COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK

GENERAL ORDER JAIL BUREAU	DATE OF ISSUE DECEMBER 5, 2024	EFFECTIVE DATE DECEMBER 5, 2024	NO. 064-24
SUBJECT: GENERAL ORDER Prison Rape Elimination Act (PREA)		DISTRIBUTION Jail Bureau Personnel	AMENDS
REFERENCE: PRISON RAPE ELIMINATION ACT 0F 2003 NYSSA 113 & 136. COR 500-b			RESCINDS 064-24

PURPOSE: The purpose of this policy shall be to ensure the Monroe County Sheriff's Office is in compliance with the standards set forth by the United States Department of Justice relative to the Prison Rape Elimination Act (PREA).

POLICY: The Monroe County Sheriff's Office (MCSO) mandates zero tolerance towards all forms of sexual abuse and sexual harassment.

DEFINITIONS: **Sexual Abuse** under PREA guidelines includes:

Sexual abuse of an incarcerated individual by another incarcerated individual.

Sexual abuse of an incarcerated individual by a staff member, contractor, or volunteer.

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

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
- Contact between the mouth and the penis, vulva, or anus.
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.
- 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 incarcerated individual, by a staff member, contractor, or volunteer includes any of the following acts, with or without the consent of the incarcerated individual, detainee, or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
- Contact between the mouth and the penis, vulva, or anus.
- Contact between the mouth and any body part where the staff member, contractor, or

volunteer has the intent to abuse, arouse, or gratify sexual desire.

- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.

- Any other intentional contact, either directly or through clothing, of or with the genitals, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse or gratify sexual desire.

- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in the paragraphs of this section.

- Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an incarcerated individual, detainee, or resident.

- Voyeurism by a staff member, contractor, or volunteer.

Voyeurism: An invasion of privacy of an incarcerated individual by a staff member, contractor or volunteer, for reasons unrelated to official duties. This includes, but is not limited to, peering at an incarcerated individual who is using a toilet in their cell to perform bodily functions, requiring an incarcerated individual to expose their buttocks, genitals, or breasts, taking images of all or part of an incarcerated individual's naked body or of an incarcerated individual performing bodily functions.

Note: Inadvertently witnessing an incarcerated individual using the toilet or changing clothing while conducting a supervisor tour is not considered voyeurism.

Sexual Harassment:

1. Includes repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one incarcerated individual directed towards another incarcerated individual.

2. Repeated verbal comments or gestures of a sexual nature from a staff member, contractor, or volunteer towards an incarcerated individual including, but not limited to, demeaning references to gender, sexually suggestive or derogatory comments about a person's body or clothing, or obscene language and/or gestures.

Intersex: A person's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male and female. Intersex medical conditions are sometimes referred to as disorders of sex development (i.e. a person having both male and female genitalia).

Transgender: A person whose gender identity (i.e., internal sense of feeling male or female) is different from the persons assigned sex at birth.

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.

Substantiate: Any evidence to support or prove the truth.

Sustained: Conduct alleged apparently occurred and amounts to misconduct.

Not Provable: Insufficient evidence to clearly prove or disprove allegations.

Unfounded: Act alleged apparently did not occur.

I. Procedures:

A. Prevention Planning

1. PREA Coordinator: The PREA Coordinator for the MCSO shall be designated by the Superintendent. The PREA Coordinator will have sufficient time and authority to develop, implement, and oversee agency efforts to comply with PREA standards in all Jail Bureau facilities

* 2. PREA Compliance Manager: The Monroe County Jail (MCJ) and the Andrew P. Meloni Star Academy (MSA) have designated platoon captains as PREA compliance managers.

* 3. Platoon captains will review the reports (JB-459-24 PREA Report of Sexual Abuse-Sexual Harassment and JB-460-24 PREA Investigation of Sexual Abuse-Harassment) and ensure completion of form JB-461-24 Reporting-Monitoring Guidelines for PREA. All forms will be forwarded to the email group MCSO PREA, and when applicable, CIS.

B. Employment Restrictions:

1. The MCSO will not employ any person with a history of substantiated allegations of sexual abuse, or who has engaged in sexual activity facilitated by force, or coercion, or if the victim did not consent or was unable to consent or refuse. The MCSO shall consider any incident of substantiated sexual harassment in determining whether to hire or promote anyone.

2. Any employee of the MCSO who is charged with or accused of a crime must report this to the Sheriff through the chain of command.

3. Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. All such requests will be forwarded to the Sheriff's Counsel for review.

C. Contractor and Volunteer Restrictions:

1. A criminal background check will be performed on any contractor and volunteer who may have incarcerated individual contact. Anyone who has been convicted of sexual abuse shall be prohibited from contact with incarcerated individuals, unless approved by the Superintendent. The agency shall consider any incident of sexual harassment before enlisting the service of any contractor or volunteer.

2. At the Superintendent's discretion, any contractor or volunteer providing services within the jail facilities that has not had a criminal background check completed, will have constant supervision from qualified security staff whenever contact with incarcerated individuals is possible.

D. Supervision:

1. The Monroe County Sheriff's Office (MCSO) will maintain an adequate video monitoring system and/or other appropriate technology to supplement its sexual abuse prevention, detection, and response efforts. At least annually, the PREA Coordinator

will direct an assessment of the feasibility of and need for new or additional monitoring technology.

a. Any upgrades made to a facility feature and/or monitoring technologies will be made with the consideration of how such upgrades may enhance the agency's ability to protect incarcerated individuals from sexual abuse.

b. The Superintendent or designee will be responsible for reviewing incidents which occur involving sexual abuse in the Monroe County Jail (MCJ) and Andrew P. Meloni Star Academy (MSA) and examine areas in the facilities where sexual abuse has occurred to assess physical barriers, adequacy of staffing levels, monitoring technology needs and policy compliance. If problems or needs are identified, corrective action will be taken immediately.

2. Security staff will provide the supervision of incarcerated individuals necessary to protect them from sexual abuse.

3. Consistent with facility operations, and as standard practice, the Shift Supervisors of assigned areas shall perform unannounced checks to identify and deter sexual abuse and sexual harassment. This policy will be implemented for all platoons.

a. Unless related to a legitimate operational function of the facility, staff will not alert other staff members of a supervisory round being conducted.

b. Shift Supervisors will document unannounced tours by logging the "Sup Tour Unannounced" drop down tab of their computer entry in IJ5.

E. Minor Incarcerated Individuals (incarcerated individuals under the age of 18 years old):

1. In areas outside the housing unit, direct supervision will be provided by security staff when minor incarcerated individuals may have sight, sound or physical contact with adult incarcerated individuals.

2. Absent exigent circumstances, minor incarcerated individuals will not be denied exercise, programs and work opportunities.

F. Cross Gender Supervision:

1. Whenever a staff member of the opposite gender enters a housing unit, staff must announce their presence, unless exigent circumstances exist making it impractical.

2. If upon intake, the gender status of an incarcerated individual is unknown, the incarcerated individual will not be strip searched for the sole purpose of determining their gender status. The incarcerated individual shall be kept separate from all other incarcerated individuals until their gender status is determined through direct conversation, reviewing of available records or a Facility Medical Practitioner conducting a routine medical screening, in a private setting. In exigent circumstances, staff will seek direction from a Supervisor.

3. When an incarcerated individual's gender identity does not conform to their biological sex, and the incarcerated individual requests to be strip searched by a staff member consistent with the II's gender identity, the supervisor will consider the II's gender preference and their preference for the gender of staff member conducting the strip search. In making final determination, the supervisor will consider all relative PREA laws, the safety of the II, the safety of other II's, the safety of staff, and the safety, security and good order of the facility. Staff will then make the determination based

upon all the aforementioned factors. Any cross gender strip/pat-down searches conducted under exigent circumstances will be documented on a **MB-003 Intra-Departmental Correspondence.** (Refer to **JBGO-028 Searches of Persons**) A copy of the Intra-Departmental Correspondence will be forwarded to the PREA Coordinator.

4. Pat-down searches of transgender and intersex incarcerated individuals will be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and training. Consideration may be taken regarding with whom the transgender or intersex incarcerated individual feels more comfortable being searched by. A safe practice would be for a female staff member to pat search such individuals. All cross gender pat searches will be documented on a **MB-003 Intra-Departmental Correspondence**. A copy of the Intra-Departmental Correspondence will be forwarded to the PREA Coordinator.

5. The facility will maintain covers for incarcerated individual showers which adequately prevent staff from viewing the incarcerated individual's breasts, buttocks, and genitals while they are showering or changing clothing. Such covers shall be adequate for both male and female incarcerated individuals and must not jeopardize safety and security.

G. Contracts with other agencies:

Any other agency with which the MCSO houses or contracts out any incarcerated individuals, must be in compliance with PREA standards. Such compliance will be included in any contract, agreement, or contract renewal and a copy of such contract or agreement showing compliance will be maintained at the Monroe County Sheriff's Office and a copy of such contract or agreement must be provided to such agency.

II. Training and Education

A. All staff who may have contact with incarcerated individuals will receive initial training on the agency's zero tolerance policy for sexual abuse and sexual harassment and on their responsibilities under agency sexual abuse/harassment prevention, detection, reporting, response, PREA Standard 115.31 and relevant Federal, State and Local Law. The agency shall maintain documentation confirming staff received and understood the training. Staff will receive refresher training every two (2) years.

B. All facility contractors and volunteers who have contact with incarcerated individuals will receive training on their responsibilities under the agency's zero tolerance policy for sexual abuse and sexual harassment, prevention, detection, reporting, response, PREA Standard 115.32 and relevant Federal, State and Local Law.

1. Such training will be tailored based on the services provided and the level of contact they have with incarcerated individuals.

2. All contractors and volunteers will be advised of the facility's zero tolerance policy regarding sexual abuse and sexual harassment.

3. All contractors and volunteers will be trained in how to report sexual abuse to staff and/or other parties.

4. The agency shall maintain documentation confirming contractors and volunteers received and understood the training.

C. All incarcerated individuals will be advised at intake of the facility's zero tolerance policy regarding sexual abuse and sexual harassment, and how to report incidents or suspicions of sexual abuses.

D. Incarcerated individuals will receive comprehensive education on sexual abuse and sexual harassment through a video and handouts, as part of the intake and classification process, as well as continued education through general information in the incarcerated individual hand book and posters placed conspicuously in all housing units. Reception staff, upon the classification interview, will confirm the video was presented. Incarcerated individuals will sign for the educational information received during classification and that documentation will be forwarded to the incarcerated individual's file in administration.

E. Education will include:

1. The incarcerated individual's right to be free from sexual abuse, sexual harassment and retaliation.

2. Avoiding sexual abuse.

3. How to report sexual abuse, sexual harassment and confidentiality.

4. Agency sexual abuse response.

5. The facility will make education available in formats accessible to all incarcerated individuals, including those who are limited English speaking, deaf or hard of hearing, visually impaired or otherwise disabled or have limited reading skills through bilingual written material expressed in simple language and by providing access to interpreters or interpretype. Refer: **MBGO-093 Communicating with People who are Deaf or Hard of Hearing.**

F. Law Enforcement Investigators who conduct sexual abuse investigations will receive training in regard to sexual abuse cases per PREA Standard 115.34

G. All full and part-time medical and mental health staff that work regularly in the facility will be trained in PREA Standard 115.32 on how to:

1. Detect and assess signs of sexual abuse and sexual harassment.

2. Preserve physical evidence of sexual abuse.

3. Respond effectively and professionally to all victims of sexual abuse and sexual harassment and to report all allegations or suspicions of sexual abuse to a security supervisor.

4. The agency shall maintain documentation confirming training was received and understood.

III. Screening for risk of Sexual Victimization and Abusiveness

A. All incarcerated individuals will be screened by Reception Unit Staff using the PREA Screening Checklist during the classification screening process and be assessed for the risk of being sexually abused by other incarcerated individuals or their risk of being sexually abusive towards other incarcerated individuals. This intake screening shall generally take place within 72 hours of arrival at the facility.

1. The **PREA Screening Checklist (JB-323)** will be used for determining risk assessment and temporary housing assignments.

2. Reception screening shall ask and document questions pertaining to PREA Standard

115.41. All questions for the assessment shall be asked. Refer to **JBGO-027 Incarcerated Individual Classification**

3. Incarcerated individuals who have been determined to be a **Potential Victim**, shall be housed separately from **those determined to be a Potential Predator**

   Note: There may be a circumstance when an incarcerated individual qualifies as both a **Potential Victim and a Potential Predator.** These individuals should be housed separately from any individual who falls into either category.

4. Incarcerated individuals will not be disciplined for refusing to answer questions pertaining to any mental or physical disability, sexual orientation, prior sexual victimization or their own perception of vulnerability.

5. Answers to information on the PREA Screening Checklist will only be disseminated to staff on a need to know basis as required for safety and security of the facility operations and will be considered sensitive.

6. Reception staff will immediately notify mental health staff of an incarcerated individual's affirmative answer to being sexually victimized.

7. 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 agency, in assessing incarcerated individuals for risk of being sexually abusive.

8. An incarcerated individual'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 incarcerated individual's risk of sexual victimization or abusiveness.

B. Classification will incorporate the PREA screening questions that have been flagged and/or deemed necessary regarding PREA into and along with its current process in classifying incarcerated individuals regarding housing and program assignments with the goal of keeping separate Potential Victims from Potential Predators.

   1. The facility shall make individual determinations on how to ensure the safety of each incarcerated individual.

   2. Transgender and intersex incarcerated individuals will be evaluated on a case by case basis when determining whether placement in housing and program assignments would ensure the incarcerated individual's health and safety and/or present management or security issues.

   3. Transgender and intersex incarcerated individual placements and program assignments will be re-evaluated at least twice a year.

   4. When evaluating a transgender or intersex incarcerated individual's safety, the views of the incarcerated individual being evaluated will be considered.

   5. Upon request, and consistent with the safety and security of the facility, transgender and intersex incarcerated individual will be given means to shower separately from other incarcerated individuals.

   6. Lesbian, gay, bisexual, transgender, or intersex incarcerated individuals shall not be placed in dedicated housing units, solely on the basis of such identification or status, unless such placement is in a dedicated housing unit established in connection with a decree, legal settlement, or legal judgment for the purpose of protecting such

incarcerated individual.

IV. Reporting

A. Incarcerated Individual Reporting

1. The following facility resources may be used by incarcerated individuals to report sexual abuse:

   a. Security Staff

   b. Medical staff

   c. Mental Health Staff

   d. Facility Counselor

   e. Facility Administration

   f. Other Facility Staff

   * g. Grievances filed through the grievance process

2. All staff will accept reports of sexual abuse and/or sexual harassment made verbally, in writing, anonymously, and by third parties. Verbal reports will be documented in writing. All reports will be immediately reported through the chain of command and the appropriate action will be taken.

3. Any incarcerated individual wanting to report a case of sexual abuse may choose to contact Planned Parenthood of the Rochester/Syracuse Region, Inc., 114 University Avenue, Rochester, New York 14605. Incarcerated individuals may also phone the hotline number from inside the housing unit by dialing #59.

B. Staff Reporting

* 1. All staff members are required to report immediately any knowledge, suspicion, or information they receive regarding an incident of sexual abuse and/or sexual harassment that occurred in a facility. Reports will begin with generating an IJ5 incident number, with only the acronym PREA written in the remarks section (Do not link any individual(s) to this incident). All additional information with be documented on form JB-459-24 Report of Sexual Abuse-Sexual Harassment.

2. All staff members are required to report immediately any knowledge of retaliation against incarcerated individuals or staff that reported sexual abuse and/or sexual harassment or were involved in any investigation involving reported sexual abuse and/or sexual harassment.

3. All staff are required to report immediately any knowledge of any staff neglect or violation of responsibility that may have contributed to an incident of sexual abuse, sexual harassment or retaliation.

* 4. All reports by staff relevant to Section IV. B (1-3) of this part must be reported through the Chain of Command and the email group MCSO PREA. Information concerning the incident should be considered sensitive and reporting must be limited to Supervisory Staff and/or Facility Administration.

5. Medical and mental health staff are required to report incidents involving sexual abuse and/or sexual harassment relevant to Section IV.B (1-3) of this order to the duty Sergeant or Lieutenant, and inform incarcerated individuals of the practitioner's duty to report, and the limitations of confidentially at the initiation of services. In the event this is not feasible, reporting must be made to facility administration. Reporting must be limited to supervisory staff and/or facility administration and considered sensitive.

6. The facility shall report all allegations of sexual abuse, including third-party anonymous reports, to MCSO CIS Investigators.

C. Reporting to other confinement facilities

* 1. Upon receiving an allegation that an incarcerated individual was sexually abused while confined at or in another facility (Utilizing form JB-462-24 PREA Allegation While Confined as Another Facility), the Superintendent or his designee shall notify the head of the facility where the alleged abuse occurred. Such notification will be made as soon as possible, but no later than seventy-two (72) hours of the allegation, and such notification will be documented. Any allegation is to be investigated in accordance with PREA standards.

2. If MCJ or MSA receives notice that a former incarcerated individual has alleged sexual abuse while confined in our facility, administration must ensure the allegation is investigated.

V. Staff Duties

A. Upon learning of an allegation that an incarcerated individual was sexually abused, the first security staff member to respond to the report will:

1. Ensure the alleged victim is separated from the alleged abuser.

2. Secure the area as a crime scene and immediately notify the Supervisor in charge. **Do not collect physical evidence** (refer to **JBGO-054 Criminal Investigation of Incidents Occurring in Jail Facilities**). This will be done by a Technician (refer to **JBGO-063 Jail Technician Unit**) and/or Technical Services Unit (refer to **MBGO-024 Technical Services Unit**).

3. Ask only preliminary questions when, where, how, by who (remember they do not have to provide the name of the abuser if they don't want to). **Do not formally interview.**

4. Instruct the **victim** in the proper manner to preserve evidence (do not wash, shower, eat/drink, use to toilet, etc.) if the alleged incident occurred within the past ninety-six (96) hours.

5. Ensure the **abuser** does not take action that could destroy evidence.

6. Identify potential witnesses.

7. Take detailed notes on observations relating to the victim, abuser (if known), and the scene.

B. The Sergeant or Lieutenant will evaluate the incident and ensure the victim receives immediate medical and mental health treatment, confirm the deputy's duties have been completed, notify the Captain and initiate reports.

C. The Captain will notify the Operations Major and/or Criminal Investigations Section (CIS) to

begin an immediate investigation.

D. Non-security staff is to immediately notify security staff or a security supervisor.

E. MCSO will initiate a coordinated response to an incident of sexual abuse involving:

1. Security Staff.

2. Medical and/or Mental Health Practitioners/Staff.

3. Facility leadership.

F. Medical and mental health practitioners will assess the victim's acute medical needs and provide victims of incarcerated individual-on-incarcerated individual or staff-on-incarcerated individual sexual abuse with immediate access to a forensic medical exam. MCSO CIS will be immediately notified.

1. All forensic medical exams will be completed at a hospital by hospital staff trained to perform such exams.

2. All reports generated from such exam will be forwarded to the Superintendent and/or CIS and Internal Affairs Unit, when appropriate.

3. A member of Jail Mental Health will provide victims of sexual abuse:

a. Emotional support and crisis intervention counseling.

b. Access to the Planned Parenthood of the Rochester/Syracuse Region with the option of a qualified victims advocate to provide emotional support during the forensics exam and subsequent questioning by CIS.

VI. Investigations

* A. All reports of sexual abuse and sexual harassment including third-party reports will be investigated by the MCSO to completion, regardless of whether the abuser or victims remain at the facility. Any incident of alleged sexual harassment by another inmate will be handled using an Incident Report. Any alleged sexual harassment by a staff member will be handled internally on JB-459-24 PREA Report of Sexual Abuse-Sexual Harassment and JB-460-24 PREA Investigation of Sexual Abuse-Harassment. Any incident of alleged sexual assault by another inmate or by a staff member will be handled by CIS with the addition of Internal Affairs if the findings are proven, in accordance with **MBGO 069 Employee Discrimination, Sexual Harassment and Workplace Violence Policy and MBGO 021 Internal Affairs Unit**. At the conclusion of the investigation, the incarcerated individual will be notified of the outcome of the investigation.

B. All investigations of allegations of sexual abuse will be completed thoroughly, objectively and in a reasonable amount of time. The agency will follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

C. Investigations will include a review of all direct and circumstantial evidence, including physical and DNA evidence when available and before interviews of alleged victims, suspected perpetrators, and witnesses. Prior complaints and reports of sexual abuse or misconduct involving the suspected perpetrator will also be reviewed.

D. Investigators will assess the credibility of a victim, suspect, or witness on an individualized

basis, rather than using the person's status as an incarcerated individual or staff to assess credibility.

E. Investigators will include an effort to determine whether staff negligence or collusion enabled the abuse to occur.

F. **Administrative investigations** will be documented in written reports that include a description of the physical and testimonial evidence and the reasoning behind credibility assessments.

G. **Criminal investigations** will be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and provide a proposed list of exhibits.

H. All substantiated allegations of conduct that appear to be criminal will be referred to the District Attorney's Office for prosecution. Interviews will only be compelled within legal guidelines.

I. Allegations of sexual abuse and sexual harassment in investigations will be substantiated if supported by a preponderance of the evidence.

J. All investigations that are conducted by qualified individuals or entities other than the MCSO (to the extent to which this agency has a legitimate penological interest in the investigation) the MCSO will make requests to such individuals or entities that evidence protocol and standards be followed according to PREA Standard for evidence protocol, forensic medical examinations and other related investigative standards. This agency will assist and/or cooperate with any such investigations.

K. All written reports derived from administrative and/or criminal investigations of reported alleged sexual abuse will be maintained at least five (5) years or longer at the discretion of the Sheriff after the alleged abuser is released from custody or terminated from employment.

L. At the conclusion of an investigation into an incarcerated individual's allegation that he/she suffered sexual abuse in the facility, the incarcerated individual shall be informed as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. If the investigation was conducted by any other individual or entity, the MCSO will request the information from such individual or entity in order to inform the incarcerated individual.

M. When an incarcerated individual's allegation of sexual abuse or harassment against a staff member is found to be substantiated the MCSO will advise the incarcerated individual of the staff member's status with MCSO, including:

1. The staff member is no longer assigned to the incarcerated individual's housing unit.

2. If the staff member remains employed with the agency or is on leave.

3. Whenever criminal charges or indictment have been filed, and if the staff member has been convicted of a charge related to the sexual abuse within the facility.

4. Discipline as result of the investigation, pursuant to **MBGO 021 Internal Affairs Unit**.

N. Following an incarcerated individual's allegation that he/she has been sexually abused by another incarcerated individual, the agency shall subsequently inform the alleged victim whenever the agency learns the alleged abuser has been indicted or convicted on the charge.

O. All such notifications or attempted notifications shall be documented.

P. MCSO's obligation to report shall terminate if the incarcerated individual is released from the

agency's custody.

VII. Protection against Retaliation

A. The following measure will be taken to ensure reporters, victims and any other persons involved are protected from retaliation.

1. Removal of alleged staff or incarcerated individual abusers from contact with victims and/or witnesses.

2. Housing changes will be made when necessary to separate victims and/or witnesses from abusers and non-contacts placed on incarcerated individuals.

3. Employee assistance services will be made available for staff that needs psychological or emotional support.

4. Mental Health services will be made available for incarcerated individuals who need physical or emotional support.

* 5. The Superintendent or designee will make periodic status checks and monitor the conduct and/or treatment of incarcerated individual or staff that have reported sexual abuse or cooperated with investigations for at least ninety (90) days to see if there are changes that may suggest possible retaliation by incarcerated individuals or staff. If retaliation has been confirmed, immediate steps will be taken to protect the incarcerated individual or staff member. These status checks will be recorded by the PREA coordinator on JB-461-24 Reporting-Monitoring Guidelines for PREA under the "Monitoring for Retaliation" section of the form.

VIII. Discipline

A. Staff:

1. Staff shall be subject to disciplinary sanctions up to and including termination and/or criminal prosecution for violating agency 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 agency policies relating to sexual abuse or sexual harassment (other than 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 agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for the resignation, shall be reported to law enforcement agencies and to any relevant licensing bodies, unless the conduct was not criminal pursuant to NYS Executive Law Section 75.

B. Contractor and/or Volunteers

1. Any contractor or volunteer who engages in sexual abuse shall be restricted from security and reported to CIS.

2. The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with incarcerated individuals, in the case of any other violation

of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

C. Incarcerated Individuals

1. When there has been an administrative ruling of incarcerated individual-on-incarcerated individual sexual abuse or a criminal finding of guilt for sexual abuse, the incarcerated individual perpetrator will be subject to disciplinary sanctions that are commensurate with the nature of the abuse committed, the incarcerated individual's disciplinary history, and the sanctions imposed for comparable offenses by other incarcerated individuals with similar histories.

2. The disciplinary process will include consideration of any mental disabilities or mental illness that may have contributed to the abuse in determining the appropriate disciplinary sanction.

3. Possible sanctions should include interventions designed to address and correct underlying reasons or motivation for the abuse, such as therapy, counseling or other programs.

4. An incarcerated individual may be disciplined for sexual contact with staff if it is determined the staff member did not consent to such conduct.

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. Sexual activity between incarcerated individuals of any kind is prohibited. However, if the activity between the parties is not coerced, it is not considered sexual abuse and therefore is subject to other administrative regulations (rules and regulation violations documented within the incarcerated individual handbook).

IX. Medical and Mental Health Care

A. Facility medical staff will interview all new incarcerated individuals during initial medical screening, in regard to prior sexual victimization or abusiveness. Reception staff will also interview incarcerated individuals during the reception classification in regard to prior sexual victimization or abusiveness.

1. If prior victimization is determined, whether in an institutional setting or in the community, staff will refer the incarcerated individual to mental health for further evaluation to be conducted within fourteen (14) days of screening.

2. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions.

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

B. Facility medical and mental health staff shall make ongoing evaluation and treatment available to all known victims of sexual abuse, including:

1. Follow up services.

2. Treatment plans for Sexually transmitted diseases, pregnancy tests and pregnancy related medical services, etc.

3. When necessary, referrals for continued care for sexual abuse victims following their release from custody.

4. The facility shall provide such victims with medical and mental health services consistent with the community level of care.

5. If pregnancy results, victims shall receive timely and comprehensive information about the access to all lawful pregnancy related medical services.

C. Facility mental health staff will provide treatment for abusers, as deemed necessary.

D. Access to emergency medical and mental health services

1. Incarcerated individual 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, the Captain shall be immediately notified and the appropriate medical and mental health steps taken.

3. Incarcerated individual 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.

E. Consistent with Section V. (Staff Duties), an attempt shall be made to make available a victim advocate from Planned Parenthood. If an advocate is unavailable, other appropriate entities may be contacted in attempt to acquire an advocate acceptable to the victim and agency. Such advocate may accompany and support the victim, as requested by the victim, through the forensic examination and any or all portions of the investigation.

X. Sexual Abuse Incident Reviews

* A. MCSO will conduct a sexual abuse incident review at the conclusion of any investigation resulting in a sustained or unprovable finding, recorded on JB-461-24 Reporting-Monitoring Guidelines for PREA, section Sexual Abuse Incident Reviews. Unfounded investigations are exempt from the sexual abuse incident review unless the Superintendent determines otherwise.

B. Such review shall occur within thirty (30) days of the conclusion of the investigation.

C. The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.

D. The review team shall:

1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.

2. Consider whether the incident or allegation was motivated by Race, Ethnicity, Gender Identity; gay, lesbian, bisexual, transgender, or intersex identification, Status, or Perceived Status, Gang Affiliation, or was motivated or otherwise caused by other group dynamics at the facility.

3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.

4. Assess the adequacy of staffing levels in that area during different shifts.

5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff and prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs A-D of this section, and any recommendations for improvement and submit such report to the Superintendent and PREA Coordinator.

E. The MCSO shall implement the recommendations for improvement, or shall document its reasons for not doing so.

XI. Data Collection

A. The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.

B. The agency shall aggregate the incident-based sexual abuse data at least annually.

C. 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.

D. The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

E. Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30th.

By Order of the Sheriff,

Todd K. Baxter

* Indicates changes from previous order.