

2.11 Sexual Abuse and Assault Prevention and Intervention

I. Purpose and Scope

This detention standard requires that facilities that house ICE/ERO detainees act affirmatively to prevent sexual abuse and assaults on detainees; provide prompt and effective intervention and treatment for victims of sexual abuse and assault; and control, discipline and prosecute the perpetrators of sexual abuse and assault.

This detention standard applies to the following types of facilities housing ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

II. Expected Outcomes

Specific requirements are defined in “V. Expected Practices.” The expected outcomes of this detention standard are as follows:

1. the facility shall articulate and adhere to a standard of zero tolerance for incidents of sexual

abuse or assault that may occur in the facility. Sexual assault or abuse of detainees by other detainees, staff, volunteers, or contract personnel is prohibited and subject to administrative, disciplinary and criminal sanctions.

2. detainees and staff shall be informed about the facility’s Sexual Abuse and Assault Prevention and Intervention Program and the zero tolerance policy.
3. staff shall receive training on working with vulnerable populations and addressing their potential vulnerability in the general population, and shall assign housing accordingly.
4. detainees shall be screened by staff to identify those likely to be sexual aggressors or sexual victims and these detainees shall be housed to prevent sexual abuse or assault. Detainees who are considered likely to become victims shall be placed in the least restrictive housing that is available and appropriate.
5. any allegation of sexual abuse or assault shall be immediately and effectively reported to ICE/ERO. In turn, ICE/ERO will report the allegation as a significant incident, and refer the allegation for investigation.
6. staff receiving reports of sexual abuse shall limit the disclosure of information to individuals with a need-to-know in order to make decisions concerning the detainee-victim’s welfare, and for law enforcement/investigative purposes.
7. staff suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring detainee contact pending the outcome of the investigation.
8. detainees shall be encouraged to promptly report acts of harassment of a sexual nature, abuse or signs of abuse observed, and shall not be punished for reporting.

9. if sexual abuse or assault of any detainee occurs, the medical, psychological, safety and legal needs of the detainee shall be promptly and effectively addressed.
10. as appropriate to the event, the detainee victimized by an act of sexual abuse, assault or any mistreatment while being detained in the facility shall be referred, under appropriate security provisions, to the health care unit for treatment. Gathering of clinical forensic evidence shall be conducted by external independent and qualified health care personnel.
11. assailants will be disciplined and may be subject to criminal prosecution.
12. documentation of medical and mental health evaluations and treatment, crisis intervention counseling and recommendations for post-release follow-up treatment and/or counseling shall be retained in the detainee's medical file in accordance with an established schedule;
13. for monitoring, evaluating and assessing the effectiveness of the sexual abuse or assault prevention and intervention program, incidents of sexual abuse or assault shall be specifically documented and tracked. ICE/ERO shall be notified promptly of any report of sexual abuse or assault;
14. the DHS Office of the Inspector General (OIG) hotline poster and all of "Appendix 2.11.C: Sexual Assault Awareness" shall be posted in every housing pod with information that assists detainees in reporting abuses;
15. facility policies and procedures will include a requirement that staff of the opposite gender will announce their presence upon entering detainee living areas; and
16. the applicable content and procedures in this standard shall be communicated to the detainee

in a language or manner the detainee can understand.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

III. Standards Affected

This detention standard incorporates the requirements for posting and distributing information to ICE/ERO detainees in a memorandum entitled "Sexual Assault Awareness Information" from the ICE/ERO Acting Director (10/26/2006). The information for detainees was provided in both poster and pamphlet format (see "Appendix 2.11.C: Sexual Assault Awareness" in this standard).

IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-4D-22, 4D-22-1, 4D-22-2, 4D-22-3, 4D-22-4, 4D-22-5, 4D-22-6, 4D-22-7, 4D-22-8, 2A-29.

National Commission on Correctional Health Care, *Standards for Health Services in Jails, 2008*: J-B-04, J-B-05, J-1-03.

ICE/ERO *Performance-based National Detention Standards 2011*:

"2.1 Admission and Release";

"2.2 Custody Classification System";

"3.1 Disciplinary System";

“4.3 Medical Care,” particularly in regard to confidentiality of records, medical and mental health screening and referrals and access to emergency care and crisis intervention; and

“7.1 Detention Files,” particularly in regard to confidentiality of records and electronic records systems.

V. Expected Practices

A. Written Policy and Procedures Required

Each facility administrator shall have written policy and procedures for a Sexual Abuse or Assault Prevention and Intervention Program that includes, at a minimum:

1. a zero-tolerance policy for all forms of sexual abuse or assault;
2. measures taken to prevent sexual abuse and/or sexual assault;
3. the requirement that any allegation to staff of sexual assault or attempted sexual assault be reported immediately to a supervisor and to ERO.
4. measures taken for prompt and effective intervention to address the safety and treatment needs of detainee victims if an assault occurs;
5. data collection and reporting; and
6. the requirements for coordination with the ICE Office of Professional Responsibility (OPR) for investigation or referral of incidents of sexual assault to another investigative agency, and discipline and prosecution of assailants (see “Appendix 2.11.C: Sexual Assault Awareness” in this standard).

Each facility must have a policy and procedure for required reporting through the facility’s chain-of-command procedure, from the reporting official to

the highest facility official as well as the Field Office Director. Each facility administrator shall consider utilizing available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse and/or assault perpetrators to most appropriately address victims’ needs. The facility administrator shall maintain or attempt to enter into memoranda of understanding (MOU) or other agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime.

“Appendix 2.11.B: Sample Sexual Abuse Prevention and Intervention Protocols” in this standard offers sample protocols as guidelines for the development of written policies and procedures.

The facility administrator shall ensure that, within 90 days of the effective date of this detention standard, written policy and procedures are in place and that the facility is in full compliance with its requirements and guidelines. The facility must meet all other requirements in this standard on the effective date of the standard.

Each facility’s policy and procedures shall reflect the unique characteristics of each facility, based on factors such as the availability of specialized community-based services, including rape crisis/trauma units in local medical centers, clinics and hospitals.

The facility administrator shall review and approve the local policy and procedures and shall ensure that the facility:

1. specifies procedures for offering immediate protection, including prevention of retaliation and medical and mental health referrals, to any detainee who alleges that he/she has been

- sexually assaulted;
- 2. specifies procedures for detainees to report allegations that allow for any staff to take a report;
- 3. specifies procedures for reporting an allegation or suspicion of sexual assault through the facility’s chain of command, including written documentation requirements to ensure that each allegation or suspicion is properly reported and addressed;
- 4. specifies medical staff’s responsibility to report allegations or suspicions of sexual assault to appropriate facility staff;
- 5. specifies the evidence protocol to be used, including access to a forensic medical exam;
- 6. specifies local response procedures (including referral procedures to appropriate law enforcement agencies) when a sexual assault is alleged or suspected;
- 7. specifies procedures for coordination of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference with criminal investigations;
- 8. establishes procedures to include outside agencies in sexual abuse or assault prevention and intervention programs, if such resources are available;
- 9. designates specific staff (e.g., psychologist, deputy facility administrator, appropriate medical staff) to be responsible for staff training activities; designates the senior manager responsible for ensuring that staff are appropriately trained, and respond in a coordinated and appropriate fashion, when a detainee reports an incident of sexual abuse or assault;
- 10. specifies how a confirmed or alleged victim’s

future safety, medical, mental health and legal needs shall be addressed;

- 11. specifies how medical staff shall be trained or certified in procedures for examining and treating victims of sexual assault, in facilities where medical staff shall be assigned these activities;
- 12. specifies disciplinary sanctions for staff, up to and including termination when staff has violated agency sexual abuse policies; and
- 13. designates a specific staff member to be responsible for detainee education regarding issues pertaining to sexual assault;
- 14. provides instructions on how to contact DHS/OIG or ICE/OPR to confidentially report sexual abuse or assault.

B. Program Coordinator

The facility administrator shall designate a Sexual Abuse and Assault Prevention and Intervention Program coordinator to:

- 1. assist with the development of written policies and procedures for the Sexual Abuse and Assault Prevention and Intervention Program, as specified above in this standard (the program coordinator shall also be responsible for keeping them current);
- 2. assist with the development of initial and ongoing training protocols;
- 3. serve as a liaison with other agencies;
- 4. coordinate the gathering of statistics and reports on incidents of sexual abuse or assault, as detailed in “L. Tracking Incidents of Sexual Abuse and/or Assault” in this standard;
- 5. review the results of every investigation of sexual abuse and conduct an annual review of all investigations in compliance with the Privacy

Act to assess and improve prevention and response efforts; and

6. review facility practices to ensure required levels of confidentiality are maintained.

C. Acts of Sexual Abuse and/or Assault

For the purposes of this standard, the following definitions apply:

1. Detainee-on-detainee Sexual Abuse and/or Assault

One or more detainees, by force, coercion, or intimidation, engaging in or attempting to engage in:

- a. contact between the penis and the vagina or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;
- b. contact between the mouth and the penis, vagina or anus;
- c. penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object;
- d. touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person; or
- e. threats, intimidation, or other actions or communications by one or more detainees aimed at coercing or pressuring another detainee to engage in a sexual act.

Specifically, detainees may be charged with prohibited acts detailed in standard “3.1 Disciplinary System”:

- a. Code 101 Sexual Assault;
- b. Code 206 Engaging in a Sex Act;

- c. Code 207 Making a Sexual Proposal;
- d. Code 300 Indecent Exposure; or
- e. Code 404 Using Abusive or Obscene Language.

2. Staff-on-detainee Sexual Abuse and/or Assault

One or more staff member(s), volunteer(s), or contract personnel engaging in or attempting to engage in:

- a. contact between the penis and the vagina or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;
- b. contact between the mouth and the penis, vagina or anus;
- c. penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object;
- d. except in the context of proper searches and medical examinations, touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing;
- e. threats, intimidation, harassment, indecent, profane or abusive language, or other actions (including unnecessary visual surveillance) or communications aimed at coercing or pressuring a detainee to engage in a sexual act; or
- f. repeated verbal statements or comments of a sexual nature to a detainee, including demeaning references to gender, derogatory comments about body or clothing, or profane or obscene language or gestures.

D. Sexual Conduct between Detainees Prohibited

In addition to the forms of sexual abuse and/or assault defined above, all sexual conduct – including consensual sexual conduct – between detainees is prohibited and subject to administrative

and disciplinary sanctions. (It should be noted that consensual sexual conduct between detainees and staff, volunteers, or contract personnel is included within the definition of staff-on-detainee sexual abuse and/or assault above.)

E. Staff Training

Training on the facility’s Sexual Abuse or Assault Prevention and Intervention Program shall be included in training for employees, volunteers and contract personnel and shall also be included in annual refresher training thereafter. The level and type of training for volunteers and contractors will be based on the services they provide and their level of contact with detainees; however, all volunteers and contractors who have any contact with detainees must be notified of the facility’s zero-tolerance policy. The facility must maintain written documentation verifying employee, volunteer and contractor training.

Training shall include:

1. definitions and examples of prohibited and illegal behavior;
2. agency prohibitions on retaliation against detainees and staff who report sexual abuse;
3. instruction that sexual abuse and/or assault is never an acceptable consequence of detention;
4. recognition of situations where sexual abuse and/or assault may occur;
5. recognition of the physical, behavioral and emotional signs of sexual abuse and/or assault and ways to prevent such occurrences;
6. the requirement to limit reporting of sexual abuse and assault to personnel with a need-to-know in order to make decisions concerning the detainee-victim’s welfare, and for law enforcement/investigative purposes;
7. the investigation process and how to ensure that

evidence is not destroyed;

8. prevention, recognition and appropriate response to allegations or suspicions of sexual assault involving detainees with mental or physical disabilities;
9. instruction on reporting knowledge or suspicion of sexual abuse and/or assault and making intervention referrals to the facility’s program; and
10. instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse and/or assault.

“Appendix 2.11.A: Resources” in this standard lists resources available from the National Institute of Corrections and other organizations that may be useful in developing a training program and/or for direct use in training.

F. Detainee Notification, Orientation and Instruction

The facility administrator shall ensure that the orientation program, required by standard “2.1 Admission and Release,” and the detainee handbook required by standard “6.1 Detainee Handbook,” notify and inform detainees about the facility’s zero tolerance policy for all forms of sexual abuse and assault.

Following the intake process, the facility shall provide instruction to detainees on the facility’s Sexual Abuse and Assault Prevention and Intervention Program and ensure that such instruction includes (at a minimum):

1. the facility’s zero-tolerance policy for all forms of sexual abuse or assault;
2. prevention and intervention strategies;
3. definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and

- coercive sexual activity;
- 4. explanation of methods for reporting sexual abuse or assault, including the DHS/OIG and the ICE/OPR investigation processes;
- 5. information about self-protection and indicators of sexual abuse;
- 6. prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainees immigration proceedings; and
- 7. right of a detainee who has been subjected to sexual abuse or assault to receive treatment and counseling.

Detainee notification, orientation and instruction must be in a language or manner that the detainee understands. The facility shall maintain documentation of detainee participation in the instruction session.

Each facility’s sexual abuse or assault prevention and intervention program shall provide detainees who are victims of sexual abuse or assault the option to report the incident or situation to a designated staff member other than an immediate point-of-contact line officer (e.g., the program coordinator or a mental health specialist). The facility shall provide detainees with the name of the program coordinator or designated staff member and information on how to contact him or her. Detainees will also be informed that they can report any incident or situation regarding sexual abuse, assault or intimidation to any staff member.

As cited earlier under “III. Standards Affected,” ICE/ERO has provided a sexual assault awareness notice to be posted on all housing-unit bulletin boards, as well as a “Sexual Assault Awareness Information” pamphlet to be distributed (see “Appendix 2.11.C: Sexual Assault Awareness” in this standard). The facility shall post with this notice the name of the program coordinator and

local organizations that can assist detainees who have been victims of sexual assault. This information will be provided in English and Spanish, and to other segments of the detainee population with limited English proficiency, through translations or oral interpretation.

Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency. Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

G. Prevention

All staff and detainees are responsible for being alert to signs of potential situations in which sexual assaults might occur, and for making reports and intervention referrals as appropriate.

Classification is an ongoing, dynamic process. A detainee who is subjected to sexual abuse or assault shall not be returned to general population until proper re-classification, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse or assault, is completed.

In accordance with standards “2.1 Admission and Release” and “2.2 Custody Classification System”:

1. Detainees shall be screened upon arrival at the facility for potential vulnerabilities to sexually aggressive behavior or tendencies to act out with sexually aggressive behavior.
2. Each new arrival shall be kept separate from the general population until he/she is classified and may be housed accordingly.
3. Detainees with a history of sexual assault shall be identified, monitored and counseled while they are in ICE custody. Detainees identified as “high risk” for committing sexual assault shall

be assessed by a mental health or other qualified health care professional and treated, as appropriate.

4. Detainees at risk for sexual victimization shall be identified, monitored and counseled. Detainees identified as “high risk” for sexual victimization shall be assessed by a mental health or other qualified health care professional. Detainees who are considered at risk shall be placed in the least restrictive housing that is available and appropriate.
5. Detainees identified as being “at risk” for sexual victimization shall be transported in accordance with that special safety concern. The section on “Count, Identification and Seating,” found in standard “1.3 Transportation (by Land),” requires that transportation staff seat each detainee in accordance with written procedures from the facility administrator, with particular attention to detainees who may need to be afforded closer observation for their own safety.

H. Prompt and Effective Intervention

Staff sensitivity toward detainees who are victims of sexual abuse and/or assault is critical.

Staff shall take seriously all statements from detainees claiming to be victims of sexual assaults, and shall respond supportively and non-judgmentally. Any detainee who alleges that he/she has been sexually assaulted shall be offered immediate protection from the assailant and shall be referred for a medical examination and/or clinical assessment for potential negative symptoms. Staff members who become aware of an alleged assault shall immediately follow the reporting requirements set forth in the written policies and procedures.

Facilities should use a coordinated, multidisciplinary team approach to responding to sexual abuse, such as a sexual assault response team (SART), which in

accordance with community practices, includes a medical practitioner, a mental health practitioner, a security staff member and an investigator from the assigned investigative entity, as well as representatives from outside entities that provide relevant services and expertise.

Care must be taken not to punish a confirmed or alleged sexual assault victim. Victimized detainees should not be subject to disciplinary action either for reporting sexual abuse or for participating in sexual activity as a result of force, coercion, threats, or fear of force. Care shall be taken to place the detainee in a supportive environment that represents the least restrictive housing option possible (e.g. protective custody). However, victims shall not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances or at the request of the detainee. .

I. Reporting, Notifications and Confidentiality

Each facility shall develop written procedures to establish the process for an internal administrative investigation that shall be conducted in all cases only after consultation with the assigned criminal investigative entity or after a criminal investigation has concluded. Such procedures shall establish the coordination and sequencing of the two types of investigations, to ensure that the criminal investigation is not compromised by an internal administrative investigation. All incidents and allegations of sexual abuse or assault shall be reported immediately.

Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have a need-to-know in order to make decisions concerning the detainee-victim’s welfare, and for law enforcement/investigative purposes.

1. Alleged Detainee Perpetrator

When a detainee(s) is alleged to be the perpetrator, it is the facility administrator's responsibility to ensure that the incident is promptly referred to the appropriate law enforcement agency having jurisdiction for investigation and reported to the Field Office Director.

2. Alleged Staff Perpetrator

When an employee, contractor or volunteer is alleged to be the perpetrator of detainee sexual abuse and/or assault, it is the facility administrator's responsibility to ensure that the incident is promptly referred to the appropriate law enforcement agency having jurisdiction for investigation and reported to the Field Office Director. The local government entity or contractor that owns or operates the facility shall also be notified.

Staff suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring detainee contact pending the outcome of an investigation.

J. Investigation and Prosecution

If a detainee alleges sexual assault, a sensitive and coordinated response is necessary. All investigations into alleged sexual assault must be prompt, thorough, objective, fair and conducted by qualified investigators. The program coordinator shall be responsible for reviewing the results of every investigation of sexual abuse.

When possible and feasible, appropriate staff shall preserve the crime scene, and safeguard information and evidence in coordination with the referral agency and consistent with established evidence-gathering and evidence-processing procedures.

At no cost to the detainee, the facility administrator shall arrange for the victim to undergo a forensic medical examination. During the forensic exam, the

victim may request that an outside advocate be present for support. The results of the physical examination and all collected physical evidence are to be provided to the investigative entity. Appropriate infectious disease testing, as determined by the health services provider, may be necessary. Part of the investigative process may also include an examination and collection of physical evidence from the suspected assailant(s).

K. Health Care Services and Transfer of Detainees to Hospitals or Other Facilities

Victims shall be provided emergency medical and mental health services and ongoing care. When possible and feasible, victims of sexual assault shall be referred, under appropriate security provisions, to a community facility for treatment and for collection of evidence.

If available and offered by a community facility, prophylactic treatment, emergency contraception and follow-up examinations for sexually transmitted diseases shall be offered to all victims, as appropriate.

If these procedures are performed in-house, the following guidelines apply:

1. Health care professionals shall conduct an examination to document the extent of physical injury and to determine whether referral to another medical facility is indicated. With the victim's consent, the examination shall include collection of evidence from the victim, using a kit approved by the appropriate authority.
2. All collected forensic evidence must be secured and processed according to the facility's established plan for maintaining the chain of custody for criminal evidence.
3. Health care professionals shall test for sexually

transmitted diseases and infections (e.g., HIV, gonorrhea, hepatitis, chlamydia and other diseases/infections) and refer victim for counseling, as appropriate.

4. Prophylactic treatment, emergency contraception and follow-up examinations for sexually transmitted diseases shall be offered to all victims, as appropriate.
5. Following a physical examination, a mental-health professional shall evaluate the need for crisis intervention counseling and long-term follow-up.

Once the transfer has taken place, a report shall be made to the facility administrator or designee to confirm that the victim has been separated from his/her assailant. Transfers shall take into account safety and security concerns and the special needs of victimized detainees.

L. Tracking Incidents of Sexual Abuse and/or Assault

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, if necessary, and/or counseling shall be maintained in appropriate files in accordance with these detention standards and applicable policies, and retained in accordance with established schedules.

Particularly applicable to the storage, confidentiality and release of case records are the requirements of the “Confidentiality and Release of Medical Records” section of standard “4.3 Medical Care” and the requirements of standard “7.1 Detention Files,” especially in regard to the Privacy Act of 1974. Because of the very sensitive nature of information about victims and their medical condition, including infectious disease testing, staff must be particularly

vigilant about maintaining confidentiality and releasing information only for legitimate need-to-know reasons.

Monitoring and evaluation are essential for assessing both the rate of occurrence of sexual assault and agency effectiveness in reducing sexually abusive behavior. The program coordinator is responsible for an annual review of aggregate data (omitting personally identifying information) and shall present the findings to the Field Office Director and ICE/ERO headquarters for use in determining changes to existing policies and practices to determine whether changes are needed to further the goal of eliminating sexual abuse. Accordingly, the facility administrator must maintain two types of files.

1. General files include:
 - a. the victim(s) and assailant(s) of a sexual assault;
 - b. crime characteristics;
 - c. detailed reporting timeline, including the name of the staff member receiving the report of sexual assault, date and time the report was received, and steps taken to communicate the report up the chain of command; and
 - d. all formal and/or informal action taken.
2. Administrative investigative files include:
 - a. all reports;
 - b. medical forms;
 - c. supporting memos and videotapes, if any; and
 - d. any other evidentiary materials pertaining to the allegation.

The facility administrator shall maintain these files chronologically in a secure location.

In addition, the facility administrator shall maintain a listing of the names of sexual assault victims and

assailants, along with the dates and locations of all sexual assault incidents occurring within the facility, on his/her computerized incident reporting system. Such information shall be maintained on a need-to-know basis in accordance with the standards “4.3 Medical Care” and “7.1 Detention Files,” which includes protection of electronic files from unauthorized access. At no time may law enforcement sensitive documents or evidence be stored at the facility.

Access to this designation shall be limited to those staff involved in the treatment of the victim or the investigation of the incident. The authorized designation shall allow appropriate staff to track the detainee victim or assailant of sexual assault across the system. Based on the designated reporting data, the ICE/ERO program office shall report annually the number of sexual assaults occurring within secure detention facilities utilized by ICE/ERO. Data shall be provided through the SEN system.

Appendix 2.11.A: Resources

The National Institute of Corrections (NIC) offers:

1. training and technical assistance
2. copies of the video, including “Facing Prison Rape,” and accompanying facilitator’s guides.
3. a bibliography of reference material.

National Institute of Corrections: www.nicic.gov

Other resource links:

1. NIC/WCL Project on Addressing Prison Rape:
www.wcl.american.edu/nic
2. Bureau of Justice Assistance:
www.ojp.usdoj.gov/BJA
3. Bureau of Justice Statistics:
www.ojp.usdoj.gov/bjs
4. The Moss Group: www.mossgroup.us
5. Just Detention International:
www.justdetention.org
6. Center for Innovative Policies, Inc.:
www.cipp.org

Appendix 2.11.B: Sample Sexual Abuse Prevention and Intervention Protocols

These protocols serve as guidelines for staff in the development of written policies and procedures for a Sexual Abuse and Assault Prevention and Intervention Program.

Some procedures may not be applicable or feasible for implementation at a particular facility; however, to the extent possible, they shall be incorporated as part of a successful program.

I. Victim Identification (All Staff)

A. Primarily, staff learns that sexual abuse or assault has occurred during confinement because:

1. staff discover an assault in progress;
2. a victim reports an assault to a staff member;
3. another detainee reports abuse or an assault, or a detainee is the subject of detainee rumors; or
4. medical evidence indicates the probability of abuse or an assault.

While some victims can be clearly identified, many, or even most, may not come forward directly with information. Some victims may be identified through unexplained injuries, changes in physical behavior due to injuries, abrupt personality changes such as withdrawal or suicidal behavior, or other changes in behavior.

B. The following guidelines may help staff in responding appropriately to a suspected victim:

1. If it is suspected that the detainee was sexually assaulted, the detainee shall be advised:
 - a. of the importance of getting help to deal with the assault;
 - b. that he/she may be evaluated medically for

sexually transmitted diseases and other injuries; and

- c. that trained personnel are available to assist.
2. Staff shall review the background of a suspected victim and the circumstances surrounding the incident without jeopardizing the detainee's safety, identity, or privacy.
3. If staff discovers an assault in progress, the suspected victim shall be removed from the immediate area for care and for interviewing by appropriate staff. The suspected victim shall be segregated for interviewing by the responding law enforcement entity.
4. The victim and the alleged assailant shall be separated immediately.
5. If a suspected victim is fearful of being labeled an informant, he/she shall be advised that the identity of the assailant(s) need not be disclosed in order for him/her to receive assistance.
6. The staff member who first identifies or suspects that a detainee has been abused or assaulted must report his/her suspicions to the security shift supervisor or investigative supervisor immediately.

II. Procedures for Investigation

All reports of alleged sexual abuse or assault must be handled and investigated in accordance with standard "2.11 Sexual Abuse and Assault Prevention and Intervention."

The facility's response should be coordinated and must ensure that all victims receive the medical and support services they need. Both internal and outside investigators must be able to obtain usable evidence to substantiate allegations and hold perpetrators accountable.

Facilities must use a coordinated, multidisciplinary team approach to responding to sexual abuse, which

may include a formalized sexual assault response team (SART). The SART should include a medical practitioner, a mental health practitioner, a security staff member and an investigator. SART members may consist of staff as well as representatives from outside entities that provide relevant services and expertise.

A. The following procedures, as addressed in this standard, apply in the cases of reported or known victims of sexual assault.

1. The victim should receive a prompt examination to identify medical and mental health needs and to minimize the loss of evidence.
2. The victim's acute medical and mental health needs should be addressed before evidence is collected on-site or before they are transported off-site for evidence collection.
3. If the incident occurred within 96 hours of the report, the victim should be instructed to avoid actions that could inhibit evidence collection prior to forensic medical examination.
4. All forensic medical exams must be conducted by specially educated and clinically trained medical examiners who have been trained in the use of standard investigative and evidence-gathering procedures.
5. All forensic medical exams must use standardized sexual assault collection kits ("rape kits").
6. The incident must be reported to the appropriate law enforcement agency.
7. The medical examiner or designated staff member must ensure that the victim receives follow-up care or referrals for follow-up care.

The following procedures may apply for reported or known victims of sexual assault. If the detainee was threatened with sexual assault or was assaulted on a

previous occasion, some steps may not be necessary.

The standard protocol is to transport every alleged victim and assailant (separately) to the nearest hospital for a "rape kit" as soon as possible.

B. Collect evidence from assailant (security and health services staff).

1. Identify the assailant if possible and isolate the assailant, whenever possible, pending further investigation.
2. Standard investigative and evidence-gathering procedures, by both internal and outside investigators.
3. Report the incident to the appropriate law enforcement agency.
4. If known, the assailant should undergo a forensic medical exam. If transported off-site for the exam, assailant and victim must be transported separately.
5. If facility medical staff attempts to examine the alleged assailant, findings shall be documented both photographically and in writing. A written summary of all medical evidence and findings shall be completed and maintained in the detainee's medical record. Copies shall also be provided to supervisory security staff and appropriate law enforcement officials.

III. Medical Assessment of Victim (Health Services Staff)

- A. If trained medical staff are available in the facility, render treatment locally whenever feasible.
- B. If the alleged victim is examined in the facility to determine the extent of injuries, all findings shall be documented both photographically and in writing, and placed in the detainee's medical record, with a copy to supervisory security staff and appropriate

law enforcement officials.

C. If deemed necessary by the examining physician, follow established procedures for use of outside medical consultants or for an escorted trip to an outside medical facility.

D. Notify staff at the community medical facility and alert them to the detainee's condition.

E. When necessary, conduct STD/STI and HIV testing and provide the option of emergency contraception if available.

F. Refer the detainee for crisis counseling or mental health services, as medically and time appropriate.

IV. Medical Transfers for Examination and Treatment (Security and Health Services Staff)

A. determined appropriate by the facility physician, and if approved by the facility administrator or designee, the detainee may be examined by medical personnel from the community.

A contractual arrangement may be developed with a rape crisis center or other available community medical service to enhance facility medical services. The contract shall provide for the following:

1. Clinical examination for assessing physical injuries and collecting any physical evidence of sexual assault, and
2. Contract medical personnel to come into the facility to escort detainees to the contract facility (e.g., crisis care center, medical clinic, hospital, etc.).

B. Escorting staff shall treat the victim in a supportive and non-judgmental way.

C. Information about the assault is confidential, and shall be given only to those directly involved in the investigation and/or treatment of the victim.

V. Mental Health Services (Mental Health Staff)

A. Mental health staff shall be notified immediately after the initial report of an allegation of sexual abuse or assault of a detainee.

B. Following the medical assessment, the alleged victim shall be seen by a mental health clinician within 24 hours of notification to the mental health staff, who will provide crisis intervention and assess any immediate and subsequent treatment needs.

C. The findings of the initial crisis evaluation session shall be summarized in writing within one week of the initial session, and shall be placed in the appropriate treatment record, with a copy provided to the hospital administrator or clinical director and other staff responsible for oversight of sexual abuse or assault prevention and intervention procedures.

D. Additional psychological or psychiatric treatment, as well as continued assessment of mental health status and treatment needs, shall be provided as needed, with the victim's full consent and collaboration. Decisions regarding the need for continued assessment and treatment shall be made by qualified clinicians according to established professional standards, and shall be made with awareness that a victim of sexual abuse or assault commonly experiences both immediate and delayed psychiatric or emotional symptoms.

E. If a victim chooses to continue to pursue treatment, the clinician shall either provide appropriate treatment or facilitate referral to an appropriate treatment option, including individual therapy, group therapy, further psychological assessment, assignment to a mental health counselor or facility, referral to a psychiatrist, or other treatment options. Pending referral, mental health services shall continue unabated. If a victim chooses

to decline further treatment services, he/she shall be asked to sign a statement to that effect.

F. All treatment and evaluation sessions shall be properly documented and placed in the appropriate treatment record to ensure continuity of care.

G. Should a victim be released from custody during the course of treatment, the victim shall be advised of community mental health resources in his/her area.

VI. Monitoring and Follow-up

A. Classification and security staff shall place the victim in appropriate housing and assess the risk of keeping the victim at the facility where the incident

occurred. Detainees who are considered likely to become victims again shall be placed in the least restrictive housing that is available and appropriate.

B. Housing, medical and mental health staff shall monitor the physical and mental health of the victim and coordinate the continuation of necessary services.

C. Medical staff shall dispense medication and provide routine examinations and STD and HIV follow-up.

D. Mental health staff shall conduct post-crisis counseling and arrange for psychiatric care if necessary.

Appendix 2.11.C: Sexual Assault Awareness

All of “Appendix 2.11.C: Sexual Assault Awareness” is required to be posted in each Housing Unit Bulletin Board at all Service Processing Centers and Contract Detention Facilities and by Intergovernmental Service Agreement Providers that house ICE detainees.

While detained by the Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal, you have a right to be safe and free from sexual harassment and sexual assault. Report all attempted assaults and assaults to your housing unit officer, a supervisor, the Officer In Charge, directly to the DHS Office of the Inspector General (OIG) or the ICE Office of Professional Responsibility (OPR), Joint Intake Center.

Definitions

Detainee-on-detainee Sexual Abuse/Assault

One or more detainees, by force, coercion or intimidation, engaging in or attempting to engage in: contact between the penis and the vagina or anus; contact between the mouth and the penis, vagina, or anus; penetration of the anal or genital opening of another person by a hand, finger or any object; touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person; or the use of threats, intimidation, or other actions or communications by one or more detainees aimed at coercing or pressuring another detainee to engage in a sexual act.

Staff-on-detainee Sexual Abuse/Assault

One or more staff member(s), volunteer(s), or

contract personnel engaging in or attempting to engage in: contact between the penis and the vagina or anus; contact between the mouth and the penis, vagina, or anus; penetration of the anal or genital opening of another person by a hand, finger or any object; touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, except in the context of proper searches and medical examinations; the use of threats, intimidation, harassment, indecent, profane or abusive language, or other actions (including unnecessary visual surveillance) or communications aimed at coercing or pressuring a detainee to engage in a sexual act; or repeated verbal statements or comments of a sexual nature to a detainee, including demeaning references to gender, derogatory comments about body or clothing, or profane or obscene language or gestures. Sexual conduct of any type between staff and detainees amounts to sexual abuse, regardless of whether consent exists.

Sexual abuse/assault of detainees by staff or other detainees is an inappropriate use of power and is prohibited by ICE policy and the law.

Prohibited Acts

Sexual abuse/assault is a crime and this facility has a zero tolerance policy for sexual assault and abuse. A detainee or staff member who commits sexual assault shall be punished administratively and may be subject to criminal prosecution.

A detainee who engages in such behavior can be charged with the following Prohibited Acts under the Detainee Disciplinary Policy:

- Code 101: Sexual Assault
- Code 207: Making a Sexual Proposal
- Code 404: Using Abusive or Obscene Language

- Code 206: Engaging in a Sex Act
- Code 300: Indecent Exposure or Language

Victimized detainees should not be subject to disciplinary action for reporting sexual abuse or for participating in sexual activity as a result of force, coercion, threats, or fear of force.

In addition, consensual sexual conduct between detainees is also prohibited and subject to administrative and disciplinary sanctions.

Detention as a Safe Environment

While you are detained, no one has the right to pressure you to engage in sexual acts or engage in unwanted sexual behavior regardless of your age, size, race or ethnicity. Regardless of your sexual orientation or gender identity, you have the right to be safe from unwanted sexual advances and acts.

Confidentiality

Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have the need-to-know in order to make decisions concerning the detainee victim's welfare and for law enforcement/ investigative purposes.

Avoiding Sexual Assault

Sexual assault is never the victim's fault. Knowing the warning signs and red flags can help you stay alert and aware:

1. Carry yourself in a confident manner. Many attackers choose victims who look like they would not fight back or who they think are emotionally weak.
2. Do not accept gifts or favors from others. Most gifts or favors come with special demands or limits that the giver expects you to accept.
3. Do not accept an offer from another detainee to

be your protector.

4. Find a staff member with whom you feel comfortable discussing your fears and concerns. Report concerns!
5. Do not use drugs or alcohol; these can weaken your ability to stay alert and make good judgments.
6. Be clear, direct and firm. Do not be afraid to say "no" or "stop it now."
7. Choose your associates wisely. Look for people who are involved in positive activities like educational programs, work opportunities or counseling groups. Get yourself involved in these activities.
8. If you suspect another detainee is being sexually abused, report it to a staff member you trust or to the DHS/OIG at 1-800-323-8603 or ICE/OPR, Joint Intake Center at 1-877-246-8253.
9. Trust your instincts. Be aware of situations that make you feel uncomfortable. If it does not feel right or safe, leave the situation or seek assistance. If you fear for your safety, report your concerns to staff.

Report All Assaults

If you become a victim of a sexual assault, report the incident immediately to any staff person you trust, to include housing officers, deportation officers, chaplains, medical staff or supervisors. Staff members keep the reported information confidential and only discuss it with the appropriate officials on a need-to-know basis. If you are not comfortable reporting the assault to staff, you have other options:

1. Write a letter reporting the sexual misconduct to the Officer In Charge, Assistant Field Office Director, or Field Office Director. To ensure confidentiality, use special mail procedures.

2. File an emergency detainee grievance. If you decide your complaint is too sensitive to file with the Officer In Charge, you can file your grievance directly with the Field Office Director. You can get the forms from your housing unit officer, deportation staff or a facility supervisor.
3. Call the ICE Office of Professional Responsibility, Joint Intake Center 24 hours a day at 1-877-246-8253.
4. Write to the OIG, which investigates allegations of staff misconduct. The address is:
Office of Inspector General P.O. Box 27606
Washington, D.C. 20530
5. Call, at no expense to you, the DHS/OIG or the ICE/OPR, Joint Intake Center. The phone number for the OIG is posted in your housing unit.

Individuals who sexually abuse or assault detainees can only be disciplined or prosecuted if the abuse is reported.

Next Steps after Reporting a Sexual Assault or Attempted Sexual Assault

You will be offered immediate protection from the assailant and you will be referred for medical examination and clinical assessment. You do not have to name the detainee(s) or staff member who assaulted you for you to receive assistance, but specific information may make it easier for staff to help you. You will continue to receive protection from the assailant, whether or not you have identified your attacker or agree to testify against them. It is important that you do not shower, wash, drink, change clothing or use the bathroom until evidence can be collected.

The Medical Exam

Medical staff shall examine you for injuries, which may or may not be readily apparent to you and shall

gather physical evidence of assault. Bring with you to the medical exam the clothes and underwear that you had on at the time of the assault. You shall be checked for the presence of physical evidence, which supports your allegation. With your consent, a medical professional shall perform a pelvic and/or rectal examination to obtain samples of, or document the existence of physical evidence such as hair, body fluids, tears, or abrasions that remain after the assault. This physical evidence is critical in corroborating that the sexual assault occurred and in identifying the assailant; trained personnel shall conduct the exam privately and professionally.

Understanding the Investigative Process

Once the misconduct is reported, the appropriate law enforcement agency shall conduct an investigation. The purpose of the investigation is to determine the nature and extent of the misconduct. You may be asked to give a statement during the investigation. If criminal charges are filed, you may be asked to testify during the criminal proceedings. Any detainee who alleges that he/she has been sexually assaulted will be offered immediate protection and will be referred for a medical examination.

The Emotional Consequences of Sexual Assaults

It is common for victims of sexual assault to have feelings of embarrassment, anger, guilt, panic, depression and fear several months or even years after the attack. Other common reactions include loss of appetite, nausea or stomach aches, headaches, loss of memory and/or trouble concentrating, and changes in sleep patterns. Emotional support is available from the facility's mental health and medical staff, and from the chaplains. Also, many detainees who are at high risk of sexually assaulting others have often been sexually abused themselves. Mental health services

are available to them also so that they can control their actions and heal from their own abuse.

Sexual assaults can happen to anyone: any gender, age, race, ethnic group, socio-economic status and to an individual with any sexual orientation or disability. Sexual assault is not about sex; it is about Power and control. All reports are taken seriously.

Your safety and the safety of others is the most important concern. For everyone's safety, all incidents, threats, or assaults must be reported.

Report all attempted assaults and assaults to your housing unit officer, a supervisor, the Officer In Charge, or directly to the DHS/OIG or ICE/OPR, Joint Intake Center.