

<p>FREEBORN COUNTY SHERIFF'S OFFICE CORRECTIONS DIVISION POLICY AND PROCEDURES</p>	<p>NUMBER: 4.02 SUPERCEDES NO: All Previous</p>
<p>SUBJECT: PREA/SAAPI</p>	<p>EFFECTIVE DATE:10-03-07 Reviewed/Updated – January 8, 2025</p>
<p>SECTION: IV - Detainee Welfare</p>	<p>PAGE 1 OF 29</p>
<p>AUTHORITY: _____ Freeborn Co. Sheriff</p>	<p>ISSUED BY:  _____ Freeborn Co. Jail Administrator</p> <p>ICE Approval: _____</p>
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PREA/SAAPI

I. Zero Tolerance Policy

The Freeborn County Adult Detention Center (FCADC or facility) maintains a zero-tolerance policy for all forms of sexual abuse or assault. It is the policy of the FCADC to provide a safe and secure environment for detainees, employees, contractors and volunteers, free from the threat of sexual abuse or assault by maintaining Prison Rape Elimination Act (PREA) and Sexual Abuse and Assault Prevention and Intervention (SAAPI) programs that ensure effective procedures for preventing, reporting, responding to, investigating and tracking incidents or allegations of sexual abuse or assault.

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

II. Definitions

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

1. Sexual abuse of a detainee by another detainee includes any of the following acts by one or more detainees who, by force, coercion, intimidation, or if the victim did not consent or was unable to consent or refuse, engages in or attempts to engage in:
 - a. Contact between the penis and the vulva or anus and, for the 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,

- e. degrade, 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.
2. Sexual abuse of a detainee by a staff member, contractor, or volunteer includes any of the following acts, if engaged in by one or more staff members, volunteers or contract personnel who, with or without the consent of the detainee, engages in or attempts to engage in:
- a. Contact between the penis and the vulva or anus and, for the 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 that is unrelated to official duties or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire;
 - d. Intentional touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, that is unrelated to official duties or where the staff member, contractor or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - e. Threats, intimidation, harassment, indecent, profane or abusive language, or other actions or communications aimed at coercing or pressuring a detainee to engage in a sexual act;
 - f. Repeated verbal statements or comments of a sexual nature to a detainee;
 - g. Any display of his/her uncovered genitalia, buttocks or breasts in the presence of a detainee; or
 - h. Voyeurism is defined as the inappropriate visual surveillance of a detainee for reasons unrelated to official duties. Where not conducted for reasons relating to official duties, the following are examples of voyeurism: staring at a detainee who is using the toilet in his/her cell to perform bodily functions; requiring a detainee to expose his/her buttocks, genitals or breasts; or taking images of all or part of a detainee's naked body or of a detainee performing bodily functions.
3. Staff and detainee perpetrators of sexual abuse, as well as detainees who engage in consensual sexual conduct are subject to administrative and disciplinary sanctions. The facility shall not discipline a detainee for sexual contact with staff unless there is a finding that the staff member did not consent to such contact.

Contractor: A person who or entity that provides services on a recurring basis pursuant to a contractual agreement with the facility.

Volunteer: An individual who donates time and effort on a recurring basis to enhance the activities and programs of the facility.

III. Compliance Manager

The facility shall designate a Prevention of Sexual Assault (PSA) Compliance Manager who shall serve as the facility point of contact for the local field office and ICE PSA Coordinator. The PSA Compliance Manager must have sufficient time and authority to oversee facility efforts to comply with facility sexual abuse and assault prevention and intervention policies and procedures. The Compliance Manager shall:

- 1. Assist with the development of written policies and procedures for the PREA and SAAP programs and with keeping them current;
- 2. Assist with the development of initial and ongoing training protocols;
- 3. Serve as liaison with other agencies;

4. Coordinate the gathering of statistics and reports on allegations of sexual abuse or assault;
5. Review the results of every investigation of sexual abuse and assist in conducting an annual review of all investigations to assess and improve prevention and response efforts; and
6. Review facility practices to ensure required levels of confidentiality are maintained.

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 abuse or assaults might occur. If a facility staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee.

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, taking necessary steps to mitigate any such danger.
- b. Each new detainee shall be kept separate from the general population until he/she has been classified and may be housed accordingly.
- c. The initial classification process and initial housing assignment should be completed within 12 hours of admission to the facility.
- d. The facility shall consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization:
 - i. Whether the detainee has a mental, physical, or developmental disability;
 - ii. The age of the detainee;
 - iii. The physical build and appearance of the detainee;
 - iv. Whether the detainee was previously incarcerated or detained;
 - v. The nature of the detainee's criminal history;
 - vi. Whether the detainee has any convictions for sex offenses against an adult or child;
 - vii. Whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex or gender nonconforming;
 - viii. Whether the detainee has self-identified as having previously experienced sexual victimization; and
 - ix. The detainee's own concerns about his or her physical safety.

Detainees shall not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked pursuant to items (I), (vii), (viii), or (ix) above.

- e. The initial screening shall consider prior acts of sexual abuse or assault, prior convictions for violent offenses and history of prior institutional violence or sexual abuse or assault, as known to the facility, in assessing detainees for risk of being sexually abusive.
- f. The facility shall implement appropriate protections on responses to questions asked pursuant to this screening, limiting dissemination and ensuring that sensitive information is not exploited to the detainee's detriment by staff or other detainees/inmates.
- g. If screening indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or

mental health practitioner for medical and/or mental health follow-up, as appropriate. When a referral for medical follow-up is initiated the detainee shall receive a health evaluation no later than two (2) working days from the date of the assessment. When a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after arrival.

- h. Inmates at a high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If the facility cannot conduct this assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.
- i. Detainees considered at risk for sexual victimization shall be placed in the least restrictive housing that is available and appropriate. If appropriate custodial options are not available at the facility, the facility will consult with the ICE Field Office Director to determine if ICE can provide additional assistance. Such detainees may be assigned to administrative segregation for protective custody only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.
- j. The facility shall reassess each detainee's risk of victimization or abusiveness every 30 days from the date of the initial assessment and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization.
- k. When making assessment and housing decisions for transgender or intersex detainees, the facility shall consider the detainee's gender self-identification and an assessment of the effects of placement on the detainee's health and safety. The facility shall consult a medical or mental health professional as soon as practicable on this assessment. The facility should not base placement decisions of transgender or intersex detainees solely on the identity documents or physical anatomy of the detainee; a detainee's self-identification of his/her gender and self-assessment of safety needs shall always be taken into consideration as well. The facility's placement of transgender or intersex detainees shall be consistent with the safety and security considerations of the facility. Placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee.
- l. When operationally feasible, transgender and intersex detainees shall be given the opportunity to shower separately from other detainees.

2. Screening and Classification Procedures

- a. All detainees shall be screened during the book-in process for potential risk of sexual abuse, assault or sexual violent behavior. Detainees will be classified and housed accordingly.
- b. Each new detainee shall be kept in Intake until classification can be determined for housing.
- c. Detainees identified as having a history of sexual abuse, assault or violence and determined to be a possible risk shall be assessed by medical staff for counseling or monitoring.
- d. Detainees considered to be at risk for sexual victimization shall be placed in the least restrictive housing that is available and appropriate. If appropriate housing is not available at the FCADC, the FCADC will

- contact the ICE Field Office Director to determine if ICE can provide additional assistance. For non-ICE inmates, the PREA coordinator will consider other facilities for possible housing.
- e. Medical screening questions have been added to the Intake procedure.
 - f. A PREA Risk Assessment form will be completed during the booking process; this form will be used to reassess the risk to a detainee every 30 days. All risk screening assessments are kept in a locked office in the administrative area.
 - g. Per procedure, facility medical staff reviews medical screening questions.
 - h. Staff and ACH employees are to communicate with ICE Contract Manager and PREA Program Coordinator for notification of detainees at risk or potential risk of sexual abuse, assault or violence for classification/housing consideration.
 - i. Within a set time period, not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.
 - j. An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse or a receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.
 - k. Inmates may not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked.

B. Staff Training

1. Staff Training Requirements

- a. Training on the facility's SAAPI/PREA programs shall be included in initial and annual refresher training for all employees.
- b. Training shall include:
 - i. The facility's zero-tolerance policies for all forms of sexual abuse;
 - ii. Definitions and examples of prohibited and illegal sexual behavior;
 - iii. The right of detainees and staff to be free from sexual abuse and from retaliation from reporting sexual abuse;
 - iv. Instruction that sexual abuse and/or assault is never an acceptable consequence of detention;
 - v. Recognition of situations where sexual abuse and/or assault may occur;
 - vi. How to avoid inappropriate relationships with detainees;
 - vii. Working with vulnerable populations and addressing their potential vulnerability in the general population;
 - viii. Recognition of the physical, behavioral and emotional signs of sexual abuse and/or assault and ways to prevent and respond to such occurrences;
 - ix. 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;
 - x. The investigation process and how to ensure that evidence is not destroyed;
 - xi. Prevention, recognition and appropriate response to allegations or suspicions of sexual assault involving detainees with mental or physical disabilities;
 - xii. How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex or gender nonconforming detainees;

- xiii. Instruction on reporting knowledge or suspicion of sexual abuse and/or assault;
 - xiv. Instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse and/or assault; and
 - xv. Instruction on the obligation of the continuing affirmative duty to disclose sexual misconduct.
- c. All volunteers and other contractors who have contact with detainees shall be trained on their responsibilities under the facility's sexual abuse and prevention, detection, intervention and response policies and procedures. 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 ICE and the facility's zero-tolerance policy and informed of how to report such incidents.
 - d. In addition to the general training, all facility staff responsible for conducting sexual abuse or assault investigations shall receive specialized training that covers, at a minimum, interviewing sexual abuse and assault victims, sexual abuse and assault evidence collection in confinement settings, the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process. The facility must maintain written documentation verifying specialized training provided to investigators pursuant to this requirement.
 - e. Facility medical staff shall be trained in procedures for examining and treating victims of sexual abuse, in facilities where medical staff may be assigned these activities. Such specialized training shall include 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 how and whom to report allegations or suspicions of sexual abuse or assault.
 - f. The facility shall maintain documentation verifying employee, volunteer and contractor training.

2. Staff Training Procedures

Hiring and Promotion Decisions

- a. FCADC shall not hire or promote anyone who may have contact with inmates and shall not enlist the services of any contractor who may have contact with Inmates, who:
 - i. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution;
 - ii. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force or coercion, or if the victim did not consent or was unable to consent or refuse; and
 - iii. Has been civilly or administratively adjudicated to have engaged in the activity described.
- b. FCADC shall consider any incidents of sexual harassment in determining whether to hire or promote anyone or to enlist the services of any contractor, who may have contact with inmates. A background check will be conducted consistent with federal, state, and local law. All efforts will be made to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
- c. All potential employees and contractors will be asked the appropriate questions listed in (a) above during the background process. Anyone answering in the affirmative will not be hired.

- d. All employees considered for promotion will be asked the appropriate questions listed in (a) above. Anyone answering in the affirmative will not be promoted.
- e. All employees will answer the appropriate questions listed in (a) above during performance reviews. Any answer in the affirmative may result in termination.
- f. Additionally, all employees and contractors have the continuing affirmative duty to disclose any sexual misconduct. Material omissions regarding such misconduct, or providing false information, shall be grounds for termination.
- g. Unless prohibited by law, the Freeborn County Sheriff's Office shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

3. Staff Training Requirements

- a. Training for FCADC sexual abuse, assault and violence prevention policy shall be included in the initial and annual training for all employees, volunteers and contract personnel.
- b. Freeborn County Sheriff's Office personnel responsible for conducting sexual abuse, assault or violence investigations shall have specialized training in conducting such investigations in confinement settings; to include techniques on interviewing sexual abuse victims, sexual abuse evidence collection in confinement settings, criteria and evidence collection required for administrative and prosecutorial referral.
- c. Full and part time medical staff, who work at the FCADC, shall receive training in detecting and assessing signs of sexual abuse and assault, preserving physical evidence, responding effectively to victims and reporting allegations or suspicion of sexual abuse or assault.
- d. Prevention, recognition and appropriate response to allegations or suspicions of sexual assault involving detainees with mental or physical disabilities.
- e. FCADC PREA Coordinator shall maintain training documentation for employees, volunteers and contractors.

4. Staff Training Procedures

- a. PREA Coordinator or other designated staff shall be responsible for all staff training requirements.
- b. PREA Coordinator or designated PREA Coordinator shall be responsible to seeing that all staff is trained to respond in a coordinated fashion for detainee reports of sexual abuse or assault.

5. Supervision and Monitoring

- a. Intermediate-level or higher-level supervisors will conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment.
- b. Unannounced rounds will occur on both day and night shifts.
- c. Staff is prohibited from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

D. Detainee Education

1. Detainee Education Requirements

- a. Upon admission to the FCADC, 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, provided with information about the facility's SAAPI and PREA programs. Such information shall include at a minimum:
 - i. The facility's zero tolerance policy for all forms of sexual

- abuse or assault;
 - ii. The name of the facility PSA Compliance Manager and information about how to contact him/her;
 - iii. Prevention and intervention strategies;
 - iv. Definitions and examples of detainee on detainee sexual abuse or assault, staff on detainee sexual abuse or assault and coercive sexual activity;
 - v. Explanation of methods for reporting sexual abuse or assault, including one or more staff members other than an immediate point of contact line Deputy, the DHS/OIG and the ICE/OPR investigation processes;
 - vi. Information about self-protection and indicators of sexual abuse and assault;
 - vii. Prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainee's immigration proceedings; and
 - viii. The right of the detainee who has been subjected to sexual abuse to receive treatment and counseling.
 - b. The facility shall provide the detainee notification, orientation or instruction in formats accessible to all detainees, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to detainees who have limited reading skills.
 - c. The facility shall maintain documentation of detainee participation in the instruction session.
 - d. The facility shall post on all housing unit bulletin boards the following notices:
 - i. The DHS prescribed sexual abuse and assault awareness notice;
 - ii. The name of the PSA Compliance manager; and
 - iii. Information about local organizations that can assist detainees who have been victims of sexual abuse or assault, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). If no such local organizations exist, the facility shall make available the same information about national organizations.
 - iv. The facility shall make available and distribute the DHS-prescribed "Sexual Assault Awareness Information" packet.

2. Detainee Education Procedures

- a. Upon admission to the FCADC, all detainees shall be notified of the facilities Zero-Tolerance policy for all forms of sexual abuse, assault and violence through the orientation process, detainee handbook and hand-out describing the Zero-Tolerance policy. Requirements to include:
 - i. FCADC Zero-Tolerance Policy;
 - ii. Procedure for reporting sexual abuse or assault and who to contact;
 - iii. Definitions of sexual abuse or assault;
 - iv. Self-protection and indicators of sexual abuse and assault;
 - v. Protection against retaliation, plus reporting an assault, shall not negatively impact detainee's immigration procedures; and
 - vi. Right of victim to receive treatment and counseling.
- b. Detainee notification and instruction must be in a language or manner that the detainee understands.

- e. FCADC shall maintain documentation of detainee participation in the PREA instruction.
- f. PREA Coordinator or designated staff shall be responsible for detainee education on issues pertaining to sexual abuse or assault.
- g. All detainees will be given the FCADC hand out describing the FCADC Zero-Tolerance Policy on sexual abuse, assault or violence.
- h. Inmate handbook will contain and describe the FCADC Zero-Tolerance Policy.
- i. Detainee handbook will contain procedure for reporting sexual abuse and assault.
- j. FCADC Zero-Tolerance Policy will be on unit kiosks for detainees to review, read and sign off on in a language or manner of explanation they can understand.

E. Limits to Cross-Gender Viewing and Searches

1. Viewing and Searches Requirements for Detainees of the opposite gender

- a. Pat-down searches of male detainees by female staff shall not be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances.
- b. Pat-down searches of female detainees by male staff shall not be conducted unless in exigent circumstances.
- c. All pat-down searches by staff of the opposite gender shall be documented.
- d. Strip searches or visual body cavity searches by staff of the opposite gender shall not be conducted except in exigent circumstances, including consideration of the deputy safety, or when performed by medical practitioners. Staff shall not conduct visual body cavity searches of juveniles. All such body cavity searches of juvenile shall be referred to a medical practitioner.
- e. All strip searches and visual body cavity searches shall be documented.
- f. Detainees shall be able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. Staff of the opposite gender shall announce their presence when entering an area where detainees are likely to be showering, performing bodily functions or changing clothing.
- g. The facility shall not search or physically examine a detainee for the sole purpose of determining the detainee's genital characteristics. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a medical examination that all detainees must undergo as part of intake or other processing procedure conducted in private, by a medical practitioner.
- h. All pat-down searches shall be conducted in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs and policy, including deputy safety.

2. Viewing and Search Procedures for Detainees of Opposite Gender

- a. Staff may not visually observe detainees of the opposite sex while changing, performing bodily functions or showering.
- b. Staff of opposite gender must announce their presence upon entering detainee living areas.
- c. Staff of same gender as detainee shall perform a pat down search.

- d. Strip searches shall be performed by the same gender as the detainee.
- e. Special care should be taken to ensure a strip search of a transgender or intersex detainee be performed in private.
- f. Staff is prohibited from searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate's genital status.

See search procedures for FCADC- Policy 6.06
See DOC 2911.5300

F. Detainee Supervision

1. Detainee Supervision Requirements

- a. The facility shall ensure that it maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse.
- b. The facility administrator shall determine security needs based on comprehensive staffing analysis and a documented comprehensive supervision guideline that is reviewed and updated at least annually.
- c. In determining adequate levels of detainee supervision and determining the need for video monitoring, the facility shall take into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of each facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse as well as other incidents reflecting on facility security and detainee safety, the findings and recommendations of sexual abuse incident review reports or other findings reflecting on facility security and detainee safety, the length of time detainees spend in agency custody, and any other relevant factors.
- d. Frequent unannounced security inspections shall be conducted to identify and deter sexual abuse of detainees. Inspections will occur on both day and night shifts. Staff are prohibited from alerting others that these security inspections are occurring unless such announcements are related to the legitimate operational functions of the facility.

2. Detainee Supervision Procedures

- a. Intermediate-level or higher-level supervisors will conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment.
- b. Unannounced rounds will occur on both day and night shifts.
- c. Staff is prohibited from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.
- d. Supervisors are required to do audits of staff in units by reviewing logs and video surveillance.

G. Transportation Requirements

1. Transportation Requirements

- a. Detainees identified as being "at risk" for sexual victimization shall be transported in accordance with that special safety concern.
- b. Transportation staff shall 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.

2. Transportation Procedures

- a. No times or plans for transport will be discussed with detainees.

- b. Detainees will not be notified of transfer until immediately prior to departure.
- c. Detainees are not permitted phone calls or to have contact with any detainees in the general population when the transfer is pending.
- d. The Deputy will place a handcuff belt around the detainee's waist and secure the detainee with handcuffs. Shackles and other instruments of restraint may also be used.
- e. Detainees that require a higher amount of attention will be seated in a seat closest to the driver. If available, any detainee that needs to be separated will be placed in another section of the security dividers in the vehicle.
- f. Detainees of the opposite sex will only be transported if a separation cage is installed in the vehicle.

3. Driving Hours and Number of Operators

To ensure deputy and detainee safety, ICE requires that detention centers transporting detainees in any conveyance abide by the following requirements: (Federal Motor Carrier Safety Administration §395.3 Maximum Driving Time.

The following apply to all ICE transportation deputies, whether or not driving.

- a. Possess a CDL License if required.
- b. Off-duty for the eight hours immediately before reporting for duty;
- c. Ten hours, maximum, driving time (time on the road) per trip segment; eight off-duty hours between shifts
- d. For any period after having been on duty 15 hours (10 hours driving following 8 consecutive hours off duty);
- e. In an emergency or under unforeseen and adverse driving conditions only, the vehicle crew may drive as long as necessary to reach a safe and secure stopping area.
 - DOT regulations apply to all vehicles on U.S. highways, including those used to transport ICE detainees.

SAME SEX ESCORT FOR INMATES BEING TRANSFERRED MS 631.412

When a sheriff or correctional deputy has custody of a person charged with or convicted of a crime and transfers that person more than 100 miles, that sheriff or correctional deputy shall provide the transferee with a custodial escort of the same sex as the transferee. A sheriff may employ, when the occasion exists, a suitable person to carry out this section. The expenses of the person's employment must be paid out of county funds not otherwise appropriated.

H. Upgrades to Facilities and Technologies

1. Requirements for Upgrades to Facilities and Technologies

- a. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the facility shall consider the effect of the design, acquisition, expansion or modification upon its ability to protect detainees from sexual abuse.
- b. When installing or updating a video monitoring system, electronic surveillance system or other monitoring technology in a facility, the facility shall consider how such technology may enhance its ability

to protect detainees from sexual abuse.

J. Accommodating Detainees with Disabilities or Limited English Proficiency

1. Accommodation Requirements

- a. The facility shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, or detainees who have intellectual, psychiatric, or speech disabilities, limited reading skills, or who are blind or have low vision by:
 - i. Providing access to in-person, telephonic or video interpretive services that enable effective, accurate and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary; and
 - ii. Providing access to written materials related to sexual abuse in formats or through methods that ensure effective communication.
- b. The facility shall take steps to ensure meaningful access to all aspects of the facility's efforts to prevent, detect and respond to sexual abuse to detainees who are limited English proficient, including steps to provide in-person or telephonic interpretive services that enable effective, accurate and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary.
- c. In matters relating to allegations of sexual abuse, the facility shall employ effective expressive and receptive verbal communication techniques while communicating with detainees with disabilities in accordance with professionally accepted standards of care. The facility shall provide detainees with disabilities and detainees with limited English proficiency with in-person or telephonic interpretation services that enable effective, accurate and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. Interpretation services shall be provided by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse.
- d. Where practicable, provisions for written translation of materials related to sexual abuse or assaults shall be made for any 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.

2. Accommodation Procedures

Freeborn County Detention Center has language line for use for any detainee who needs assistance. FCADC has the ability to print out forms in other languages. Staff will read and explain forms to detainees who are illiterate. Use of other detainees that volunteer to help can also be used if both parties agree to share information.

- a. Detainees requesting interpretive services can request to staff in person, correspondence or via another detainee.
- b. Detainees requesting assistance with religious or legal requests will be directed to the programs staff.
- c. Attorneys that come for a private meeting with their client are allowed to bring an interpreter with them.
- d. ICE will be contacted for any other arrangements for the detainee that cannot be met at this facility.
- e. Detainees using the Kiosks have the option of selecting from different languages.

K. Detainee Reporting Procedures

1. Detainee Reporting Requirements

- a. Detainees shall have multiple ways to privately, and if desired, anonymously, report signs or incidents of sexual abuse and assault, retaliation for reporting sexual abuse or staff neglect, or violations of responsibilities that may have contributed to such incidents, and will not be punished for reporting.
- b. Staff shall take seriously all statements from detainees claiming to be victims of sexual abuse or assault and shall respond supportively and non-judgmentally.
- c. Any detainee may report acts of sexual abuse or assault to any employee, contractor or volunteer.
- d. If a detainee is not comfortable 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 allegations.
- e. The facility shall provide instructions on how detainees may contact their consular official or DHS Office of the Inspector General, to confidentially and if desired, anonymously, report these incidents. Detainees may dial *99 on the unit telephone to be connected directly to the OIG to report an allegation anonymously.
- f. Reporting through Grievance System:
 - i. Formal grievances related to sexual abuse and assault may be filed at any time during, after or in lieu of lodging an informal grievance or complaint and with no time limit imposed on when a grievance may be submitted.
 - ii. Written procedures must be implemented for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety or welfare related to sexual abuse or assault. Deputy receiving the grievance will notify Jail Administrator and PREA Coordinator, as soon as possible, after receiving the time sensitive grievance. All efforts will be made to remove detainee from immediate threat to the least restrictive housing possible. The grievance may be submitted without submitting it to the staff member who is the subject of the complaint and this grievance will not be referred to the staff member that is subject to the complaint. Decisions on grievances shall be issued within five days of receipt and appeals shall be responded to within 30 days.
 - iii. Detainees may obtain assistance from another detainee, the housing deputy or other facility staff, family members or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties.

- iv. If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his/her behalf and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.
- v. If the inmate declines to have the request processed on his/her behalf, the decision will be documented.
- vi. After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide the response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision documents the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.
- vii. All grievances related to sexual abuse and the facility's decision on any such grievance must be forwarded to the Field Office Director.

2. Detainee Reporting Procedures

Detainee reports of sexual abuse or assault, retaliation for reporting sexual abuse or assault and/or staff neglect, or violations of responsibilities that may have contributed to such incidents may be made using any available methods of communication, including but not limited to:

Reports to the Facility:

- a. Verbal reports to any staff member (including the PSA Compliance Manager or medical staff)
- b. Written informal or formal requests or grievances to the facility
- c. Sick call requests
- Reports to Family Members, Friends, or Other Outside Entities:
- d. Reports to an individual or organization outside the facility who can contact facility staff
- Reports to DHS/ICE:
- e. Written informal or formal requests or grievances (including emergency grievances) to the ICE Field Office
- f. Telephone calls or written reports to DHS/OIG, ICE/OPR. ICE/DRIL

3. Reports to Consulates:

- g. Telephone calls or written reports to consular officials
- Reports to facility
- h. Verbal reports to staff members, PREA and Intervention Coordinator, or Medical Staff
- i. Written formal or informal grievances to facility staff, PREA and Intervention Coordinator or Medical Staff
- j. Written communication through the inmate correspondence process
- k. Sick call requests
- l. Reports to an individual or organization outside the facility who can contact facility staff
- m. Written formal or informal requests to ICE officials using the ICE Agent correspondence request procedure
- n. Phone calls or written reports to DHS/OIG or ICE/OPR

- If any of these requirements cannot be met for ICE detainees, the FCADC will consult with the ICE Field Office Director to determine if ICE can provide additional assistance.
- 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.
- ICE detainees may file a complaint about staff misconduct, abuse, or civil rights violations directly with the U.S. Department of Homeland Security, Office of the Inspector General (OIG).
- Telephone at 1-800-323-8603
- Mail from your housing unit at no cost.

DHS OIG Hotline
 245 Murray Drive SE
 Building 410
 Washington, DC 25038

L. Staff Notification and Reporting

1. First Response

a. Staff Notification and Reporting Requirements

All staff must immediately report:

- i. Any knowledge, suspicion or information regarding an incident or allegation of sexual abuse occurring at the facility;
 - Any retaliation against detainees or staff who reported or participated in an investigation about sexual abuse or assault; and
 - Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
- ii. Staff must also be able to report the above outside of the chain of command. The OIG number is provided to staff.
- iii. Staff shall accept reports made verbally, in writing, anonymously, and from third parties, and promptly document any verbal reports.
- iv. The facility shall establish a method to receive third-party reports of sexual abuse in its facility and shall make available to the public information on how to report sexual abuse on behalf of the detainee.
- v. The facility administrator shall promptly report the incident to the ICE Field Office Director and refer all cases that potentially appear to support criminal prosecution to the appropriate law enforcement agency having jurisdiction for investigation.
- vi. If an employee, contractor or volunteer is alleged to be the perpetrator of detainee sexual abuse or assault, the facility administrator shall promptly report the incident to the JIC, OPR, or DHS/OIG and the ICE FOD. If the incident appears to be criminal, the appropriate law enforcement agency will be notified.
- vii. When a detainee, prisoner, inmate or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee abuse, the facility will ensure that the incident is promptly reported to the JIC,

OPR or DHS/OIG and FOD. If the incident appears to be criminal, the appropriate law enforcement agency will be notified.

- viii. If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person statute, the facility shall report that information to the Field Office Director so that ICE can report the allegation to the designated State or local services agency under applicable mandatory reporting laws.
- ix. 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. Apart from such reporting, staff shall not reveal any information related to the sexual abuse and assault report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions.
- x. Upon receiving an allegation that a detainee was sexually abused or assaulted while confined at another facility, the facility administrator shall notify the Field Office Director within 72 hours and then the appropriate administrator of the facility where the alleged abuse occurred as soon as possible. The facility administrator shall notify the detainee in advance of such reporting. The facility shall document that it has provided such notification. A facility receiving such notification shall ensure the allegation is referred for investigation and reported to the Field Office Director.

2. Staff Notification and Reporting Procedures

1. First Response

a. First Response Requirements

- i. Staff shall take immediate action to separate any detainee who alleges that he/she has been sexually abused or assaulted from the alleged assailant.
- ii. To make sure the victim receives the best possible care, first responders, medical and mental health practitioners, investigators, and facility leadership will coordinate the following actions:
 - ◆ Assess the victim's acute medical needs;
 - ◆ Inform the victim of his/her rights under relevant Federal or state law;
 - ◆ Explain the need for forensic medical exam and offer the victim the option of undergoing one;
 - ◆ Offering the presence of a victim advocate or qualified staff member during exam:
 - ◆ Provide crisis intervention counseling;
 - ◆ Interviewing the victim and any witnesses;
 - ◆ Collecting evidence: and
 - ◆ Provide for any special needs the victim may have.
- iii. Staff suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring detainee contact pending the outcome of an investigation. ICE FOD will be

- notified promptly.
- iv. The security staff member who responds to a report of sexual abuse, or his/her supervisor, shall preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect evidence.
 - v. If the abuse occurred within a time period that still allows for the collection of physical evidence, the first responder shall:
 - vi. Request the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating; and
 - vii. Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.
 - viii. If the first staff responder is not a security staff member, the responder shall request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

b. First Response Procedures

- i. Victims shall be provided emergency and on-going medical and mental health services. FCADC will consult with the ICE Field Office Director to determine if ICE can provide additional assistance.
- ii. All facility medical staff responsible for examination or treatment of sexual abuse or assault victims shall be trained accordingly to ACH policies and procedures.

3. Specialized Response and Victim Services

a. Specialized Response and Victim Services

- i. The facility 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.
- ii. Staff shall utilize available community resources and services to provide valuable expertise and support in areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse and assault perpetrators to most appropriately address the victims' needs.
- iii. The facility shall attempt to enter into memoranda of understanding or other agreements with community service providers or, if local providers are not available, national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime.
- iv. The facility administrator shall establish procedures to make available to detainees' information about local organizations that can assist those who have been victims of sexual abuse. This will include mailing addresses and telephone numbers (including toll-free hotline numbers, where available). If no such local organizations exist, the

facility shall make available the same information about national organizations.

- v. Following an allegation of sexual abuse, the facility administrator shall establish procedures to make available, to the full extent possible, additional outside victim services.
- vi. The facility shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available, the facility shall work with ICE to provide these services from a qualified staff member from a community-based organization or qualified ICE staff member. The victim advocate shall be able to provide emotional support, crisis intervention, information and referrals.
- vii. The facility shall enable reasonable communication between detainees and these organizations or agencies, in as confidential a manner as possible.
- viii. Staff shall inform detainees, prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
- ix. If a victim is transferred between detention facilities, the sending facility shall, as permitted by law, will inform the receiving facility of the incident and the victim's potential need for medical or social services (unless the victim requests otherwise in the case of transfer to a non-ICE facility). A detainee transfer form, which includes whether the detainee has been a victim of sexual assault and any other information regarding the assault, will be filled out and given to the receiving facility. All staff will be trained on how to fill out these forms. If the receiving facility is unknown to the sending facility, the sending facility shall notify the Field Office Director, so that he or she can notify the receiving facility.
- x. When an alleged victim of sexual abuse or assault that occurred elsewhere in ICE custody is subsequently transferred to the detention facility, the facility shall comply with all response and intervention requirements outlined by this policy, as appropriate based on the nature and status of the case.
- xi. If any of these requirements cannot be met, the facility will consult with the ICE Field Office Director to determine if ICE can provide assistance.

4. Specialized Response and Victim Services Procedures

- a. FCADC shall attempt to make available to the victim a victim advocate from a rape crisis center. If the rape crisis center is not available to provide victim advocate services, FCADC will make available to provide these services a qualified staff member from a community-based organization or a qualified staff member. Efforts will be documented.
- b. As requested by the victim, the victim advocate, qualified agency staff member or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interview and shall provide emotional support, crisis intervention, information and referrals.

5. Housing and Protection for Victims

a. Housing and Protection Requirements

- i. Victims and vulnerable detainees shall be housed in a supportive environment that represents the least restrictive housing option possible (e.g. in a different housing unit, transfer to another facility, medical housing or protective custody), 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. This placement should consider any ongoing medical or mental health needs of the victim.
- ii. 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. The facility shall notify the appropriate ICE Field Office Director, within 72 hours, whenever a detainee victim, or detainee placed due to vulnerability to sexual abuse or assault has been held in administrative segregation.
- iii. A Supervisor will conduct a review within 72 hours of a vulnerable detainee being placed in administrative segregation to determine if segregation is still warranted. At a minimum, a supervisor will conduct an identical review after the detainee has spent seven days in administrative segregation. This review will be repeated every seven days.
- iv. A detainee victim who is in protective custody after having been subjected to sexual abuse shall not be returned to the general population until completion of a proper re-assessment, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse or assault.
- v. If the facility restricts access to programs, privileges, education or work opportunities, for inmates placed in segregated housing, the facility shall document: 1) the opportunities that have been limited; 2) the duration of the limitation; and 3) the reasons for such limitations
- vi. Staff, contractors and volunteers shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual abuse as a result of force, coercion, threats or fear of force.
- vii. Staff, contractors and volunteers shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual abuse as a result of force, coercion, threats or fear of force.
- viii. FCADC shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims and emotional support services for inmates or staff who fear retaliation for reporting sexual

abuse or sexual harassment or for cooperating with investigations.

- ix. For at least 90 days following a report of sexual abuse or assault, the facility, in accordance with ICE, shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff. The facility shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff and shall act promptly to remedy any such retaliation. Items the facility should monitor include any detainee disciplinary reports, housing, program changes, negative performance reviews or reassignments by staff. The facility shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.
- x. If any of these requirements cannot be met, the facility will consult with the ICE Field Office Director to determine if ICE can provide additional assistance.

b. Housing and Protection Procedures

- i. All detainees shall be screened during the book-in process for potential risk of sexual abuse, assault or sexual violent behavior. Detainees will be classified and housed accordingly. Information gathered during the risk assessment will be used to inform housing, bed, work, education, and programming assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.
- ii. Detainees considered to be at risk for sexual victimization shall be placed in the least restrictive housing that is available and appropriate. If appropriate housing is not available at the FCADC, the FCADC will contact the ICE Field Office Director to determine if ICE can provide additional assistance. For non-ICE inmates, the PREA coordinator will consider other facilities for possible housing.
- iii. FCADC will protect all inmates and staff who report sexual abuse or sexual harassment, cooperate with sexual abuse or sexual harassment investigations, from retaliation by other inmates or staff, and shall designate which staff member/s or department/s are charged with monitoring retaliation.

M. Health Care Services

1. Health Care Services Requirements

- a) Detainee victims of sexual abuse and assault shall have timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care
- b) Transportation of an alleged victim for emergency care or other services provided off-site shall be arranged in a manner that considers the special needs of victimized detainees.

- c) The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while in immigration detention.
- d) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans and when necessary, referrals for continued care following their transfer to or placement in other facilities, or their release from custody.
- e) Detainee victims of sexually abusive vaginal penetration by a male abuser while incarcerated shall be offered pregnancy tests. If pregnancy results from an instance of sexual abuse, the victim shall receive timely and comprehensive information about lawful pregnancy-related medical services and timely access to all lawful pregnancy-related medical services.
- f) Detainee victims of sexual abuse, while detained, shall be offered tests for sexually transmitted infections as medically appropriate.
- g) The facility shall attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.
- h) All treatment services, both emergency and ongoing, shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The facility shall provide such victims with medical and mental health services consistent with the community level of care.

N. Health Care Services Procedures

See ACH Policy and Procedures

O. Investigation

1. Investigation Requirements

- a. The facility is to establish a protocol to ensure that each allegation of sexual abuse is investigated by the facility or referred to an appropriate investigative authority. This protocol shall be posted on the facility website or otherwise made available to the public.
- b. The facility shall coordinate with ICE and other appropriate investigative entities to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse. All investigations must be prompt, thorough, objective, fair and conducted by specially trained, qualified investigators.
- c. Where evidentiary or medically appropriate, at no cost to the detainee and only with the detainee's consent, the facility administrator shall arrange for an alleged victim to undergo a forensic medical examination by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE), where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel.
- d. As requested by a victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, shall be allowed for support during a forensic exam and investigatory interviews.

- e. The results of the physical examination and all collected physical evidence are to be provided to the investigative entity.
- f. In the event the investigation is being conducted by a non-federal investigating agency, the facility shall request that the investigating agency follow the applicable requirements of this policy, including requirements related to evidence preservation and forensic examinations.
- g. Upon conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS and the assigned criminal investigative entity.
- h. Administrative investigations procedures include:
 - i. Preservation of direct and circumstantial evidence, including any available physical DNA evidence and any available electronic monitoring data;
 - ii. Interviewing alleged victims, suspected perpetrators and witnesses;
 - iii. Reviewing prior complaints and reports of sexual abuse or assault involving the suspected perpetrator;
 - iv. Assessment of the credibility of an alleged victim, suspect or witness, without regard to the individual's status as detainee, staff or employee and without requiring any detainee who alleged sexual abuse or assault to submit to a polygraph;
 - v. An effort to determine whether actions or failures to act at the facility contributed to the abuse;
 - vi. Documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments and investigative facts and findings;
 - vii. Retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years; and
 - viii. Coordination and sequencing of administrative and criminal investigations to ensure that a criminal investigation is not compromised by an internal administrative investigation.
- i. The Facility uses no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.
- j. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation.

- k. When outside agencies investigate sexual abuse and assault, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. Where an alleged victim of sexual abuse or assault that occurred elsewhere in ICE custody is subsequently transferred to the facility, the facility shall also cooperate with any administrative or criminal investigative efforts arising from the incident.
- l. Following an investigation conducted by the facility into a detainee's allegation of sexual abuse, the facility shall notify the Field Office Director of the results of the investigation and any responsive actions taken so the information can be reported to ICE headquarters and to the detainee.

2. Investigation Procedures

a. Investigation Requirements

- i. A prompt, thorough, objective and fair investigation shall be conducted by qualified investigators for every incident or allegation of sexual abuse or assault.
- ii. FCADC shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
- iii. FCADC shall ensure that all allegations of sexual abuse or assault involving potentially criminal behavior are referred for investigation, with the legal authority to conduct criminal investigations and shall document such referrals.
- iv. 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.
- v. Contractors, employees and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of the investigation.
- vi. At no cost to the detainee, facility administration shall arrange for the victim to undergo a forensic medical examination. All collected evidence must be secured and processed according to the facility's 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.
- vii. If any of these requirements cannot be met, FCADC will consult with the ICE Field Office Director to determine if ICE can provide additional assistance.

b. Reporting to Inmates

- i. Following an investigation into an inmate's allegation that he/she suffered sexual abuse at the FCADC, the facility shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded.
- ii. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, FCADC shall inform the inmate (unless the allegation is determined to be unfounded) whenever:
 - The staff member is no longer posted within the inmate's unit.
 - The staff member is no longer employed at the facility
 - The agency learns that the staff member has been indicted on a charge related to sexual abuse

- The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- iii. Following an inmate's allegation that he/she has been sexually abused by another inmate, FCADC shall inform the alleged victim whenever:
 - The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility.
 - The agency learns that the alleged abuser has been convicted on charge related to abuse within the facility.
- iv. All such notifications or attempted notifications shall be documented.

P. Disciplinary Sanctions

1. Staff Discipline

a. Staff Discipline Requirements

- i. Staff shall be subject to disciplinary or adverse action, up to and including removal from their position, for substantiated allegations of sexual abuse or for violating ICE or facility sexual abuse rules, policies or standards.
- ii. Removal from their position is the presumptive disciplinary sanction for staff who have engaged in, attempted or threatened to engage in sexual abuse, as defined under the definition of staff-on detainee abuse in Section II, paragraphs (a)-(d) and (g)-(h).
- iii. The Facility shall report all incidents of substantiated sexual abuse by staff, all removals of staff or resignations in lieu of removal for violations of sexual abuse policies to appropriate law enforcement agencies unless the activity was clearly not criminal. The facility shall also report all such incidents of substantiated abuse, removals or resignations in lieu of removal to the Field Office Director, regardless whether the activity was criminal, and shall make reasonable efforts to report such information to any relevant licensing bodies, to the extent known.
- iv. Contractors suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring detainee contact pending the outcome of an investigation.
- v. Any contractor or volunteer who has engaged in sexual abuse or assault shall be prohibited from contact with detainees. The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse or assault, but have violated other sexual abuse policies.
- vi. Incidents of substantiated sexual abuse by a contractor or volunteer shall be reported to law enforcement agencies, unless the activity was clearly not criminal. FCADC shall make reasonable efforts to report such incidents to any relevant licensing bodies, to the extent known.

2. Staff Discipline Procedures

a. Disciplinary Sanctions Requirements

- i. All perpetrators of sexual abuse or assault shall be disciplined and referred for criminal prosecution as appropriate.
- ii. 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 disciplinary sanctions.

- i. Staff shall be subject to disciplinary actions up to and including termination for violating agency sexual abuse policies and that termination shall be the presumptive disciplinary sanction for staff that engaged in or threatened to engage in sexual abuse
- 3. Disciplinary Sanctions for Staff
 - a. Disciplinary Sanctions Procedures
 - i. All completed investigations shall be forwarded to the Sheriff, or if the allegations may reasonably involve the Sheriff, to the County Administrator. The Sheriff or County Administrator shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence.
 - ii. All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for office members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other member with similar histories.
 - iii. All terminations for violations of this policy or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and report to any relevant licensing body.
 - iv. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with prisoners and reported to any relevant licensing bodies. The Sheriff shall take appropriate remedial measures and consider whether to prohibit further contact with prisoners by a contractor or volunteer.
- 2. Detainee Discipline
 - a. Detainee Discipline Requirements
 - i. Detainees shall be subjected to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse or assault.
 - ii. The Facility shall not discipline a detainee for sexual contact with staff unless there is a finding that the staff member did not consent to such contact.
 - iii. For the purpose of disciplinary action, a report of sexual abuse or assault made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident of lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
 - iv. If a detainee is mentally disabled or mentally ill but competent, the disciplinary process shall consider whether the detainee's mental disabilities or mental illness contribute to his/her behavior when determining what type of sanction, if any, should be imposed.
- 3. Detainee Discipline Procedures

See Freeborn County Adult Detention policy on Detainee Discipline 4.03

Q. Sexual Abuse Incident and Annual Reviews

- 1. Review Requirements
 - a) The facility shall conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault.
 - b) For any substantiated or unsubstantiated allegation, the facility shall prepare a written report within 30 days of the conclusion of the

investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect or respond to sexual abuse and assault.

- c) The facility shall implement the recommendations for improvement or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the Field Office Director, or his or her designee, for transmission to the ICE PSA Coordinator. The facility shall also provide any further information regarding such incident reviews as requested by the ICE PSA Coordinator.
- d) The review team shall 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.
- e) The facility shall conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the facility administrator and Field Office Director, or his or her designee, for transmission to the ICE PSA Coordinator.

2. Review Procedures

a. SEXUAL ABUSE INCIDENT REVIEW REQUIREMENTS/PROCEDURES

- i. FCADC sexual abuse and assault prevention and Intervention Coordinator shall, with upper-management, conduct a sexual abuse incident review following an incident of abuse or victimization to assess and improve prevention and response efforts
- ii. Substantiated and unsubstantiated reviews shall ordinarily take place following an incident of abuse or victimization. Both the report and the response will be sent to the PSA Coordinator
- iii. Review shall seek input from line staff, line supervisors, investigators, medical practitioners and mental health professionals
- iv. Reviewers shall:
 - Consider if policy change is needed to better respond to, prevent, detect or respond to sexual abuse;
 - Consider cause of incident or allegation as to race, ethnicity, gender identity, lesbian, gay, bi-sexual, transgender or intersex identification status or perceived status, gang affiliation or was motivated or otherwise caused by group dynamics within the facility;
 - Examine area in facility where incident allegedly occurred to assess whether physical barriers within the facility may enable abuse;
 - Assess adequacy of staffing levels in that area during different shifts;
 - Assess monitoring technology deployed or possible augmented to supplement supervision by staff;
 - Prepare a report of findings with any recommendations for improvement and submit such report to the facility administrator; and

- Facility shall implement the recommendations for improvement or document its reasons for not doing so.

R. Data Collection

1. Data Collection Requirements

- a. The facility shall maintain, in a secure area, all case records associated with claims of sexual abuse or assault, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings and recommendations for post-release treatment, if necessary.
- b. The facility administrator shall maintain two types of files regarding incidents of sexual abuse and assault, which include the following minimum information:
 - i. General files include:
 - the victim(s) and assailant(s) of a sexual assault;
 - the date, time, location and nature of the incident;
 - the demographic background of the victim and the perpetrator (including citizenship, age, gender and whether either has self-identified as gay, lesbian, bisexual, transgender, intersex or gender nonconforming);
 - detailed reporting timeline, including the names of the individual who reported the incident and received the report of sexual assault, date and time the report was received, and steps taken to communicate the report up the chain of command;
 - any injuries sustained by the victim;
 - all formal and/or informal action taken, including all post-report follow up response taken by the facility (e.g. housing placement/custody classification, medical examination, mental health counseling, etc.);
 - all reports;
 - medical forms or other relevant medical information;
 - supporting memos and videotapes, if any;
 - any sanctions imposed on the perpetrator; and
 - any other evidentiary materials pertaining to the allegation.
 - c. The facility administrator shall maintain these files chronologically in a secure location.
 - d. 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; access shall be limited to those staff involved in the treatment of the victim or the investigation of the incident. At no time

may law enforcement sensitive documents or evidence be stored at the facility.

- e. On an ongoing basis, the PSA Compliance Manager and facility administrator must work with the ICE Field Office and ICE PSA Coordinator to share data regarding sexual abuse incidents and response.

2. Data Collection Procedures

- a. 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 victims/perpetrators medical file and criminal history files.
- b. Facility administration shall maintain two types of files regarding incidents of sexual abuse:
 - i. Files to include:
 - Information about victim(s) and assailant(s) of a sexual assault (including the race, nationality, age and gender of the individuals);
 - Crime characteristics including 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; and
 - All formal and/or informal action taken including housing/custody placements, health and care referrals.
 - ii. Administrative investigative files to include:
 - All reports;
 - Medical forms/documentation of any injuries sustained, examinations, testing or treatment administered;
 - Supporting memos and videotapes, if available; and
 - Any other evidentiary materials pertaining to the allegation
- c. All information shall be shared on a need-to-know basis with staff involved in the treatment of the victim or investigation of the incident.
- d. Sexual abuse and assault prevention and Intervention Coordinator shall review data on an annual basis and present 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 elimination of sexual abuse.
- e. FCADC shall make all aggregated sexual abuse data readily available to the public through its website.
- f. FCADC will remove all personal identifiers before making aggregated sexual abuse data publicly available.
- g. FCADC shall maintain sexual abuse data collected for at least 10 years after the date of the initial collection unless Federal, State or local law requires otherwise.

S. Facility Audits

- 1. The facility shall cooperate with all DHS audits of the facility's compliance with sexual abuse and assault policies and standards, including by:
 - a) In advance of and during the on-site audit, making available relevant documents, records and other information as requested (including available videotapes and other electronically available data);

- b) Permitting auditors access to all areas of the facility;
- c) Permitting detainees to have private interviews with auditors and to send confidential correspondence to the auditor; and
- d) Making available space suitable for interviews of detainees and staff.

T. ICE Approval of Facility Policy

1. The following policies and procedures require approval by the local ICE Field Office.
 - a) Facility Zero Tolerance Policy outlining the facility's approach to preventing, detecting and responding to all forms of sexual abuse.
 - b) Facility policy and procedures to ensure medical staff is trained in procedures for examining and treating victims of sexual abuse (where medical staff may be assigned these duties).
 - c) Facility policy and procedures specifying appropriate procedures for staff to report any knowledge, suspicion or information regarding an incident of:
 - i. sexual abuse that occurred in a facility; and
 - ii. retaliation against detainees or staff who reported or participated in an investigation about such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
 - d) Facility policy and procedures for coordination and conduct of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference.
 - e) Facility policy and procedures regarding disciplinary or adverse actions for staff, up to and including removal, when there is a substantiated allegation of sexual abuse or when there has been a violation of agency sexual abuse rules, policies or standards.

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 the secure detention facilities utilized by ICE/ERO. Data shall be provided through the SEN system.