



# **The Commonwealth of Massachusetts Middlesex Sheriff's Office**



## **Policy 444**

### **Prevention of Sexual Abuse, Sexual Harassment and Sexual Misconduct of Inmates/PREA**

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### **.01 Date Revised**

The revision date of this policy is 9-24-21

### **.02 Standards Referenced**

This policy is consistent with Massachusetts General Laws chapter 124 §1 and chapter 268 §21a; 28 CFR, part 115; 103 CMR 915.03; and, Adult Local Detention Facility standards 4-ALDF-2A-29, 2A-34, and 4D-22-1 through 4D-22-8. NCCCHC Standard – J-F-06 -Response to Sexual Abuse

### **.03 General Policy**

1. The Middlesex Sheriff's Office (MSO) takes a zero-tolerance stance toward all forms of sexual abuse and sexual harassment and is outlining the MSO's approach to preventing, detecting, and responding to such conduct. 115.11 (a) (J-F-06 CI 1)
2. The MSO shall employ or designate an upper-level, agency wide, PREA coordinator with sufficient time and authority to develop, implement, and oversee the MSO's efforts to comply with the PREA standards in all of its facilities. 115.11(b)

3. The Middlesex Sheriff's Office has specific procedures to accomplish this goal by formulating guidelines for the selection and training of staff, inmate education, the prevention, detection, and investigation of abuse, the discipline, sanctioning, and the prosecution of perpetrators, as well as the treatment and support of victims.
4. In order to maintain a safe and secure environment, staff and post assignments are assigned by shift as necessary. The Assistant Superintendent of Operations maintains a complete listing of Post Assignments for all of the facility. The Director of Human Resources and the Assistant Superintendent of Operations maintains and reviews annually the shift relief factor for the facility as to maintain optimum staffing to meet the safety, security, and care and custody of the inmate population.
5. **Contracting with other entities for the confinement of inmates**
  - a. The MSO contracts for the confinement of its inmates with private agencies or other entities, including other government agencies, and shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards.
  - b. Any new contract or contract renewal shall provide contract monitoring to ensure that the contractor is complying with the PREA standards. 115.12

#### **.04 Applicability**

This policy applies to the Middlesex Sheriff's Office.

#### **.05 Definitions** 115.5, 115.6

**Agency** – Also referred to as the Middlesex Sheriff's Office ("MSO") - The unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

**Agency Head** - Principal official of the MSO is the Sheriff of Middlesex County

**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** - Any 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** - Any person who provides services on a recurring basis pursuant to a contractual agreement with the MSO

**Detainee** - Any person detained in a lockup, regardless of adjudication status

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

**Employee** - any person who works directly for the MSO

**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 the MSO for the confinement of individuals

**Facility Head** - the principal official of a facility

**Full Compliance** - 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

**Internal Investigations Unit (IIU)** - The unit charged with investigating misconduct and claims of same by employees, contractors, volunteers, and interns. This includes PREA allegations where an employee, contractor, volunteer, or interns are the alleged perpetrator. In the event of a potential crime committed by an employee, contractor, volunteer, or intern the IIU will notify the MSO's Chief Legal Counsel, the Middlesex District Attorney's Office and, where appropriate, the Massachusetts State Police. The IIU is also charged with investigating staff who: fail to report a PREA incident or claim; retaliate against the victim; or retaliate against other individuals who have reported an incident or cooperated in an investigation.

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

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

**Intersex** - any 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** - 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 eighteen (18), unless under adult court supervision and confined or detained in a prison or jail

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

**LGBTQI** - common acronym for a lesbian, gay, bisexual, transgender, queer or intersex person. For this policy, the term shall include gender non-conforming inmates

**Law Enforcement Staff** - employees responsible for the supervision and control of detainees/inmates in lockups

**Lockup** - 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** - any 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

**Mental Health Practitioner** - any 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

**Office** – shall refer to the Middlesex Sheriff’s Office or MSO

**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

**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 and the MSO 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

**Risk Assessment Instrument** – The MSO shall employ a Seventy-Two (72) hours risk assessment tool to be administered to all inmates at intake

**Right of Refusal for a SANE Exam** – a detainee/inmates' right to refuse SANE exam

**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** – includes:

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

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

- (1) Contact between the penis and the vulva, the penis and the anus, or the penis to the penis 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, intern or volunteer 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:

- (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

**Inner Perimeter Security (IPS)** – The unit charged with investigating all crimes committed by inmates at the Middlesex Jail and House of Correction and presenting those cases to the Middlesex District Attorney's Office for prosecution. The IPS unit investigates PREA allegations where an inmate is the alleged perpetrator. The IPS unit supports all departments of the Middlesex Sheriff's Office by promoting safety, security and welfare for all staff, inmates, detainees and all citizens of Middlesex County.

**Restrictive Housing Units (RHU)** - A separate housing area from the general population within the facility in which detainees/inmates may be confined for reasons of Administrative Segregation, Protective Custody, or Disciplinary Detention

**Staff** – employees, contractors, volunteers, and interns

**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

**Targeted Zero Tolerance (TZT)** - A review of the zero-tolerance policy of the Middlesex Sheriff's Office where every unit is visited quarterly. Each unit is then revisited by the PREA Coordinator within a thirty (30) day time frame.

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

**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

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

**.06 Supervision and Monitoring** 115.13

1. The annual staff analysis required by Policy and Procedure 212 – Facility Staff Analysis shall provide adequate levels of staffing and, where applicable, video monitoring to protect inmates against sexual abuse
2. In calculating adequate staffing levels and determining needs for video monitoring the following, along with any other relevant factors, shall be taken into consideration:
  - a. generally accepted correctional practices;
  - b. any judicial findings of inadequacy;
  - c. any findings of inadequacy from federal investigative agencies;
  - d. any findings of inadequacy from internal or external oversight bodies;
  - e. all components of the physical plant;
  - f. composition of the inmate population;
  - g. number and placement of supervisory staff;
  - h. institutional programs occurring on a particular shift;
  - i. applicable state or local laws, regulations or standards;
  - j. the prevalence of substantiated or unsubstantiated incidents of sexual misconduct; and
  - k. any other relevant factors 115.13 (a) – (k).
3. The shift commander shall document and justify any deviations from the staffing plan. 115.13 (2)
4. The MSO, in consultation with the PREA Coordinator and the PREA Manager, shall annually or sooner when necessary, assess, determine, and document whether adjustments to the plan are needed to:
  - a. modify the staffing plan;
  - b. deploy the facility video monitoring systems and other monitoring technologies; and
  - c. assess the resources that the Middlesex Sheriff's Office has available to accomplish adherence to the staffing plan. 115.13(3)
5. It is the MSO policy and practice to have intermediate-level or higher-level supervisors conduct and document unannounced rounds to

identify and deter staff sexual abuse and sexual harassment. Such policy and practice are implemented for night shifts as well as day shifts, as well as prohibits staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility

**.07 Limitations to Cross-gender Searches and Viewing** 115.15

1. Neither cross-gender strip searches nor cross-gender visual body cavity searches shall be conducted except in exigent circumstances or by a medical practitioner. Such searches shall be documented by the searching officer by a Confidential Communication Report. 115.15 (a) and (c)
2. The MSO shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. All such searches shall be documented. 115.15
3. No transgender or intersex inmate shall be searched for the sole purpose of determining the inmate's genital status. If an inmate's genital status is unknown, it may be determined by conversation with the inmate, review of medical records, or by learning that information as part of a broader medical examination conducted in private by a medical practitioner. 115.15 (e)
4. All inmates shall 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. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an inmate housing unit. 115.15 (d)
5. The MSO shall train security staff yearly 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. 115.15(f)

**.08 Inmates with Disabilities** 115.16

1. The MSO shall take 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 MSO's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such 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 MSO shall ensure 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 MSO is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

2. The MSO shall take reasonable steps to ensure meaningful access to all aspects of the MSO'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 MSO shall 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 § 115.64, or the investigation of the inmate's allegations.

**.09 Hiring and Promotion** 115.17

1. The MSO shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor, intern or volunteer who may have contact with inmates who has:
  - a. engaged in sexual misconduct in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
  - b. been convicted of engaging or attempting to engage in sexual misconduct 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. been civilly or administratively adjudicated to have engaged in sexual misconduct.
2. The MSO shall consider any incidents of sexual harassment before hiring or promoting anyone and before enlisting the services of any contractor who may have contact with inmates.
3. Before hiring new employees and as part of any promotional process, the MSO shall conduct appropriate background checks on all applicants and employees. A criminal background records check (CORI) shall be conducted before enlisting the services of any contractor who may have contact with inmates.
4. Consistent with governing law, the MSO shall attempt to contact all former institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
5. The MSO shall, at least every five (5) years, conduct criminal background records checks of those current employees and contractors who may have contact with inmates.
6. The MSO shall ask all applicants and employees who may have contact with inmates about previous sexual misconduct, as described in .09. 1. a. through 1.c. above, in written applications or interviews for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees.
7. MSO employees shall have a continuing affirmative duty to disclose any such misconduct. Material omissions regarding such misconduct, or the provision of materially false information, may be grounds for termination.
8. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
9. Unless prohibited by law, the MSO 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.

## **10. Upgrades to Facilities and Technologies** 115.18

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

**11. Evidence Protocol and Forensic Medical Examinations 115.21 (J-F-06 CI 4, 5)**

1. To the extent the MSO is responsible for investigating allegations of sexual abuse, the MSO shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.
2. The MSO shall offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall 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 MSO shall document its efforts to provide SAFEs or SANEs.
3. If a determination is made that an inmate should be sent to the outside hospital for a SANE exam and the inmate elects to refuse treatment from rape crisis, or a SANE exam, the MSO mental health staff shall speak with the inmate in an attempt to persuade the inmate to accept treatment. If this is unsuccessful the inmate shall be asked to sign a refusal of treatment form. If the inmate refuses to sign the form, medical staff shall document the refusal and be witnessed by two medical staff members. The refusal shall then be scanned into the inmate's medical record.
4. If a determination is made that an inmate should be sent to an outside hospital for a SANE exam, and that inmate consents and en-route to the hospital changes his or her mind, the MSO team will proceed to the hospital for the SANE exam. Once at the hospital the inmate shall be given the opportunity to speak with SANE officials in an attempt to determine if his or her refusal is definitive. When the inmate returns

to the facility (s) he shall be asked to sign a refusal of treatment form. If the inmate refuses to sign the form, medical staff shall document the refusal and witnessed by two medical staff members. The refusal shall then be scanned into the inmate's medical record.

5. The MSO shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the MSO shall make available to provide these services from a qualified staff member of a community-based organization, or a qualified MSO staff member. The MSO shall document efforts to secure services from rape crisis centers. A 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 MSO 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.
6. As requested by the victim, the victim advocate, qualified MSO staff member, or qualified community-based organization 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.
7. To the extent the MSO itself is not responsible for investigating allegations of sexual abuse, the MSO shall request that the investigating agency follow the requirements of paragraphs (1) through (5) of this section.
8. The requirements of paragraphs (1) one through (5) five of this section shall also apply to:
  - (1) Any State entity outside of the MSO that is responsible for investigating allegations of sexual abuse in prisons or jails; and
  - (2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.
9. For the purposes of this section, a qualified MSO staff member or a qualified community-based staff member shall be 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.

10. Emergency contraception is available to female victims of sexual assault. (J-F-06 CI 3)

**12. Policies to ensure referrals of allegations for investigations**  
**115.22**

1. The MSO shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
2. The MSO shall ensure that allegations of sexual abuse or sexual harassment are investigated by IPS/IIU or referred to the Middlesex Districts Office and the Massachusetts State Police when warranted, unless the allegation does not involve potentially criminal behavior. The MSO shall publish such policy on its website. The MSO shall document all such referrals.
3. If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the MSO and the investigating entity.

**.13 Employee Training** 115.31

1. The MSO shall train all employees who may have contact with inmates on:
  - a. Zero-tolerance for sexual abuse and sexual harassment;
  - b. How to fulfill their responsibilities under MSO sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
  - c. Inmates' right to be free from sexual abuse and sexual harassment;
  - d. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
  - e. The dynamics of sexual abuse and sexual harassment in confinement;
  - f. The common reactions of sexual abuse and sexual harassment victims;
  - g. How to detect and respond to signs of threatened and actual sexual abuse;

- h. How to avoid inappropriate relationships with inmates;
  - i. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, queer, intersex (“LGBTQI”), or gender nonconforming inmates; and
  - j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
2. All current employees shall be trained and the MSO shall provide each employee with refresher training every two years to ensure that all employees know the MSO’s current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the MSO shall provide refresher information on current sexual abuse and sexual harassment policies.
  3. The MSO shall document, through employee signature or electronic verification that employees understand the training they have received.

#### **.14 Contractors, Interns and Volunteers 115.32**

1. The MSO shall ensure that all contractors, interns and volunteers who have contact with inmates have been trained on their responsibilities under the MSO’s sexual abuse and sexual harassment prevention, detection, and response policies and procedures.
2. The level and type of training provided to contractors, interns and volunteers shall be based on the services they provide and level of contact they have with inmates, but all contractors, interns and volunteers who have contact with inmates shall be notified of the MSO’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.
3. The MSO shall maintain documentation confirming that contractors, interns and volunteers understand the training they have received.

#### **.15 Inmate Education 115.33**

1. During the intake process, inmates shall receive information explaining the MSO’s zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

2. Within thirty (30) days of intake, the MSO shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding MSO policies and procedures for responding to such incidents.
3. Current inmates who have not received such education shall be educated within one (1) year of the effective date of the PREA standards, and shall receive 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 MSO shall provide 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 MSO shall maintain documentation of inmate participation in these education sessions.
6. In addition to providing such education, the MSO shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.
7. The PREA Coordinator shall perform Targeted Zero Tolerance (TZT) education within all housing units. Inmates will receive a review of the MSO policies. The PREA Coordinator will revisit units within thirty (30) days to ensure that no new PREA complaints have resulted from TZT review.

#### **.16 Specialized Training: Investigations 115.34**

1. In addition to the general training provided to all employees pursuant to § 115.31, the MSO shall ensure that, to the extent the MSO itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.
2. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

3. The MSO shall maintain documentation that MSO investigators have completed the required specialized training in conducting sexual abuse investigations.
4. Any State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations

**.17 Specialized Training: Medical and Mental Health Care**  
**115.35(J-F-06 CI 2)**

1. The MSO shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:
  - 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;
  - d. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
2. If medical staff employed by the MSO conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.
  - a. The MSO shall maintain documentation that medical and mental health practitioners have received the training either from the MSO or elsewhere.
  - b. Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.35 or for contractors and volunteers under § 115.32, depending upon the practitioner's status at the MSO.

**.18 Screening for Risk of Victimization and Abusiveness** 115.41

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.

2. Intake screening shall ordinarily take place within seventy-two (72) hours of arrival at the facility.
3. Such assessments shall be conducted using an objective screening instrument.
4. The intake screening shall consider, 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, queer, intersex ("LGBTQI"), or gender nonconforming;
  - h. Whether the inmate has previously experienced sexual victimization;
  - i. The inmate's own perception of vulnerability; and
  - j. Whether the inmate is detained solely for civil immigration purposes.
5. 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 MSO, in assessing inmates for risk of being sexually abusive.
6. Within thirty (30) days from the inmate's arrival at the facility, the inmates assigned Caseworker will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received since the intake screening.
7. An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.
8. Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section.

9. The MSO shall control the dissemination within the facility of responses to questions asked during this screening in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.

#### **19. Use of Screening Information 115.42**

1. The MSO shall use information from the risk screening required by § 115.41 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 MSO shall make individualized determinations about how to ensure the safety of each inmate.
3. In deciding whether to assign a transgender or intersex inmate to a housing unit and in making other housing and programming assignments, the MSO shall consider 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 shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.
5. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.
6. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.
7. The MSO shall not place lesbian, gay, bisexual, transgender, queer, ("LGBTQI"), or intersex inmates in dedicated units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

#### **20. Protective Custody 115.43**

1. Inmates at high risk for sexual victimization shall not be placed in involuntary Restrictive 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 MSO cannot conduct such an assessment immediately; the MSO may hold the inmate in involuntary restrictive housing for less than twenty-four (24) hours while completing the assessment.

2. Inmates placed in restrictive housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the MSO restricts access to programs, privileges, education, or work opportunities, the MSO shall document:
  - a. The opportunities that have been limited;
  - b. The duration of the limitation; and
  - c. The reasons for such limitations.
3. The MSO shall assign such inmates to involuntary restrictive housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of thirty (30) days.
4. If an involuntary restrictive housing assignment is made pursuant to paragraph (1) of this section, the MSO shall clearly document:
  - a. The basis for the MSO's concern for the inmate's safety; and
  - b. The reason why no alternative means of separation can be arranged.
5. Every thirty (30) days, the MSO shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

## **.21 Inmate Reporting 115.51**

1. The MSO provides multiple internal ways for inmates to privately report sexual abuse and 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 MSO provides at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the MSO, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to MSO officials, allowing the inmate to remain anonymous upon request. Inmates

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. Internal Reports (to the MSO)**

- a. Inmates may report sexual abuse or sexual harassment to any MSO staff member. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall document in writing such reports.
- b. Inmates may privately report any sexual abuse or sexual harassment by using the MSO Sexual Abuse Hotline by dialing 3100 on any inmate telephone.

**4. External Reporting (to entities which are not part of the MSO)**

- a. Inmates may report sexual abuse or sexual harassment by calling the Center for Hope and Healing (Rape Crisis Center of Lowell) at (978)-452-7721, or by calling the National Sexual Assault Hotline (800) 656-4673. The MSO does not monitor or record calls to either of these numbers.
- b. Inmates may also report sexual abuse or harassment in writing to the Middlesex District Attorneys' Office, 151 Warren St. Lowell MA 01852.

- 5. Anyone may report sexual abuse or sexual harassment in writing to: Middlesex District Attorneys' Office, 151 Warren St. Lowell MA 01852

**.22 Exhaustion of Administrative Remedies 115.52**

- 1. The MSO shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.
- 2. The MSO may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.
- 3. The MSO shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

4. Nothing in this section shall restrict the MSO's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired.
5. The MSO shall 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 MSO shall issue a final decision on the merits of any portion of a grievance or complaint alleging sexual abuse within ninety (90) days of the initial filing of the grievance or complaint.
7. Computation of the ninety (90)-day time period shall not include time consumed by inmates in preparing any administrative appeal.
8. The MSO may claim an extension of time to respond, of up to seventy (70) days, if the normal time period for response is insufficient to make an appropriate decision. The MSO 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, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates.
11. If a third-party file such a request on behalf of an inmate, the MSO 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 MSO shall document the inmate's decision.
13. The MSO has established procedures 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 MSO shall 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, shall provide an initial response within forty-eight (48) hours, and shall issue a final decision within five (5) calendar days. The initial response and final decision shall document the MSO'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 MSO may discipline an inmate for filing a grievance related to alleged sexual abuse only where the MSO demonstrates that the inmate filed the grievance in bad faith.

**.23 Inmate Access to Outside Confidential Support Services 115.53**

1. The MSO shall provide 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 MSO shall enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible.
2. The MSO shall inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
3. The MSO shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. The MSO shall maintain copies of

agreements or documentation showing attempts to enter into such agreements.

#### **24. Third-Party Reporting 115.54**

1. Third Party Reporters (Friends and Family) may call (978) 932-3100 to report sexual abuse or sexual harassment directly to the MSO.
2. Third Party Reporters may also report sexual abuse or sexual harassment in writing to the Middlesex District Attorneys' Office, 151 Warren St. Lowell MA 01852.
3. Staff shall have the option of reporting known or suspected acts of sexual misconduct through the chain of command, or privately to the Superintendent.
4. The PREA Coordinator shall ensure inmates have access to confidential outside victims' advocates by posting mailing addresses and telephone numbers in areas that inmates may access.
5. Communication between inmates and any advocacy organizations shall be in as confidential a manner as possible. However, inmates shall also be aware of the extent to which communication will be monitored and the extent to which reports of sexual misconduct will be investigated. See Policy and Procedure 482 – Telephone Access and Use.

#### **25. Staff and MSO Reporting Duties 115.61**

1. All staff shall report immediately to the Shift Commander, 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 MSO. The reporting staff member(s) shall write a confidential communication report to the shift commander, and also copy the same report onto OMS as a private report. Upon receipt of the report, the Shift Commander shall immediately forward the report to the Superintendent, Assistant Superintendent of Operations, Assistant Superintendent/Director of Security, Health Services Administrator, Director of Mental Health Service, PREA Coordinator, and the PREA Manager via Email using the PREA Notification Group.
2. In the event that the allegation involves the Shift Commander, or the reporting staff member is not comfortable submitting the report to the Shift Commander, he or she shall submit the report directly to the

Superintendent. Retaliation against inmates or staff that reports such an incident or cooperates in an investigation is prohibited. Any staff neglect or violation of responsibilities that may have contributed to an incident or to retaliation shall immediately be followed up with a confidential communication report. This reporting requirement applies to all facility staff; including health services and to mental health practitioners unless the reporting is precluded by law. Apart from this report, staff shall not reveal any information related to a sexual abuse report to anyone other than when necessary 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 paragraph (1) of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.
4. If the alleged victim is under the age of eighteen (18) or considered a vulnerable adult under a State or local vulnerable person's statute, the MSO shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.
5. The MSO shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the designated investigators.

## **26. MSO Protection Duties 115.62**

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

## **27. Reporting to other Confinement Facilities 115.63**

1. Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Superintendent shall notify the head of that facility or appropriate office where the alleged abuse occurred.
2. Such notification shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.
3. The MSO shall document that it has provided such notification.

4. Upon receiving an allegation that an inmate was sexually abused while confined at the MSO the Superintendent shall ensure that the allegation is investigated.

**28. Staff First Responder Duties 115.64**

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 appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
2. 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.

**29. Coordinated Response 115.65**

The MSO shall follow the institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

(Refer to protocol plans attached as appendix A)

**30. Preservation of Ability to Protect Inmates from Contact with Abusers 115.66**

1. Neither the MSO nor any other governmental entity responsible for collective bargaining on the MSO's behalf shall enter into or renew any

collective bargaining agreement or other agreement that limits the MSO'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 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 §§ 115.72 and 115.76; 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.

**31. MSO Protection Against Retaliation 115.67**

1. The MSO shall protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate which staff members or departments are charged with monitoring retaliation.
2. The MSO shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
3. For at least ninety (90) days following a report of sexual abuse, the IPS unit or IIU shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. Items the IPS unit or IIU shall monitor include, but not limited to any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments by staff. The IPS unit or IIU shall continue such monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need.

4. The documentation of monitoring must be recorded in the investigative file.
5. In the case of inmates, such monitoring shall also include periodic status checks.
6. If any other individual who cooperates with an investigation expresses a fear of retaliation, the MSO shall take appropriate measures to protect that individual against retaliation.
7. The MSO's obligation to monitor shall terminate if the MSO determines that the allegation is unfounded.

### **32. Post-allegation Protective Custody 115.68**

Any use of restrictive housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of § 115.43.

### **33. Criminal and Administrative MSO Investigations 115.71**

1. When the MSO conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
2. Where inmate-on-inmate sexual abuse is alleged, the MSO shall use IPS unit investigators, who have received special training in sexual abuse investigations pursuant to § 115.34. Where staff-on-inmate sexual abuse is alleged, the MSO shall use IIU investigators, who have received special training in sexual abuse investigations pursuant to § 115.34 or, when warranted, the Middlesex District Attorney's Office and the Massachusetts State Police.
3. IPS unit investigators and, where applicable, IIU 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.
4. When the quality of evidence appears to support criminal prosecution, MSO investigators shall 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 shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No MSO staff shall 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 or Internal Affairs investigations:
  - a. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
  - b. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
7. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.
8. If the MSO investigation reveals that an inmate, MSO employee, contractor or volunteer has knowingly made false allegations or statement of sexual abuse, which he/she, in good faith, could not have believed to be true, then the Department may take appropriate disciplinary action and/or refer the matter for criminal action under the Massachusetts General Laws, as appropriate. This information shall be included in any orientation booklet as well as within the training provided to Department employees, contractors or volunteers and inmates.
9. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
10. The MSO shall retain all written reports referenced in paragraphs (6) and (7) of this section for as long as the alleged abuser is incarcerated or employed by the MSO, plus five years.
11. The departure of the alleged abuser or victim from the employment or control of the MSO shall not provide a basis for terminating an investigation.

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

**34. Evidentiary Standard for Administrative Investigations. 115.72**

The MSO shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

**35. Reporting to Inmates 115.73**

1. Following an investigation into an inmate's allegation that he or she suffered sexual abuse at the MSO facility, the IPS unit (inmate-on-inmate allegations) or IIU (staff-on-inmate allegations) shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. If the MSO 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 IIU shall subsequently inform the inmate (unless the IIU 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 at the MSO;
  - c. The MSO learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
  - d. The MSO 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 IPS unit shall subsequently inform the alleged victim whenever:
  - a. The MSO learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

- b. The MSO 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 shall be documented.
6. The obligation to report shall terminate if the inmate is released from the MSO's custody.

**.36 Disciplinary Sanctions for Staff 115.76**

1. The MSO employees found guilty of committing sexual abuse or sexual harassment toward inmates are sanctioned in accordance Policy and Procedure 220 – Employee Conduct and Discipline. Staff shall be subject to disciplinary sanctions up to and including termination for violating MSO sexual abuse or sexual harassment policies.
2. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
3. Disciplinary sanctions for violations of MSO 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.
4. All terminations for violations of MSO 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.

**37. Corrective Action for Contractors, Interns and Volunteers 115.77**

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

### **38. Disciplinary Sanctions for Inmates 115.78**

1. Inmates shall be subject to disciplinary sanctions 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 shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.
3. The disciplinary process shall 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 MSO 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 MSO shall prohibit all sexual activity between inmates and may discipline inmates for such activity. The MSO may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

### **39. Medical and Mental Health Screenings; History of Sexual Abuse 115.81**

1. If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within fourteen (14) days of the intake screening.
2. If the screening pursuant to § 115.41 indicates that an inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the

inmate is offered a follow-up meeting with a mental health practitioner within fourteen (14) days of the intake screening.

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

**40. Access to Emergency Medical and Mental Health Services**  
**115.82 (J-F-06 CI 5)**

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 shall take preliminary steps to protect the victim pursuant to § 115.62 and shall immediately notify the appropriate medical and mental health practitioners.
3. Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
4. Treatment services shall 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.

**41. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers** 115.83

1. The MSO 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 shall include, 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 MSO provides such victims with medical and mental health services consistent with the community level of care.
4. Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
5. Treatment services shall 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.
6. The MSO shall conduct a mental health evaluation of all known inmate-on-inmate abusers within sixty (60) days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

#### **42 Sexual Abuse Incident Reviews 115.86**

1. The Superintendent has established a committee, whose purpose shall be to conduct a sexual abuse incident reviews at the conclusion of every sexual abuse investigation, including allegations which have not been substantiated, unless the allegation has been determined to be unfounded. Such reviews shall occur within thirty (30) days of the conclusion of the investigation. The MSO 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.
2. The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
3. 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
  - c. gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
  - d. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
  - e. Assess the adequacy of staffing levels in that area during different shifts;
  - f. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
  - g. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1) - (d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.
4. The MSO shall implement the recommendations for improvement, or shall document its reasons for not doing so.
  5. The review team shall include, at a minimum, the PREA Manager and the PREA Coordinator. The team may require the participation of supervisors, investigators, and health care staff, and other staff as appropriate.

#### **43. Data Collection 115.87**

1. The PREA Coordinator and Manager shall collect accurate, uniform data for every allegation of sexual abuse at the facility under its direct control using a standardized instrument and set of definitions.
2. The MSO shall aggregate the incident-based sexual abuse data 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 MSO shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
5. The MSO also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.
6. Upon request, the MSO shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

**44. Data Review for Corrective Action 115.88**

1. The PREA Coordinator and Manager shall review data collected and aggregated pursuant to § 115.87 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 the facility, as well as the MSO as a whole.
2. The annual report shall include a comparison to the previous year and an assessment of progress in addressing sexual misconduct.
3. The MSO's report shall be approved by the Superintendent and made readily available to the public.
4. Redactions to the public report shall be limited to specific materials where publication would present a clear and specific threat to the safety and security of the facility, and/or the confidentiality of the alleged victims and/or perpetrators.
5. The MSO may redact specific material from any reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

**45. Data Storage, Publication, and Destruction 115.89**

1. The MSO shall ensure that data collected pursuant to § 115.87 are securely retained.

2. The MSO shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.
3. Before making aggregated sexual abuse data publicly available, the MSO shall remove all personal identifiers.
4. The MSO shall maintain sexual abuse data collected pursuant to § 115.87 for at least ten (10) years after the date of the initial collection unless Federal, State, or local law requires otherwise.
5. This 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.
6. The MSO shall provide such data from the previous calendar year to the Department of Justice no later than June 30th of the current calendar year.
7. The PREA Coordinator and Manager shall review collected data to assess and improve the effectiveness of sexual misconduct prevention, detection, response policies, procedures, and training by:
  - a. identifying problem areas and take corrective action, and
  - b. preparing an annual report of its findings and corrective actions for the facility.
8. Data collected shall be securely retained. Such data shall be readily available to the public at least annually through the Middlesex Sheriff's Office website. Personal identifiers shall be removed.
9. Sexual misconduct data shall be maintained for at least ten (10) years.

#### **46. Audits of Standards 115.93**

The MSO shall conduct audits pursuant to §§115.401 through 115.405.

#### **47. Auditing and Corrective Action 115.401**

1. Frequency and Scope of Audits.
  - a. The MSO shall ensure that the facility is audited within a three (3) year period.

- b. The MSO will utilize the Department of Justice's audit instrument that will provide guidance on the conduct of and contents of the audit.
- c. The MSO will bear the burden of demonstrating compliance with the standards.
- d. The audit shall review, at a minimum, a sampling of relevant documents, policies, and other records and information for the most recent one-year period.
- e. The Auditor will interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators on each shift.
- f. The Auditor will be permitted to conduct private interviews with inmates, residents, and detainees.
- g. Inmates 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.

#### **48. Auditor Qualifications 115.402**

- 1. An audit shall be conducted by:
  - a. A member of a correctional monitoring body that is not part of, or under the authority of, the MSO (but may be part of, or authorized by, the relevant State or local government); or
  - b. Other outside individuals with relevant experience.
- 2. All auditors shall be certified by the Department of Justice. The Department of Justice shall develop and issue procedures regarding the certification process, which shall include training requirements.
- 3. No audit may be conducted by an auditor who has received financial compensation from the MSO being audited (except for compensation received for conducting prior PREA audits) within the three years prior to the MSO's retention of the auditor.
- 4. The MSO shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the MSO's retention of the auditor, with the exception of contracting for subsequent PREA audits.

#### **49. Audit Contents and Findings 115.403**

1. Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the MSO under review.
2. Audit reports shall state whether MSO policies and procedures comply with relevant PREA standards.
3. 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.
4. Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.
5. Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to the MSO upon request, and may provide such information to the Department of Justice.
6. The MSO shall ensure that the auditor's final report is published on the MSO's Web site if it has one, or is otherwise made readily available to the public.

**50. Audit Corrective Action Plan 115.404**

1. A finding of "Does Not Meet Standard" with one or more standards shall trigger a one hundred eighty (180)-day corrective action period.
2. The auditor and the MSO shall jointly develop a corrective action plan to achieve compliance.
3. The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.
4. After the one hundred eighty (180)-day corrective action period ends, the auditor shall issue a final determination as to whether the facility

has achieved compliance with those standards requiring corrective action.

5. If the MSO does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

#### **51. Audit Appeals 115.405**

1. The MSO may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within ninety (90) days of the auditor's final determination.
2. If the Department of Justice determines that the MSO has stated good cause for a re-evaluation, the MSO may commission a re-audit by an auditor mutually agreed upon by the Department of Justice and the MSO. The MSO shall bear the costs of this re-audit.
3. The findings of the re-audit shall be considered final.

#### **FORMS**

**PREA Inmate Orientation Sign-Off**

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

**PREA Inmate Notification of Sexual Harassment**

**PREA Inmate Notification of Sexual Abuse/Misconduct**

**PREA Incident Review**

**PREA Notification Report Form**

**PREA Response Plan**

**Intake Assessment Form**



**The Commonwealth of  
Massachusetts  
Middlesex Sheriff's Office**



**REQUIRED ORIENTATION PROCEDURES**

**PREA**

\_\_\_\_\_  
Signature DATE: \_\_\_\_\_

**ORIENTATION**

\_\_\_\_\_  
Signature DATE: \_\_\_\_\_

**INFECTIOUS DISEASE  
(Four Classes)**

\_\_\_\_\_  
Signature DATE: \_\_\_\_\_

## ELIS

\_\_\_\_\_  
Signature

DATE: \_\_\_\_\_

## INTAKE HANDBOOK ORIENTATION

\_\_\_\_\_  
Signature

DATE: \_\_\_\_\_

\_\_\_\_\_  
Inmate Signature

DATE: \_\_\_\_\_

\_\_\_\_\_  
Orientation Supervisor Signature

DATE: \_\_\_\_\_

### *MIDDLESEX SHERIFF'S OFFICE PRISON RAPE ELIMINATION ACT*

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

- ◆ In 2003 Congress passed a law called the Prison Rape Elimination Act (PREA).
- ◆ The law states that the issue of prison rape and sexual assault will be discussed in every correctional facility across country.
- ◆ The Middlesex Sheriff's Office ("MSO") is committed to providing an environment free of sexual assault, takes a zero tolerance stance toward the sexual abuse of people in confinement, and complies with the PREA standards to eliminate any occurrence of sexual assault.
- ◆ It is the MSO's policy to provide a safe, humane, and appropriately secure environment, free from the threat of sexual assault, by maintaining a program of prevention, detection, response, investigation and tracking.
- ◆ A sexual assault would entail any contact between the sex organ of one person and the sex organ, mouth, or anus of another person or any intrusion of any part of the body of one person, of any object into the sex organ, mouth or anus of another person.
- ◆ You are also responsible to immediately report any known or suspected act or allegation of sexual misconduct, sexual assault, or retaliation to the facility Superintendent through the appropriate chain of command.

- ◆ All contractors and volunteers are responsible for adhering to these guidelines by ensuring that their conduct does not constitute or promote any type of sexual misconduct or sexual assault, or in any other way violates these guidelines.

Vendor / Contractor \_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature Date \_\_\_\_/\_\_\_\_/\_\_\_\_

MSO Staff Witness \_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature Date \_\_\_\_/\_\_\_\_/\_\_\_\_