



Rhode Island State Police General Order - 52H

<i>Section:</i>	Law Enforcement Operations - Field Operations
<i>Article:</i>	52 - Prisoner Handling/Custody
<i>Title:</i>	Prison Rape Elimination Act (PREA)
<i>Special Instructions:</i>	

I. PURPOSE

The Rhode Island State Police is committed to maintaining and protecting the dignity and safety of all detainees in the custody of the Division. The purpose of this policy is to outline how the Division will prevent and respond to sexual harassment and sexual violence against detainees in conformity with the Prison Rape Elimination Act (PREA) and any applicable federal and State laws. Additionally, this will ensure the safety of both detainees and staff in facilities operated by the Division.

II. POLICY

The Rhode Island State Police maintains a zero-tolerance policy regarding sexual abuse and sexual harassment in its facilities. Every allegation of sexual abuse and harassment shall be thoroughly investigated and, where warranted, criminally prosecuted.

III. DEFINITIONS

A. General Definitions

1. **CONTRACTOR:** a person who provides services on a recurring basis pursuant to a contractual agreement with the Division.
2. **DETAINEE:** any person detained in a lockup, regardless of adjudication status.
3. **EMPLOYEE:** a person who works directly for the Division as either a sworn or civilian member.
4. **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.
5. **FACILITY:** a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by the Division for the confinement of detainees.

6. GENDER NON-CONFORMING: a person whose appearance or manner does not conform to traditional societal gender expectations.
7. INTERSEX: a person who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.
8. JUVENILE: any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.
9. JUVENILE CELLBLOCK: a cellblock specifically designated for the holding of juvenile offenders, separated by sight and sound from other cellblocks in which adult offenders are held.
10. LOCKUP: a facility that contains holding cells, cell block or other secure enclosures that are primarily used for the temporary confinement of individuals who have recently been arrested, detained or are being transferred to or from a court, jail, prison or other agency and are in the custody of the Division.
11. PAT-DOWN SEARCH: a running of the hands over the clothed body of a detainee by an employee to determine whether the individual possesses contraband.
12. STAFF: employees
13. STRIP SEARCH: a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks or genitalia.
14. SUBSTANTIATED ALLEGATION: an allegation that was investigated and determined to have occurred.
15. TRANSGENDER: a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
16. UNFOUNDED ALLEGATION: an allegation that was investigated and determined not to have occurred.
17. UNSUBSTANTIATED ALLEGATION: an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

B. Definitions Related to Sexual Abuse

1. CARNAL KNOWLEDGE: means contact between the penis and the vulva or the penis and the anus involving penetration, however slight.
2. ORAL SODOMY: contact between the mouth and the penis, vulva, or anus.
3. SEXUAL ABUSE:
 - a. Sexual abuse of a detainee by another detainee 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:
 - i. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - ii. Contact between the mouth and the penis, vulva, or anus;
 - iii. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument; and
 - iv. 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.
 - b. Sexual abuse of a detainee by a staff member or contractor includes any of the following acts, with or without consent of the detainee:
 - i. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - ii. Contact between the mouth and the penis, vulva, or anus;
 - iii. Contact between the mouth and any body part where the staff member or contractor has the intent to abuse, arouse, or gratify sexual desire;
 - iv. 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 or contractor has the intent to abuse, arouse or gratify sexual desire;
 - v. Any attempt, threat, or request by a staff member or contractor to engage in the activities described in sections (a) – (b);
 - vi. Any display by a staff member or contractor of his or her uncovered genitalia, buttocks, or breast in the presence of a detainee; and
 - vii. Voyeurism by a staff member or contractor

4. SEXUAL HARASSMENT:

- a. Repeated and unwelcome sexual advances, requests for sexual favors or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one detainee directed toward another;
 - b. Repeated verbal comments or gestures of a sexual nature to a detainee by a staff member or contractor, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
5. VOYEURISM: an invasion of privacy of a detainee by a staff member or contractor for reasons unrelated to official duties, such as peering at a detainee who is using a toilet in his or her cell to perform bodily functions; requiring a detainee to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a detainee's naked body or of a detainee performing bodily functions.

IV. RESPONSIBILITIES

- A. PREA Coordinator - The OIC - Professional Standards is designated as the Division PREA coordinator who shall be responsible for compliance with respective PREA standards.
- B. Patrol Commander/ Acting Patrol Commander, Night Executive Officer, OIC - [Per GO 52C "Holding Cell Facility Operations,"](#) the Patrol Commander/ Acting Patrol Commander, Night Executive Officer, OIC shall be ultimately responsible for the operation and maintenance of the holding facility(ies) under his/her respective command. The Patrol Commander or Acting Patrol Commander of the Scituate Barracks shall be ultimately responsible for the operation and maintenance of the Headquarters holding facility. Any reference to Patrol Commander or Acting Patrol Commander shall include his/her respective designee.
 1. The Patrol Commander or Acting Patrol Commander of each respective barracks shall ensure strict compliance with all applicable federal and State laws, and Division directives.
 2. The Patrol Commander or Acting Patrol Commander of each respective barracks shall be ultimately responsible for holding facility inspections.

C. RECRUITMENT, HIRING, PERSONNEL and FACILITIES

1. The Division shall not hire any new employee(s), sworn and civilian, who may have contact with detainees in order to fulfill their responsibilities, who:
 - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
 - b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
 - c. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph 1(b) of this section.
 - d. Has substantiated allegations of sexual abuse or any resignation during a pending investigation or an allegation of sexual abuse. Consistent with federal, State, and local laws, the Division will make its best effort to contact all prior institutional employers to obtain this information.
2. Background checks to screen for the above will be conducted as part of sworn member re-enlistment every three (3) years.
3. Promotion consideration
 - a. The Division requires that employees notify their superior officers of any of the following, in accordance with Division Rules and Regulations, Chapter III, Section 7, “Duty to Report Violations.”
 - b. Prior to publishing the “Recommendation for Promotion” list (see [GO 28C “Promotion”](#)), the OIC – Professional Standards will ensure there have been no incidents of misconduct described in section (C)(1)(a-d) above.
 - c. Material omissions regarding such misconduct, or the provision of materially false information, may be grounds for disciplinary action up to and including termination.
4. Facility considerations:

- a. Per [GO 52C "Holding Cell Facility Operations,"](#) no outside agency personnel or contractors are allowed in any Division cellblock when occupied by a detainee.
- b. Facility upgrades will be done with PREA compliance taken into consideration.
 - i. When designing or acquiring any new cellblock/lockup and in planning any substantial expansion or modification of existing cellblocks/lockups, the Division will consider the effect of the design, acquisition, expansion, or modification upon the Division's ability to protect detainees from sexual abuse.
 - ii. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Division will consider how such technology may enhance the Division's ability to protect detainees from sexual abuse.

V. TRAINING

- A. All newly hired Division employees, sworn and civilian, who may have contact with detainees in order to fulfill their responsibilities, shall receive training with regard to compliance with provisions of the PREA.
- B. Annual refresher training shall be conducted with regard to compliance with provisions of the PREA.
- C. Initial and refresher training shall include:
 1. Division zero tolerance policy and compliance requirements.
 2. Dynamics of sexual abuse and harassment in confinement settings.
 3. Proper screening procedures to identify vulnerable detainees.
 4. The rights of detainees and employees to be free from retaliation for reporting such abuse.
 5. Correct detection and response procedures.

6. Effective professional communication with detainees.
 7. How to conduct searches of transgender and intersex detainees in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.
 8. Conducting investigations in confinement settings to include:
 - a. Techniques for interviewing sexual abuse victims;
 - b. Proper use of Miranda and Garrity warnings;
 - c. Sexual abuse evidence collection in confinement settings;
 - d. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.
 9. Reporting Procedures
- D. All records of training required by the provisions of the PREA will be maintained by the Training Academy.

VI. SCREENING/HOLDING PROCEDURES

A. Prisoner intake

Before placing any detainees together in a temporary detention room or holding cell, or conducting a strip search of a detainee, members shall consider whether, based on the information before them, a detainee may be at high risk of being sexually abused and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee. All detainees shall be screened to assess their risk of being sexually abused by other detainees or sexually abusive toward other detainees.

1. Division members shall ask the detainees about his or her perception of vulnerability.
2. The screening process shall consider, to the extent that the information is available, the following criteria to screen detainees for risk of sexual victimization:
 - a. Whether the detainee has a mental, physical or developmental disability;
 - b. The age of the detainee;

- c. The physical build and appearance of the detainee;
 - d. Whether the detainee has previously been incarcerated;
 - e. Conversation with the detainee; and
 - f. The nature of the detainee's alleged offense and criminal history.
- B. When the sworn member has reason to believe, based on information available, a detainee is vulnerable, or subject to a substantial risk of imminent sexual abuse, they shall:
1. Take immediate action to protect the detainee;
 2. Advise supervisor, NCO, Patrol Commander, Assistant Patrol Commander, Night Executive Officer and note on CAD;
 3. Separate, by sight and sound, from other detainees. If sight and sound separation is not possible at any of the Division facilities, the detainee shall be transported to RISP Headquarters cellblock holding area.
- C. When transferring to other holding/confinement facility, Division members shall:
1. Note starting/ending mileage in CAD
 2. Ensure receiving facility is aware that detainee has been identified as vulnerability and note in CAD

VII. REPORTING

- A. Report by detainee of incident in Division facility
1. The Division will provide multiple ways for detainees to privately report sexual abuse and sexual harassment, retaliation by other detainees or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.
 - a. A detainee may request to speak to a sworn Member, who will then take the detainee out of the main cellblock to a secure area that is under videotape surveillance;

- b. Retaliation against detainees or staff who reported such an incident; and
 - c. Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
 4. Apart from reporting to designated supervisors, members shall not reveal any information related to a sexual abuse report to anyone other than those necessary to make treatment and investigation decisions.
 5. If the alleged victim is under the age of 18, the Division shall report the allegation to the Department of Children, Youth and Families consistent with mandatory reporting laws.
 6. If the alleged victim is either over the age of 60 or is over the age of 18 and has severe impairments, as defined within Chapter 11-5, or may be considered a vulnerable adult under Rhode Island General Laws, the Division will comply with any mandatory reporting requirements.
- D. The Division's website shall include information that provides a method to receive third-party reports of sexual abuse and sexual harassment occurring in Division holding facilities/cellblocks. Information on how to report sexual abuse and sexual harassment on behalf of a detainee will also be included on the website.

VIII. RESPONSE

- A. All allegations of sexual abuse occurring in Division holding facilities shall be investigated in accordance with [GO 77A "Criminal Investigation"](#) and [GO 77B "Major Crimes Investigation"](#) and internal procedures.
- B. In accordance with [GO 53B "Collection and Preservation of Evidence,"](#) a uniform evidence protocol shall be followed that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Furthermore, first responding members shall:
 1. Separate the alleged victim and abuser;
 2. Preserve and protect the crime scene until appropriate steps can be taken to collect available evidence;

3. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing cloths, urinating, defecating, smoking, drinking, or eating;
 4. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- C. Protocol shall be developmentally appropriate for youth, where applicable, and, as appropriate, shall be adapted from the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examination, Adults/Adolescents," (currently in 2nd edition/2013) or similarly comprehensive and authoritative protocols.
 - D. Detainee victims of sexual abuse in lockups shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victims without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
 - E. All victims of sexual abuse are offered access to forensic medical examinations, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination will be performed by other qualified medical practitioners. The Division shall document its efforts to provide SAFEs or SANEs.
 - F. If the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available, consistent with security needs.
 - G. Any notification received by the Division from another agency with allegations of sexual abuse having occurred in a Division cellblock/holding facility shall be handled in accordance with reporting and investigation procedures outlined in this policy.

- H. If a victim is transferred from the Division cellblock/holding facility to a jail, prison, or medical facility, the Division shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.
- I. The Division shall ensure that detainees and Division members who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigation are protected from retaliation. Protection shall include, but is not limited to:
 - 1. Removal of abuser from contact with the detainee;
 - 2. Follow-up with detainee and/or cooperating Division member;
 - 3. Referral to counseling services (victim advocate, peer support, employee assistance program)

IX. INTERNAL INVESTIGATIONS & DISCIPLINE

- A. Internal investigation into allegations of sexual abuse and sexual harassment shall:
 - 1. Be conducted promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports;
 - 2. Include an effort to determine whether the actions or failure to act by Division members contributed to the abuse;
 - 3. Document in writing to include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings;
 - 4. Be retained (written reports) for as long as the alleged abuser is incarcerated or employed by the Division, plus five years (records retention schedule);
 - 5. The departure of the alleged abuser or victim from the employment or control of the holding facility or Division shall not provide a basis for terminating an investigation;
- B. Evidentiary Standard for Administrative Investigations - The Division shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

C. Disciplinary Sanctions for Division Members

1. Division members shall be subject to disciplinary sanctions up to and including termination for violating Division sexual abuse harassment policies.
2. Termination shall be the presumptive disciplinary sanction for members who have engaged in sexual abuse.
3. Disciplinary sanctions for violations of Division policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall:
 - a. be commensurate with the nature and circumstances of the acts committed;
 - b. consider the member's disciplinary history;
 - c. be consistent with sanctions imposed for comparable offenses by other members with similar histories, and;
 - d. be in accordance with the Collective Bargaining Agreement.

X. DATA COLLECTION AND REVIEW

A. Sexual Abuse Incident Reviews

1. The Division shall conduct a sexual abuse incident review at the end of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
2. Such review shall ordinarily occur within thirty (30) days of the conclusion of the investigation.
3. The review team shall include, but not be limited to, appropriate command staff member (Detective, District Commander), Major - Administrative Bureau Commander, Legal Counsel, allowing for input from line supervisors and investigators.
4. The review team shall:

- a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the lockup;
 - c. Examine the area in the cellblock/holding facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - d. Assess the adequacy of staffing levels in that area;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by Division members.
 - f. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to (4)(a)-(4)(e) of this section, and any recommendations for improvement and submit such report to the Superintendent and the Division PREA Coordinator.
5. The Division shall implement the recommendations for improvement, if any, provided by the review team or document its reasons for not doing so.

B. Data Collection

1. The Division shall collect accurate, uniform data for every allegation of sexual abuse at holding facilities under its direct control using a standardized instrument and a set of definitions.
2. The incident-based data collected shall include the data necessary to answer all questions from the most recent version of the "Local Jail Jurisdictions Survey of Sexual Violence" conducted by the Department of Justice, or any subsequent form developed by the Department of Justice and designated for lockups.
3. The Division shall maintain, review, and collect data as needed from all available incident-based documents, including reports,

investigation files, and sexual abuse incident reviews and prepare an annual report.

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

C. Data Review for Corrective Action

1. The Division will review data collected pursuant to section IV, B, (2) in order to assess and improve the effectiveness of its sexual abuse prevention, detection and response policies, practices and training, including:
 - a. Identifying problem areas;
 - b. Taking corrective action on an ongoing basis; and
 - c. Preparing an annual report of findings and corrective actions, if any.
2. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the Division's progress in addressing sexual abuse.
3. The Division's report shall be approved by the Superintendent and made readily available to the public through its website.
4. The Division may redact specific material from the reports when publication would present a clear and specific threat to the safety of a lockup, but must indicate the nature of the material redacted.

D. Data Storage, Publication and Destruction

1. The Division shall ensure that data collected pursuant to section IV, B, (2) are securely retained.
2. The Division shall make all collected sexual abuse data from its holding facilities readily available to the public at least annually through its website.
3. Before making all collected sexual abuse data publicly available, the Division will remove all personal identifiers.

4. The Division will maintain sexual abuse data collected pursuant to section IV, B, (2) for at least ten (10) years after the date of the initial collection, unless Federal, State or local law requires otherwise.

XI. PROVISIONS

- A. The Division will not enter into any Collection Bargaining Agreement that limits its ability to protect detainees.
- B. Audit - The Division will request audits in accordance with the provisions of PREA.
- C. State Compliance - The Governor's office shall consider the results of the most recent agency audit to determine full compliance.
- D. Whenever necessary, but no less frequently than once a year, the Division will assess, determine and document whether adjustments are needed to the established staffing plan, the prevailing staffing patterns and the resources the Division has available to commit to ensure adequate staffing levels.
- E. The Division's [PREA Staffing Plan](#) and [Coordinated Response Plan](#) shall be displayed at Headquarters and at all barracks and made readily available to Division personnel.
- F. Whenever necessary, but no less frequently than once a year the Division will assess, determine, and document whether adjustments are needed to the deployment of video monitoring systems and other monitoring technologies.



By Order of Colonel Manni

James M. Manni
Colonel
Superintendent