

**COMMONWEALTH OF MASSACHUSETTS**

**NORFOLK SHERIFF'S OFFICE**

**CSD 518**

**PRISON RAPE ELIMINATION ACT (PREA)**

**POLICY AND PROCEDURE**

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- A Classification PREA Risk Assessment
- B Retaliation Monitoring Form

## **518.01 POLICY STATEMENT (4-ALDF-4D-22-2, 22-5, 6A-07, J-B-04, 115.11)**

1. It is the policy of the Norfolk Sheriff's Office (NSO) to be in accordance with the Prison Rape Elimination Act of 2003 which prohibits staff, contractors, volunteers, or interns from sexually abusing and/or sexual harassing inmate / detainees (hereinafter referred to as offenders) and that prohibits offenders from sexually abusing other offenders while in our custody. It is a fundamental objective of the NSO and an integral part of all staff to prevent and report assaults and/or sexual harassment as they occur.
2. The NSO is committed to a Zero Tolerance policy and will continue to comply with the prevention, detection, reduction, and punishment of rape consistent with all provisions of the federally mandated Prison Rape Elimination Act, including any and all standards ultimately promulgated. The NSO will monitor developments in this legislation and direct further action by the Sheriff's Office as appropriate.
3. All intentional acts of sexually abusive behavior or sexual intimacy between and offender and Sheriff's Office staff, contractors, volunteers or interns, or between an offender and another offender regardless of consensual status, are prohibited and the perpetrator shall be subject to administrative, criminal, and/or disciplinary sanctions. The NSO is committed to investigation, disciplining, and referring for prosecution, NSO staff, contractors, volunteers, interns, and offenders who engage in sexually abusive behavior.
4. Offenders, staff, contractors, volunteers, or interns are expected to report any incident of sexual assault or sexual misconduct, regarding personal involvement or any other person, to staff immediately so that appropriate action can be taken. Offenders shall be advised of this policy and expected subsequent facility response at the time of intake.

## **518.02 STATUTORY AUTHORIZATION**

These regulations are issued pursuant to Massachusetts Law including but not limited to M.G.L. Chapter 124, Section 1 (q); Chapter 268, Section 21 (a); 28 C.F.R. Section 115; and the Prison Rape Elimination Act of 2003.

## **518.03 APPLICABLE STANDARDS**

**ACA Standards, Adult Local Detention Facilities:** 4-ALDF-2A-29, 4D-22-1, 22-2, 22-3, 22-4, 22-5, 22-6, 6A-07

**CMR:** 915.03, 924.06

**DOJ / PREA:** 115.11, 13, 31, 32, 33, 34, 35, 41, 51, 53, 61, 62, 64, 65, 71, 76, 82, 87, 88, 89

**NCCHC:** J-B-04, 05

**NSO Policies and Procedures:** 105, 203, 239, 493, 519



## **518.04 CANCELLATION**

This policy cancels all previous NSO policy statements, bulletins, directives, orders, notices, rules, or regulations regarding sexual assaults and prison rape elimination act that are inconsistent with this policy.

## **518.05 APPLICABILITY**

This policy applies to all NSO employees, managers, contractors, volunteers, student interns, and offenders.

## **518.06 ACCESS TO POLICY**

This original policy will be maintained by the Compliance Unit. The policy will be accessible to all employees through the NSO Intranet. Policy manuals shall be maintained by the Superintendent, Facility Shift Commanders, and when required, Human Resource and the Offender Library at each facility.

## **518.07 DEFINITIONS**

1. **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.
2. **Credibility Assessment** - an investigator's process of conducting interviews and weighing evidence to determine the truthfulness of victim, witness, and suspect statements.
3. **Gender Expression** - a person's expression of his/her gender identity including appearance, dress, mannerisms, speech, and social interactions.
4. **Gender Identity** - a person's internal, deeply felt sense of being male or female, regardless of the person's sex at birth.
5. **Gender Nonconforming** - a person whose appearance or manner does not conform to traditional societal gender expectations.
6. **Indecent Exposure** - the display of uncovered genitalia, buttocks, or breast(s) in the presence of an offender or staff.
7. **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.
8. **LGBTQI Population** - acronym for lesbian, gay, bi-sexual, trans-gender, questioning, and intersex offenders.
9. **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 offender's safety or treatment or to the investigative process.
10. **Predator** - an offender either convicted of sexual abuse / harassment or identified as having engaged in such activity in the past.
11. **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.

12. **PREA Coordinator** - a management employee designated by the Sheriff who has sufficient time and authority to develop, implement, and oversee the Norfolk Sheriff's Office 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) in all of its facilities.
13. **PREA Compliance Manager** - an employee designated by the Sheriff with sufficient time and authority to coordinate the NSO efforts to comply with the PREA standards
14. **PREA Review Committee** - a multi-disciplinary panel of senior managers appointed by the Superintendent that meet to review PREA investigations within thirty (30) days of the conclusion of the investigation.
15. **SANE / SAFE (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 / SAFE designated emergency hospital.
16. **Sexual Assault** - a sexual act that is coercive or assaultive in nature and that involves the use or threat of force.
17. **Sexual Abuse** - includes the subjection of another person who is incapable of giving consent, by reason of his/her custodial status, to sexual contact in any degree by persuasion, inducement, enticement, or forcible compulsion.
18. **Sexual Harassment** - repeated and unwelcome sexual advances or requests for sexual favors, as well as verbal comments or gestures of a sexual nature, including demeaning reference to gender, sexually suggestive derogatory comments about body or clothing, or obscene language or gestures, verbal comments, or gestures or actions of a derogatory or offense sexual nature.
19. **Sexual Contact** - any touching (either directly or through clothing) with the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties, or penetration of the anal or genital opening of another person by a hand, finger or other object. This term shall include, but not be limited to, carnal knowledge, oral sodomy, and sexual assault with an object, sexual fondling or molestation of a person, rape, or sexual exploitation (e.g. prostitution) with intent to arouse or gratify the sexual desire of any person.
20. **Sexual Relations** - contact (either directly or through clothing) with the genitalia, anus, groin, breast, inner thigh, mouth, or buttocks with intent to arouse or gratify the sexual desire of any person.
21. **Staff** - any employee, contractor, intern, or volunteer of the NSO.
22. **Substantiated Allegation** - an allegation that was investigated and the investigation determined that the event occurred.



23. **Transgender** - a term describing persons whose gender identity and/or expression do not conform to the gender roles assigned to them at birth.
24. **Unfounded Allegation** - an allegation that was investigated and the investigation determined that the event did not occur.
25. **Unsubstantiated Allegation** - an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether the event occurred.
26. **Victim Advocate** - the person assigned by the Sheriff (employee or contractor) to meet with the offenders victimized by sexually abusive behavior in order to educate them as to the treatment services available to them and to inform them as to the status of the investigation, disciplinary, and classification processes pertaining to the alleged claim of sexually abusive behavior.
27. **Voyeurism** - an invasion of the offender's privacy (for reasons unrelated to official duties or when otherwise not necessary for safety and security reasons), such as peering at an offender who is using the toilet, requiring an offender to expose his/her buttocks, genitals, or breast, or taking images of all or part of an offenders naked body or of an offender performing bodily functions and distributing or publishing them.

## **518.08 GOALS**

1. To take steps to minimize the instances of sexual assault with the goal of eliminating them altogether:
  - a) increase the timely reporting of incidents by Sheriff's Office staff;
  - b) develop a process to identify and manage offenders who are potentially at risk;
  - c) provide ongoing education to Sheriff's Office staff, contractors, volunteers, and interns regarding their responsibility toward prevention, intervention, and reporting when incidents are observed or made known to them;
  - d) provide effective and ongoing orientation to offenders regarding how to avoid victimization and how to report incidents of sexual abuse;
  - e) provide for a thorough investigation of reported incidents and certain discipline and/or prosecution of perpetrators when appropriate;
  - f) provide effective short and long term treatment for victims of sexually abusive behavior; and
  - g) collect data in accordance with federal law and to better identify potential predators and victims.

## **518.09 GENERAL POLICY**

1. The NSO has a zero tolerance policy for any conduct that constitutes sexual relations with or sexual abuse of offenders.



2. The NSO has a zero tolerance policy for discrimination and mistreatment of offenders on the basis of sexual orientation or gender identity.
3. The NSO shall appoint a PREA Coordinator and a PREA Compliance Manager.
4. Sexual relations with offenders by staff, contractors, volunteers, and interns are prohibited and are a violation of criminal law.
5. Sexual abuse of offenders by staff, contractors, volunteers, and interns including sexual contact and sexually abusive penetration are prohibited and are a violation of criminal law.
6. Sexual abuse of offenders, including indecent exposure, voyeurism, and sexual harassment by staff, contractors, volunteers, and interns are prohibited.
7. Offenders cannot legally consent to sexual relations.
8. All acts of retaliation against offenders who refuse to engage in sexual relations are prohibited.
9. All reports of alleged violations of this policy will be investigated pursuant to the Norfolk Sheriff's Office's policies and procedures.
10. The NSO will take appropriate disciplinary action against an offender who makes false allegations or material statements that he/she could not have believed in good faith were true.
11. Violations of this policy will result in 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, contractors, volunteers, and interns involved in sexual abuse of offenders.
12. The NSO shall not conduct cross-gender strip searches, pat searches, or body cavity searches except in exigent circumstances or when performed by medical practitioners. An exception to this shall be made when an offender identifies that their gender identity differs from their sex assigned at birth. In that case, the strip search shall be conducted by an Officer whose gender identity shall be consistent with the offender's request. Body cavity searches shall not be conducted without approval of the Superintendent and a valid search warrant.
13. Offenders 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 / security checks. Staff monitoring via the camera system shall also abide by this part of the policy. Gender announcements shall be made in accordance with CSD 512 - Post Orders and Post Position.
14. The NSO shall not physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status unless it is done as part of a broader medical examination conducted in private by a medical practitioner.
15. The NSO shall train all staff that may have contact with LGBTQI offenders.



16. The NSO shall perform an intake screening to obtain and use information about the offender's history to reduce the risk of sexual abuse by or upon the offender within twenty-four (24) hours of the offender's being booked or upon transfer to the facility.
17. The NSO shall attempt to ascertain information about any gender nonconforming appearance or identification as a LGBTQI offender and whether the offender may be vulnerable to sexual abuse. This information shall be communicated to a multidisciplinary team consisting of Classification, Security, and Mental Health Staff.
18. The NSO shall use all relevant information to make classification and programming decisions with the goal of keeping all offenders safe and free from sexual abuse.
19. Offenders shall be segregated from others only as a last resort when less restrictive measures are inadequate to keep them and others safe. This segregation shall only last until alternative measures to keep offenders safe can be arranged.
20. Offenders, who are segregated pursuant to number CSD 518.09 (19) above, shall receive the opportunity to exercise daily and shall receive any legally required educational programming. Segregated offenders 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.
21. LGBTQI offenders shall not be classified based solely on such identification or status.
22. LGBTQI status shall not be an indicator of likelihood of being sexually abusive.
23. Vulnerable offenders shall be classified in the least restrictive environment that is operationally feasible that will ensure their safety.
24. All LGBTQI offenders shall have access to health care that addresses their specific needs.
25. The NSO shall conduct thorough background investigations on all potential staff, vendors / contractors, or interns; 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.
26. The NSO shall not enter a collective bargaining agreement that limits the NSO's ability to remove any staff member who is alleged to be a sexual abuser from contact with offenders during the investigation or limits the level of discipline that is warranted.
27. The NSO will attempt to maintain a memorandum of understanding with community service providers that are able to provide offenders with emotional support services related to sexual abuse.
28. The NSO shall report any possible criminal conduct of staff, vendors, contractors,



or interns involving sexual abuse to law enforcement agencies for potential prosecution and any relevant licensing bodies.

29. An offender who alleges sexual abuse may file a grievance 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.
30. Third parties including staff members, attorneys, and outside advocates may assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse.
31. The NSO shall take immediate action when an offender is at substantial risk of imminent sexual abuse.
32. All staff and offenders who report sexual abuse or sexual harassment or who cooperate with an investigation shall not be retaliated against.
33. Upon completion of an administrative investigation; if allegations of sexual abuse and sexual harassment involve potential criminal behavior, the matter may be referred to the Norfolk County DA's office or the Attorney General's office.
34. If an offender from Norfolk County is being housed at another facility and is sexually abused, the NSO will work with the other agency to ensure that the investigation abides by PREA standards.
35. When the quality of the evidence appears to support criminal prosecution, compelled interviews will not be conducted without consulting with the DA's office.
36. The NSO shall collect accurate, uniform data for every allegation of sexual abuse and will review aggregate data on these allegations at least annually.

#### **518.10 OFFENDER SCREENING (4-ALDF-2A-29, 4D-22-1, 22-3, 22-4, 115.33, 41)**

1. The NSO shall perform an intake screening within twenty-four (24) hours of arrival at the facility for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior (See Attachment A). Housing assignments are made accordingly. Such assessments shall be conducted using an objective screening instrument to obtain and use information about the offender's history to reduce the risk of sexual abuse by or upon the offender. This information shall be communicated to a multidisciplinary team consisting of Classification, Security, and Mental Health Staff.
2. The intake screening shall consider, at a minimum, the following criteria to assess offenders for risk of sexual victimization:
  - a) whether the offender has a mental, physical, or developmental disability;
  - b) the age of the offender;
  - c) the physical build of the offender;
  - d) whether the offender has previously been incarcerated;



- e) whether the offender's criminal history is exclusively nonviolent;
  - f) whether the offender has prior convictions for sex offenses against an adult or child;
  - g) whether the offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
  - h) whether the offender has previously experienced sexual victimization;
  - i) the offender's own perception of vulnerability; and
  - j) whether the offender is detained solely for civil immigration purposes.
3. The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the NSO, in assessing offenders for risk of being sexually abusive.
  4. Offenders identified as high risk with a history of sexually assaultive behavior are assessed by a mental health or other qualified professional. Offenders with a history of sexually assaultive behavior are identified, monitored, and counseled.
  5. Offenders identified as high risk for sexual victimization are assessed by a mental health or other qualified professional. Offenders at risk for sexual victimization are identified, monitored, and counseled.
  6. Within twenty-four (24) hours of arrival, the NSO shall ensure that offenders receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment, sexual abuse / assault information including prevention / intervention, self-protection, reporting sexual abuse / assault, treatment, and counseling. All sexual abuse / assault information shall be communicated orally and in writing, in a language clearly understood by the offender. Offender's housing assignments shall be made according to potential vulnerabilities or tendencies of acting out with sexually aggressive behavior.
  7. Within a set time period, not to exceed thirty (30) days from the offender's arrival at the facility, the facility will reassess the offender's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.
  8. An offender'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 offender's risk of sexual victimization or abusiveness.
  9. Offenders may not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked.
  10. The NSO shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to 115.41 in order to ensure that sensitive information is not exploited to the offender's detriment by staff or other offenders.



## **518.11 REPORTING ALLEGATIONS (115.51, 61)**

1. The NSO shall provide multiple internal ways for offenders to privately report sexual abuse and sexual harassment, retaliation by other offenders or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.
  - a) Offenders who are victims of sexual abuse/assault have the option to report the incident to a designated staff member other than an immediate point-of-contact officer by the telephone "hotline" which has been set up through the offender telephone system that will allow offenders to report any contact of a sexual nature with other offenders, staff, volunteers, interns, or outside contractors. This number, #55, can be universally accessed by all offenders. Offenders do not need to place this number on their PIN list.
2. The NSO shall also provide at least one (1) way for offenders to report abuse or harassment to a public or private entity or office that is not part the agency, and that is able to receive and immediately forward offender reports of sexual abuse and sexual harassment to agency officials, allowing the offender to remain anonymous upon request. Offenders detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.
3. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.
4. The NSO shall provide a method for staff to privately report sexual abuse and sexual harassment of offenders.
5. The NSO shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility; retaliation against offenders or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation to the Facility Shift Commander.
6. The Facility Shift Commander shall immediately contact the Superintendent and the PREA Coordinator and ensure that an investigation is conducted and documented whenever a sexual assault or threat is reported by an offender or staff member. Failure to report these allegations or incidents by staff may result in disciplinary action up to and including termination.
7. The staff person receiving an allegation of sexual abuse or sexual harassment from an offender or another staff member, including third-party and anonymous reports, shall complete a confidential Intelligence Report and submit it to the Superintendent who will then forward a copy to the designated NSO Investigator and the PREA Coordinator. No other copies of the Intelligence Report will be distributed. Staff shall not reveal information related to a sexual abuse report to anyone other than to the extent necessary, as specified in NSO policy, to make treatment, investigation, and other security and management decisions.



8. Unless otherwise precluded by federal, state, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph 5 of this section, and to inform offenders of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.
9. If the victim is under the age of eighteen (18) or considered a vulnerable adult under a state or local vulnerable person's statute, the NSO shall report the allegation to the designated state or local services agency under applicable mandatory reporting laws.
10. **Reporting to Other Confinement Facilities (115.63)**
  - a) Upon receiving an allegation that an offender was sexually abused while confined at another facility, the Superintendent shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
  - b) Such notification shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.
  - c) The NSO shall document that it has provided such notification.
  - d) The facility head or agency official that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

#### **518.12      RESPONDING TO SEXUAL ASSAULT COMPLAINTS (4-ALDF-4D-22-2, 22-6, 924.06, J-B-05, 115.64 (B), 65)**

1. If an offender or staff member reports being victimized by a sexual assault, the staff person receiving such a complaint shall immediately inform the Facility Shift Commander and complete a confidential Intelligence Report to assure separation of the victim from his/her assailant. The Facility Shift Commander shall immediately contact the Superintendent and the PREA Coordinator to initiate an investigation and document whenever a sexual assault or threat is reported by an offender or staff member.
  - a) The Facility Shift Commander will ensure that the crime scene and the cell(s) of the victim and the alleged perpetrator(s) shall be immediately secured and managed in accordance with CSD 506 - Search. No one shall be allowed to enter the crime scene area(s) prior to the completion of the collection of evidence by the NSO Investigators, and without the authorization of the Superintendent.
  - b) The Superintendent shall immediately notify the Sheriff and the designated NSO Investigator.
2. The offender victim shall be immediately taken to the Health Services Unit for appropriate evaluation, intervention and treatment to minimize as much as possible the medical and psychological trauma of a sexual assault, unless emergency medical treatment and hospitalization is warranted. In order to preserve evidence, a NSO Investigator shall ensure that the clothing from the victim is removed prior to the hospital departure, and secure the victim's clothing in a clean white sheet and place the white sheet inside an evidence bag located



inside the PREA Bag. In addition, the victim shall refrain from showering or washing. If the victim is an employee, he/she can be evaluated at an alternate medical site if requested.

- a) A NSO nurse shall conduct an evaluation to provide any initial treatment and document the extent of physical injury.
  - b) The Health Services staff shall document any statements made by the victim on an Intelligence Report and forward it to the NSO Investigator.
3. If the determination is made that the offender should be sent to an outside hospital and the offender victim consents, the victim shall be sent to a hospital with a Sexual Assault Nurse Examiner (SANE) program where he/she will receive preventative treatment.
  4. When an offender or staff member victim reports having been sexually assaulted well after the alleged occurrence, steps 1-3 shall be followed.

#### **518.13 INCIDENT MANAGEMENT (4-ALDF-4D-22-6, 115.64 (4))**

1. If the offender suspect(s) in the alleged sexual assault is identified, the individual(s) shall be immediately secured in the Disciplinary Isolation Unit on an eye ball watch pending investigation. If the alleged abuse occurred within a time period that still allows for the collection of physical evidence, first responders must ensure that the offender suspect(s) does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating.
2. The offender's clothing and any evidence obtained shall be seized immediately, placed in evidence bags following chain of custody and secured in the evidence locker. Any visible trauma on the suspect will be photographed. The offender will be given his/her rights (Miranda) but not interviewed except by investigators. Any spontaneous statements made by the offender to any staff member will be documented.
3. Upon return from the hospital, the offender victim shall be placed into the Health Services Unit for observation and any continued treatment.
3. If the information or evidence obtained during the investigation warrants, a Disciplinary Report shall be issued and the offender suspect will have a hearing pursuant to CSD 430 - Offender Discipline.
4. If the information or evidence obtained during the investigation warrants criminal charges, the Norfolk County District Attorney's Office shall be contacted at the direction of the Superintendent.
5. Upon completion of the investigation into the alleged sexual assault, a determination shall be made as to the placements of the alleged victim and perpetrator(s) to ensure they are housed separately
6. All reports and documentation pertaining to the incident shall be deemed "confidential" and maintained in accordance with CSD 200 - Investigations.



**518.14 TREATMENT AND SERVICES (4-ALDF-4D-22-6, J-B-05, 115.12, 53, 82)**

1. Offender 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 shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners.
3. All victims shall be offered prophylactic treatment and follow-up for sexually transmitted disease or other communicable diseases (e.g., HIV, Hepatitis B) through the Health Services Unit, as appropriate.
4. The Health Services and Mental Health Services staff shall offer to coordinate testing (i.e., HIV, Hepatitis B, gonorrhea, and other diseases) and counseling for the victim of a sexual assault, as appropriate.
5. Following the physical examination, there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up.
6. The NSO shall provide offenders with access to external victim advocate for emotional support services related to sexual abuse by giving offenders 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, immigration services agencies. The NSO shall enable reasonable communication between offenders and these organizations and agencies, in as confidential a manner as possible.
7. The NSO shall inform offenders, 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.
8. The NSO shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide offenders with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.
9. The NSO shall include in any new contracts or contract renewals for the confinement of its offenders with private agencies or other entities, including other government agencies, the entity's obligation to adopt and comply with the PREA standards. Any new contracts or contract renewal shall provide for contract monitoring to ensure that the contractor is complying with PREA standards.



#### **518.15 SEXUAL ASSAULT BY A STAFF MEMBER (4-ALDF-4D-22-5, 115.76)**

1. The NSO shall ensure that all sexual conduct between staff and offenders, volunteers, interns, or contract personnel and offenders, is prohibited regardless if consent was attempted to be given. Staff shall not leave the facility until this is done.
2. If an offender or staff member reports being sexually assaulted by a staff member, the staff person receiving such a complaint shall immediately inform the Superintendent and the PREA Coordinator both verbally and in writing on an Intelligence Report to assure separation of the victim from his/her assailant. The offender or staff member victim shall receive the same response and medical attention as indicated in this policy.
3. If the staff member who is suspected of committing the sexual assault is identified, he/she shall be given his/her rights (Miranda) by a NSO Investigator and the opportunity to make a statement to the Investigator.
4. If the information or evidence obtained during the investigation warrants an arrest, the NSO Investigator may detain the suspect and affect an arrest after consulting with the Superintendent. The Superintendent shall immediately notify the Sheriff.
5. If the information or evidence obtained during the investigation warrants criminal charges, this matter shall be brought to the attention of the Norfolk County District Attorney's Office by the Superintendent. The Superintendent may also consult with the NSO Legal Counsel if necessary.
6. In accordance with CSD 230 - Staff Discipline, the Superintendent may suspend or place the staff member suspected of the assault on administrative leave pending the investigation. Staff may be subject to disciplinary sanctions up to and including termination for violating NSO sexual abuse or sexual harassment policies. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
7. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall 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.
8. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

#### **518.16 PREVENTION (4-ALDF-4D-22-4, 115.11, 13)**

1. All NSO staff is responsible for the prevention of sexually abusive behavior perpetrated by staff on offenders or by offenders on offenders.



2. The Command Staff, Captains, Lieutenants, and Sergeants shall conduct and document unannounced rounds to identify and deter sexual misconduct, sexual abuse, and sexual harassment on all three (3) shifts.
3. Within twenty-four (24) hours of arrival, offenders shall receive and sign for a copy of the offender rules and regulations, which contains PREA information. Offenders shall be responsible for familiarizing themselves with the rules and regulations and are also responsible for reporting any allegations to staff in a timely manner.
4. The NSO shall be responsible for planning and implementing measures to prevent sexually abusive behavior and will strive to create an environment free from sexual harassment and sexual abuse.
5. Offenders identified through self-reports including but not limited to the PREA Screening Tool or medical / mental health reports as having a history of sexual abuse victimization and/or at risk of being a victim of offender sexual abuse shall be referred to a mental health clinician for assessment, monitoring, and counseling. Such reports will be kept confidential and a confidential incident report shall be filed with the Superintendent.
6. Upon learning that an offender has been identified as having been a victim or a predator or is at risk for such, the PREA Coordinator shall communicate with the classification division so that appropriate housing decisions can be made to keep the offenders safe.
7. The Superintendent shall conduct an annual PREA assessment which will consist of staff and offender interviews to determine how operational practice can be improved upon.
8. A vulnerability assessment of the facility's physical plant (including "blind-spots" or areas where staff or offenders may be isolated) shall be conducted as directed by the Superintendent.
9. The NSO shall develop, document and make its best efforts to comply on a regular basis with a staffing plan in accordance with CSD 203 - Post Analysis

#### **518.17 CRITICAL INCIDENT REVIEW PANEL**

1. The Superintendent will appoint and convene a Critical Incident Review Board at the conclusion of every sexual assault / PREA investigation. The PREA Coordinator shall chair this panel and the Superintendent will notify all members of their appointment in writing.
2. 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 review and appropriate action.

#### **518.18 STAFF TRAINING (115.31, 32, 34, 35)**

1. The PREA Coordinator shall work with the members of the Command Staff and Training Division to develop a communication plan that will educate and inform



offenders about prisoner sexual violence. The plan will include oral and written information regarding prevention / intervention, self-protection, reporting sexual abuse / assault / harassment, treatment, and counseling.

2. The Training Division shall maintain a training plan to ensure that all NSO staff, volunteers and contract vendors, full and part time medical and mental health care practitioners are educated in their responsibilities concerning PREA. This training will be conducted during Basic Training Classes, In-Service Training and Volunteer / Contract Vendor Orientation Classes. This training will include but not be limited to recognizing, preventing, intervention, reporting, and investigating incidents of staff sexually abusing offenders and offenders sexually abusing other offenders.
3. 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.
4. All staff with offender contact shall be trained in the following:
  - a) the NSO's zero tolerance policy for sexual abuse and sexual harassment;
  - b) detection, prevention, reporting, and response to sexual abuse or sexual harassment;
  - c) offenders' rights to be free from sexual abuse and sexual harassment;
  - d) the rights of staff and offenders 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 offenders;
  - i) how to communicate effectively and professionally with offenders including LGBTQI offenders; and
  - j) how to comply with laws related to mandatory reporting of sexual abuse to outside authorities.
5. The NSO shall document, through employee signature or electronic verification that employees understand the training they have received.
6. NSO investigators shall receive specialized training in conducting sexual abuse investigations to include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Investigators shall gather and preserve direct, circumstantial, and DNA evidence and shall interview alleged victims, suspected perpetrators and witnesses. The NSO shall maintain documentation that agency investigators have completed the required



specialized training in conducting sexual abuse investigations.

7. The NSO shall ensure that all full and part-time medical and mental health care practitioners who work regularly in the facility have been trained in the following:
  - a) how to detect and assess signs of sexual abuse and sexual harassment;
  - b) how to preserve physical evidence of sexual abuse;
  - c) how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
  - d) how and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

## **518.19 PUBLIC EDUCATION**

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

## **518.20 DATA COLLECTION / ANALYSIS (115.87, 88, 89)**

1. The NSO shall conduct 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. This review shall occur within thirty (30) days of the conclusion of the investigation. The review team shall include upper management officials, with input from line supervisors, investigators, and medical or mental health practitioners. The review team shall:
  - 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) prepare a report of its findings and any recommendations for improvement and submit such report to the Superintendent and the PREA Coordinator. The NSO shall implement the recommendations for improvement, or shall document its reasons for not doing so.
2. The NSO shall collect accurate, uniform data for every allegation of sexual abuse



and will review aggregate data on these allegations at least annually.

3. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the survey of sexual violence conducted by the Department of Justice.
4. The NSO shall maintain, review, and collect data from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
5. The NSO shall also obtain incident-based and aggregate data from every private facility with which it contracts for the confinement of its offenders.
6. Upon request, the NSO shall provide such data from the previous year to the Department of Justice no later than June 30.
7. The NSO shall review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
  - a) identifying problem areas;
  - b) tracking 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 agency as a whole.
8. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the NSO's progress in addressing sexual abuse.
9. The NSO may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of the facility, but must indicate the nature of the material redacted.
10. The NSO shall ensure that the data collected is securely retained.
11. The NSO's report shall be approved by the Sheriff or the Superintendent and made readily available to the public at least annually through the NSO website. Before making aggregated sexual abuse data publicly available, the NSO shall remove all personal identifiers.
12. Documentation of all incidents or allegations of sexually abusive behavior shall be recorded to ensure a source for historic data.
13. A list of all known victims and predators shall be developed and monitored by the Classification division.
14. A procedure to monitor the behavior of known victims and predators shall be developed.
15. The NSO shall maintain sexual abuse data collected for at least ten (10) years after the date of its initial collection unless federal, state, or local law requires otherwise.



## **518.21 INTERVENTION / INCIDENT MANAGEMENT**

1. Detailed report(s) shall be filed with the Facility Shift Commander no later than the end of the shift.
2. Upon return from the outside hospital, the offender victim shall be brought to the Health Services Unit for appropriate follow up care including a mental health screening.
3. If the offender victim is at risk of harming him/herself, he/she will be seen immediately by the mental health staff. Otherwise, the offender shall be seen no later than the next business day.
4. The offender shall be allowed to refuse rape crisis intervention treatment. In such cases, the mental health staff shall attempt to persuade the offender to receive this treatment. If this persuasion is unsuccessful, a refusal of treatment form shall be signed by the offender.
5. Provisions shall be made for testing for sexually transmitted diseases.
6. A victim advocate shall be assigned to meet with the victim at the request of the PREA Coordinator.
7. The victim advocate shall keep the offender informed of his/her status and the status of the disciplinary offenses and criminal prosecution of the perpetrator.
8. The offender advocate shall make the victim aware of short term and long term services available.

## **518.22 INVESTIGATIONS / EVIDENCE (115.34, 67, 71)**

1. The NSO shall investigate all reports of sexual abuse and/or sexual harassment received to include those reported by an alleged victim, telephone, correspondence, or by a third party reports. All investigations shall be completed even if the alleged abuser or victim has resigned from the employment or departed from the control of the NSO.
2. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
3. When evidence is collected at an outside hospital, the transporting Officer(s) shall retain it. If the alleged perpetrator is a staff member, a NSO Investigator will be contacted to retain the evidence.
4. If the Superintendent and/or the NSO Investigator believe that a crime may have been committed, the Norfolk County DA's office shall be contacted. The NSO will seek and shall begin a cooperative investigation with these agencies.
5. To ensure safety of all involved in the alleged incident, the Classification Division shall be notified of the incident or alleged incident.



6. An offender alleges that he/she was sexually abused; the alleged victim and abuser shall be separated.
  - a) 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) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
7. The offender who is suspected of sexually abusive behavior shall be placed in the Special Management Unit or the Health Services Unit pending investigation.
8. 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.
9. The Superintendent, NSO Investigator, and PREA Coordinator shall review and assess all reports regarding instances of sexually abusive behavior within seventy-two (72) hours.
10. A NSO Investigator will produce an investigative report within thirty (30) days of the incident unless the time is extended by the Superintendent or the PREA Coordinator.
11. Any staff member who is accused of sexually abusive behavior shall be placed on "no offender 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.
12. If the investigation determines that any staff member retaliated against staff or an offender for reporting sexually abusive conduct, he/she may be disciplined up to and including termination.
13. If the investigation determines that a staff member or an offender made false allegations regarding sexually abusive conduct, he/she will be disciplined and the NSO may choose to refer the matter for criminal action, when appropriate, under the Massachusetts General Laws.
14. A PREA Review Committee shall be formed after the investigation is complete and will review the incident to conduct a critical assessment of the NSO's response. The Superintendent shall select the members of the Committee.
15. Staff members are prohibited from revealing any information related to sexual abuse to anyone other than those necessary to make treatment, investigation, and other security and management decisions.



16. For at least ninety (90) days following a report of sexual abuse, the NSO shall monitor the conduct or treatment of all staff and offenders following a report of sexual abuse to see if there are changes that may suggest possible retaliation by staff or offenders, and take prompt action to remedy the situation. A designated staff shall be responsible for completing a Retaliation Monitoring Form (See Attachment B). This monitoring shall include a review of negative staff performance reviews, reassignments, offender disciplinary reports, housing changes, and program changes. The NSO shall continue such monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need.
17. In the case of offenders, such monitoring shall also include periodic status checks at a minimum of every thirty (30) days.
18. If any other individual who cooperates with an investigation expresses a fear of retaliation, the NSO shall take appropriate measures to protect that individual from retaliation.
19. NSO investigators 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.
20. When the quality of the evidence appears to support criminal prosecution, compelled interviews will not be conducted without consulting with the DA's office.
21. Credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as offender or staff. The NSO shall not require an offender 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.
22. The NSO shall use a preponderance of the evidence standard when determining whether allegations of sexual abuse or sexual harassment are substantiated.
23. NSO investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse.
24. NSO investigations shall include a written description of the physical and testimonial evidence, the reasoning behind the credibility assessments and the investigative findings.
25. NSO investigations shall include a thorough description of physical, testimonial, and documentary evidence and shall have all documentary evidence attached when feasible.

## **518.23 EMERGENCIES**

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



#### **518.24 RESPONSIBLE STAFF**

The Sheriff, Superintendent, Assistant Deputy Superintendent of Programs, Education, and Accreditation, Assistant Deputy Superintendent of Health Services, Assistant Deputy Superintendent of Investigations, PREA Coordinator, and PREA Compliance Manager shall be responsible for implementing and monitoring this policy.

#### **518.25 ANNUAL REVIEW DATE**

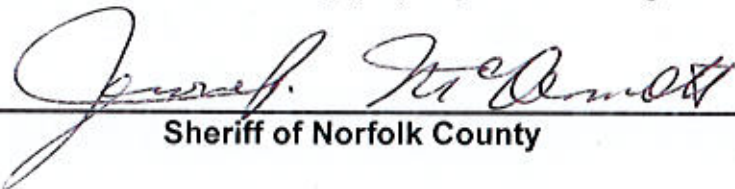
The Compliance Unit shall ensure that this policy is reviewed annually in accordance with CSD 104 - Policy and Procedure Development.

#### **518.26 SEVERABILITY CLAUSE**

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

#### **518.27 EFFECTIVE DATE**

This policy shall become effective thirty (30) days after the signature of the Sheriff.

	7/30/19
Approved	Date
Sheriff of Norfolk County	