Hampshire Sheriff's Office

Jail & House of Correction

Number: **7.5.13** Policies and Procedures Pg. **1** of **14**

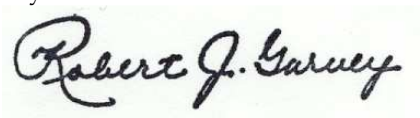
Supersedes Number: **7.5.13 (09/02/09; 08/10/12)**

Attachment: Programs for Victims of Domestic Violence; Counseling for Abusive and Controlling Behavior; Acknowledgement of Receipt of Zero Tolerance for Sexual Assault, Sexual Abuse, Sexual Harassment, Domestic Violence and Stalking Policy

Effective Date: **November 1, 2013** Distribution: Electronically and all Authorized Manuals

Subject: **Zero Tolerance for Sexual Abuse, Assault, Harassment, Domestic Violence and Stalking** Issued By: **ADS Administration & Finance**

Authority:



ACA: **7E-13 non**
CMR: **914.01 (1) (s), (t), (u)**
NCCHC: **J-B-04(E), J-B-05**
DPH:
PREA: **115.6, 115.11 (a-c), 115.61 (a & b), (e), 115.67 (a-f), 115.76 (a-d), 115.77 (a & b)**

POLICY:

The Hampshire Sheriff's Office (HSO) has a zero-tolerance policy for sexual abuse, assault, harassment, domestic violence and stalking occurring within or outside the workplace. It is the policy of the HSO that all employees, inmates (HSO #4.4.14M Sexual Assault/Abuse, Reporting & Referral), contractors and volunteers work in an environment free from all forms of sexual abuse, assault, harassment, domestic violence and stalking. These acts undermine the integrity of the work place and the personal safety of the individual. ***115.11 (a)-1)***

Please note that while this policy sets forth our goals of promoting a workplace that is free of domestic violence, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of domestic violence.

Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. ***115.76 (a)***

This policy is accessible and applicable to all HSO employees.

The HSO has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. ***115.11 (a)-1) / 115.11 (a)-5)***

The HSO has designated an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of it facilities. ***115.11 (b)-1), (c)-1) / 115.11 (b)-2), (c)-2)***

PROCEDURE:

A. The HSO has adopted the Executive Order No. 491 that establishes a zero tolerance policy for sexual assault, domestic violence and stalking and requires state agencies to issue written policies against these acts/behaviors and to provide copies of the policy to all employees. The executive order applies to all individuals employed on a full-time or part-time basis by the Office of the Governor or any state agency under the Executive Department.

B. The HSO has policies outlining how it will implement the agency's zero-tolerance approach to preventing, detecting, and responding to sexual abuse and sexual harassment. ***115.11 (a)-2) / 115.11 (a)-5)***

C. Policy includes definitions of prohibited behaviors regarding sexual assault and sexual harassment (Zero Tolerance of Sexual Abuse/Harassment) ***115.11 (a)-3) / 115.11 (a)-5)*** and sanctions for those found to have participated in prohibited behaviors (Code of Offenses). ***115.11 (a)-4) / 115.11 (a)-5)***

D. Procedure For Reporting Sexual Harassment

The following sexual harassment complaint procedure has been established to ensure prompt and effective investigation into allegations of sexual harassment.

1. If an individual believes that he or she is being sexually harassed or subjected to inappropriate conduct of a sexual nature, the individual shall immediately:

   a. Firmly confront the harasser(s);

   b. State the conduct which he/she objects to;

   c. Indicate that he/she finds such conduct offensive, intimidating and/or embarrassing;

   d. Insist that the person(s) engaging in the conduct stop the conduct immediately;

   e. Report the harassment immediately <u>in writing</u> to one or more of the persons listed below.*

2. If the employee is not comfortable with confronting the alleged harasser(s), the employee shall immediately report the situation to one or more of the persons identified below.*

3. After reporting the situation to one or more of the persons identified below*, the employee shall immediately submit a written statement to the investigator detailing:

   a. the specific conduct objected to,

   b. the date(s) and time such conduct took place,

   c. the name(s) of the alleged harasser(s),

   d. the location(s) where the conduct occurred,

   e. the name(s) of any witness(es), and

   f. any other details or information requested by the investigator.

4. The employee shall provide the investigator with any documentation (cards, notes, pictures, etc.) or other corroboration of the harassment which the employee may have.

5. Employees who wish to file a complaint of sexual harassment or who wish to learn more about the subject, may contact any one of the following persons:

   *Assistant Superintendent Daniel D. Hart and/or Assistant Deputy Superintendent Maureen Callahan

E. Investigation of Complaints

1. Complaints of sexual harassment will be investigated promptly and acted upon in a timely manner.

2. The investigator will inform the alleged harasser(s) of the complaint and alleged facts and shall direct each alleged harasser to submit a detailed written response to each and every allegation of harassment.

3. The investigator will also endeavor to promptly interview and obtain detailed written statements from potential witnesses.

4. If the investigator concludes that sexual harassment has occurred, the matter shall be immediately referred for appropriate disciplinary action.

F. Confidentiality

1. Investigations of sexual harassment complaints shall be conducted in such a manner as to disclose information only to those with a need to know or those who may have information pertinent to the investigation. The Employer shall endeavor to keep such information as confidential as it can without compromising the thoroughness of the investigation.

G. No Retaliation for Filing a Complaint or Cooperating With an Investigation ***115.67 (a-f)***

1. The employer shall establish a policy to protect all staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other staff, and shall designate which staff members or departments are charged with monitoring retaliation. ***115.67 (a)***

2. The agency 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 who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. ***115.67 (b)***

3. For at least 90 days following a report of sexual abuse, the agency 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 agency should monitor include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. ***115.67 (c)***

4. In the case of inmates, such monitoring shall also include periodic status checks. ***115.67 (d)***

5. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation. ***115.67 (e)***

6. An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded. ***115.67 (f)***

H. Identity of State and Federal Authorities

1. The Massachusetts Commission Against Discrimination (MCAD) enforces the state law prohibiting sexual harassment. The MCAD can be reached as follows:

   Massachusetts Commission Against
   Discrimination
   436 Dwight Street, Second Floor, Room 220
   Springfield, MA 01103
   Telephone (413) 739-2145

   Massachusetts Commission Against
   Discrimination
   One Ashburton Place, 6th Floor
   Boston, MA 02108-1532
   Telephone (617) 994-6000

2. The Equal Employment Opportunity Commission (EEOC) enforces the federal law prohibiting sexual harassment. The EEOC can be reached as follows:

   Equal Employment Opportunity Commission
   John F. Kennedy Federal Building
   475 Government Center
   Boston, MA 02203
   Telephone: (800)-669-4000
   TTY: (800) 669-6820

   Equal Employment Opportunity Commission
   National Headquarters
   131 M Street N.E.
   Washington, DC 20507
   Phone (National Headquarters): (202) 663-4900
   TTY: (202) 663-4494

DEFINITIONS AND TYPES OF SEXUAL HARASSMENT AND ABUSE:

A. Sexual Harassment Includes: ***115.6***

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 ***115.6***

2. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures. ***115.6***

3. Sexual harassment is a form of sex discrimination. Sexual harassment in the workplace and retaliation for reporting or cooperating with a sexual harassment investigation are unlawful under both state and federal law. The Equal Employment Opportunity Commission's guidelines provide that unwelcome sexual advances, requests for sexual favors and other physical or verbal conduct of a sexual nature constitute harassment when:

   a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

   b. submission to or rejection of such advances, requests or conduct by the individual is used as the basis for an employment decision affecting the individual; or

   c. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, humiliating or sexually offensive work environment.

2. Sexual harassment is not limited to conduct by a male employee towards a female employee. The victim of sexual harassment may be either male or female. Likewise, a harasser may be male or female.

3. Sexual harassment is not, by definition, limited to prohibited conduct by a supervisor or manager towards an employee. It can also involve conduct by one employee towards a co-worker or, in some circumstances; it may even involve a non-employee as the harasser or the victim of harassment.

B. Types of Sexual Harassment

There are two types of sexual harassment:

1. *Quid Pro Quo Harassment* – ("Giving something to get something") – occurs when a job benefit (i.e., continued employment, promotion, wage increase, performance review, hours of work, time off, etc.) is tied to an employee's submission to or rejection of sexual conduct or behavior.

2. *Hostile Environment Harassment* – Verbal or physical conduct of a sexual nature which is unwelcome and sufficiently severe or pervasive so as to alter the conditions of the employee's employment and create an intimidating, hostile or offensive working environment.

C. Examples of Types of Conduct Which May Constitute Sexual Harassment

The following examples are intended to provide a broad overview, not an exhaustive list, of the types of conduct which can constitute sexual harassment.

1. Supervisor indicates to a subordinate that the subordinate's performance review will be affected by whether or not the subordinate is willing to date the supervisor.

2. Supervisor tells an employee that he/she could be promoted if he/she grants certain sexual favors to the supervisor.

3. Manager demotes an employee because the employee refuses to share a bed with the manager during an out of town conference.

4. An employee is subjected to sexual remarks and/or whistles upon each visit to a particular work department. Over a period of time, the employee becomes reluctant to enter that department making it difficult for the employee to properly perform his/her duties.

D. Other Examples of Conduct That Violates the Policy

Be advised that our policy prohibits conduct or behavior of a sexual nature that may be beyond what is prohibited by law. The following are some other examples of conduct that violates facility policy and in some instances may violate the law as well:

1. Staring, leering or ogling a person's body.

2. Having sexually suggestive objects or materials (i.e., magazines, posters, cartoons, post cards, calendars, pictures, tapes, etc.) in the workplace, while on duty or at facility sponsored events.

3. Making sexual gestures or body motions.

4. Transmitting or accessing sexually explicit materials by computerized or other means.

5. Making sexual comments or telling sexual jokes or stories.

6. Touching, pinching, groping, kissing or patting the body of another person.

7. Repeatedly asking a person for a date or to socialize outside of work after being informed such conduct is unwelcome.

8. Exerting pressure on another person for sex or a romantic relationship.

9. Following, "shadowing" or stalking a person.

10. Commenting on a person's sex life.

<u>DEFINITIONS OF DOMESTIC VIOLENCE</u>:

A. M.G.L. Chapter 209A § 1 of the Massachusetts General Laws defines domestic violence as a form of abuse among family or household members, which includes those individuals who are or have been involved in a substantive dating relationship. Abuse is defined as the occurrence of one or more of the following acts between family or household members:

1. Attempting to cause or causing physical harm; or

2. Placing another in fear of imminent serious physical harm; or

3. Causing another to engage involuntarily in sexual relations by force, threat of force or duress.

B. Family or household members are persons who:

1. Are or were married to one another;

2. Are or were residing together in the same household;

3. Are or were related by blood or marriage:

4. Have a child in common regardless of whether they have ever married or lived together; or

5. Are or have been in a substantive dating or engagement relationship.

M.G.L. Chapter 209A provides a victim protection from an abuser through the issuance of a restraining order. Such an order may order the abuser to refrain from abuse, to vacate the home, to comply with temporary custody and support orders, and/or to have no contact with the victim at all times. Although M.G.L. Chapter 209A orders are civil actions, violations of certain provisions constitute criminal offenses for which arrest is mandatory.

C. M.G.L. Chapter 209, § 32 authorizes the appropriate Courts of the Commonwealth, upon complaint of a married person, who has been abandoned or is living apart for justifiable cause, to prohibit a spouse from imposing any restraint of personal liberty during such time that the Court, by its order, directs or until further order of the Court. Violations of such orders are criminal in nature.

D. M.G.L. Chapter 209C, § 15 authorizes the appropriate Court in actions where a child is born out of wedlock, either on its own or by request of any party, to issue a temporary order or final judgment which includes a restraining or no contact order to protect a party or child. Violations of such orders are criminal in nature.

E. M.G.L. Chapter 208, § 18 authorizes the appropriate Court, in actions for divorce, to issue an order to prohibit either party from imposing any restraint on the other party's personal liberty during the pendency of the divorce. Upon request of either party, the Court may make such further order, as it deems necessary to protect either party or their children, to preserve the peace.

F. M.G.L. Chapter 208, § 34B in cases of divorce, nullity of marriage, and separate support authorizes the Court to order the husband or the wife to vacate the marital home should it believe that the health, safety or welfare of the complainant or any minor child(ren) living with the parties would be endangered or substantially impaired were the opposing party to continue to reside in the marital home. Violations of such orders are criminal in nature.

G. Whenever the HSO is made aware that an action for abuse against a family or household member is initiated against an employee, a disciplinary proceeding against the employee accused of abuse may be initiated at the discretion of the Sheriff/Facility Administrator or Designee, provided that a Court with appropriate jurisdiction has issued an order as described in 103 DOC 238.03 (1) – (5), or any other order of protection issued by another jurisdiction (i.e., state of the Commonwealth of Massachusetts, District of Columbia, territory or possession of the United States, and tribal courts).

H. Sexual Assault is defined as any action causing another to engage in sexual relations by force, threat or duress in violation of Chapter 209A or Chapter 265 of the General Laws, or any other applicable law of the Commonwealth.

I. Stalking is defined as any pattern or series of acts, conduct or threats causing or intended to cause alarm or fear in violation of Chapter 209 A or Chapter 265 of the General Laws, or any other applicable law of the Commonwealth.

J. The HSO's view of domestic violence reflects, but is not limited to, the following considerations:

1. "Abuser", a person who commits sexual assault, domestic violence and/or stalking.

2. “Victim”, a person who is a victim of sexual assault, domestic violence and/or stalking.

3. A man as well as a woman may be the victim of sexual assault, domestic violence or stalking, and a woman as well as a man may be the abuser.

4. The victim does not have to be the opposite sex from the abuser.

K. 28 CFR Part 115.6 (PREA) Definitions Related to 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, or volunteer.

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

(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

(4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, 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, or volunteer 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, or volunteer 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, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

(7) Any display by a staff member, contractor, or volunteer 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, or volunteer.

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

ROLES AND RESPONSIBILITIES:

A. The PREA Coordinator shall:

1. Develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.

B. The Human Resource Coordinator (HRC) shall:

1. Coordinate with the facility Training Officer and PREA Coordinator to issue, update and advise agency personnel on how to implement the statewide Sexual Abuse, Assault, Harassment, Domestic Violence and Stalking Policy.

2. Disseminate informational materials for all employees, inmates, vendors, volunteers, visitors, contractors, etc.

C. The Sheriff/Facility Administrator or Designee Shall:

1. Ensure that the HSO establishes and implements a zero tolerance sexual assault, domestic violence and stalking policy based on the guidelines set forth by Executive Order No. 491 and the Commonwealth's Human Resources Division.

2. Ensure that each employee receives:

   (i) A copy of the HSO's Policy.

   (ii) Notification of any changes to the policy, as soon as administratively possible.

3. Foster a climate in which victims can be comfortable disclosing abuse.

4. Strongly encourage employees to report behavior, which occurs in the workplace, which they believe to be sexual abuse, assault, harassment, domestic violence or stalking.

5. Determine the nature of disciplinary action to be taken against employee abusers.

6. Assign the HRC to function as the Domestic Violence Coordinator. The HRC would oversee the department's sexual assault, domestic violence and stalking program, including policy distribution, training, and provision of resource and referral information.

   The HRC Office may be reached after business hours by contacting HSO at 413-584-5911 extension 202.

7. Provide or arrange for the provision of training to all supervisors and employees on sexual assault, domestic violence and stalking issues, assess additional agency training needs in this area on an ongoing basis, and work with HRC in meeting those needs.

8. Maintain accurate and current records of reports of sexual assault, domestic violence and stalking, including active restraining orders when notified of them. Such records shall be kept confidential to the extent possible.

9. When notified of a restraining order in effect, utilize all reasonable efforts to address the employee's concerns about safety and report any workplace violations of such order to the police.

D. HSO employees shall:

1. Ensure that they do not participate in any form of sexual abuse, assault, domestic violence or stalking, either within or outside the workplace.

2. Cooperate in the investigation of alleged sexual abuse, assault, domestic violence or stalking by providing information they possess concerning such matters.

3. Report behavior in the workplace, which they believe to be sexual abuse, assault, domestic violence or stalking to the facility's designated investigators, supervisor, or the police when appropriate. ***115.61 (e)***

4. Report promptly in writing to the Sheriff/Facility Administrator or Designee, upon becoming the named defendant or subject of an Abuse Prevention Order as defined under M.G.L. c. 209A, M.G.L. c. 209, § 32, M.G.L. c. 209C, §15, M.G.L. c. 208, §34B, M.G.L. c. 208, s18 issued by Family and Probate court or any other order of protection issued by another jurisdiction (i.e. states other than the Commonwealth of Massachusetts, District of Columbia, territory or possession of the United States, and tribal courts). The Sheriff/Facility Administrator or Designee shall forward all information and reports to the HRC pertaining to an employee's involvement as a defendant or subject of an Abuse Prevention Order.

5. Report promptly in writing to the Sheriff/Facility Administrator or Designee upon becoming the named defendant in any criminal charges.

6. For those employees who are named defendants, written notification shall be made, by the employee, to the Sheriff/ Facility Administrator or designee of each and every change in restraining order or criminal charge status.

E. Responsibilities of All HSO Employees

1. Each employee is personally responsible for ensuring that his/her conduct does not in any way sexually harass any other employee or non-employee he/she has contact with in the performance of his/her duties. Each employee, supervisor and manager is required to fully cooperate in any investigation of alleged sexual harassment. Further, supervisors and managers are obligated to intervene and stop any sexual harassment they witness and to immediately report to their supervisor, in writing, any sexual harassment that is reported to them or they otherwise learn of.

2. The HSO shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. ***115.61 (a)***

3. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions. ***115.61 (b)***

4. Any employee who receives knowledge of sexual abuse and sexual harassment, on an inmate, employee or person in the facility, including third party and anonymous reports, must report the information to the facility's designated investigators. ***115.61 (e)***

STAFF TRAINING:

All HSO employees shall receive orientation training in Domestic Violence and Sexual Abuse/Assault Awareness.

At a minimum, the orientation training shall include a definition of sexual abuse, assault, harassment, domestic violence, and stalking and how it affects the workplace, pertinent laws, Department policies and procedures and available resources and services. 28 CFR Part 115.31 Employee Training; 115.32 Volunteer and Contractor Training (Refer to HSO 7.2.5 New Employee/Contractor/Volunteer Training) and 115.33 Inmate Education

PROTECTION TO SEXUAL ABUSE, ASSAULT, HARASSMENT, DOMESTIC VIOLENCE AND STALKING VICTIMS:

The HSO recognizes that victims of sexual assault, domestic violence or stalking may suffer from physical, mental, and emotional trauma. In an effort to afford victims of these acts the ability to protect themselves and their families, and to ensure the safety of all employees, the HSO has established the following policies:

A. An employee who is a victim of these behaviors or whose children are victims (or as otherwise outlined by the applicable Collective Bargaining Agreement), provided the employee is not the abuser, shall be entitled to up to fifteen (15) days of

paid leave per calendar year, if approved by the Sheriff, for the purposes of counseling, obtaining medical treatment, attending legal proceedings, or carrying out other necessary activities resulting from sexual assault, domestic violence or stalking. The Sheriff/Facility Administrator or Designee shall have the authority to approve/deny requests for leave with pay based on the appropriateness of the request.

1. The fifteen (15) days of paid leave shall not be charged to sick, vacation or personal leave accrual. Payroll should use time reporting code LWP "Leave with Pay" and to preserve confidentiality, avoid entering any comments about this leave in HR/CMS time and attendance, as comments can be found in the Information Warehouse.

B. An employee who is a victim of sexual assault, domestic violence or stalking or whose children are victims may be granted up to six (6) months of unpaid leave, where the employee requests such leave as a result of these acts. Leave accruals and insurance benefits shall be handled in the same way as is done for any other type of leave without pay. Upon the employee's return from leave, the HSO shall restore the employee to the same position or to an equivalent position with the equivalent employment benefits, pay and other terms and conditions of employment provided that the employee has not been displaced from his/her position in the interim due to a reduction in force.

C. The HSO may request the following types of documentation in connection with a request for leave for the purposes of sexual assault, domestic violence or stalking, recognizing that due to the emergency nature of the request, the employee may in some circumstances not be able to provide such documentation:

1. A judicial finding of these acts/behaviors, such as a 209A restraining order or pending criminal charges;

2. Signed letter from a district attorney's office, police department, or district, probate, or superior court;

3. Signed affidavits from third parties having knowledge of the abuse.

D. To the extent possible, all documentation submitted shall be kept in a secure and confidential manner so as to respect the employee's right to privacy. All such documentation shall be placed in a separate centralized file maintained by the HRC. An employee may opt to have their name and job data withheld from being released to any parties as a result of a freedom of information act request. (see Payroll Public Record Exemption Policy Memo: http://www.mass.gov/anf/docs/hrd/policies/files/public-record-exemption-policy-memo.doc and the Payroll Public Records Exemption Form: http://www.mass.gov/anf/docs/hrd/policies/files/payroll-public-exemption.doc

E. Employees who experience personal illness or injury, or must care for an ill or injured child as a result of sexual assault, domestic violence or stalking, shall continue to be covered under all existing sick leave and Family and Medical Leave Act and family friendly rules or provisions.

F. The HSO shall encourage employees who are victims to notify their Sheriff/Facility Administrator or Designee or the HRC of the existence of a restraining order or any protection order issued as defined in 103 DOC 238.03 (1) – (5) or any other order of protection issued by another jurisdiction (i.e. states other than the Commonwealth of Massachusetts, District of Columbia, territory or possession of the United States and tribal courts), which is intended to assist in protecting the employee from the abuser. Upon such notification, the Department shall make all reasonable efforts to enforce the retraining order in the workplace. Such efforts may include:

1. Notifying security personnel of the identity of the person against whom the order is issued (defendant);

2. Providing security personnel with a photograph or other identifying information, such as motor vehicle information;

3. Screening the employee's phone calls after proper notification has been made to said employee;

4. Moving the employee's workstation away from an unsecured entrance.

G. If the HSO becomes aware that an active restraining order protects an employee, the HSO may offer that employee a reassignment to a different intradepartmental location. Where the victim has requested reassignment, the agency shall give the request consideration.

H. The Sheriff/Facility Administrator or Designee shall immediately notify the police if a violation of a restraining order occurs at the workplace.

I. The Sheriff/Facility Administrator or Designee or the HRC shall provide the attached list of Sexual Assault, Domestic Violence and Stalking Assistance Programs (Attachment A) to employees who are victims of these acts to assist them in finding available services.

PROCEDURES FOR INVESTIGATING AND DISCIPLINING ABUSERS:

The HSO has a zero tolerance policy for sexual abuse, assault, domestic violence and stalking. All instances of these acts are taken seriously. The following are guidelines for disciplining abusers:

A. The Sheriff/Facility Administrator or Designee shall immediately report any incident of sexual assault, domestic violence or stalking in the workplace, including violation of any abuse prevention order as defined in 103 DOC 238.03 (1) – (5) or any other order of protection issued by another jurisdiction (i.e. states other than the Commonwealth of Massachusetts, District of Columbia, territory or possession of the United States, and tribal courts) to the appropriate law enforcement authorities.

B. The HSO shall follow existing provisions in the collective bargaining agreements when disciplining abusers.

C. All investigations of these acts within the workplace shall be conducted in a manner to protect the confidentiality of the victim, the alleged abuser and all witnesses. All parties involved in the proceedings shall be advised to maintain strict confidentiality.

D. Acts of sexual assault, domestic violence or stalking, regardless of where they occur, shall not be tolerated and may result in discipline, including, but not limited to:

1. An oral warning or reprimand;

2. A written warning or reprimand to be placed in a personnel file;

3. Required completion of a certified batterer intervention program;

4. Suspension, demotion, or termination; or

5. Any combination of the above.

E. Disciplinary Sanctions for Staff ***115.76 (b) (c) (d)***

1. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse. ***115.76 (b)***

2. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. ***115.76 (c)***

3. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. ***115.76 (d)***

F. Corrective Action for Contractors and Volunteers ***115.77 (a & b)***

1. Any contractor 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. ***115.77 (a)-1) & (a)-2)***

2. The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer. ***115.77 (b)***

G. Incidents of sexual assault, domestic violence or stalking resulting in the conviction of a felony within the past five (5) years may be used as a factor in hiring determinations.

H. As with all other such actions, disciplinary actions taken against abusers become part of their work history and shall be considered when selecting employees for promotion, new work assignments and other types of personnel actions.

I. In order to facilitate an alleged abuser's compliance with a restraining order, the HSO may require him/her to accept reassignment to a different geographical location, function and/or shift.

J. In the interim between a charge and the final disposition of a sexual assault, domestic violence or stalking offense, HSO may take action to address employees' safety concerns. Depending on the severity of the charge and the position of the alleged abuser, such actions may include the following, pending a judicial determination:

1. Placing the alleged abuser on leave with or without pay; or

2. Requiring alleged abusers in positions, which involve the public safety, care and/or custody of clients or prisoners, or law enforcement to accept a reassignment not involving direct contact with the public or clients.

K. All alleged abusers should be given referrals to certified batterer intervention programs, which are contained in the attached list, (Attachment B).

RESTRICTION OF WEAPONS USE:

A. Whenever an employee becomes the subject of a restraining order or any protection order issued as defined in 103 DOC 238.03 (1) – (5) or any other order of protection issued by another jurisdiction (i.e. states other than the Commonwealth of Massachusetts, District of Columbia, territory of possession of the United States, and tribal courts) he/she shall immediately be restricted from the use of Department issued firearms.

B. As long as the protection order remains in effect, this restriction shall apply to the carrying, possessing, or discharging of a Department firearm or ammunition.

C. Said restriction shall prohibit assignment to any post or assignment that requires carrying, possessing, or discharging department issued firearms.

D. Said restriction shall also prohibit participation in weapons re-qualification during the period the order is in effect.

E. Regardless of any modification to an order, as authorized by the Court, which allows an employee to utilize a weapon during the course of his/her duties, the above outlined weapons restriction shall remain in effect.

F. If an employee has authorization to store a Department firearm(s) at the employee's place of residence, the authorization shall therefore be suspended immediately and the employee's weapon(s) shall be returned to the armory. (refer to 103 DOC 508).

ATTACHMENT A

PROGRAMS FOR VICTIMS OF DOMESTIC VIOLENCE IN WESTERN MASS

Program Name	City/Town	Hotline / TTY
* Center for Women & Community	180 Infirmary Way, Amherst, MA 01003	**To report anonymously (413) 545-0800** **24 Hour Rape Crisis Hotline**
* NELCWIT	479 Main Street Greenfield, MA 01301	(413) 772-0806 Hotline
* Womanshelter / Compañeras	476 Appleton Street, Suite 2, Holyoke, MA 01040	(413) 539-1628 Hotline / (877) 536-1628 Toll Free
* Safe Passage	43 Center Street, Suite 304, Northampton, MA 01060	(888) 345-5282 Hotline / (413) 586-5066 TTY
* Elizabeth Freeman Center	43 Francis Ave, Pittsfield, MA 01201	(866) 401-2425 Hotline / (413) 499-2425 TTY
YWCA of Western MA	1 Clough Street Springfield, MA 01118	(800) 796-8711 Hotline / (413) 733-7100 TTY

* Represents those agencies that fall under the umbrella organization of the Massachusetts Coalition Against Sexual Assault & Domestic Violence (a.k.a. Jane Doe, Inc. – www.JaneDoe.org)

Programs may have more than one location. Please call for the location nearest you.

Programs provide assistance to victims of domestic violence, sexual assault or stalking regardless of gender pursuant to their internal policy. Please call for available services.

MASSACHUSETTS RAPE CRISIS CENTER (RCC) IN WESTERN MASS

Program Name	City/Town	Hotline / TTY
* Center for Women & Community	180 Infirmary Way Amherst, MA 01003	**To report anonymously (413) 545-0800** **24 Hour Rape Crisis Hotline**
* NELCWIT	479 Main Street Greenfield, MA 01301	(413) 772-0806
* Elizabeth Freeman Center	43 Francis Ave Pittsfield, MA 01201	(866) 401-2425 Hotline / (413) 499-2425 TTY
YWCA of Western MA	1 Clough Street Springfield, MA 01118	(800) 796-8711 Hotline / (413) 733-7100 TTY

* Represents those agencies that fall under the umbrella organization of the Massachusetts Coalition Against Sexual Assault & Domestic Violence (a.k.a. Jane Doe, Inc. – www.JaneDoe.org). For more information see: http://www.mass.gov/dph/sexualassaultservices

Programs may have more than one location. Please call for the location nearest you.

Programs provide assistance to victims of domestic violence, sexual assault or stalking regardless of gender pursuant to their internal policy. Please call for available services.

ATTACHMENT B

OTHER RESOURCES

Program Name	City/Town	Hotline / TTY
National Domestic Violence Hotline	Nationwide	(800) 799-7233 (SAFE) / (800) 787-3224 TTY
Domestic Violence Safelink	Massachusetts	(877) 785-2020 / (877) 521-2601 TTY
National Sexual Assault Hotline	Nationwide	(800) 656-4673 (HOPE)

Programs provide assistance to victims of domestic violence, sexual assault or stalking regardless of gender pursuant to their internal policy. Please call for available services.

COUNSELING FOR ABUSIVE AND CONTROLLING BEHAVIOR

Program Name	City/Town	Hotline
* Men Overcoming Violence (MOVE)	409 Main Street, Suite 125 Amherst, MA 01003	(413) 253-9887
* Berkshire Batterer Intervention Program	165 Tor Ct Pittsfield, MA 01201	(413) 445-9160
* Batterer Intervention Program Gandara Mental Health Center	2155 Main Street Springfield, MA 01104	(413) 736-8328

* Denotes those agencies that fall under the umbrella organization of the Massachusetts Coalition Against Sexual Assault & Domestic Violence (a.k.a. Jane Doe, Inc.)

Programs may have more than one location. Please call for the location nearest you.

Programs provide assistance to victims of domestic violence regardless of gender pursuant to their internal policy. Please call for available services.

HSO 7.5.13 ACA 7E-13 non CMR 914.01 (1) (s), (t), (u) NCCHC J-B-04 (E), J-B-05, PREA 115.6, 115.11 (a-c), 115.61 (a & b), (e), 115.67 (a-f), 115.76 (a-d), 115.77 (a & b)