

Hampden County Sheriff's Department Policy

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| Chapter 3 Institutional Operations | Section 5 Inmate Rights | Number 3 PREA Plan |
| 3.5.3 PREA Plan | | |
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POLICY STATEMENT:

This document is available to all Hampden County Sheriff's Department (HCSD) employees, volunteers, contractors and interns. It provides mandatory information on issues of Sexual Misconduct (See P&P 1.3.1 Personnel Manual Protocol 28) and regulations promulgated from the Prison Rape Elimination Act (PREA). All employees, volunteers, contractors, and interns are expected to abide by the policies and protocols contained therein. This Policy and Protocol is reviewed annually and/or updated as necessary.

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

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

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

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

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

Hampden County Sheriff's Department Policy

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

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

BACKGROUND

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

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

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

DEFINITIONS

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

Hampden County Sheriff's Department Policy

Agency Head - The principal official of an agency.

Allegation:

Substantiated Allegation - an allegation that was investigated and determined to have occurred.

Unfounded Allegation - an allegation that was investigated and determined not to have occurred.

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

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

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

Detainee - any person detained in a lockup, regardless of adjudication status.

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

Employee - a person who works directly for the agency or facility.

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

Facility - a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.

Facility Head - the principal official of a facility.

Hampden County Sheriff's Department Policy

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

Gender Nonconforming - a person whose appearance or manner does not conform to traditional societal gender expectations.

Inmate - any person incarcerated or detained in a prison or jail.

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

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

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

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

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

Law Enforcement Staff - employees responsible for the supervision and control of detainees in lockups.

Lockup - a facility that contains holding cells, cell blocks, or other secure enclosures that are:

- (1) Under the control of a law enforcement, court, or custodial officer; and
- (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

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

Hampden County Sheriff's Department Policy

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

Pat-Down Search - a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.

Prison - an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

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

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

Resident - any person confined or detained in a juvenile facility or in a community confinement facility.

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

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

Sexual Abuse - for purposes of this part, Sexual Abuse includes;

Hampden County Sheriff's Department Policy

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

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

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

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

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Contact between the mouth and any body part where the staff member, contractor, volunteer, or intern has the intent to abuse, arouse, or gratify sexual desire;
- (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, volunteer, or intern has the intent to abuse, arouse, or gratify sexual desire;
- (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, volunteer or intern has the intent to abuse, arouse, or gratify sexual desire;
- (6) Any attempt, threat, or request by a staff member, contractor, volunteer or intern to engage in the activities described in paragraphs (1)-(5) of this section;
- (7) Any display by a staff member, contractor, volunteer, or intern of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- (8) Voyeurism by a staff member, contractor, volunteer, or intern.

Sexual Harassment includes—

Hampden County Sheriff's Department Policy

(1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and

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

Staff - employees.

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

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.

Volunteer - an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

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

Youthful Detainee - any person under the age of 18 who is under adult court supervision and detained in a lockup.

Youthful Inmate - any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

PROTOCOLS

| | | |
|--------------|---|----|
| PROTOCOL 1: | Prevention & Planning..... | 8 |
| PROTOCOL 2: | Responsive Planning..... | 14 |
| PROTOCOL 3: | Training and Education..... | 16 |
| PROTOCOL 4: | Screening for Risk of Sexual Victimization and Abusiveness..... | 19 |
| PROTOCOL 5: | Reporting..... | 23 |
| PROTOCOL 6: | Official Response Following an Inmate Report..... | 26 |
| PROTOCOL 7: | Investigations..... | 29 |
| PROTOCOL 8: | Discipline..... | 32 |
| PROTOCOL 9: | Medical and Mental Care..... | 34 |
| PROTOCOL 10: | Data Collection and Review..... | 36 |
| PROTOCOL 11: | Auditing and Corrective Action..... | 38 |

Hampden County Sheriff's Department Policy

PROTOCOL 1: Prevention & Planning

- A. The Hampden County Sheriff's Department (HCSD) promotes a zero tolerance of sexual abuse and sexual harassment.
1. This policy & protocol outlines the Department's approach to preventing, detecting, and responding to such conduct and is published on the facility website.
 2. The Sheriff has appointed a facility-wide PREA Coordinator with the authority to develop, implement, and oversee the facility compliance with the PREA standards in all of its facilities.
 3. Each facility has a designated PREA Compliance Manager with the authority to coordinate the facility's compliance with the PREA standards in conjunction with the HCSD PREA Coordinator.
- B. Contracting with Other Entities for the Confinement of Inmates
1. When the HCSD contracts for the confinement of its inmates with private agencies or other entities, including other government agencies, any new contract or contract renewal shall include the entity's obligation to adopt and comply with the PREA standards.
 2. Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.
- C. Supervision and Monitoring
1. The HCSD ensures that each facility develops, documents, and makes best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, the facilities shall take into consideration:
 - a. Generally accepted detention and correctional practices;
 - b. Any judicial findings of inadequacy;
 - c. Any findings of inadequacy from Federal investigative agencies;

Hampden County Sheriff's Department Policy

- d. Any findings of inadequacy from internal or external oversight bodies;
 - e. All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated);
 - f. The composition of the inmate population;
 - g. The number and placement of supervisory staff;
 - h. Institutional programs occurring on a particular shift;
 - i. Any applicable State or local laws, regulations, or standards;
 - j. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
 - k. Any other relevant factors.
2. In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.
 3. Whenever necessary, but no less frequently than once each year, for each facility the department operates, in consultation with the PREA coordinator, the facility shall assess, determine, and document whether adjustments are needed to:
 - a. The staffing plan established pursuant to paragraph (a) of this section;
 - b. The facility's deployment of video monitoring systems and other monitoring technologies; and
 - c. The resources the facility has available to commit to ensure adherence to the staffing plan.
 4. The HCSD has a policy and practice of having supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment (see Supervisor Post Orders). This policy and practice is implemented for all shifts (see Policies 3.1.1 General Population Pod Supervision, 3.4.1 Special Management Unit, and 4.1.8 Inmate Orientation). It is a violation of this policy to for staff to alert other staff members that these supervisory rounds are occurring, unless such announcement

Hampden County Sheriff's Department Policy

is related to the legitimate operational functions of the facility.

D. Youthful Inmates

1. The HCSD will not place a youthful inmate in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters. The HCSD shall make best efforts to avoid placing youthful inmates in isolation to comply with this provision.
2. In areas outside of housing units, the HCSD shall either:
 - a. maintain sight and sound separation between youthful inmates and adult inmates, or
 - b. provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact.
3. Absent exigent circumstances, the HCSD shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible.

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

1. The HCSD does not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners
2. The HCSD does not permit cross-gender pat-down searches of female inmates, absent exigent circumstances.
3. All cross-gender strip searches and cross-gender visual body cavity searches of female inmates must be authorized by the appropriate Supervisor and shall be documented.
4. Inmates will be able to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks.
5. A facility-wide announcement is made by the Central Control Room (CCR) informing inmates that staff of the opposite

Hampden County Sheriff's Department Policy

gender of the inmate population will be entering the inmate housing unit to provide care, custody and services throughout the shift. This announcement is made at the beginning of each shift.

6. In order to be consistent with PREA Standard 115.15 Limits to Cross-Gender Viewing and Searches, that requires staff of the opposite gender to announce their presence when entering an inmate housing unit, staff maintain the following protocol.
 - a) PREA Standard 115.15 requires staff of the opposite gender to announce their presence when entering an inmate housing unit. This is sometimes referred to as the "cover-up rule" and is intended to put inmates on notice when opposite-gender staff may be viewing them. The announcement is required anytime an opposite-gender staff enters a housing unit and may be fully realized by requiring the announcement only when an opposite-gender staff enters a housing unit where there is not already another cross-gender staff present. For example, at the Main Facility, this means that an announcement is not required if the Pod Floor Officer is female and visa-versa for the WCC.
 - b) This announcement is documented in POWS in the shift log under code "GA" for Gender Announcement. To accomplish this, simply click the icon located in the lower left corner titled "PREA Announcement." This will display a message to scan the employee badge number. Simultaneously, scan the employee badge while activating the pod intercom system. A pre-recorded message of "Female on the Unit" or conversely at the WCC "Male on the Unit" will then play and the shift log code of "GA" and synopsis of "Female on the Unit" or conversely at the WCC "Male on the Unit" will automatically be updated in POWS. Females/Males with a visitor pass who enter the housing unit will be announced in the same manner with the exception being the Pod Floor Officer will not scan their employee badge number but will click on the "Female" or "Male" button.
 - c) Consistent with PREA standard 115.16 the agency shall take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Accordingly, the Pod Floor Officer will display the female laminated placard to supplement

Hampden County Sheriff's Department Policy

the verbal cross-gender announcement in male units with inmates who are deaf or hard of hearing (and visa versa at the WCC). Any unit housing deaf or hard of hearing inmates shall display the placard whenever a cross gender staff member is present on the unit.

7. The HCSD staff does not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
8. HCSD shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and policy.

F. Inmates with Disabilities and Inmates who are Limited English Proficient.

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

Hampden County Sheriff's Department Policy

2. The HCSD takes reasonable steps to ensure meaningful access to all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
3. The HCSD does not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under Protocol 6D, Staff First Responder Duties of this P&P, or the investigation of the inmate's allegations.

G. Hiring and Promotion Decisions.

1. In reference to the HCSD Personnel Policy, the department does not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who—
 - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
 - b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
 - c. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (1) (b) of this section.
2. The HCSD considers any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.
3. Before hiring new employees who may have contact with inmates, the HCSD will:
 - a. Perform a criminal background records check;
 - b. Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations

Hampden County Sheriff's Department Policy

of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

4. The HCSD also performs a criminal background records check before enlisting the services of any contractor who may have contact with inmates.
5. The HCSD conducts a criminal background records check at least every five years of current employees and contractors who may have contact with inmates.
6. The HCSD shall ask all applicants and employees who may have contact with inmates directly about previous sexual abuse misconduct described in paragraph (1) of this section in written applications and/or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The HCSD also imposes upon employees a continuing affirmative duty to disclose any such misconduct.
7. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
8. Unless prohibited by law, the HCSD provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

H. Upgrades to Facilities and Technologies.

1. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the HCSD considers the effect of the design, acquisition, expansion, or modification upon the department's ability to protect inmates from sexual abuse.
2. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the HCSD considers how such technology may enhance the department's ability to protect inmates from sexual abuse.

PROTOCOL 2: Responsive Planning

A. Evidence Protocol and Forensic Medical Examinations.

Hampden County Sheriff's Department Policy

1. To the extent the HCSD is responsible for investigating allegations of sexual abuse, the department follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.
2. The HCSD offers all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility (Baystate Medical), without financial cost, where evidentiary or medically appropriate. These examinations will be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The department documents its efforts to provide SAFEs or SANEs.
3. The HCSD makes available to the victim a Victim Advocate from the YWCA Rape Crisis Center. If the YWCA Rape Crisis Center is not available to provide victim advocate services, the department has a qualified staff member. The department's staff will document the efforts to secure services from the YWCA Rape Crisis Center.
4. As requested by the victim, the victim advocate or qualified HCSD staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.
5. The requirements of paragraphs (1) through (4) of this section shall also apply to:
 - a. Any State entity outside of the department that is responsible for investigating allegations of sexual abuse in prisons or jails; and
 - b. Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.

B. Policies to Ensure Referrals of Allegations for Investigations.

1. The HCSD ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
2. The HCSD ensures that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations,

Hampden County Sheriff's Department Policy

unless the allegation does not involve potentially criminal behavior. The facility documents all such referrals.

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

PROTOCOL 3: Training and Education

A. Employee Training -

1. The HCSD trains all employees who may have contact with inmates on (See 1.4.1 Staff Training and Development Plan):
 - a. Its zero-tolerance policy for sexual abuse and sexual harassment;
 - b. How to fulfill their responsibilities under department sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
 - c. Inmates' right to be free from sexual abuse and sexual harassment;
 - d. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - e. The dynamics of sexual abuse and sexual harassment in confinement;
 - f. The common reactions of sexual abuse and sexual harassment victims;
 - g. How to detect and respond to signs of threatened and actual sexual abuse;
 - h. How to avoid inappropriate relationships with inmates;

Hampden County Sheriff's Department Policy

- i. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and
 - j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
 2. The training is tailored to the gender of the inmates at the employee's facility. The employee receives additional training if they are reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa.
 3. All current employees who have not received such training are trained within one year of the effective date of the PREA standards (August 20, 2012), and the department provides each employee with refresher training every two years to ensure that all employees know the department's current sexual abuse and sexual harassment policies and procedures. In years in which employees do not receive refresher training, the department provides refresher information on current sexual abuse and sexual harassment policies.
 4. The department documents via employee signature or electronic verification (Training Database), that employees understand the training they have received.
- B. Volunteer, Intern, and Contractor Training - (See 1.4.1 Staff Training and Development Plan, 1.7.1 Volunteers/Interns, and 1.7.2 Volunteer Resource Service Handbook)
 1. The HCSD ensures that all volunteers, interns, and contractors who have contact with inmates have been trained on their responsibilities under the department's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.
 2. The level and type of training provided to volunteers, interns and contractors is based on the services they provide and level of contact they have with inmates, but all volunteers, interns, and contractors who have contact with inmates shall be notified of the department's zero-tolerance policy regarding sexual abuse and sexual harassment and informed on how to report such incidents.
 3. The department maintains documentation confirming that volunteers, interns, and contractors understand the training they have received.

Hampden County Sheriff's Department Policy

C. Inmate Education - (See 3.3.3 Inmate Handbook & 4.1.8 Inmate Orientation)

1. During the intake process, inmates receive information (English & Spanish) explaining the department's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
2. Within 30 days of intake, the facility provides a comprehensive education program for the inmates regarding their rights to be free from sexual abuse and sexual harassment, to be free from retaliation for reporting such incidents, and regarding HCSD policies and procedures for responding to such incidents.
3. Inmates who were incarcerated when the PREA standards became effective (August 20, 2012), were educated within the year and received education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility.
4. The facility provides inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.
5. The facility maintains documentation of inmate participation in these education sessions.
6. In addition to providing such education, the department ensures that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

D. Specialized Training -

1. Investigations
 - a. In addition to the general training provided to all employees pursuant to Protocol 3:A, the HCSD ensures that, to the extent the department itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.
 - b. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence

Hampden County Sheriff's Department Policy

collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

- c. The department maintains documentation that facility investigators have completed the required specialized training in conducting sexual abuse investigations.
2. Medical and Mental Health Care -
 - a. The HCSD ensures that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:
 1. How to detect and assess signs of sexual abuse and sexual 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; and
 4. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
 - b. If medical staff employed by the department conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.
 - c. The department shall maintain documentation that medical and mental health practitioners have received the training.
 - d. Medical and mental health care practitioners shall also receive the training mandated for employees under Protocol 3:A or for contractors, interns, and volunteers under Protocol 3:B, depending upon the practitioner's status at the facility.

PROTOCOL 4: Screening for Risk of Sexual Victimization and Abusiveness

- A. Screening for Risk of Sexual Victimization and Abusiveness
 1. All inmates shall be assessed during an Intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. The assessment is conducted using an objective screening instrument in the PREA Database. (See

Hampden County Sheriff's Department Policy

4.1.1 Inmate Admissions and Release and 4.2.1
Classification)

2. The Intake screening ordinarily takes place within 72 hours of their arrival at the facility.
3. The Intake screening considers, at a minimum, the following criteria to assess inmates for risk of sexual victimization:
 - a. Whether the inmate has a mental, physical, or developmental disability;
 - b. The age of the inmate;
 - c. The physical build of the inmate;
 - d. Whether the inmate has previously been incarcerated;
 - e. Whether the inmate's criminal history is exclusively nonviolent;
 - f. Whether the inmate has prior convictions for sex offenses against an adult or child;
 - g. Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - h. Whether the inmate has previously experienced sexual victimization;
 - i. The inmate's own perception of vulnerability; and
4. The initial screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the department, in assessing inmates for risk of being sexually abusive.
5. Within a set time period, not to exceed 30 days from the inmate's arrival at the facility (exigent any security or safety concerns, i.e. temporary hospitalization, etc.), the facility reassesses the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.
6. An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse/harassment, or receipt of additional information that

Hampden County Sheriff's Department Policy

bears on the inmate's risk of sexual victimization or abusiveness.

7. Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, screening questions asked pursuant to:
 - a. Whether the inmate has a mental, physical, or developmental disability;
 - b. Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - b. Whether the inmate has previously experienced sexual victimization;
 - d. The inmate's own perception of vulnerability.

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

B. Use of Screening Information and Transgender/Intersex Inmates -

1. The HCSD uses the information from the Risk Screening Tool (required by Protocol 4:A) to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.
2. The department makes individualized determinations about how to ensure the safety of each inmate.
3. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the department considers on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.
4. Placement and programming assignments for each transgender or intersex inmate is reassessed at least twice each year to review any threats to safety experienced by the inmate.

Hampden County Sheriff's Department Policy

5. A transgender or intersex inmate's own views with respect to his or her own safety will be given serious consideration.
6. Transgender and intersex inmates will be given the opportunity to shower separately from other inmates. (See 4.4.2 Inmate Personal Hygiene & Hair Care Services)
7. The department does not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

C. Protective Custody - (See 4.2.1 Classification)

1. Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If the facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.
2. Inmates placed in segregated housing for this purpose will have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility will document:
 - a. The opportunities that have been limited;
 - b. The duration of the limitation; and
 - c. The reasons for such limitations.
3. The facility will assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.
4. If an involuntary segregated housing assignment is made pursuant to paragraph (1) of this section, the facility shall clearly document:
 - a. The basis for the facility's concern for the inmate's safety; and

Hampden County Sheriff's Department Policy

- b. The reason why no alternative means of separation can be arranged.
5. Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

PROTOCOL 5: Reporting

- A. Inmate reporting - (See 3.1.6 Reporting of Incidents and 3.3.3 Inmate Handbook)
 1. The HCSD provides multiple internal ways for inmates to privately report sexual abuse, sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.
 2. The department provides toll free calls via the pod/unit phones for inmates to report sexual abuse or sexual harassment to the YWCA Rape Crisis Center (who will work with the inmate to report the sexual abuse/harassment to department officials).
 3. Staff accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports.
 4. The department contracts with Concern/EAP of the River Valley Counseling Center to provide a method for staff to privately report sexual abuse and sexual harassment of inmates
- B. Exhaustion of Administrative Remedies -
 1. The department does not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.
 2. The department may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.
 3. The department does not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

Hampden County Sheriff's Department Policy

4. Nothing in this section shall restrict the department's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired.
5. The department will ensure that;
 - a. An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and
 - b. Such grievance is not referred to a staff member who is the subject of the complaint.
6. The HCSD shall issue a final facility decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.
7. Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.
8. The HCSD 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 department shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.
9. At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level.
10. Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, will be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse and will also be permitted to file such requests on behalf of inmates.
11. If a third party files such a request on behalf of an inmate, 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.
12. If the inmate declines to have the request processed on his or her behalf, the department will document the inmate's decision.

Hampden County Sheriff's Department Policy

13. The department has a procedure for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse.
 14. After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the facility will immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, will provide an initial response within 48 hours, and will issue a final department decision within 5 calendar days. The initial response and final department decision shall document the facility's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.
 15. The department will discipline an inmate for filing a grievance (report) related to alleged sexual abuse where the department demonstrates that the inmate filed the grievance in bad faith (false allegation). For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- C. Inmate Access to Outside Confidential Support Services - (See 3.3.3 Inmate Handbook)
1. The HCSD provides inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility enables reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible.
 2. The facility informs inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

Hampden County Sheriff's Department Policy

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

D. Third-Party Reporting.

1. The HCSD has established a method to receive third-party reports of sexual abuse and sexual harassment and distributes publicly (via the website) information on how to report sexual abuse and sexual harassment on behalf of an inmate.

PROTOCOL 6: Official Response Following an Inmate Report

A. Staff and Department Reporting Duties -

1. The HCSD requires all staff to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the department; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
2. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in department policy, to make treatment, investigation, and other security and management decisions.
3. Unless otherwise precluded by Federal, State, or Local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to part (A)(1) of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.
4. If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or Local vulnerable person's statute, the department shall report the allegation to the designated State or Local services agency under applicable mandatory reporting laws.
5. The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous

Hampden County Sheriff's Department Policy

reports, to the facility's designated Investigator (CIU), PREA Coordinator, and Facility PREA Manager.

B. HCSD Protection Duties -

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

C. Reporting to Other Confinement Facilities -

1. Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
2. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
3. The department shall document that it has provided such notification.
4. The facility/department head that receives such notification will ensure that the allegation is investigated in accordance with these standards.

D. Staff First Responder Duties -

1. Upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to:
 - a. Separate the alleged victim and abuser;
 - b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
 - c. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
 - d. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as

Hampden County Sheriff's Department Policy

appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

- e. If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

E. Coordinated Response -

1. The facility has written institutional plans to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, inmate advocate, and facility leadership.

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

1. Neither the department nor any other governmental entity responsible for collective bargaining on the department's behalf will enter into or renew any collective bargaining agreement or other agreement that limits the department's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
2. Nothing in this policy shall restrict the entering into or renewal of agreements that govern:
 - a. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of Protocols 7:B (Evidentiary Standard for Administrative Investigations) and 8:A (Disciplinary Sanctions for Staff); or
 - b. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

G. Department Protection against Retaliation.

1. The department has established this policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates

Hampden County Sheriff's Department Policy

or staff, and designates which staff members/departments are charged with monitoring retaliation.

2. The department employs multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
3. For at least 90 days following a report of sexual abuse, the department shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and will act promptly to remedy any such retaliation. The department will monitor any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The department will continue this monitoring beyond 90 days if the initial monitoring indicates a continuing need.
4. In the case of inmates, this monitoring will also include periodic status checks.
5. If any other individual who cooperates with an investigation expresses a fear of retaliation, the department will take appropriate measures to protect that individual against retaliation.
6. The department's obligation to monitor for retaliation will terminate if the facility determines that the allegation is unfounded.

H. Post-Allegation Protective Custody.

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

PROTOCOL 7: Investigations

A. Criminal and Administrative Department Investigations -.

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

Hampden County Sheriff's Department Policy

2. Where sexual abuse is alleged, the department will use investigators who have received special training in sexual abuse investigations pursuant to Protocol 3:D:1 Specialized Training: Investigations.
3. Investigators will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; will interview alleged victims, suspected perpetrators, and witnesses; and will review prior complaints and reports of sexual abuse involving the suspected perpetrator.
4. When the quality of evidence appears to support criminal prosecution, the department will conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
5. The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as inmate or staff. The HCSD will not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
6. Administrative Investigations:
 - a. Will include an effort to determine whether staff actions or failures to act contributed to the abuse; and
 - b. Will be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
7. Criminal investigations will be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence with attached copies of all documentary evidence, where feasible.
8. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.
9. The department will retain all written reports referenced in paragraphs (6) Administrative Investigations and (7) Criminal Investigations of this section for as long as the alleged

Hampden County Sheriff's Department Policy

abuser is incarcerated or employed by the department, plus five years.

10. The departure of the alleged abuser or victim from the employment or control of the HCSD will not provide a basis for terminating an investigation.
11. Any State entity or Department of Justice component that conducts such investigations will do so pursuant to the above requirements.
12. When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

B. Evidentiary Standard for Administrative Investigations -

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

C. Reporting to Inmates -

1. Following an investigation into an inmate's allegation that he or she suffered sexual abuse in a HCSD facility, the department will inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. If the department did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.
3. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the department will subsequently inform the inmate (unless the department has determined that the allegation is unfounded) whenever:
 - a. The staff member is no longer posted within the inmate's unit;
 - b. The staff member is no longer employed by the department;
 - c. The department learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

Hampden County Sheriff's Department Policy

- d. The department learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
4. Following an inmate's allegation that he or she has been sexually abused by another inmate, the department shall subsequently inform the alleged victim whenever:
 - a. The department learns that the alleged abuser has been *indicted* on a charge related to sexual abuse within the facility; or
 - b. The department learns that the alleged abuser has been *convicted* on a charge related to sexual abuse within the facility.
5. All such notifications or attempted notifications will be documented.
6. A facility's obligation to report under this policy will terminate if the inmate is released from the department's custody.

PROTOCOL 8: Discipline

- A. Disciplinary Sanctions for Staff -
 1. Staff will be subject to disciplinary sanctions up to and including termination for violating department sexual abuse or sexual harassment policies.
 2. Termination will be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
 3. Disciplinary sanctions for violations of department policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) will be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
 4. All terminations for violations of department sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Hampden County Sheriff's Department Policy

B. Corrective Action for Contractors, Interns, and Volunteers -

1. Any contractor, intern, or volunteer who engages in sexual abuse will be prohibited from contact with inmates and will be reported to law enforcement agencies (unless the activity was clearly not criminal) and to relevant licensing bodies.
2. The facility will take appropriate remedial measures, and will consider whether to prohibit further contact with inmates, in the case of any other violation of department sexual abuse or sexual harassment policies by a contractor, volunteer, or intern.

C. Disciplinary Sanctions for Inmates -

1. Inmates will be subject to disciplinary sanctions/mandated programming pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.
2. Sanctions will be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed/mandated programming for comparable offenses by other inmates with similar histories.
3. The disciplinary process will consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
4. The department may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
5. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
6. The HCSD prohibits all sexual activity between inmates and will discipline inmates for such activity.

Hampden County Sheriff's Department Policy

PROTOCOL 9: Medical and Mental Care

- A. Medical and Mental Health Screenings; History of Sexual Abuse.
1. If the screening pursuant to Protocol 4:A (Screening for Risk of Sexual Victimization and Abusiveness) indicates that an inmate has experienced prior sexual victimization and/or has previously perpetrated sexual abuse (whether it occurred in an institutional setting or in the community), staff will ensure that the inmate is referred for a follow-up meeting with a medical and mental health practitioner within 14 days of the intake screening.
 2. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or Local law.
 3. Medical and mental health practitioners will obtain informed consent from the inmate before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.
- B. Access to Emergency Medical and Mental Health Services -
1. Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
 2. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders will take preliminary steps to protect the victim pursuant Protocol 6:B (HCSD Protection Duties) and will immediately notify the appropriate medical and mental health practitioners.
 3. Inmate victims of sexual abuse while incarcerated will be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

Hampden County Sheriff's Department Policy

4. Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- C. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers -
1. The facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
 2. The evaluation and treatment of such victims includes, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
 3. The facility provides such victims with medical and mental health services consistent with the community level of care.
 4. Inmate victims of sexually abusive vaginal penetration while incarcerated will be offered pregnancy tests.
 5. If pregnancy results from the conduct described in paragraph (4) of this section, such victims will receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services.
 6. Inmate victims of sexual abuse while incarcerated will be offered tests for sexually transmitted infections as medically appropriate.
 7. Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
 8. All facilities will attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

Hampden County Sheriff's Department Policy

PROTOCOL 10: Data Collection and Review

A. Sexual Abuse Incident Reviews-

1. The facility conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
2. These reviews ordinarily occur within 30 days of the conclusion of the investigation.
3. The review team includes upper-level management officials, line supervisors, investigators, and medical or mental health practitioners.
4. The review team will:
 - a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
 - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - d. Assess the adequacy of staffing levels in that area during different shifts;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - f. Complete a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (4)(a)-(4)(e) of this section, and any recommendations for improvement and submit the report to the facility Superintendent, PREA Coordinator, and facility PREA Manager.
5. The facility will implement the recommendations for improvement, or will document its reasons for not doing so.

B. Data Collection -

Hampden County Sheriff's Department Policy

1. The HCSD collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using the PREA, Trax Casemanagement, HealthTrax, and SOU databases.
2. The incident-based data is collected at least annually and will include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice.
3. The department will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
4. The department also obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.
5. Upon request, the department will provide all such data from the previous calendar year to the Department of Justice no later than June 30.

C. Data Review for Corrective Action -

1. The HCSD reviews data collected and aggregated pursuant to Protocol 10:B (Data Collection) in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
 - a. Identifying problem areas;
 - b. Taking corrective action on an ongoing basis; and
 - c. Preparing an annual report of its findings and corrective actions for each facility, as well as the department as a whole.
2. The department's report will be approved by the Sheriff or designee and made available to the public through its website.
3. These reports will include a comparison of the current year's data and corrective actions with those from prior years and will provide an assessment of the department's progress in addressing sexual abuse.

Hampden County Sheriff's Department Policy

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

D. Data Storage, Publication, and Destruction -

1. The HCSD will ensure that data collected pursuant to Protocol 10:B (Data Collection) is securely retained.
2. The department will make all aggregated sexual abuse data, readily available to the public at least annually through its website.
3. Before making aggregated sexual abuse data publicly available, the department will remove all personal identifiers.
4. The department will maintain sexual abuse data collected pursuant to Protocol 10:B (Data Collection) for at least 10 years after the date of the initial collection unless Federal, State, or Local law requires otherwise.

PROTOCOL 11: Auditing and Corrective Action

A. Frequency and Scope of Audits.

1. During the three-year period starting on August 20, 2013, and during each three-year period thereafter, the HCSD shall ensure that each facility operated by the department is audited at least once.
2. During each one-year period starting on August 20, 2013, the department will ensure that at least one-third of each facility type operated by the department is audited.
3. The department will utilize the Department of Justice's audit instrument that will provide guidance on the conduct of and contents of the audit.
4. The department will bear the burden of demonstrating compliance with the standards.
5. The audits shall review, at a minimum, a sampling of relevant documents, policies, and other records and information for the most recent one-year period.

Hampden County Sheriff's Department Policy

6. The auditor will interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators on each shift.
7. The auditor will be permitted to conduct private interviews with inmates, residents, and detainees.
8. Inmates, residents, and detainees will be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

B. Audit Contents and Findings.

1. Audit reports shall state whether department-wide policies and procedures comply with relevant PREA standards.
2. For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.
3. Auditors will provide such information to the department upon request, and may provide such information to the Department of Justice.
4. The department shall ensure that the auditor's final report is published on the HCSD website.

Hampden County Sheriff's Department Policy

REFERENCES

CMR:

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

914.01: Personnel Manual

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

- (a) organizational structure;
- (b) recruitment and selection;
- (c) equal employment opportunity provisions;
- (d) reasonable accommodation to the known impairments of an employee or applicant having a disability;
- (e) job qualifications, descriptions and responsibilities;
- (f) job classification plan;
- (g) wage and benefit plan;
- (h) holidays, leaves and work hours;
- (i) personnel records;
- (j) performance evaluations;
- (k) promotions, retirements, resignations, layoffs and terminations;
- (l) employee-management relations;
- (m) physical fitness;
- (n) employee discipline;
- (o) grievances and appeals;
- (p) insurance and professional liability provisions;
- (q) code of ethics to include statement regarding conflict of interest;
- (r) drug-free workplace;
- (s) sexual harassment prohibition;
- (t) sexual misconduct; and
- (u) domestic violence.

914.02: Selection and Hiring

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

- (a) eligibility for appointment as a correction officer or other security employee a person shall be at least 19 years old, have a high school diploma or its equivalent, and be physically fit; and,
- (b) eligibility requirements for professional, treatment, administrative and other positions shall be established by the Sheriff/facility administrator in accordance with the

Hampden County Sheriff's Department Policy

duties and responsibilities of the position and with any legal requirements for certification, licensing or training.

- (2) Written policy and procedure shall encourage promotion from within the organization.
- (3) Written policy and procedure shall specify that equal employment opportunity exists for all positions. There shall be no discrimination in hiring on the grounds of, race, color, religion, national origin, handicap, creed, or sex.
- (4) In accordance with state and federal statutes, the county correctional facility shall conduct a criminal record check on all new employees to ascertain whether there are criminal convictions which may have a specific relationship to job performance.
- (5) Written policy and procedure shall provide that all employees who have daily direct contact with inmates receive a physical examination prior to job assignment. All other employees shall receive a medical screening prior to job assignment. Provisions shall exist for re-examination when necessary.

914.05: Minimum Staff Requirements

- (1) The Sheriff/facility administrator shall systematically determine the workload requirements for all categories of personnel and review them on an ongoing basis in order to ensure inmate access to staff, availability of support services and adequate security supervision of the inmates, staff, and the facility. A Security Staff Post Analysis, to include the calculation of a shift relief factor, shall be conducted, reviewed annually and updated as necessary.
- (2) Written policy, procedure and practice shall require that when both males and females are incarcerated in the county correctional facility at least one male and one female staff members is on duty at all times.
- (3) Written policy and procedure shall provide for provisional appointments or reserve security staff to ensure the availability of trained personnel for short-term, full-time or part-time work in special or emergency situations.

ACA:

4-ALDF: 2A-14, 7B-03, 7E-01,
4-ACRS: 2A-3, 6A-5, 7B-5,
1-EM: NONE

Hampden County Sheriff's Department Policy

Staffing

4-ALDF-2A-14 (Ref. 3-ALDF-1C-03) A comprehensive staffing analysis is conducted annually. The staffing analysis is used to determine staffing needs and plans. Relief factors are calculated for each classification of staff that is assigned to relieved posts or positions. Essential posts and positions, as determined in the staffing plan, are consistently filled with qualified personnel.

Selection, Retention, Promotion

4-ALDF-7B-03 (Revised August 2007) A criminal record check is conducted on all new employees, contractors, and volunteers prior to their assuming duties to identify whether there are criminal convictions that have a specific relationship to job performance. This record will include comprehensive identifier information to be collected and run against law enforcement indices. If suspect information on matters with potential terrorism connections is returned on a desirable applicant, it is forwarded to the local Joint Terrorism Task Force (JTTF) or another similar agency.

Personnel Policies

4-ALDF-7E-01 (Ref. 3-ALDF-1C-01) There is a personnel policy manual that is available to each employee and is explained at employee orientation. The manual is reviewed annually and revised as needed. This manual includes, at a minimum:

- affirmative action program
- equal employment opportunity program
- policy for selection, retention, and promotion of all personnel on the basis of merit and specified qualifications
- code of Ethics
- rules for probationary employment
- compensation and benefit plan
- ADA
- sexual harassment/sexual misconduct
- grievance and appeal procedures
- infection control plan
- employee disciplinary procedures.

4-ALDF-2A-03 (Ref. 3-ALDF-3A-03) Correctional officer posts are located in or immediately adjacent to inmate living areas to permit officers to see or hear and respond promptly to emergency situations.

4-ALDF-6A-05 (Ref. 3-ALDF-4A-01) New inmates are allowed the opportunity to complete at least one telephone call during the

Hampden County Sheriff's Department Policy

admission process and are assisted, as needed, to notify persons of their admission to custody.

Training and Staff Development

4-ALDF-7B-05 (Ref.: New) Each new employee is provided with an orientation prior to assuming duties. At a minimum, orientation includes:

- working conditions
- code of ethics
- personnel policy manual
- employees' rights and responsibilities
- overview of the criminal justice system
- tour of the facility
- facility goals and objectives
- facility organization
- staff rules and regulations
- personnel policies
- program overview

Comment: Orientation is distinct from training because it acquaints personnel with the setting in which they will be working but does not necessarily address the knowledge, skills and abilities needed to implement assigned duties.

NCCHC:

J-I-03

J-I-03

FORENSIC INFORMATION

Important

Standard

Health services staff are prohibited from participating in the collection of *forensic information*.

Compliance Indicators

1. Health services staff are not involved in the collection of forensic information (e.g., DNA testing), except when:
 - a. complying with state laws that require blood samples from inmates, so long as there is consent of the inmate and health services staff are not involved in any punitive action taken as a result of an inmate's nonparticipation in the collection process,
 - b. conducting body cavity searches, and blood or urine testing for alcohol or other drugs when done for medical purposes by a physician's order,

Hampden County Sheriff's Department Policy

- c. conducting inmate-specific, court-ordered laboratory tests, examinations, or radiology procedures with consent of the inmate, and
 - d. in the case of sexual assault, gathering evidence from the inmate-victim with his or her consent.
2. All aspects of the standard are addressed by written policy and defined procedures.

Definition

Forensic information is physical or psychological data collected from an inmate that may be used against him or her in disciplinary or legal proceedings.

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

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

PREA: All