	<b>MERRIMACK COUNTY DEPARTMENT OF CORRECTIONS</b>  <b>POLICIES AND PROCEDURES</b>	<b>Policy Number:</b>  <b>4D-1-04</b>	<b>Page:</b>  <b>1 of 9</b>
<b>Policy Title:</b> <b>Sexual Assault Prison Rape Elimination Act (PREA)</b>		<b>Chapter:</b>  <b>4 Care</b>	
<b>County Approval:</b> 01/01/2024			

**POLICY**

The Merrimack County Department has a zero tolerance policy towards all forms of sexual abuse or sexual harassment (PS 115.11). It is the policy of this Department that a safe environment for staff and inmates is established and maintained. The Department will take a positive approach to preventing the sexual abuse of inmates and/or sexual misconduct of staff and inmates and address the needs of those who have been sexually assaulted. Violators shall be subject to disciplinary action and potential criminal prosecution, if appropriate.

**PURPOSE**

To establish guidelines for the prevention, reporting, and care of inmates under the Prison Rape Elimination Act (PREA) and to establish procedures to aggressively respond to and investigate allegations of sexual assault or sexual misconduct.

**OFFICE OF PRIMARY RESPONSIBILITY**

Major

**STANDARDS AND REFERENCE**

ACA 4-ALDF-4D-22-1 - 8

PS 115.11	PS 115.42a	PS 115 86d
PS-115.11b	PS 115.51a	
PS 115.13d	PS 115.51c-d	
PS 115.15d	PS 115.53a	
PS 115.17a-g	PS 115.61a	
PS 115.21c-e	PS 115.64a-b	
PS 115.31c	PS 115.67c	
PS 115.33a-f	PS 115.73c	
PS 115.41d	PS 115.81a	

**PROCEDURE A: General**

1. Staff will be provided information regarding the detection, prevention, response, education, and consequences of PREA violations consistent with Federal and State Law. Staff will receive training on this policy at new hire orientation and during annual training in order to keep current with any updates to the Act, and employee responsibilities (PS 115.31c).

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2. Staff will be provided a copy of Policy 7C-1-01, Standards of Conduct. Inmates will be informed of the provision of PREA during initial classification and as part of the inmate orientation. PREA information will also be included in the Inmate Handbook. Information will include prohibited conduct, reporting prohibited conduct, consequences of prohibited conduct, what to do and not to do if victimized, and what to expect once you have reported. Staff will document that the inmate received the information and has an understanding of the material (PS 115.33a-f).
3. Inmates will be instructed on the various ways in which they can report an incident including any one of the following methods: (PS 115.51a)
  - A. confidential reporting line;
  - B. to a trusted staff member;
  - C. through the kiosk system;
  - D. through a family member;
  - E. through a written letter;
  - F. through a facility grievance;
  - G. through the local crisis center.
4. Inmates will be permitted to report anonymously and staff will accept anonymous reports from inmates or third parties (PS 115.51c).
5. Staff are required to report incidents of sexual misconduct, sexual abuse, and sexual harassment. Reports can be made verbally to a member of the administrative staff or human resource department either in person or by phone. Staff may also report an incident in writing to administrative staff or the human resource department (PS 115.51d) and (PS 115.61a).
6. Inmates may be afforded assistance from third parties in the filing process relating to allegations of sexual abuse. If such assistance is declined by the inmate, the declination must be documented (PS 115.52e-2).
7. Staff who have received a report of sexual misconduct, sexual abuse or sexual harassment or have knowledge of an alleged incident will exercise a high level of confidentiality and not discuss the information without proper authorization.
8. No individual under the supervision or custody of the MCDOC can legally consent to engage in any type of sexual conduct with a staff member. Sexual conduct between staff and detainees, volunteers or contract personnel and detainee, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions (4-ALDF-4D-22-5).
9. Inmates are screened within 24 hours of arrival at the facility for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior. Housing assignments are made accordingly (4-ALDF-4D-22-1).

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10. An investigation is conducted and documented whenever a sexual assault or PREA violation is reported (4-ALDF-4D-22-2).
11. Inmates who are victims of sexual abuse have the option to report the incident to a designated staff member other than a line officer (4-ALDF-4D-22-7).
12. All case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling will be retained in accordance with an established schedule, for as long as the alleged abuser is incarcerated or employed plus five years (4-ALDF-4D-22-8; PS 115.71i-2).
13. Inmates will be assessed when they arrive at the MCDOC to determine whether they meet the criteria indicating a vulnerability to sexual assault. If an inmate has three or more of the risk factors listed below, the inmate should be noted as Possible victim and efforts made to house the inmate in an environment which minimizes his/her risk for victimization. Risk factors for vulnerable inmates include: (PS 115.41d)
  - A. Age:
    - (1) A juvenile under age 18 years old, or
    - (2) An adult under age 25 years, or
    - (3) An inmate older than 65 years;
  - B. Physical stature: A male inmate with a slight build; less than 130 pounds and/or less than 5'8" tall; or physically disabled;
  - C. Developmentally disabled;
  - D. Mentally ill;
  - E. Registered sex offender or prior sexual assault history;
  - F. Past history of victimization as recorded in pre-sentence investigation, police reports, etc.
14. Inmates identified as high risk with a history of sexually assaultive behavior are assessed by a mental health or other qualified professional. Inmates with a history of sexually assaultive behavior are identified, monitored, and counseled (4-ALDF-4D-22-3).
15. Inmates who report during initial intake screening, medical intake, or their initial classification interview prior sexual abuse or sexual victimization will be offered the opportunity to speak with a medical or mental health practitioner. Staff upon receiving the information will notify in writing the PREA Investigator (PS 115.81a).
16. Inmates will be assessed when they arrive at the MCDOC to determine whether they meet the criteria indicating a history of sexually aggressive behavior or may be prone to victimizing vulnerable individuals. If an inmate has risk factors listed below, the inmate should be noted as Possible predator and efforts made to house the inmate in an environment which minimizes his/her risk to engage in sexual activity and/or victimize others. Inmates identified as being potential high risk for sexually aggressive behavior will be immediately referred to Mental Health for further evaluation. The inmate will be

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placed in restricted housing until Mental Health is able to provide recommendations. Classification will conduct a classification interview and consider all information including recommendations from Mental Health and choose the appropriate housing (PS 115.42a).

- A. History of sexually aggressive behavior as documented by pre-sentence investigation, criminal history, police reports, prior incarcerations, etc.
  - B. Anti-social attitudes indicative of sexual aggressive behavior as documented in prior assessments, prior incarcerations, or collateral information.
17. Inmates identified as at risk for sexual victimization are assessed by a mental health or other qualified professional. Inmates at risk for sexual victimization are identified, monitored, and counseled (4-ALDF-4D-22-4).
18. The MCDOC PREA Coordinator shall maintain statistics on PREA-related incidents for the MCDOC. He/she shall be responsible for compiling and submitting the required information annually to the appropriate authorities.
19. Shift and or Floor Supervisors will conduct at least one unannounced round per shift ensuring that all areas inmates have access to or could have access to is covered during the round. The Supervisor will document on the shift briefing report that the round was completed, who completed, and what time. At no time will staff be given advance notification that a round is being conducted. Anyone found giving notification of a round will be subject to disciplinary action (PS 115.13d).
20. Staff when entering an area of the opposite gender will ensure their presence is known except if when doing so would interfere with an investigation or safety and security (PS 115.15d).

**PROCEDURE B: Sexual Assault – Immediate Report**

1. Staff members informed of a sexual assault which just occurred, or occurred within a minimal time period will inform the Shift Supervisor immediately. The following procedures will then be followed: (PS 115.64a)
  - A. The area of the assault must be secured as a crime scene as quickly and prudently as possible and access restricted to prevent disruption or contamination of possible evidence. The Shift Supervisor will determine if further efforts are necessary to preserve the orderly operations of the facility.
  - B. If the victim of the assault requires medical attention, the following steps should be taken:
    - (1) In the case where rendering emergency first aid is necessary, care will be given as to not disrupt, disturb, or remove any evidence on the victim or in the area which may be used in the prosecution of suspected perpetrators.
    - (2) The victim will be taken to the Medical Division as safety permits to provide any emergency medical treatment necessary. If the victim needs to remain within the Medical Division, he/she will be housed in an

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observation cell without the use of running water or cleaning facilities and encouraged not to eat food or drink fluids until cleared to do so. The victim will also be instructed to not shower or change clothes (PS 115.64b).

- (3) With the sexual assault victim's consent, they will be taken to a hospital with an available Sexual Assault Nurse Examiner (SANE) for a medical examination and the gathering of forensic evidence. The MCDOC Investigator or their designee will accompany the victim and ensure the Merrimack County Advocacy Center is notified. The SANE nurse and or receiving hospital will contact the local crisis center for immediate advocacy services while at the hospital (PS 115.21c-d).
  - (4) If the victim does not wish to go to the hospital for treatment and examination, the facility medical staff will discuss and offer options for testing and treating sexually transmitted diseases. Medical staff will offer prophylactic treatment and appropriate follow-up.
  - (5) Medical staff will make an immediate referral to Mental Health staff for evaluation and crisis intervention services. They will also notify the MCDOC Investigator of all non-confidential sexual assault disclosures.
  - (6) The MCDOC Investigator will conduct a minimal facts interview with the victim and determine what level of investigative services will be required. **If appropriate**, the Merrimack County Advocacy Center will also be notified for services.
- C. The Shift Supervisor, in accordance with this policy, will ensure the following are notified: the Superintendent, Assistant Superintendent, Captain of Operations, the PREA Coordinator, and the MCDOC Investigator. During off duty hours the on-call designee will also be notified.
- D. Physical evidence identified at the scene will be collected and preserved in accordance with Policy 2C-2-01, Preservation of Evidence and Contraband.
- E. All inmates who were at the scene of the assault should be secured, preferably away from the crime scene. Staff should not interview any inmate about the assault, nor should staff engage in any discussion of the assault with inmates. Staff may obtain the minimal information necessary to address immediate threats to safety and security, and to aid in the initial direction of the investigation. The following questions should be answered if possible and be part of the initial report:
1. When did the assault occur?
  2. Where did the assault occur?
  3. Who assaulted you?
  4. Were there witnesses?
  5. Was a weapon involved?
- F. If possible, all suspects should be housed in separate areas without running water or in proximity of materials which could be used to destroy evidence. When possible that housing assignment should be under video surveillance. While

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medical personnel may not gather forensic evidence from suspects, they may, however, obtain medical information, with his/her consent so that appropriate medical intervention can be initiated for the victim.

- G. Any relevant comments from victim(s), witness(es), or suspects(s) should be documented indicating the date, time, and location the comments were made and the name(s) of those who heard the comments.
2. Suspects will be escorted to an appropriate area within the facility and his/her clothing confiscated by the MCDOC Investigator for evidentiary purposes.
  3. At the discretion of the Superintendent, suspects may be housed in Administrative Restrictive Housing if their placement does not pose a threat to the security of the facility or the safety of the inmate or inmates; otherwise, suspects will be housed in Punitive Restrictive Housing pending the results of the investigation.
  4. The crime scene will be processed, investigated, photographed, and/or videotaped by the MCDOC Investigator. He/she will interview the victim(s), witness(es), and suspects and be responsible for the investigation of the incident and the prosecution of any offense determined to have been committed. All MCDOC staff are to fully cooperate and assist the investigation as needed. The MCAC will be notified to ensure the opportunity for assistance upon release.
  5. At the completion of the investigation the MCDOC investigator will provide the PREA Coordinator with a report that will include the following information:
    - A. Type of incident staff on inmate or inmate on inmate;
    - B. Type of assault or misconduct;
    - C. Age and gender of the victim;
    - D. Age and gender of the suspects;
    - E. Time, date, and location of the assault;
    - F. Determination or conclusion of the investigation;
    - G. If criminal charges or prosecution is not going to occur and why.

**PROCEDURE C: Sexual Assault – Delayed Report**

1. Upon receipt of a complaint or information regarding a sexual assault which occurred more than 120 hours (five days) prior to the reporting date, the Shift Supervisor will be informed immediately and the following procedures will apply:
  - A. The victim will be taken to the Medical Division where first aid will be administered as appropriate.
  - B. The Shift Supervisor will notify the PREA Coordinator and the MCDOC Investigator. The MCDOC Investigator will determine if the area should be

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secured as a crime scene based on the date of the incident, location of the scene, and any other factors pertinent to assessing availability of evidence.

- C. As determined by the MCDOC Investigator and Medical Department, the victim may be transported to the local emergency room for treatment and or SANE examination.
  - D. As determined by the MCDOC Investigator a log will be generated by the housing unit identifying all persons entering or exiting the crime scene. Entrance to the area will be restricted to only those conducting official business and with the approval of the Shift Supervisor. Physical evidence identified at the scene will be collected and preserved in accordance with Policy 2C-2-01, Preservation of Evidence and Contraband.
  - E. Inmates who were at the scene of the assault should be secured, preferably away from the crime scene. Staff should not interview any inmate about the assault, nor should staff engage in any discussion of the assault with inmates.
  - F. If possible, all suspects should be housed in separate areas without running water or in proximity of materials which could be used to destroy evidence.
  - G. Any relevant comments from victim(s), witness(es), or suspects should be documented indicating the date, time, and location the comments were made and the name(s) of those who heard the comments.
2. Suspects will be escorted to an appropriate area within the facility and his/her clothing confiscated by the MCDOC Investigator for evidentiary purposes.
  3. At the discretion of the Superintendent, suspects may be housed in Administrative Restrictive Housing if their placement does not pose a threat to the security of the facility or the safety of the inmate or inmates; otherwise, suspects will be housed in Punitive Restrictive Housing pending the results of the investigation.
  4. Following the medical treatment or physical examination, victims will be evaluated by a qualified mental health professional for crisis intervention counseling and long-term follow-up. A new housing decision will be made to ensure the safety of the victim and to address the proximity of the suspects. The MCAC will be notified to ensure the opportunity for assistance upon release.
  5. The crime scene will be processed, investigated, photographed, and/or videotaped by the MCDOC Investigator. He/she will interview the victim(s), witness(es), and suspects and will be responsible for the investigation of the incident and the prosecution of any offense determined to have been committed. All staff are to fully cooperate and assist the investigation as needed. The MCAC will be notified to ensure the opportunity for assistance upon release.

**PROCEDURE D: Victim Services**

1. The PREA Coordinator or designee will offer the following services and support through the MCAC and MCDOC case management to an offender who has been or has reported to have been the victim of sexual assault and or sexual misconduct:

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- A. Referrals and resources for support services through the MCAC while providing information and guidance (PS115.53a);
  - B. The MCAC will provide information and guidance for post release assistance;
  - C. Address issues such as housing and facility related matters;
  - D. Develop follow up service plan at the time of release;
  - E. Act as a liaison between victim and various stakeholders to address the victims needs and concerns (PS 115.21d);
  - F. Keep the victim informed of case updates and the alleged perpetrators current status (PS 115.73c).
2. At the conclusion of a SANE examination, and in preparation for a Forensic interview, the MCAC will provide options for emotional support, crisis intervention and other supportive services for the victim.
  3. The PREA Coordinator will 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 (PS 115.67c).
  4. The PREA Coordinator will facilitate an incident review within 30 days of the conclusion of the investigation. The review team will include members of upper level management, investigative staff, medical and mental health practitioners, MCAC, and when appropriate a line supervisor. The team will review elements of the incident and response and make recommendations for improvements (PS 115 86d).

**PROCEDURE E: Accountability**

1. Any staff member identified as an alleged perpetrator in any of the above sexual assaults will be bound by county and department policy, refer to Standards of Conduct 7C-1-01, and face disciplinary sanctions as outlined in the Collective Bargaining Unit Agreement and criminal prosecution in accordance with NH law.
2. All disciplinary sanctions shall be commensurate with the nature of the act(s) committed, the circumstances, the staff member's disciplinary history, and the history of sanctions imposed for like offenses and background history (PS 115.76c-1).
3. Any disciplinary sanction related to sexual abuse or sexual harassment resulting in termination will be reported to the appropriate law enforcement agencies and/or licensing body, unless such activity was clearly not criminal (PS 115.76d-1; 115.77a-1).

**PROCEDURE F: Qualification for Staffing**

1. Individuals seeking employment at the MCDOC will be disqualified from eligibility if they have been the subject of anyone of the following:
  - A. Convicted or terminated for an act of sexual abuse, sexual misconduct, or sexual harassment;



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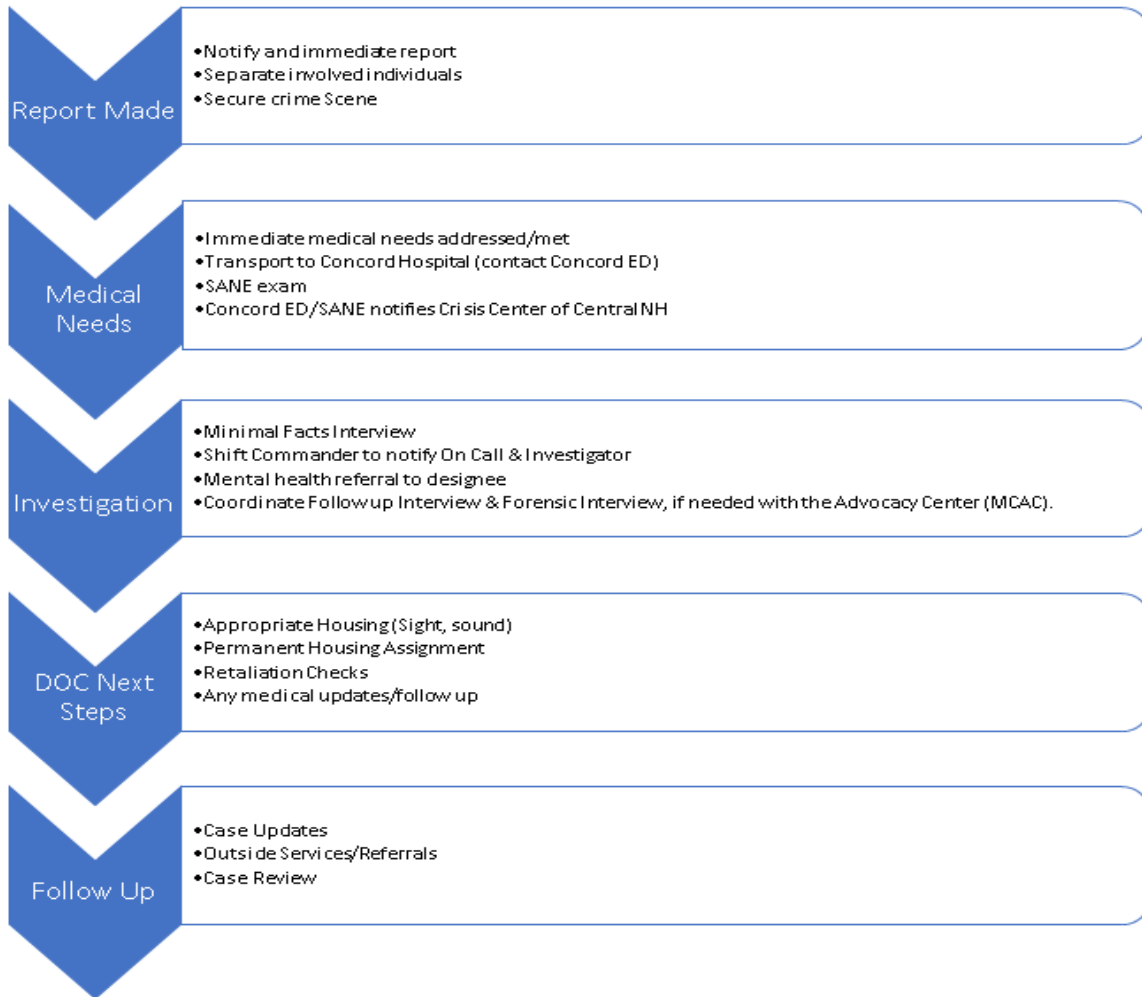
- B. Has resigned employment during an investigation of sexual abuse, sexual misconduct, or sexual harassment;
  - C. Has provided false information during the hiring process relative to prior acts of sexual abuse, sexual misconduct or sexual harassment;
  - D. Has been civilly or administratively adjudicated to have engaged in sexual abuse, sexual misconduct, or sexual harassment (PS 115.17a-g).
2. The MCDOC will conduct thorough background investigations and criminal records checks as part of the hiring process. Criminal record checks will be redone at least every five years for current employees.
  3. During the hiring process prospective employees will be specifically asked about prior acts of sexual abuse, sexual misconduct, and or sexual harassment.

Supersedes: 4D-1-04 (1/1/2023)

\_\_\_\_\_  
Date

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Travis J. Cushman, Superintendent  
Merrimack County Department of Corrections

# Merrimack County Custodial Sexual Assault Chart

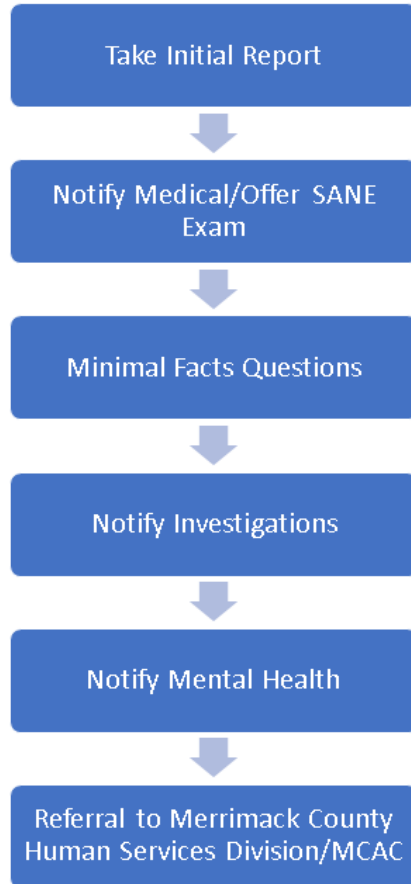


Merrimack County Advocacy Center  
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# Merrimack County Non-Custodial Sexual Assault Chart

If Report Made to:

MCDOC Security Staff



MCDOC Medical Staff



Merrimack County Advocacy Center

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