

## 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 poster formats is to be provided to detention facilities by ICE/ERO; the information for pamphlet formats is contained in “Appendix 2.11.C: Sexual Assault Awareness” of 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](http://www.nicic.gov)

Other resource links:

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

# Appendix 2.11.B: Sample Sexual Abuse and Assault Prevention and Intervention Program Policy<sup>1</sup>

## I. Zero Tolerance Policy

[FACILITY] maintains a zero-tolerance policy for all forms of sexual abuse or assault. It is the policy of [FACILITY] to provide a safe and secure environment for all detainees, employees, contractors, and volunteers, free from the threat of sexual abuse or assault, by maintaining a Sexual Abuse and Assault Prevention and Intervention Program that ensures effective procedures for preventing, reporting, responding to, investigating, and tracking incidents or allegations of sexual abuse or assault.

Sexual assault or abuse of detainees by other detainees or by employees, contractors, or volunteers is prohibited and subject to administrative, disciplinary, and criminal sanctions.

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<sup>1</sup> This document represents a template Sexual Abuse and Assault Prevention and Intervention Program policy, as required by Standard 2.11 of the ICE 2011 Performance-Based National Detention Standards (PBNDS 2011), governing “Sexual Abuse and Assault Prevention and Intervention.” Facilities may complete the sections of this template where indicated with their own specific information, if they choose to use this format as a manner of fulfilling the requirements of Section V.A of Standard 2.11. If you have any questions regarding this template policy or the requirements of Standard 2.11, Section V.A, please contact [ICESexualAssaultCoordinator@dhs.gov](mailto:ICESexualAssaultCoordinator@dhs.gov).

### COLOR KEY:

Provisions indicated in **black bold font** represent requirements or procedures which must be incorporated into each facility’s policy pursuant to Standard 2.11. Provisions indicated in **red bold font** represent best practices in preventing and responding to sexual abuse and assault, which are not required by Standard 2.11, but which ICE encourages facilities to incorporate to the extent possible into their individual policies.

## II. Program Coordinator

[FACILITY] has a compliance manager who is responsible for overseeing all aspects of the facility’s efforts to comply with this zero tolerance policy, including by:

1. assisting with keeping current these written policies and procedures for the Sexual Abuse and Assault Prevention and Intervention Program;
2. assisting with the development of initial and ongoing training protocols;
3. serving as a liaison with other agencies;
4. coordinating the gathering of statistics and reports on incidents of sexual abuse or assault;
5. reviewing the results of every investigation of sexual abuse and conducting an annual review of all investigations to assess and improve prevention and response efforts; and
6. reviewing facility practices to ensure required levels of confidentiality are maintained.

**[INSERT ANY ADDITIONAL PROGRAM COORDINATOR DUTIES]**

## III. Definitions

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

*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.

*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.

#### IV. Prevention

All staff (employees, volunteers, and contractors) are responsible for being alert to signs of potential sexual abuse or assault, and to situations in which sexual assaults might occur.

#### A. Screening and Classification

##### 1. Screening and Classification Requirements

- (a) All detainees shall be screened upon arrival at the facility for potential risk of sexual victimization or sexually abusive behavior, and shall be housed to prevent sexual abuse or assault.
- (b) Each new detainee shall be kept separate from the general population until he/she has been classified and may be housed accordingly.
- (c) Detainees identified as having a history of sexually assaultive behavior or at risk for sexual victimization shall be assessed by a mental health or other qualified health care professional, and monitored and counseled as determined by the professional.
- (d) Detainees considered at risk for sexual victimization shall be placed in the least restrictive housing that is available and appropriate. If appropriate custodial options may not be available at the facility, [FACILITY] will consult with the ICE Field Office Director to determine if ICE can provide additional assistance.

##### 2. Screening and Classification Procedures

- (a) [INSERT FACILITY PROCEDURES THAT MEET REQUIREMENTS]

#### B. Staff Training

##### 1. Staff Training Requirements

- (a) Training on the facility's Sexual Abuse and Assault Prevention and



Intervention Program shall be included in initial and annual refresher training for all employees, volunteers, and contract personnel.

- (b) All facility staff responsible for conducting sexual abuse or assault investigations shall receive specialized training in conducting such investigations in confinement settings, which includes techniques for interviewing sexual abuse victims, sexual abuse evidence collection in confinement settings, and the criteria and evidence required for administrative action or prosecutorial referral.
- (c) All full- and part-time medical and mental health care practitioners who work regularly in the facility shall receive specialized training in detecting and assessing signs of sexual abuse and assault, preserving physical evidence of sexual abuse, responding effectively to victims of sexual abuse and assault, and reporting allegations or suspicions of sexual abuse or assault.
- (d) The facility Program Coordinator shall maintain documentation verifying employee, volunteer and contractor training.

## 2. Staff Training Procedures

- (a) **[INSERT PROGRAM COORDINATOR OR OTHER DESIGNATED FACILITY STAFF]** shall be responsible for all staff training activities.
- (b) **[INSERT PROGRAM COORDINATOR OR OTHER DESIGNATED SENIOR MANAGER]** shall be responsible for ensuring that all staff are appropriately trained, and respond in a coordinated and appropriate fashion to detainee

reports of sexual abuse or assault.

- (c) **[INSERT FACILITY PROCEDURES THAT MEET REQUIREMENTS]**

## C. Detainee Education

### 1. Detainee Education Requirements

- (a) Upon admission to **[FACILITY]**, all detainees shall be notified of the facility's zero-tolerance policy for all forms of sexual abuse and assault through the orientation program and detainee handbook, and provided with information about the facility's Sexual Abuse and Assault Prevention and Intervention Program. Such information shall include, at a minimum:
  - the facility's zero tolerance policy for all forms of sexual abuse or assault;
  - the name of the facility Sexual Abuse and Assault Prevention and Intervention Program Coordinator, and information about how to contact him/her;
  - prevention and intervention strategies;
  - definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity;
  - explanation of methods for reporting sexual abuse or assault, including the DHS/OIG and the ICE/OPR investigation processes, and right of detainees to report an incident or allegation of sexual abuse, assault, or intimidation to any staff member at the facility and to ICE/DHS;
  - information about self-protection and indicators of sexual abuse;

- prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainee’s immigration proceedings; and
  - right of a detainee who has been subject to sexual abuse or assault to receive treatment and counseling.
- (b) Detainee notification, orientation and instruction must be in a language or manner that the detainee understands.
- (c) The facility shall maintain documentation of detainee participation in the instruction session.

2. *Detainee Education Procedures*

- (a) **[INSERT DESIGNATED FACILITY STAFF]** shall be responsible for detainee education regarding issues pertaining to sexual abuse and assault.
- (b) **[INSERT FACILITY PROCEDURES THAT MEET REQUIREMENTS]**

**D. Limits on Cross-Gender Viewing and Searches**

1. *Cross-Gender Viewing and Searches Requirements*

- (a) Staff may not visually observe detainees while changing clothing or showering, but shall be present immediately outside the room with the door ajar to hear what transpires inside.
- (b) Staff of the opposite gender must also announce their presence upon entering detainee living areas.
- (c) **Staff of the same gender as the detainee should perform a pat search of a female detainee, unless staff of the same gender are not present at the**

**facility at the time the pat search is required.<sup>2</sup>**

- (d) **All strip searches shall be performed by staff of the same gender as the detainee. In the case of an emergency, a staff member of the same gender as the detainee shall be present to observe a strip search performed by an officer of the opposite gender.<sup>3</sup>**
- (e) **Special care should be taken to ensure a strip search of a transgender detainee be performed in private.<sup>4</sup>**

2. *Cross-Gender Viewing and Searches Procedures*

- (a) **[INSERT FACILITY PROCEDURES THAT MEET REQUIREMENTS]**

**E. [INSERT ANY ADDITIONAL APPLICABLE FACILITY PREVENTATIVE MEASURES – E.G. CONDUCTING UNANNOUNCED ROUNDS, ETC.]**

**V. Detainee Reporting Procedures**

**A. Detainee Reporting Requirements**

1. Detainees shall be encouraged to promptly report signs or incidents of sexual abuse and assault, and may not be punished for reporting.
2. Staff shall take seriously all statements from detainees claiming to be victims of sexual assaults, and shall respond supportively and non-judgmentally.

<sup>2</sup> Note that Section II(D)(1)(c) is mandatory for facilities operating under the PBNDS 2011.

<sup>3</sup> Note that Section II(D)(1)(d) is mandatory for facilities operating under the PBNDS 2008 or 2011.

<sup>4</sup> Note that Section II(D)(1)(e) is mandatory for facilities operating under the PBNDS 2011.

3. Any detainee may report acts of sexual abuse or assault to any employee, contractor, or volunteer.
4. If a detainee is not comfortable with making the report to immediate point-of-contact line staff, he/she shall be allowed to make the report to a staff person with whom he/she is comfortable in speaking about the allegations.

## B. Detainee Reporting Procedures

Detainee reports of sexual abuse or assault may be made using any available methods of communication, including but not limited to:

### Reports to the Facility:

- (a) Verbal reports to a staff member (including the Sexual Abuse and Assault Prevention and Intervention Program Coordinator or medical staff)
- (b) Written informal or formal requests or grievances to the facility **[INSERT SPECIFIC METHODS FOR WRITTEN COMMUNICATION WITH FACILITY STAFF]**
- (c) Sick call requests
- (d) **[INSERT ANY ADDITIONAL FACILITY AVENUES OF COMMUNICATION]**

### Reports to Family Members, Friends, or Other Outside Entities:

- (e) Reports to an individual or organization outside the facility who can contact facility staff

### Reports to DHS/ICE:

- (f) Written informal or formal requests or grievances (including emergency grievances) to ICE
- (g) Telephone calls or written reports to the DHS/OIG or ICE/OPR

## VI. Effective Communication with Detainees

In compliance with Federal law and DHS policy **[INSERT ANY ADDITIONAL APPLICABLE LOCAL GOVERNMENT LAW OR POLICY]**, **[FACILITY]** takes reasonable steps to provide meaningful access to the facility's Sexual Abuse and Assault Prevention and Intervention Program for detainees with Limited English Proficiency (LEP).

**[FACILITY]** makes available competent foreign language and sign language interpreters to ensure effective communication with detainees with LEP and disabilities (e.g., detainees who are deaf, hard of hearing, or blind and detainees with low vision) during all aspects of the facility's efforts to fulfill this zero tolerance policy. **[INSERT ANY APPLICABLE CROSS-REFERENCES TO THE FACILITY'S LEP PLAN OR PROCEDURES]**

To obtain a competent interpreter (oral) or translated (written) materials for a detainee with LEP, facility staff contact: **[INSERT DESIGNATED STAFF AND/OR TELEPHONIC INTERPRETER SERVICE AVAILABLE AT FACILITY]**. **[INSERT INSTRUCTIONS FOR USING FACILITY TELEPHONIC INTERPRETER LINE]**

To obtain accommodations for a detainee with a disability, facility staff contact: **[INSERT DESIGNATED STAFF]**

## VII. Staff Notification and Reporting

### A. Staff Notification and Reporting Requirements

1. All staff must immediately report any known or suspected incidents or allegations of sexual abuse or assault through the facility's chain of command.

2. The facility administrator shall promptly report the incident to the ICE Field Office Director, and refer all cases that appear potentially to support criminal prosecution to the appropriate law enforcement agency having jurisdiction for investigation.
3. If an employee, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse or assault, the facility administrator shall also notify the local government entity or contractor that operates the facility.
4. 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 victim's welfare, and for law enforcement/investigative purposes.
5. Upon receiving an allegation that a detainee was sexually abused while confined at another facility, the facility administrator shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred as soon as possible, and no later than 72 hours after receiving the allegation. **The facility administrator shall notify the detainee in advance of such reporting.**

#### **B. Staff Notification and Reporting Procedures**

1. **[INSERT FACILITY CHAIN-OF-COMMAND REPORTING STRUCTURE AND PROCEDURES/FORMS FOR DOCUMENTING IN WRITING ALL REPORTED ALLEGATIONS OR SUSPICIONS]**
2. **[INSERT FACILITY PROCEDURES FOR REFERRAL TO APPROPRIATE**

## **LAW ENFORCEMENT AGENCIES]**

### **VIII. Response**

#### **A. First Responders**

##### *1. First Responder Requirements*

- (a) Staff shall take immediate action to separate any detainee who alleges that he/she has been sexually assaulted from the alleged assailant, and shall refer the detainee for a medical examination and/or clinical assessment for potential negative symptoms.
- (b) Staff suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring detainee contact pending the outcome of an investigation.
- (c) When possible and feasible, staff shall immediately preserve the crime scene, and safeguard information and evidence consistent with the facility's evidence-gathering and evidence-processing procedures.

##### *2. First Responder Procedures*

- (a) **[INSERT FACILITY PROCEDURES THAT MEET REQUIREMENTS]**
- (b) **[INSERT FACILITY EVIDENCE PROTOCOL]**

#### **B. Specialized Responders**

##### *1. Specialized Responder Requirements*

- (a) Staff must use a coordinated, multidisciplinary team approach to responding to sexual abuse, such as a sexual assault response team (SART), which 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. **[INSERT FACILITY PROCESSES FOR INVOLVEMENT OF OUTSIDE COMMUNITY RESOURCES AND SERVICES BASED ON CONTRACTUAL OR OTHER ARRANGEMENTS WITH LOCAL ORGANIZATIONS]**

- (b) Care must be taken not to punish a confirmed or alleged sexual assault victim either for reporting sexual abuse or for participating in sexual activity as a result of force, coercion, threats, or fear of force.
- (c) The victim shall be housed in a supportive environment that represents the least restrictive housing option possible, and that will, to the extent possible, permit the victim the same level of privileges he/she was permitted immediately prior to the sexual assault.
- (d) Victims may not be held for longer than five days in any type of administrative segregation for protective purposes, except in highly unusual circumstances or at the request of the victim.
- (e) If any of these requirements cannot be met, **[FACILITY]** will consult with the ICE Field Office Director to determine if ICE can provide additional assistance.

#### 2. *Specialized Responder Procedures*

- (a) **[INSERT FACILITY PROCEDURES THAT MEET REQUIREMENTS]**
- (b) **[INSERT SPECIFIC FACILITY HOUSING OPTIONS TO BE CONSIDERED FOR VICTIMS AND ASSAILANTS OF VARIOUS SECURITY CLASSIFICATION LEVELS]**

- (c) **[INSERT ANY FACILITY PROCESSES FOR PROVIDING VICTIMS WITH COMMUNITY-BASED VICTIM SUPPORT SERVICES BASED ON CONTRACTUAL OR OTHER ARRANGEMENTS (i.e. MOU) WITH LOCAL ORGANIZATIONS]**

## IX. Health Care Services

### A. Health Care Services Requirements

1. Victims shall be provided emergency and ongoing medical and mental health services as needed. If adequate health care services may not be available, **[FACILITY]** will consult with the ICE Field Office Director to determine if ICE can provide additional assistance.
2. All facility medical staff responsible for examination or treatment of sexual abuse or assault victims shall be specially trained or certified in such procedures.

### B. Health Care Services Procedures

1. **[INSERT FACILITY PROCEDURES FOR PROVIDING IMMEDIATE PHYSICAL AND MENTAL HEALTH EXAMINATIONS, PROPHYLACTIC TREATMENT, EMERGENCY CONTRACEPTION, TESTING AND FOLLOW UP FOR SEXUALLY TRANSMITTED DISEASES, COUNSELING, AND FORENSIC MEDICAL EXAMINATIONS (WITH THE VICTIM'S CONSENT), AS APPROPRIATE, EITHER BY THE FACILITY HEALTH CARE UNIT OR THROUGH REFERRAL OR TRANSFER TO OUTSIDE MEDICAL PROVIDERS, BASED ON CONTRACTUAL OR OTHER**

**ARRANGEMENTS WITH AVAILABLE PROVIDERS]**

2. **[INSERT FACILITY REQUIREMENTS/PROTOCOLS FOR MEDICAL STAFF TRAINING OR CERTIFICATION]**

**X. Investigation**

**A. Investigation Requirements**

1. A prompt, thorough, objective, and fair investigation shall be conducted by qualified investigators for every incident or allegation of sexual abuse or assault.
2. **[FACILITY]** shall ensure that all allegations of sexual abuse or assault involving potentially criminal behavior are referred for investigation by an agency with the legal authority to conduct criminal investigations, and shall document such referrals.
3. The facility administrator shall coordinate as necessary with the ICE Office of Professional Responsibility (OPR) and/or criminal investigative entities responsible for investigation of the incident.
4. At no cost to the detainee, the facility administrator shall arrange for the victim to undergo a forensic medical examination. All collected forensic evidence must be secured and processed according to the facility's establish plan for maintaining the chain of custody for criminal evidence. A written summary of all medical evidence and findings shall be completed and maintained in the detainee's medical record.
5. If any of these requirements cannot be met, **[FACILITY]** will consult with the ICE Field Office Director to determine if ICE can provide additional assistance.

**B. Investigation Procedures**

1. **[INSERT DESCRIPTION OF CIRCUMSTANCES UNDER WHICH FACILITY WILL CONDUCT ITS OWN INVESTIGATION]** Where **[FACILITY]** conducts its own investigation into an incident or allegation of sexual abuse: **[INSERT FACILITY PROCESSES FOR CONDUCTING INTERNAL ADMINISTRATIVE INVESTIGATIONS]**
2. **[INSERT FACILITY PROCEDURES FOR CONDUCTION OF FORENSIC EXAMS BY EXTERNAL HEALTH CARE SERVICE PROVIDERS]**
3. **[INSERT FACILITY PROTOCOL FOR SAFEGUARDING EVIDENCE IN COORDINATION WITH CRIMINAL INVESTIGATIVE ENTITIES]**
4. **[INSERT FACILITY PROCEDURES FOR COORDINATION AND SEQUENCING OF INTERNAL ADMINISTRATIVE INVESTIGATIONS AND CRIMINAL INVESTIGATIONS TO ENSURE NON-INTERFERENCE WITH CRIMINAL INVESTIGATIONS]**

**XI. Disciplinary Sanctions**

**A. Disciplinary Sanctions Requirements**

1. All perpetrators of sexual abuse or assault shall be disciplined and referred for criminal prosecution as appropriate.
2. Staff determined to have perpetrated sexual abuse or assault or to have failed to comply with the requirements established by this policy shall be subject to the following disciplinary sanctions:

**B. Disciplinary Sanctions Procedures**

1. [INSERT FACILITY DISCIPLINARY SANCTIONS FOR STAFF OFFENSES RELATING TO SEXUAL ABUSE OR ASSAULT]

## XII. Sexual Abuse Incident Reviews

### A. Sexual Abuse Incident Review Requirements

1. The facility Sexual Abuse and Assault Prevention and Intervention Program Coordinator shall, together with upper-level management officials, conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation to assess and improve prevention and response efforts.
2. Such review shall ordinarily occur within 30 days of the conclusion of the investigation.
3. In conducting the review, the Program Coordinator shall seek input from line supervisors, investigators, and medical or mental health practitioners.
4. The reviewer(s) 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 facility;
  - (c) Examine the area in the 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 during different shifts;
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
- (f) Prepare a report of findings and any recommendations for improvement and submit such report to the facility administrator.

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

### B. Sexual Abuse Incident Review Procedures

1. [INSERT FACILITY PROCEDURES THAT MEET REQUIREMENTS]

## XIII. Data Collection and Reporting

### A. Data Collection and Reporting Requirements

1. All case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling, shall be maintained in [INSERT RELEVANT FACILITY RECORDS].
2. The facility administrator shall maintain two types of files regarding incidents of sexual abuse:
  - (a) General files include:
    - information about the victim(s) and assailant(s) of a sexual assault (including the race, nationality, age, and gender of the individuals)

- crime characteristics (including the date, time, location, and nature of the incident)
  - 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
  - all formal and/or informal action taken (including housing/custody placements, health care referrals, etc.)
- (b) Administrative investigative files include:
- all reports
  - medical forms (including documentation of any injuries sustained, and examinations, testing, or treatment administered)
  - supporting memos and videotapes, if any
- any other evidentiary materials pertaining to the allegation
3. All information shall be shared only on a need-to-know basis with staff involved in the treatment of the victim or the investigation of the incident.
  4. The Sexual Abuse and Assault Prevention and Intervention Program Coordinator shall review aggregate data on an annual basis, and present the findings to the ICE Field Office Director and ICE/ERO headquarters for use in determining whether changes may be needed to existing policies and practices in order to further the goal of eliminating sexual abuse.

## **B. Data Collection and Reporting Procedures**

1. **[INSERT FACILITY PROCEDURES THAT MEET REQUIREMENTS]**



## Appendix 2.11.C: Sexual Assault Awareness

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 abuse and sexual assault. Report all attempted abuse or assaults to a facility staff member (for example, your housing unit officer, a supervisor, a health care provider, or the officer in charge), or directly to the ICE Community and Detainee Hotline or the ICE Office of Professional Responsibility (OPR) Joint Intake Center.

### Definitions

#### Detainee-on-detainee Sexual Abuse and 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 and 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.**

### Prohibited Acts

This facility has a zero tolerance policy for sexual abuse and assault, which is prohibited by ICE policy and the law. 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 or Threat
- Code 404: Using Abusive or Obscene Language
- Code 206: Engaging in a Sex Act
- Code 300: Indecent Exposure

Victimized detainees shall 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. If you experience retaliation for reporting sexual abuse or for engaging in sexual activity as a result of force or coercion, you can report it in any way that you report an incident of sexual abuse.

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, ethnicity, 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, will 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, if they are available at your facility.

8. If you suspect another detainee is being sexually abused, report it to a staff member you trust or to the ICE Community and Detainee Hotline at 1-888-351-4024 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. Individuals who sexually abuse or assault detainees can only be disciplined or prosecuted if the abuse is reported. You can report a sexual assault incident to facility staff, ICE/ERO personnel, or DHS or ICE headquarters, including through the following methods:

Report to the Facility:

1. Tell any staff member at the facility you trust (for example, the Sexual Abuse and Assault Prevention and Intervention Program Coordinator, medical staff, chaplains, housing officers, supervisors, etc).
2. File an informal or formal grievance (including emergency grievance) with the facility.

Report to the ICE Field Office:

3. Tell an ICE/ERO staff member who visits the facility.
4. File a written informal or formal request or grievance to ICE/ERO.

Report to DHS or ICE Headquarters:

5. Contact the ICE Community and Detainee Hotline:
  - Call the toll-free hotline at: 1-888-351-4024
6. Contact the ICE Office of Professional Responsibility (OPR) Joint Intake Center (JIC):
  - Call the toll-free hotline at: 1-877-246-8253
  - Email: [Joint.Intake@dhs.gov](mailto:Joint.Intake@dhs.gov)
  - Write a letter to:  
P.O. Box 14475  
1200 Pennsylvania Ave. NW  
Washington, D.C. 20044

You do not have to give your name to report sexual abuse or assault, but the more information you can

provide, the easier it will be to investigate what happened. Staff members are required to keep the reported information confidential and only discuss it with the appropriate officials on a need-to-know basis.

### 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 in order 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. If the assault occurred recently, it is important that you do not shower, wash, drink, change clothing or use the bathroom, to the extent possible, until you can be seen by a medical provider and any evidence can be collected.

### The Medical Exam

Medical staff will examine you as appropriate for injuries, which may or may not be readily apparent to you. In some cases, they may also check for and 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. With your consent, a medical professional may 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 may be critical in corroborating that the sexual assault occurred and in identifying the assailant; trained personnel will conduct the exam privately and

professionally.

You are entitled to medical and mental health services and ongoing care, as appropriate, including testing and treatment for sexually transmitted diseases and infections, emergency contraception, and counseling services.

### **Understanding the Investigative Process**

Once the misconduct is reported, the facility and/or an appropriate law enforcement agency will 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.

### **The Emotional Consequences of Sexual Assault**

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.