Sexual Abuse and Assault.

D. Definitions. For the purposes of this Residential Standard, the following definitions apply:

1. Resident-on-resident sexual abuse or assault

One or more residents engaging in a sexual act with another resident or the use of threats, intimidation, inappropriate touching, or other actions and or communications by one or more residents aimed at coercing and or pressuring another resident to engage in a sexual act. Sexual acts or contacts between residents, even when no objections are raised, are prohibited acts.

2. Staff-on-resident sexual abuse or assault

Engaging in, or attempting to engage in a sexual act with any resident or the intentional touching of an resident's genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person. Sexual acts or contacts between a resident and a staff member, even when no objections are raised, are always illegal.

E. Sexual Conduct Between Residents and Staff, Volunteers, or Contract Personnel Prohibited

Sexual conduct between staff and residents, volunteers, or contract personnel, **regardless of consensual status**, is prohibited and subject to administrative and criminal disciplinary sanctions.

F. Staff Training

Training on the facility's Sexual Abuse and Assault Prevention and Intervention Program shall be included in initial training for new employees, volunteers, and contract personnel and be included in annual refresher training thereafter.

Training shall include:

- Understanding that sexual abuse or assault is never an acceptable consequence of detention;
- Recognizing housing or other situations where sexual abuse or assault may occur;
- Recognizing the physical, behavioral, and emotional signs of sexual abuse or assault and ways to prevent such occurrences;
- Knowing how to report knowledge or suspicion of sexual abuse or assault and make intervention referrals in the facility's program.
- **Appendix A** lists resources available from the National Institute of Corrections that may be useful in developing a training program and/or for direct use in training, including a copy of the PREA, two videos, a facilitator's guide, reference material, and a PowerPoint presentation.

G. Resident Notification and Orientation

The facility administrator shall ensure that the orientation program required by the Residential Standard on **Admission and Release** and the resident handbook

required by the Residential Standard on **Resident Handbook** notifies and informs residents about the facility's Sexual Abuse and Assault Prevention and Intervention Program and includes (at a minimum): Prevention/intervention;

- Self-protection;
- Reporting sexual abuse or assault; and
- Treatment and counseling.

Each facility's Sexual Abuse and Assault Prevention and Intervention Program shall provide residents who are victims of sexual abuse or assault an option to report the incident or situation to a designated staff member other than an immediate point-of-contact line officer (for example, the program coordinator or a mental health specialist).

ICE has provided a Sexual Assault Awareness notice (4/17/2006) to be posted on all housing unit bulletin boards (Attachment 1), as well as a Sexual Assault Awareness Information brochure (4/17/2006).

H. Prevention

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

In accordance with the Residential Standards on **Admission and Release** and **Classification System**:

- Residents shall be screened upon arrival at the facility for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior.
- Each new arrival shall be kept separated from the general population until he or she is classified and may be housed accordingly.
- Residents with a history of sexually assaultive behavior shall not be eligible for placement in a family residential center and shall be refused admission and immediately transferred to a secure facility. Residents identified as "high risk" of sexually assaultive behavior shall not be eligible for placement in a family residential center and shall be refused admission and immediately transferred to a secure facility.
- Residents at risk for sexual victimization shall be identified, monitored, and counseled. Residents identified as "high risk" for sexual victimization shall be assessed by a mental health or other qualified professional.

I. Prompt and Effective Intervention

Staff sensitivity toward residents who are victims of sexual abuse or assault is critical.

Staff shall take seriously all statements from residents that they have been victims of sexual assaults and respond supportively and non-judgmentally. Any resident who alleges that he or she has been sexually assaulted shall be offered immediate protection from the assailant and referred for a medical examination and/or a clinical assessment of the potential for suicide or other symptoms.

J. Notifications and Referrals

Designated staff shall provide services to victims and shall conduct investigations of sexual abuse or assault incidents. Information concerning the identity of a resident 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 resident-victim's welfare and for law enforcement/investigative purposes.

The timely reporting of all incidents and allegations is of paramount importance.

1. Alleged Resident Perpetrator

When a resident(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 and reported to ICE through the SEN (Significant Event Notice) system.

2. Alleged Staff Perpetrator

When an employee, contractor, or volunteer is alleged to be the perpetrator of resident sexual abuse or assault, the following shall immediately be notified:

- The facility administrator,
- The highest ranking on-site ICE/DRO representative (who may be the OIC),
- The Chief, JFRMU
- The respective Field Office Director.

The Chief, JFRMU shall notify:

- The Office of the Principle Legal Advisor
- The area Field Office Director
- The Assistant Director[s] for Management and Operations
- The Deputy Assistant Director, Detention Management Division,
- The ICE Office of Professional Responsibility (OPR). OPR will refer the matter to the DHS Office of the Inspector General (OIG).
- The Joint Intake Center

The facility administrator or Chief, JFRMU shall also refer the matter to the FBI (or other appropriate law enforcement agency).

K. Investigation and Prosecution

If a resident alleges sexual assault, a sensitive and coordinated response is necessary.

Appropriate staff shall preserve the crime scene and collect information/evidence in coordination with the referral agency and consistent with evidence gathering/processing procedures.

Collection and preservation of physical evidence is paramount to any potential prosecution of an alleged assailant. For this reason, the victim of a sexual assault shall be transported to the nearest hospital for examination and collection of physical

evidence. The Division of Immigration Health Services is not trained to perform forensic collection and should not be used to examine and collect evidence. The results of the physical examination and all collected physical evidence are to be provided to the Chief, JFRMU. Appropriate infectious disease testing, as determined by the health services provider, may be necessary. Part of the investigative process may also include an examination of and collection of physical evidence from the suspected assailant(s).

L. Transfer of Residents to Hospitals or Other Institutions

When possible and feasible, victims of sexual assault should be referred under appropriate security provisions to a community facility for treatment and gathering of evidence.

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

- A history is taken by health care professionals who conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated. With the victim's consent, the examination includes collection of evidence from, the victim, using a kit approved by the appropriate authority.
- Provision is made for testing for sexually transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases and counseling, as appropriate.
- Prophylactic treatment and follow-up for sexually transmitted diseases are offered to all victims, as appropriate.
- Following the physical examination, there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up.

A report is made to the facility or program administrator or designee to assure separation of the victim from his or her assailant.

M. Tracking Incidents of Sexual Abuse and Assaults

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 are maintained in appropriate files in accordance with other Residential Standards and applicable policies and retained in accordance with established schedules.

Monitoring and evaluation are essential to assess both sexual assault levels and agency effectiveness in reducing sexually abusive behavior. Accordingly, the facility administrator must maintain two types of files.

- **General files** include:
  - The victim(s) and assailant(s) of a sexual assault,
  - Crime characteristics, and
  - Formal and or informal action taken.
- **Investigative files** include:

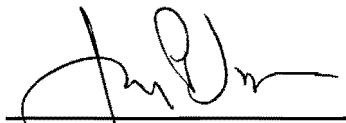
- All reports,
- Medical forms,
- Supporting memos and videotapes, and
- Any other evidentiary materials pertaining to the allegation.

The facility administrator shall maintain these files chronologically in a secure location. Each 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 institution on his or her computerized incident reporting system.

In Residential Centers, the facility administrator shall give resident assault assailant(s) and victim(s) involved in a ICE/DRO sexual assault incident a specific designator as required in the official reporting system (SIR, SEN, Other).

Access to this designation shall be limited to those staff that are involved on the treatment of the victim or the investigation of the incident. The authorized designation will allow administrative, treatment, and facility administrator staff to track the resident across the system who have been involved in sexual assault either as a victim or as an assailant. Based on the designated reporting data, the ICE/DRO program office shall report annually the number of sexual assaults occurring within secure detention facilities utilized by ICE/DRO. Data will be provided through the SEN system.

Standard Approved:



DEC 2 1 2007

John P. Torres
Director
Office of Detention and Removal

Date

Appendix A

Resources Available from the National Institute of Corrections

The National Institution of Corrections (NIC):

- Offers training and technical assistance and provides a national clearinghouse for information on the Prison Rape Elimination Act of 2003 (PREA), and
- Is required by the PRLE to produce an annual report to Congress.

"PREA Tool Kit 1," available from NIC, contains:

- A copy of the video, Facing Prison Rape, and the accompanying Facilitator's Guide.
- A copy of the full 3-hour videoconference "How PREA Affects You."
- A copy of the Prison Rape Elimination Act of 2003.
- A bibliography of reference material.
- A PowerPoint presentation containing am overview and introduction to the PREA.

Appendix 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 should be incorporated as part of a successful program.

I. VICTIM IDENTIFICATION (all staff)

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

- Staff discover an assault in progress.
- A victim reports an assault to a staff member.
- Another resident reports abuse or an assault, or a resident is the subject of resident rumors.
- Medical evidence indicates the probability of a abuse or an assault.

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

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

- If it is suspected that the resident was sexually assaulted, the resident should be advised of the importance of getting help to deal with the assault, that he or she may be evaluated medically for sexually transmitted diseases and other injuries, and that trained personnel are available to assist.
- Staff should review the background of a suspected victim, and the circumstances surrounding the incident, without jeopardizing the resident's safety, identity, and privacy.
- If staff discover an assault in progress, the suspected victim should be removed from the immediate area for care and for interviewing by appropriate staff.
- If a suspected victim is fearful of being labeled an informer, he or she should be advised that the identity of the assailant(s) is not needed to receive assistance.
- The staff member who first identifies that an assault may have occurred should refer the matter to the security shift supervisor or investigative supervisor.

II. PROCEDURES FOR STAFF INTERVENTION AND INVESTIGATION

The following procedures may apply for reported or known victims of sexual assault. If the resident was threatened with sexual assault or was assaulted on an earlier occasion, some steps may not be necessary.

A. Early Intervention Techniques (all staff)

- It is important that all contact with a sexual assault victim be sensitive, supportive, and non-judgmental.
- It is not necessary to make a judgment about whether or not a sexual assault occurred.
- Remove resident victim(s) from the immediate area;
- Alert medical staff immediately and escort the victim for a medical evaluation as soon as possible. If necessary, medical staff should refer the victim to a local emergency facility.
- Appropriate staff should coordinate other services to do follow-up (housing, suicide assessment, etc.).
- To facilitate evidence collection, it is important that the victim ***not*** shower, wash, drink, eat, defecate or change any clothing until examined.
- A brief statement about the assault should be obtained from the resident. The victim may be in shock, and unable to give much detail. It is important to be understanding and responsive. Opportunities to secure more details will occur later.
- Following medical evaluation/treatment, the victim may need to be reassigned to protective custody or to another secure area of the facility. Ensure no alleged assailant is located in the area.

B. Collect Evidence from Victim - (security and investigative staff)

- Be sure to use HIV infection ("universal") precautions and procedures. Contact medical staff to determine how to preserve medical indications of sexual assault. In the crime scene area, look for the presence of semen that can be used as evidence. For example, blankets and sheets should be collected.
- Use standard evidence collection procedures (photographs, etc.).

C. Collect Evidence from Assailant - (security and health services staff)

- Identify the assailant if possible and isolate the assailant, whenever possible, pending further investigation.
- Use standard investigative and evidence-gathering procedures.
- Report the incident to the appropriate law enforcement agency.
- If institution medical staff attempt to examine the alleged assailant, findings should be documented both photographically and in writing. A written summary of all medical evidence and findings should be completed and maintained in the resident's medical record. Copies should also be provided to supervisory security staff and appropriate law enforcement officials.

III. MEDICAL ASSESSMENT OF VICTIM - (health services staff)

- If trained medical staff are available in the institution, render treatment locally whenever feasible.
- If the alleged victim is examined in the institution to determine the extent of injuries, all findings should be documented both photographically and in writing in the resident's medical record, with a copy to supervisory security staff and appropriate law enforcement official.
- 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.
- Notify staff at the community medical facility and alert them to the resident's condition.
- When necessary, conduct STD and HIV testing.
- Refer the resident for crisis counseling as appropriate.

IV. MEDICAL TRANSFERS FOR EXAMINATION AND TREATMENT - (security and health services staff)

- If determined appropriate by the institution physician and if approved by the facility administrator or designee, the resident 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 institution medical services. The contract should provide for clinical examination, for assessing physical injuries and for the collection of any physical evidence of sexual assault. It should also allow for contract medical personnel to come into the institution and for the escorting of residents to the contract facility (crisis care center, medical clinic, hospital, etc.).
- Escorting staff should treat the victim in a supportive and non-judgmental way.
- Information about the assault is confidential, and should be given only to those directly involved in the investigation and/or treatment of the victim.

V. MENTAL HEALTH SERVICES - (mental health staff)

- Mental health staff should be notified immediately after the initial report of an allegation of sexual abuse or assault of a resident.
- Any alleged victim should be seen within 24 hours following such notification, by a mental health clinician to provide crisis intervention and to assess any immediate and subsequent treatment needs.
- The findings of the initial crisis/evaluation session should be summarized in writing within one week of the initial session and 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.

- Additional psychological or psychiatric treatment, as well as continued assessment of mental health status and treatment needs, should be provided as needed, with the victim's full consent and collaboration. Decisions regarding the need for continued treatment and/or assessment should be made by qualified clinicians according to established professional standards, and should be made with an awareness that a victim of sexual abuse or assault commonly experiences both immediate and delayed psychiatric and/or emotional symptoms.
- If a victim chooses to continue to pursue treatment, the clinician will 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 case load and/or facility, referral to a psychiatrist, and/or other treatment options. Pending referral, mental health services should continue unabated. If a victim chooses to decline further treatment services, he or she should be asked to sign a statement to that effect.
- All treatment and evaluation sessions should be properly documented and placed in the appropriate treatment record to ensure continuity of care.
- Should a victim be released from custody during the course of treatment, the victim should be advised of community mental health resources in his/her area.

VI. MONITORING AND FOLLOW-UP

- Classification and security staff should place the resident in appropriate housing and assess the risk of keeping the victim at the same facility where the incident occurred.
- Housing, medical and mental health staff should monitor the physical and mental health of the victim and coordinate the continuation of necessary services.
- Medical staff should dispense medication; provide routine examinations and STD and HIV follow-up.
- Mental health staff should conduct post-crisis counseling and arrange for psychiatric care if necessary.

U.S. Immigration and Customs Enforcement

SEXUAL ASSAULT AWARENESS: This document is required to be posted in each Housing Unit Bulletin Board at all Residential Centers that house ICE residents.

While detained by the Department of Homeland Security, Immigration and Customs Enforcement, Office of Detention 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, or directly to the Office of the Inspector General at 1 (800) 323-8603

Definitions:

Resident-on-Resident Sexual Abuse/Assault: One or more residents engaging in, or attempting to engage in a *sexual act* with another resident or the *use of threats, intimidation, inappropriate touching* or other actions and/or communications by one or more residents aimed at *coercing* and/or *pressuring* another resident to engage in a sexual act.

Staff-on-Resident Sexual Abuse/Assault: Staff member engaging in, or attempting to engage in a sexual act with any resident or the intentional touching of a resident's genitalia, anus, groin, breast, inter thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desires of any person. *Sexual abuse/assault of residents by staff or other residents is an inappropriate use of power and is prohibited by ICE policy and the law.*

Staff Sexual Misconduct is: Sexual behavior between a staff member and resident which can include, but is not limited to indecent, profane or abusive language or gestures and inappropriate visual surveillance of residents.

Prohibited Acts:

A resident who engages in inappropriate sexual behavior with or directs it at others, can be charged with the following Prohibited Acts under the Resident Disciplinary Policy.

- Sexual Assault;
- Making a Sexual Proposal;
- Using Abusive or Obscene Language;
- Engaging in a Sex Act;
- Indecent Exposure

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, you have the right to be safe from unwanted sexual advances and acts.

Confidentiality:

Information concerning the identity of a resident 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 resident-victim's welfare and for law enforcement/investigative purposes.

Avoiding Sexual Assault:

Here are some things you can do to protect yourself against sexual assault:

- Carry yourself in a confident manner. Many offenders choose victims who look like they won't fight back or who they think are emotionally weak.
- Do not accept gifts or favors from others. Most gifts or favors come with strings attached to them.
- Do not accept an offer from another resident to be your protector.
- Find a staff member with whom you feel comfortable discussing your fears and concerns. Report concerns!
- Do not use drugs or alcohol; these can weaken your ability to stay alert and make good judgments.
- Avoid talking about sex. Other residents may believe you have in interest in a sexual relationship.
- Be clear, direct and firm. Don't be afraid to say NO or STOP IT NOW.
- Stay in well-lit areas of the Facility.
- Choose your associates wisely. Look for people who are involved in positive activities like educational programs, work opportunities, counseling groups, or religious services. Get involved in these activities yourself.

- Trust your instincts. Be aware of situations that make you feel uncomfortable. If it doesn't feel right or safe, leave the situation. **If you fear for your safety, report your concerns to staff.**

REPORT all Assaults:
If you become a victim of a sexual assault, you should report it 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:

- 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.
- File an Emergency Resident 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 Director. You can get the forms from your housing unit officer, deportation staff or a facility supervisor.
- Write to the Office of Inspector General (OIG), which investigates allegations of staff misconduct.
    - The address is: Office of Inspector General, P.O. Box 27606, Washington, D.C. 20530
- Call at no expense to you the Office of Inspector General (OIG). The phone number is posted in your housing unit.

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

Next Steps After Reporting a 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 resident(s) or staff member who assaulted 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 *don't shower, wash, drink, change clothing or use the bathroom until evidence can be collected.*

The Medical Exam
Medical staff will examine you for injuries, which may or may not be readily apparent to you and will gather physical evidence of assault. Bring the clothes and underwear that you had on at the time of the assault to the medical exam with you. You will be checked for the presence of physical evidence, which supports your allegation. With your consent, a medical professional will 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, which remain after the assault. This physical evidence is critical in corroborating the sexual assault occurred and in identifying the assailant; trained personnel will conduct the exam privately and professionally.

Understanding the Investigative Process:
Once the misconduct is reported, the 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. Any resident who alleges that he or she has been sexually assaulted shall 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 even several months or years after the attack. Other common reactions include loss of appetite, nausea or stomachaches, 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 residents who are at high risk to sexually assault 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, socioeconomic status, 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, 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 Office of the Inspector General

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FOR INSERTION OF SEXUAL ASSAULT AWARENESS INFORMATION
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DATED 4/17/2006
AS ATTACHMENT 2