involved in sexual abuse of inmates. (PREA 115.76 (a-c))
  - c. The Department shall report any possible criminal conduct of staff involving sexual abuse to law enforcement agencies for potential prosecution and any relevant licensing bodies. ([WCSO 914.11 - Sexual Harassment](#))
  - d. All staff and inmates who report sexual abuse or sexual harassment or who cooperate with an investigation shall not be retaliated against. (PREA 115.67(a) and [WCSO 914.11- Sexual Harassment](#))
  - e. If allegations of sexual abuse and sexual harassment involve potential criminal behavior, the matter may be referred to the Worcester County District Attorney's

office or other local law enforcement agency. (WCSO [914.11 - Sexual Harassment](#))

#### **D. Searches**

1. The Department shall not conduct cross-gender strip searches or cross gender body cavity searches except in exigent circumstances or when performed by medical practitioners. (PREA §115.15(a) and [WCSO 924.06 - Searches](#))
2. The Department shall not conduct cross-gender pat down searches except in exigent circumstances. ([WCSO 924.06 - Searches](#))

The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates. (PREA §115.15)

3. 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 or when such viewing is incidental to routine cell checks. (Staff monitoring via the camera system shall ensure that this is enforced.) (PREA §115.15 (d) and [WCSO 924.06 - Searches](#))
4. Transgender or intersex inmates shall have the option of choosing to be strip searched by staff members of either gender. ([WCSO 924.06 - Searches](#))
  - The Department shall not physically examine 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. (PREA §115.15 (e) and [WCSO 924.06 - Searches](#))

#### **E. Training**

1. The Department shall train all staff who may have contact with LGBTI inmates. ([WCSO 915- Training](#))
2. The agency 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. (PREA §115.15 (f) and [WCSO - 924.06 Searches](#))

#### **F. Classification**

1. The Department shall perform an intake screening to obtain and use information about the inmate's history to reduce the risk of sexual abuse by or upon the inmate within twenty-four (24) hours of the inmate's being booked or upon transfer to the facility , excluding weekends. (Worcester County Sheriff's Office Internal Housing Risk Form– Attachment 2 in OMS)
2. The policy prohibits disciplining inmates for refusing to answer (or for not disclosing complete information related to) the questions regarding: (PREA §115.41 (h))
  - a. Whether or not the inmate has a mental, physical, or developmental disability;



- b. Whether or not the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;
  - c. Whether or not the inmate has previously experienced sexual victimization; and
  - d. The inmate's own perception of vulnerability.  
(PREA §115.41 (b) and [WCSO 942.00 - Classification](#))
3. Within a set time period, not to exceed thirty (30) days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening. Also, the 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. (Re-Assessment Screening Form – Attachment 3 in OMS)
  4. Placement and programing assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.
  5. The Department shall attempt to ascertain information about any gender nonconforming appearance or identification as a LGBTI inmate and whether the inmate may be vulnerable to sexual abuse. ([WCSO 942.00 - Classification](#))
  6. The Department shall use all relevant information to make classification and programming decisions with the goal of keeping all inmates safe and free from sexual abuse. ([WCSO 942.00 - Classification](#))
  7. Inmates shall be housed from others only as a last resort when less restrictive measures are inadequate to keep them and others safe.
    - a. These inmates shall receive the opportunity to exercise daily and shall receive any legally required educational programming. They shall also receive daily visits from a medical or mental health clinician and shall have access to other programs and work details to the extent that is operationally possible. ([WCSO 942.00 - Classification](#)) If the WCSO restricts access to programs, privileges, education, or work opportunities, the WCSO shall document the following:
      - The opportunities that have been limited;
      - The duration of the limitation; and
      - The reasons for such limitations.
    - b. The facility shall assign inmates to Special Management housing only until alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of thirty (30) days.
    - c. If involuntary Special Management housing assignment is made the WCSO shall document the following:
      - The basis for the facility's concern for the inmate's safety; and

- The reason why no alternative means of separation can be arranged.
  - d. Every thirty (30) days, the WCSO shall afford each inmate a review to determine whether there is a continued need for separation from the general population. The classification department will complete the 30 day assessment using page 2 of the PREA Incident Form (Attachment 4).
  - e. Any use of Special Management housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to all above requirements.
8. LGBTI inmates shall not be classified based solely such identification or status. ([WCSO 942.00 - Classification](#))  
LGBTI status shall not be an indicator of likelihood of being sexually abusive. ([WCSO 942.00 - Classification](#))
  9. Vulnerable inmates shall be classified in the least restrictive environment that is operationally feasible that will ensure their safety. ([WCSO 942.00 - Classification](#))
  10. All LGBTI inmates shall have access to health care that addresses their specific needs. ([WCSO 942.00 - Classification](#))
  11. The department no longer houses inmates under the age of eighteen (18), but in the event that WCSO is in custody of a juvenile, the Department will make its best effort to avoid placing youthful inmates (under the age of 18) in Special Management.
  12. If an inmate from Worcester County is being housed at another facility and is sexually abused, the WCSO will work with the other agency to ensure that the investigation abides by PREA standards.
  13. If an allegation is made where a sexual assault took place in another penal institution the WCSO Superintendent will contact the Superintendent or Facility Administrator of the institution that the allegation was made within seventy-two (72) hours either by phone, email or letter. All investigation information will be passed on to the other facility.

## **G. Human Resources**

1. The Department shall consider any incident 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. (PREA §115.17 (b) (1))
2. The Department shall conduct thorough background investigations on all potential staff and shall not hire anyone who was engaged in sexual abuse in a correctional environment, who has been convicted of engaging in or attempting to engage in sexual activity facilitated by force or who has been civilly or administratively adjudicated in these types of activities. (PREA §115.17 (a)(1) and [WCSO 914.02- Hiring / Selection](#))
  - a. The Department shall conduct criminal background record checks at least every five years for current employees and contractors who may have contact with inmates. ( PREA §115.17 (e) (1))

3. The Department shall not enter a collective bargaining agreement that limits the Department's ability to remove any staff member who is alleged to be a sexual abuser from contact with inmates during the investigation or limits the level of discipline that is warranted. (PREA §115.66(a))

## **H. Filing a Grievance / Submitting a Complaint**

1. An inmate who alleges sexual abuse may file a grievance at any time without submitting it 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. ([WCSO 934.02 - Grievances](#))
  - a. There shall be no time limit on submitting a grievance alleging sexual abuse. (PREA §115.52 (b) (1))
2. Third parties including staff members, attorneys and outside advocates may assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse. This policy prohibits the use of inmate interpreters, inmate readers, or other types of assistants except in limited circumstances where extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations. (PREA §115.52 and WCSO [934.02 - Grievance](#))
  - a. 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 in the administrative remedy process. (PREA §115.52)
  - b. If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision. (PREA §115.52)

## **I. Staff Allegations**

1. Unless the evidence is deemed frivolous, compelled interviews will not be conducted without consulting the District Attorney's office.
2. The Special Services Department shall collect accurate, uniform data for every allegation of sexual abuse and will review aggregate data on these allegations at least annually. (PREA §115.87 (b))

## **(4) PROCEDURES**

### **A. General**

1. All allegations and incidents of sexual assault or harassment on inmates shall be immediately reported by staff to the Senior Shift Officer.
  - a. All WCSO staff, contractors and volunteers shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.

- b. Failure to report these allegations or incident by staff may result in disciplinary action up to and including termination.
2. During non-business hours, the Senior Shift Officer shall contact the Superintendent or his designee, and Special Services Investigations Department regarding an allegation or incident of sexual assault or harassment.

## **B. Prevention**

1. All Department staff are responsible for the prevention of sexually abusive behavior perpetrated by staff on inmates or by inmates on inmates.
2. Inmates shall receive PREA information in the Inmate Orientation Handbook as well as during Medical Intake, and shall be responsible for familiarizing themselves with it. (Sexual Abuse / Assault / PREA Reporting Acknowledgement – Attachment 5/6) They are also responsible for reporting allegations to staff in a timely manner. (PREA §115.33 (f))
  - a. Inmates shall be notified that they may call the confidential hotline to report allegations of sexual abuse / harassment.
3. The PREA Coordinator shall work with the members of the Command Staff to develop a communication plan that will educate and inform inmates about prisoner sexual violence. The plan will include oral and written information regarding prevention / intervention, self-protection, reporting sexual abuse/assault/harassment, and treatment and counseling
4. All inmates shall be screened within twenty-four (24) hours upon booking or transfer into the facility by a qualified medical professional.
  - a. Inmates identified through self-reports or medical reports 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.
  - b. Upon learning that an inmate has been identified as having been a victim or a predator or is at risk for such, the Superintendent or his designee shall communicate with the classification division so that appropriate housing decisions can be made to keep the inmates safe.
5. Assistant Deputy Superintendents, Captains, Lieutenants and Sergeants shall make unannounced rounds to identify and deter sexual misconduct and sexual abuse. Unannounced rounds will occur on all three shifts. (PREA §115.13(d))
  - a. It is the policy of WCSO that staff are prohibited from alerting other staff members that supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility. (PREA §115.13(d))
6. Housing unit staff are required to announce the presence of the opposite gender prior to entering the unit, whenever such entry changes the status quo of the gender of staff on duty, in that area.

7. In addition to a vulnerability assessment of the Jail and HOC, the Superintendent or his designee, shall conduct an annual PREA assessment which will consist of staff and inmate interviews to determine how operational practice can be improved upon.

### **C. Intervention / Medical and Mental Health Services**

1. The Senior Shift Officer shall immediately be notified in the event of a sexual abuse incident or allegation.
  - a. The Senior Shift Officer will complete the PREA incident form (Attachment 4) attach it to an email and send to: [prealert@sdw.state.ma.us](mailto:prealert@sdw.state.ma.us)
  - b. The Senior Shift Officer will notify the Assistant Superintendent of Operations.
  - c. The scene shall be secured for possible crime scene processing.
  - d. The inmate's behavior and appearance shall be noted and documented by the supervisor on scene.
  - e. A list of potential witnesses shall be compiled by supervisor on scene.
  - f. Detailed report(s) shall be written with the Senior Shift Officer no later than the end of the shift. (PREA §115.65)
2. The Classification Department shall be notified of the incident or alleged incident.
  - a. If an inmate alleges that he was sexually abused, the alleged victim and suspected abuser shall be separated. If the alleged attack happened within a time frame that will allow for the collection of evidence, a request will be made to the alleged victim to refrain from taking any actions that could destroy physical evidence. Steps shall be taken to preserve and protect any crime scene until appropriate steps can be taken to collect evidence.
  - b. The inmate who is suspected of sexually abusive behavior shall be placed in a special management unit, a dry cell or the medical unit pending investigation.
3. The alleged inmate victim shall be taken to the Main Jail Medical Unit or the Modular Medical Unit for emergency medical care and mental health treatment. (PREA §115.82(a))
  - a. Inmates who are possible victims of sexual abuse shall be offered tests for sexually transmitted diseases as needed. (PREA §115.82(c))
    - 1) The tests cited shall be offered regardless of whether the inmate cooperates with an investigation.
  - b. Inmates who are the victims of sexual abuse shall be offered medical and mental health evaluations and treatment services. These evaluations shall include access to Pathways Advocate services, follow up services, treatment plans and referrals for continued care even when the inmate is no longer in the facility. Furthermore, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. (PREA §115.83(b))

- c. Upon initiation of services, medical providers shall inform the inmates of their duty to report and the limitation of confidentiality unless otherwise precluded by law.
- d. A medical staff member shall evaluate and document the extent of the physical injury and provide emergency treatment as needed.
- e. A determination of possible referral to an outside hospital with a rape crisis unit shall be made by the medical staff.
  - 1) If the determination is made that the inmate should be sent to an outside hospital and the inmate victim consents, the alleged victim shall meet with a Sexual Assault Nurse Examiner (SANE) where they will receive preventative treatment.
- f. Upon return from the outside hospital, the inmate victim shall be brought to the Main Jail Medical Unit for appropriate follow up care including a mental health screening from the Mental Health staff. If after normal business hours the medical staff will conduct the screening and alert the Mental Health staff for follow up as soon as possible.
- g. If the inmate victim is at risk of harming himself, he will be seen immediately by the Mental Health staff. Otherwise, the inmate shall be seen no later than the next business day.
- h. The inmate shall be allowed to refuse rape crisis intervention treatment. In such cases, the mental health staff shall attempt to discuss the options that the inmate has to receive treatment. If this discussion is unsuccessful, a Refusal of Treatment form (Attachment 7) shall be signed by the inmate.
- i. Provisions shall be made for testing for sexually transmitted diseases.
- j. The Department will attempt to maintain a memorandum of understanding with community service providers that are able to provide inmates with emotional support services related to sexual abuse.
- k. This facility does not currently house female inmates, but does on occasion transport them for numerous reasons. It should be noted that if:
  - 1) An inmate is the victim of sexually abusive vaginal penetration while incarcerated they shall be offered pregnancy tests and if pregnancy results the alleged sexual abuse, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. (PREA §115.83 (d-e))
- l. All services provided to an alleged victim shall be done at no cost to the alleged victim, regardless of whether they cooperate with the investigation or name their alleged abuser. (PREA §115.83 (g))
- m. For at least ninety (90) days following a report of sexual abuse, all Assistant Deputy Superintendents along with the PREA coordinator 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 shall act promptly to remedy any such retaliations. Items the PREA coordinator should monitor include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need.

- 1) In the cases of inmates, such monitoring shall also include periodic status checks performed by the PREA coordinator utilizing the PREA Retaliation Review form (Attachment 8).

#### **D. Investigations / Evidence**

1. The Special Services Division will investigate all allegations of sexual abuse and sexual harassment, including third party reports of sexual abuse and sexual harassment. These investigations shall be conducted promptly, thoroughly and objectively by a PREA trained investigator following U.S. Department of Justice, Office on Violence Against Women National Protocol for Sexual Assault Medical Forensic Examinations, 2d (April 2013) (PREA §115.71 (a-b)) All investigations shall be completed even if the alleged abuser or alleged victim is no longer employed at WCSO or is no longer in its custody.
  - a. If it is determined that a crime may have been committed, the Special Services Division will contact the Worcester County District Attorney's office and shall begin a cooperative investigation with these agencies.
    - 1) When evidence is collected at an outside hospital, the Investigating Officer(s) shall retain it. If the alleged perpetrator is a staff member, Special Services will contact the District Attorney's Office or local law enforcement agency to retain the evidence.
    - 2) When the quality of the evidence appears to support criminal prosecution, compelled interviews will not be conducted without consulting with the District Attorney's office or local law enforcement. (PREA §115.71 (d))
    - 3) Any potential witnesses shall be interviewed in an attempt to corroborate the victim's statement or to identify suspect(s). Steps shall be taken to stop any retaliatory action including changing housing units or accelerated classification for possible transfer.
    - 4) Credibility of an alleged victim shall be assessed on an individual basis and not determined by the person's status as inmate or staff; furthermore, WCSO shall not compel 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. (PREA §115.71(e))
    - 5) The Special Services Division shall be trained to properly conduct sexual abuse complaints and will properly use Miranda and Garrity warnings. Investigators shall gather and preserve direct, circumstantial and DNA

evidence and shall interview alleged victims, suspected perpetrators and witnesses. A review of prior complaints involving the suspected perpetrator shall be conducted.

- 6) The Special Services Division shall complete a written report, including a description of the physical and testimonial evidence, the reasoning behind the credibility assessments and the investigative findings. (PREA §115.71 (2))
  - 7) Criminal investigations conducted by the Special Services Division shall include a written report that includes a thorough description of physical, testimonial and documentary evidence and shall have all documentary evidence attached when feasible. (PREA §115.71 (2)(g))
- b. The Special Services Division shall use a preponderance of the evidence standard when determining whether allegations of sexual abuse or sexual harassment are substantiated. (PREA §115.72)
  - c. The Special Services Division shall make an effort to determine whether staff actions or failures to act contributed to the abuse. (PREA §115.72(f)(1))
  - d. All reports referenced in this section shall be retained as long as the alleged abuser is incarcerated or employed by the agency, plus five years. (PREA §115.72 (2)(i))
  - e. Staff is prohibited from revealing any information related to sexual abuse to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

#### **E. Allegations Against Staff, Contractors or Volunteers**

1. Any staff member who is accused of sexually abusive behavior shall be placed on “no inmate contact” status or administrative leave pending an investigation. Staff members who are contractors or volunteers shall be barred from the facility until the completion of the investigation.
  - a. All WCSO staff, contractors, or volunteers shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
  - b. If the investigation determines that any staff member retaliated against staff or an inmate for reporting sexually abusive conduct, they will be disciplined up to and including termination.

#### **F. Response to Investigation, Notification, Review Panel, etc.**

1. The Superintendent, Assistant Deputy Superintendent of Special Services and the PREA Coordinator shall review and assess all reports regarding instances of sexually abusive behavior within seventy-two (72) hours.
  - a. The Special Services Division will produce an investigative report within thirty (30) days of the incident unless the time is extended by the Superintendent or the PREA Coordinator.



2. Following an investigation into an inmate's allegation that the inmate suffered sexual abuse, the agency shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. (Notice of PREA Findings – Attachment 9) (PREA §115.73 (a))
3. If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate. (PREA §115.73 (b))
  - a. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever:
    - 1) The staff member is no longer posted within the inmate's unit;
    - 2) The staff member is no longer employed at the facility;
    - 3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
    - 4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. (PREA §115.73 (c)(1-4))
  - b. Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever:
    - 1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
    - 2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. (PREA §115.73 (d)(1-2))
  - c. All such notifications or attempted notifications shall be documented. (PREA §115.73 (e)) (Inmate Notification (Inmate) – Attachment 10 or Inmate Notification (Staff) – Attachment 11)
  - d. An agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody. (PREA §115.73 (f))
2. If the Worcester County 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 in good faith, 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 the Inmate Orientation Handbook as well as in the training to the Sheriff's Office employees, contractors, volunteers and to inmates during the Orientation sessions.
3. A Critical Incident Review Committee shall be formed after the investigation is complete and will review the incident to conduct a critical assessment of the Department's response. The Superintendent shall select the members of this

Committee. The Review Board will review the case and make a critical assessment of the facility's response. A report of the Panel's findings and recommendations will be submitted to the Superintendent for appropriate action.

### **G. 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 securely retained in the PREA Coordinator's office.

### **H. Training**

1. All staff shall be trained in detection of sexual abuse and sexual harassment, preserving physical evidence of sexual abuse, responding effectively and professionally to victims of sexual abuse and sexual harassment and in the reporting structure when allegations or suspicions of sexual abuse arise.
  - a. The Training Division shall maintain a training plan to ensure that all Department staff are educated in their responsibilities concerning PREA.
2. All staff with inmate contact shall be trained in the following:
  - a. The Department's zero tolerance policy for sexual abuse and sexual harassment.
  - b. Detection, prevention, reporting and response to sexual abuse or sexual harassment.
  - c. Inmates' rights to be free from sexual abuse and sexual harassment.
  - d. The rights of staff and inmates to be free from retaliation for reporting sexual abuse and /or sexual harassment.
  - e. The dynamics of sexual abuse and sexual harassment in confinement.
  - f. The common reactions of victims of sexual abuse and sexual harassment.
  - 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 LGBTI inmates.
  - j. How to comply with laws related to mandatory reporting of sexual abuse to outside authorities.
3. The Training Department shall maintain all documentation.
4. Investigator training shall include but not limited to:
  - a. How to properly conduct sexual abuse complaints and will properly use Miranda and Garrity warnings;
  - b. How to gather and preserve direct, circumstantial and DNA evidence;

- c. How to interview alleged victims, suspected perpetrators and witnesses; and
- d. Conduct a review of prior complaints involving he suspected perpetrator shall be conducted.

#### **I. Public Education**

The WCSO shall work with the PREA Coordinator to develop and implement a communication plan in order to inform inmate family members, constituents, other state agencies, and the general public regarding the PREA initiative undertaken by the Department and how they can support these efforts.

#### **J. Data Collection / Analysis**

1. The Special Services Division shall collect accurate, uniform data for every allegation of sexual abuse. This data will be maintained for at least ten (10) years after the date of the initial collection unless Federal, State, or local law requires otherwise
2. The WCSO shall review the data on these allegations at least annually in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training.
  - a. The WCSO will prepare an annual report of its finding and corrective actions for the facility. This report shall be approved by the Superintendent and be made available to the public through its website.
3. The Special Services Division shall make all aggregated sexual abuse data readily available to the public at least annually through the WCSO website.
4. Documentation of all incidents or allegations of sexually abusive behavior shall be recorded to ensure a source for historic data.
5. A list of all known victims and predators shall be developed and monitored by the Classification division.
6. A procedure to monitor the behavior of known victims and predators shall be developed.

#### **K. Emergencies**

If the Superintendent or his designee, believes that an emergency exists that would require the suspension of the rules for some or all of this policy, he may order such suspension. The Sheriff will be notified when this step is taken.

#### **(5) EFFECTIVE DATE**

This policy is effective upon publication with the signature of the Superintendent and supersedes any previous policy regarding the Prison Rape Elimination Act of 2003.