

DOÑA ANA COUNTY DETENTION CENTER

JUVENILE STANDARD OPERATING PROCEDURES

S.O.P.: 8.14.14.14 PREA

DATE: DECEMBER 1, 2022

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SECURITY, STAFFING, AND CONTROL

NMC JDS: 8.14.14.14

PRISON RAPE ELIMINATION ACT OF 2003

NMSA 1978 § 30-9-11.E (2).

SOP:

The Doña Ana County Detention Center maintains a written procedure that requires the facility provide information to detainees about sexual abuse/assault, including the facility's mandate of a zero tolerance regarding all forms of sexual abuse and sexual harassment. The facility also outlines the approach to preventing, detecting and responding to sexual abuse and harassment. The detainees have a right to be free from sexual abuse during their confinement. Sexual abuse of a detainee and sexual harassment of a detainee is prohibited. The Detention Center is committed to zero tolerance of any form of sexual abuse and sexual harassment in facilities it operates directly or with which it holds contracts for the confinement of detainees.

1. Definitions:

- A. "Detainee" means any person incarcerated or detained in the jail;
- B. "Staff" means an agency employee;
- C. "Contractor" means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency; and
- D. "Volunteer" means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.
- E. "Consent" refers to cooperation in act or attitude pursuant to an exercise of free will and with full understanding of the nature of the act. Detainees cannot consent to sexual contact with staff members, volunteers or contractors.

2. Sexual Abuse: [28 C.F.R. § 115.311(a)]

- A. "Sexual abuse" includes:
 - a. Sexual abuse of a detainee by another detainee; and
 - b. Sexual abuse of a detainee by a staff member, contractor, or volunteer.
- B. Sexual abuse of a detainee by another detainee includes any of the following acts, if the victim does not consent, is coerced into such an act by overt or implied threats of violence, or is unable to consent or refuse:
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
- C. Sexual abuse of a detainee by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the detainee:
- D. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- E. Contact between the mouth and the penis, vulva, or anus;
- F. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- G. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- H. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

- I. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a) through (e) of this section;
 - J. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a detainee; and
 - K. Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of a detainee by staff for reasons unrelated to official duties, such as peering at a detainee who is using a toilet in his or her cell to perform bodily functions; requiring a detainee to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a detainee's naked body or of a detainee performing bodily functions.
3. Sexual Harassment: [28 C.F.R. § 115.311(a)]
- A. "Sexual harassment" includes:
 - a. Sexual harassment of a detainee by another detainee; and
 - b. Sexual harassment of a detainee by a staff member, contractor, or volunteer.
 - B. Sexual harassment of a detainee by another detainee includes:
 - a. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by a detainee directed toward another.
 - C. Sexual harassment of a detainee by a staff member, contractor, or volunteer includes:
 - a. Repeated verbal comments or gestures of a sexual nature to a detainee by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
4. PREA coordinator [28 C.F.R. § 115.311(c)]

- A. The Detention Center has designated a PREA Coordinator with sufficient time and authority to develop, implement, and oversee its efforts to comply with the PREA standards. The PREA Coordinator shall be the PSU Lieutenant or someone designated by that person, in writing. The Juvenile PREA Compliance Manager shall be the Captain of Support. The Juvenile PREA Compliance Manager shall have sufficient time and authority to coordinate the facilities efforts to comply with the PREA standards. The PREA Coordinator and Juvenile PREA Compliance Manager shall have the authority to delegate and require staff to complete tasks and comply with direction. The Investigator for the Juvenile Detention Center shall be the Juvenile Manager.
5. Preventing and detecting sexual abuse and harassment [28 C.F.R. § 115.311]
- A. The Detention Center shall adopt and implement the following measures to prevent and detect sexual abuse and sexual harassment in its facility
 - B. Staffing Plan/Video Monitoring [§ 115.313(a)]
 - a. In the process of creating and revising a staffing plan to provide for adequate levels of staffing and video monitoring to protect detainees against sexual abuse, The Detention Center shall ensure that the following factors are taken into consideration
 - i. Generally accepted detention and correctional practices
 - ii. Any judicial findings of inadequacy
 - iii. Any findings of inadequacy from Federal investigative agencies
 - iv. Any findings of inadequacy from internal or external oversight bodies
 - v. All components of the facility's physical plan
 - vi. The composition of the detainee population
 - vii. The number and placement of supervisory staff
 - viii. Programs occurring on a particular shift
 - ix. Any applicable State or local laws, regulations, or standards

- x. The prevalence of substantiated and unsubstantiated incidents of sexual abuse.
 - xi. Any other relevant factors.
 - b. The Detention Center shall make its best efforts to comply with the staffing and video monitoring plan and, in circumstances where it is not complied with, shall document and justify all deviations.
 - c. At least once every year, and in collaboration with the PREA Coordinator, The Detention Center shall conduct an assessment to determine whether adjustments are needed to the staffing plan and the deployment of video monitoring systems and other technologies.
- C. Tracking and Documentation of Staffing Plan [§ 115.313(b)]
 - i. The post assignments will be sent out by Shift Sergeant daily.
 - ii. Any deviations from the staffing plan will be documented on the post assignments including the circumstances surrounding the incident. The documentation will be reviewed by the Juvenile Compliance Manager and forwarded through the chain of command
 - iii. Deviations from the Staffing Plan will be reviewed by the PREA Review Committee and may institute any changes to the staffing plan. Any Changes to the Staffing Plan will be documented.
- D. The Detention Center shall make every effort to provide a female officer to supervise female detainees and a male officer to supervise male detainees.
 - a. The female pod Officer shall be relieved by a female Rover when possible.
- E. Unannounced Rounds [§ 115.313(e)]

- a. Supervisors shall conduct and document unannounced rounds covering all shifts, and all areas of the facility, to identify and deter staff sexual abuse or harassment. The Detention Center SOP prohibits staff members who are aware of these rounds from alerting other staff as to when or where these rounds are occurring, unless related to the legitimate operational needs of the facility.
- b. The PREA Coordinator shall determine how and when the unannounced rounds will be conducted and shall review all documentation from the rounds.
- c. The Shift Supervisor shall enter each unit for an unannounced round to identify staff sexual abuse and harassment at a minimum of once bi-weekly.
- d. Actions by staff to alert colleagues that a supervisor is enroute to conduct unannounced rounds are prohibited.
- e. The Shift Supervisor shall document their conducted unannounced rounds on the Jail Management System. (This will be reviewed by the PREA Coordinator and/or Compliance Specialist at least once per month and documented in the JMS).

F. Youthful Detainees [§ 115.314]

- a. A youthful detainee (defined as any person under the age of 18 who is under adult court supervision and incarcerated or detained in jail) shall not be placed in a housing unit in which they will have sight, sound, or physical contact with any adult detainee through use of a shared dayroom or other common space, shower area, or sleeping quarters.
- b. In areas outside of housing units, The Detention Center shall either:
 - i. Maintain sight and sound separation between youthful detainees and adult detainees, or
 - ii. Provide direct staff supervision when youthful detainees and adult detainees have sight, sound, or physical contact.

Note: “Direct staff supervision” means that security staff are in the same room with, and within reasonable hearing distance of, the youthful offender. “Security staff” means employees primarily responsible for the supervision and control of detainees and detainees in housing units, recreational areas, dining areas, and other program areas of the facility.

- G. The facility shall make best efforts to avoid placing youthful detainees in isolation to comply with this provision. Absent exigent circumstances, the agency shall not deny youthful detainees daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful detainees shall also have access to other programs and work opportunities to the extent possible.

Note: “Exigent circumstances” means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or sexual institutional order of a facility.

- H. Cross Gender Viewing and Searches/Searches of Transgender Detainees [§ 115.315(a)]

- a. Searches

- i. The facility shall not conduct cross-gender strip searches (meaning a search that requires a person to remove or arrange clothing so as to permit a visual inspection of their breasts, buttocks, or genitalia) or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

Note: “Medical practitioner” means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice.

- ii. Effective August 20, 2015 [or August 20, 2017 for a facility whose rated capacity does not exceed 50 detainees] the facility shall not permit cross-gender pat-down searches (a running of the hands over the clothed body of a detainee by an employee to determine whether the individual possesses contraband) of female detainees, absent exigent circumstances. The facility shall not restrict female detainees' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.
- iii. The facility shall document all cross-gender visual searches and body cavity searches of detainees and all cross-gender pat-down searches of female detainees.
- iv. No staff member shall conduct a search of a transgender or intersex detainee solely for the purpose of determining genital status. If the detainee's genital status is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

Note: "Transgender" means a person whose gender identity (internal sense of feeling male or female) is different from the person's assigned sex at birth. "Intersex" means a person who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

- b. Viewing [§ 115.315 (d)]
 - i. The facility shall enable detainees to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks.
 - ii. Staff members of the opposite gender shall announce their presence when entering a detainee housing unit.

- iii. If opposite-gender staff will be conducting rounds in housing units while detainees are asleep (such as male staff checking a female dorm), the opposite-gender staff member should announce that these rounds will occur prior to “lights out.”
- iv. The procedure requires regular, verbal notification. A sign or notice in a detainee handbook or other written materials is not sufficient. Opposite-gender staff must announce their presence to allow detainees sufficient time to adjust their clothing or cover their bodies.

I. Detainees with Disabilities or Who Have Limited English Proficiency

a. Disabled Detainees [§ 115.316 (a)]

- i. The Detention Center shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to benefit from all aspects of The Detention Center efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include — when necessary to ensure effective communication with detainees who are deaf or hard of hearing — providing access to interpreters who can interpret effectively, accurately, and impartially.

6. Note: Detainees with disabilities includes detainees who are deaf, hard of hearing, blind or have low vision, and those who have intellectual, psychiatric, or speech disabilities.

- i. In addition, The Detention Center shall ensure that written materials are provided in formats and through methods that ensure effective communication with detainees with disabilities.

b. Detainees Who Have Limited English Proficiency [§ 115.316(b)]

7. The Doña Ana County Detention Center provides translation services through Language Line. Language Line services are available 24 hours a day by use of telephone or computer.

- a. The Detention Center shall take reasonable steps to ensure meaningful access to all aspects of its efforts to prevent, detect, and respond to sexual abuse and sexual harassment to detainees who have limited English proficiency, including by providing interpreters who can interpret effectively, accurately, and impartially.
- b. Use of Detainee Interpreters [§ 115.316(c)]
 - i. The Detention Center shall not rely on detainee interpreters, detainee readers, or other types of detainee assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise a detainee's safety, the performance of first-responder duties, or the investigation of a detainee's allegations.
- B. Screening of Detainees Risk of Victimization and Abusiveness [§ 115.341]
 - a. All detainees shall be assessed during an intake screening and upon transfer from another facility for their risk of being sexually abused by other detainees or sexually abusive toward other detainees.
 - b. Intake screening shall ordinarily take place within 24 hours of arrival at the facility.
 - c. Such assessments shall be conducted using an objective screening instrument.
 - d. The intake screening shall consider, at a minimum, 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 of the detainee;
 - iv. Whether the detainee has previously been incarcerated;

- v. Whether the detainee's criminal history is exclusively nonviolent;
 - vi. Whether the detainee has prior convictions for sex offenses against an adult or child;
 - vii. Whether the detainee is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - viii. Whether the detainee has previously experienced sexual victimization;
 - ix. The detainee's perception of his or her own vulnerability to sexual abuse or sexual harassment; and
 - x. Whether the detainee is detained solely for civil immigration purposes.
- e. The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to The Doña Ana County Detention Center, in assessing detainees for risk of being sexually abusive.
 - f. Within a 30 days from the detainee's arrival, the facility shall reassess the detainee's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.
 - g. A detainee's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the detainee's risk of sexual victimization or abusiveness.
 - h. Detainees may not be disciplined for refusing to answer, or for not disclosing complete information related to, (e.i), (e.vii), (ev.iii) and (e.ix) above.

- i. The Detention Center shall implement appropriate controls on the dissemination of responses to questions asked pursuant to this SOP in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees.
- C. Use of Information Obtained from Screening [§ 115.342]
- a. The Detention Center shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those detainees at high risk of being sexually victimized from those at high risk of being sexually abusive.
 - b. The Detention Center shall make individualized determinations about how to ensure the safety of each detainee.
 - c. In deciding whether to assign a transgender or intersex detainee to a facility for male or female detainees, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the detainee's health and safety, and whether the placement would present management or security problems.
 - d. 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.
 - e. A transgender or intersex detainee's own views with respect to his or her own safety shall be given serious consideration.
 - f. Transgender and intersex detainees shall be given the opportunity to shower separately from other detainees.
 - g. The Detention Center shall not place lesbian, gay, bisexual, transgender, or intersex detainees in dedicated facilities, units, or wings solely on the basis of such identification or status unless pursuant to a legal settlement or judgment.

- h. Detainees may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other detainees safe, and then only until an alternative means of keeping all detainees safe can be arranged. During any period of isolation, the facility shall not deny residents daily large muscle exercise nor any legally-required educational programming or special education services. Detainees in isolation shall receive daily visits from a medical or mental health care clinician.

D. Medical and Mental Health Screenings [§ 115.381]

- a. If the screening required in Section 115.341 above indicates that a detainee has experienced prior sexual victimization, whether in an institutional setting or in the community, staff shall ensure that the detainee is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
 - i. If the screening required in Section 115.341 indicates that a detainee has previously perpetrated sexual abuse, whether in an institutional setting or in the community, staff shall ensure that the detainee is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
- b. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.
- c. Medical and mental health practitioners shall obtain informed consent from detainees before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the detainee is under the age of 18.

8. Protection of detainees facing substantial risk

- a. Upon Learning of Substantial Risk [§ 115.362]
 - i. When The Detention Center learns that a detainee is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the detainee.

- b. Emergency Notifications [§ 115.352 (f)]
 - i. The Detainee's at the Detention Center have the opportunity to file Emergency Notifications utilizing the Tablet System.
 - 01. Detainees can also report through staff, PREA Hotline or through a Third Party.
 - ii. After receiving an emergency notification alleging a detainee is subject to a substantial risk of imminent sexual abuse, The Detention Center shall:
 - 01. Immediately forward the notification (or any portion of it that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken;
 - 02. Provide an initial response within 48 hours; and
 - 03. Issue a final decision within five (5) calendar days.
 - iii. The initial response and final decision shall document The Detention Center determination of whether the detainee is at substantial risk of imminent sexual abuse and the action taken in response to the emergency notification.
- c. Protective Custody [§ 115.343]
 - i. Detainees at high risk for sexual victimization shall not be placed in involuntary segregated housing unless The Detention Center has assessed all available alternatives and has determined that there is no available alternative means of separation from likely abusers.
 - ii. If the facility cannot conduct such an assessment immediately, the facility may hold the detainee in involuntary segregated housing for less than 24 hours while completing the assessment. Detainees placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the fullest extent possible.

- iii. If the facility restricts access to programs, privileges, education, or work opportunities, it shall document:
 - 01. The opportunities that have been limited;
 - 02. The duration of the limitation; and
 - 03. The reasons for such limitations.
- iv. The facility shall assign such detainees to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged. Such an assignment shall not ordinarily exceed a period of 30 days.
- v. If an involuntary segregated housing assignment is made pursuant to this section, the facility shall clearly document:
 - 01. The basis for the facility's concern for the detainee's safety; and
 - 02. The reason why no alternative means of separation can be arranged.
- vi. Every 30 days, the facility shall afford each such detainee a review to determine whether there is a continuing need for separation from the general population.

B. Hiring and Promotion Practices [§ 115.317]

- a. The Detention Center shall not hire or promote anyone who may have contact with detainees, or retain the services of any contractor who may have contact with detainees, who:
 - i. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; or

- ii. Has been convicted of, or civilly or administratively adjudicated for, engaging or attempting to engage in sexual activity in the community facilitated by force, threats of force, or coercion, or if the victim did not consent or was unable to consent.
- b. The Detention Center shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to retain the services of any contractor, who may have contact with detainees.
- c. Before hiring new employees who may have contact with detainees, The Detention Center shall:
 - i. Perform a criminal background records check; and must be cleared through the New Mexico Children Youth and Families Department Child Abuse Registry.
 - ii. Make its best efforts 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.
- d. The Detention Center shall also perform a criminal background records check before retaining the services of any contractor who may have contact with detainees.
- e. The Detention Center shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with detainees, or have in place a system for otherwise capturing such information for current employees.
- f. The Detention Center shall ask all applicants and employees who may have direct contact with detainees about previous misconduct described in this section, in:
 - i. Written applications and/or interviews for hiring or promotion; and

- ii. Interviews or written self-evaluations conducted as part of reviews of current employees.
 - g. The Detention Center shall impose on its current employees a continuing affirmative duty to disclose any of the misconduct described in this section.
 - h. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
 - i. Unless prohibited by law, The Detention Center 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.
- C. Upgrades to Facilities and Technologies [§ 115.18]
- a. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, The Detention Center shall consider the effect of the design, acquisition, expansion, or modification on its ability to protect detainees from sexual abuse.
 - b. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, The Detention Center shall consider how such technology may enhance its ability to protect detainees from sexual abuse.
9. Responding to reports of sexual abuse and sexual harassment
- A. To respond to reported incidents of sexual abuse, we have adopted and implemented the following processes:
10. Procedures for Reporting Sexual Abuse and Sexual Harassment
- A. Detainee Reporting
 - a. Ways for Detainees to Report Incidents [§ 115.351 (a), (b), and (c)]:

- i. The Detention Center shall provide multiple internal ways for detainees to privately report sexual abuse and sexual harassment, retaliation by other detainees or staff for reporting sexual abuse or sexual harassment, and staff neglect that may have contributed to such incidents. Detainees may report concerns by:
 - 01. File notification through the Tablet System
 - 02. Report to a staff member
 - 03. Third Party Reporting to an outside entity not affiliated with the detention facility by calling the same unit at (575) 526-3437 or 888-595-7273.
 - 001. The Detention Center shall also provide at least one way for detainees to report abuse, harassment, retaliation, and staff neglect to a public or private entity that is not part of The Doña Ana County Detention Center, and that is able to receive and immediately forward detainee reports of sexual abuse and sexual harassment to agency officials, allowing the detainee to remain anonymous upon request. Detainees may report concerns by:
 - 002. Staff shall accept reports made verbally, in writing, and anonymously. Staff shall promptly document any verbal reports.
- ii. Detainee Notifications [§ 115.352 (a), (b), (c), (e) and (g)]
- iii. The Detention Center shall not impose a time limit on when a detainee may submit a notification regarding an allegation of sexual abuse.
- iv. The Detention Center shall not require a detainee to use any informal notification process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
- v. The Detention Center shall ensure that:

01. A detainee who alleges sexual abuse may submit a notification without submitting it to a staff member who is the subject of the complaint, and
 02. Such notification is not referred to a staff member who is the subject of the complaint.
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- vi. The Detention Center shall issue a final decision on the merits of any portion of a notification alleging sexual abuse within 90 days of the initial filing of the notification. Computation of the 90-day time period shall not include time consumed by detainees in preparing any administrative appeal.
 - vii. The Detention Center may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The Detention Center shall notify the detainee in writing of any such extension and provide a date by which a decision shall be made.
 - viii. At any level of the administrative process, including the final level, if the detainee does not receive a response within the time allotted for reply, including any properly noticed extension, the detainee may consider the absence of a response to be a denial at that level.
 - ix. The Detention Center may discipline a detainee for filing a notification related to alleged sexual abuse only where the agency demonstrates that the detainee filed the notification in bad faith.
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- b. Staff Reporting Rules [§ 115.351(d, e) and § 115.361]

- i. Any staff member who has knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment; retaliation against detainees or staff who reported such an incident; and any staff neglect that may have contributed to such incident or retaliation, shall immediately report such incident or retaliation, in the manner specified by The Detention Center SOP.
 - ii. Doña Ana County Detention Center staff are required to comply with the State of New Mexico mandatory child abuse reporting laws. NM Stat § 32A-4-3 (2016)
 - iii. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone except as specified by The Detention Center SOP.
 - iv. Upon receiving any allegation of sexual abuse, the facility head or his or her designee shall promptly report the allegation to the New Mexico CYFD office and to the alleged victims parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.
 - v. If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's case worker instead of the parents or legal guardians.
 - vi. If a Juvenile court retains jurisdiction over the alleged victim, the facility head or designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.
11. Note: Medical and mental health practitioners shall report knowledge, suspicion, or information regarding sexual abuse, sexual harassment, retaliation, or staff neglect pursuant to this section. This information shall be provided to detainees, in writing, at the initiation of services.

- i. Each secure juvenile facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discreet exigent circumstances, which shall be fully documented. Only security staff shall be included in these ratios.
 - ii. The facility shall provide residents with access to tools necessary to make a written report.
 - iii. The Detention Center shall provide a method for staff to privately report sexual abuse and sexual harassment of detainees [§ 115.351 (d)]
- b. Rules for Third Parties to Report Abuse and to Assist Detainees with Notifications [§ 115.351(c), § 115.352 (e), and § 115.354]
 - i. The Detention Center shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a detainee.
 - ii. Staff shall accept reports made verbally, in writing, and anonymously from third parties and shall promptly document any verbal reports.
 - iii. Third parties, including fellow detainees, staff members, family members, attorneys, and outside advocates, shall be permitted to assist detainees in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of detainees.
 - iv. If a third party files such a request on behalf of a detainee, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. If the detainee declines to have the request processed on his or her behalf, The Detention Center shall document the detainee's decision.

- B. Coordinated response [§ 115.365]
 - a. The facility shall develop a written plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership.
- 12. Following a reported risk of imminent sexual abuse
 - A. Staff first responder:
 - a. Gather basic information about the risk of imminent sexual abuse.
 - b. Notify a jail supervisor.
 - c. Take immediate action to protect the inmate from imminent harm, if necessary.
 - B. Jail Supervisor:
 - a. Review information related to the potential risk of imminent abuse to the inmate.
 - b. If the risk of imminent sexual abuse is credible, determine what actions should be taken to protect the inmate from harm.
 - C. Following suspected or alleged incident of sexual abuse
 - D. Security Staff First Responder:
 - a. Notify a jail supervisor.
 - b. Separate the victim and alleged perpetrator(s).
 - c. Secure the crime scene, preserve evidence, including on the victim's and alleged perpetrator's bodies or clothes, and maintain custody of evidence until released to law enforcement officials.
 - d. Escort the alleged inmate perpetrator(s) to an isolated area, preferably in a dry cell with restricted access to a toilet or water, until the arrival of law enforcement.

- e. Request that the victim - and ensure that the alleged perpetrator - refrain from actions that could destroy evidence, such as bathing, brushing teeth, changing their clothes, urinating, defecating, smoking, drinking, or eating until they have been examined by qualified medical personnel.
 - f. Complete an incident report.
 - g. Share information related to the incident with only those people who need to know in order to ensure the victim's safety, conduct the investigation, or provide treatment to the victim or alleged perpetrator.
- E. Jail Supervisor or PREA Coordinator:
- a. Oversee the coordinated response process.
 - b. Conduct an initial assessment of the allegation.
 - c. Ensure preservation of any potential evidence.
 - d. Ensure that any alleged staff perpetrators are immediately separated from contact with inmates.
 - e. Notify the investigating law enforcement agency.
 - f. In cases where the need for a medical forensic exam is not immediately apparent, confer with the Sexual Assault Nurse Examiner, law enforcement investigator, or jail medical staff, when available, to determine if the medical forensic exam is necessary.
 - g. Ensure that the victim is seen by a medical provider immediately, either at an outside hospital for a medical forensic exam or by a jail medical provider.
 - h. Offer the victim the option to speak with a rape crisis advocate confidentially by phone or in person. If requested by the victim, set up the call in a private location.
 - i. Arrange for law enforcement investigators to meet privately with the victim and alleged perpetrator(s), if necessary.
 - j. Complete any necessary reports.

- k. Share information related to the incident with only those people who need to know in order to ensure the victim's safety, conduct the investigation, or provide treatment to the victim or alleged perpetrator.
 - l. Notify Jail Administrator or designee of allegation.
- F. PREA Coordinator:
 - a. Assist with notifications to jail staff and outside agencies.
 - b. Assist the jail supervisor or Jail Administrator with other duties, as assigned.
 - c. Share information related to the incident with only those people who need to know in order to ensure the victim's safety, conduct the investigation, or provide treatment to the victim or alleged perpetrator.
- G. Jail Medical/Mental Health Staff:
 - a. Provide basic medical care for acute injuries
 - b. At the time of the allegation, collect basic information from .the victim and conduct a cursory exam to assess for injuries and suicide risk.
 - c. Preserve forensic evidence, to the extent possible.
- H. Advise the victim of his or her right to a medical forensic exam at no cost.
- I. Contact the Sexual Assault Nurse Examiner (SANE) to provide additional information regarding the basic medical care for acute injuries as necessary.
 - a. Document that the alleged victim and inmate perpetrator(s) were examined.
 - b. If the victim will be immediately transported for a medical forensic exam, conduct a follow-up with the victim within 24 hours of the allegation and to include but not limited to suicide risk assessment.
 - c. Refer the alleged victim for mental health follow-up within 48 hours.

- d. Share information related to the incident as permitted by law and with only those people who need to know in order to ensure the victim's safety, conduct the investigation, or provide treatment to the victim or alleged perpetrator.
- J. Inmate programs division:
 - a. Provide advocacy, support, and crisis intervention to the victim, if contacted.
 - b. Respond in person to the jail, when possible, to provide services to the victim.
 - c. Maintain confidentiality at all times, except as permitted by law.
- K. Prior to transport to a medical forensic exam
- L. Shift supervisor:
 - a. If an unclothed search is determined to be necessary and/or the victim is asked to change clothing prior to transport, document the search and steps taken to preserve evidence in the incident report for review by the Jail Administrator and PREA Coordinator.
 - b. Cooperate with the investigating law enforcement agency to ensure all evidence is preserved.
- M. Transport Officer:
 - a. Coordinate with the Shift Supervisor to ensure timely transportation of the victim to the exam site.
 - b. Ensure that the victim is comfortably clothed for transport.
 - c. Use absorbent pads or a paper bag to contain any evidence that may be lost during transport, to include gloves or other materials used during a pat down of the victim.
 - d. Assure the victim's safety during transport.
 - e. Use the least restrictive restraints possible on the victim, based on his or her classification status.
- N. During the medical forensic exam

- O. Transport officer:
- a. Ensure security at the exam site.
 - b. Supervise the victim.
 - c. Ensure the safety of the SANE and the rape crisis advocate, and facilitate their exit from the room during the exam, if necessary.
 - d. Provide as much privacy for the victim during the exam as possible. When safety and security needs permit it, the Transport Officer will remain outside the exam room. If the Transport Officer must remain in the exam room, he or she will stand behind victim's head.
 - e. Ensure that the victim has an opportunity to speak with the rape crisis advocate as privately as is possible.
 - f. Coordinate with the SANE, investigating law enforcement agency, and rape crisis advocate to make sure all necessary components of the medical forensic exam are completed before returning the victim to the jail.
- P. If a forensic exam is not conducted
- Q. Shift Supervisor:
- a. Ensure that the victim receives timely emergency medical and mental health care.
 - b. Arrange for the victim to speak with a rape crisis advocate in as confidential a manner as possible.
- R. Jail Medical Staff:
- a. Provide the victim with immediate medical care for acute injuries.
 - b. At the time of the allegation, collect basic information from the victim and conduct a cursory exam to assess for injuries and suicide risk
 - c. Obtain referrals from the jail physician for HIV and STI prophylaxis and emergency contraception, if necessary.
 - d. Offer tests for STIs, as medically appropriate.

- e. Provide medical treatment to the victim at no cost and regardless of whether the victim names the abuser or cooperates with the investigation.
 - f. Refer the alleged victim for mental health follow-up within 48 hours.
- S. Jail Mental Health Staff:
 - a. Conduct a diagnostic evaluation or crisis assessment to determine the victim's mental health needs and any risk of suicide.
 - b. Provide immediate crisis intervention and any needed emergency mental health care to the victim at no cost to him or her and regardless of whether the victim names the abuser or cooperates with the investigation.
- T. Inmate Programs Department:
 - a. Respond to the jail in person, if possible, or by telephone.
 - b. Meet with the victim as privately as possible, as soon as possible.
 - c. Give the victim the "Notice of Rights" and obtain informed consent before providing advocacy services.
 - d. Provide the victim with confidential crisis intervention, support, information, and referrals.
 - e. Provide information about follow-up services.
- U. Following the exam/after acute care is provided
- V. PREA Coordinator:
 - a. Review and compile all relevant documentation related to the incident for the Sexual Assault Incident Review.
 - b. Cooperate with the investigating law enforcement agency regarding the collection of evidence and interviews with the victim, alleged perpetrator(s) and witnesses. Provide any required reports or documentation, as requested.
- W. Inmate Programs Department:
 - a. Assist the Jail Administrator, as directed.

- b. Inform the victim about next steps in the process, including available medical and mental health services, rape crisis advocacy, and the investigative process.
- c. Coordinate follow-up services for the victim within the jail.
- d. Monitor for retaliation against the victim and any witnesses or reporters.
- e. Provide the victim with resources, referrals, and information on healing from sexual abuse and the investigative process.
- f. Offer follow-up rape crisis services, including in-person crisis intervention, if possible.
- g. Provide the victim with a Victim Compensation Application, and assist the victim to complete the application, if requested.
- h. Communicate with other coordinated response members to coordinate services, while maintaining victim confidentiality.

X. Jail Medical Staff:

- a. Provide medical treatment to the victim related to the sexual assault (at no cost), as recommended by the Sexual Assault Nurse Examiner (SANE) and or emergency department
- b. Offer a pregnancy test to all female victims of sexual abuse, if not previously administered.
- c. Provide follow-up medical care, including testing and treatment for STIs and HIV.

Y. Jail Mental Health Staff:

- a. Conduct a diagnostic evaluation or crisis assessment to determine the victim's mental health needs and any risk of suicide.
- b. Provide immediate crisis intervention and any needed emergency mental health care to the victim at no cost to him or her and regardless of whether the victim names the abuser or cooperates with the investigation.

13. Immediate Steps After Receiving Report of Incident [§ 115.364(a) and § 115.382 (b)]

- A. When a security staff first-responder learns that a detainee has been sexually abused, they shall take immediate action to protect the detainee. This includes:
- a. Separate the detainee from the alleged perpetrator;
 - b. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence; and
 - c. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim—and ensure that the alleged abuser—not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
 - d. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall immediately notify the appropriate medical and mental health practitioners. [115.382 (b)]
 - e. When the first staff responder is not a security staff member, they shall request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

Note: The Department of Justice (DOJ) defines “first responder” as the staff person (or persons) who first arrive at the scene of an incident.

B. Medical and Mental Health Services

- a. Emergency [§ 115.382(c)]
 - i. Detainee victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
 - ii. Detainee victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

- iii. Treatment services shall be provided to the victim — without financial cost to the victim — and regardless of whether the victim names the abuser or cooperates with any investigation

b. Ongoing Medical and Mental Health Care [§ 115.383]

- i. The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been sexually abused in a prison, jail, lockup, community corrections facility, or juvenile justice facility.
- ii. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- iii. The facility shall provide such victims with medical and mental health services consistent with the community level of care.
- iv. Detainee victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests, as medically necessary.
- v. If pregnancy results from the conduct described in this section, victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services, such as prenatal care and access to pregnancy termination services, where available.
- vi. Detainee victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections, as medically appropriate.
- vii. Ongoing treatment services shall be provided to the victim without financial cost to the victim and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- viii. 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.

C. Support Services for Victims of Sexual Abuse

a. Victim Advocate [§ 115.321(d)(e) and (h)]

- i. The Detention Center shall attempt to make available to the victim an advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocacy services, The Detention Center shall make available a qualified staff member from a community-based organization, or a qualified agency staff member to provide these services.

Note: A “qualified agency staff member” or a “qualified community-based staff member” means an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

- ii. When requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany the victim throughout the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

b. Emotional Support Services [§ 115.53(a)(b)(c)]

- i. The facility shall provide detainees with access to outside victim advocates for emotional support services related to sexual abuse by giving detainees mailing addresses and telephone numbers, including toll-free hotline numbers, where available, of local, State, or national victim advocacy or rape crisis organizations, and for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible.
- ii. The facility shall inform detainees, prior to giving them access to outside advocates, of the extent to which such communications shall be monitored and the extent to which reports of abuse shall be forwarded to authorities in accordance with mandatory reporting laws.

- iii. The Detention Center shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide detainees with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.
 - iv. The facility shall also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.
 - D. Investigation of Incidents [§§ 115.321(a)(b)(c)(f) and(h), 115.322, 115.371, 115.372, 115.373 and 115.386]
- 14. Any allegations of sexual abuse or sexual harassment of any form shall be reported immediately to a supervisor and a written report must be submitted to the shift supervisor by the end of shift in which the allegation was reported. This includes staff, volunteers and contractors.
 - A. The Detention Center shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
 - B. It is The Detention Center SOP to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior.
 - C. When The Detention Center conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
 - D. Where sexual abuse is alleged, The Detention Center shall use investigators who have received special training in sexual abuse investigations pursuant to Section 6. A. (Employee Training) of this procedure.
 - E. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse involving the suspected perpetrator.

- F. When the quality of evidence appears to support criminal prosecution, The Detention Center shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- G. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as detainee or staff. The Detention Center shall not require a detainee who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with an investigation.
- H. Administrative investigations:
 - a. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
 - b. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
 - c. Shall be referred for prosecution if there are substantiated allegations of conduct that appear to be criminal.
 - d. The Detention Center shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated in administrative investigations.
 - e. Criminal investigations: Shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible; and
 - f. The Detention Center shall retain all written reports required by this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.
 - g. The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.
 - h. When other agencies investigate sexual abuse, The Detention Center shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

- i. Evidence Protocol and Forensic Medical Exams [§ 115.321]:
 - i. To the extent The Detention Center is responsible for investigating allegations of sexual abuse, it shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.
 - ii. The Detention Center shall offer all victims of sexual abuse access to forensic medical examinations, without financial cost to the victim, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs), where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The Detention Center shall document its efforts to provide SAFEs or SANEs for this purpose.
 - iii. To the extent The Detention Center is not responsible for investigating allegations of sexual abuse, it shall request that the investigating agency follow the requirements of this section.
- j. Following an investigation into a detainee's allegation that he or she suffered sexual abuse, The Detention Center shall inform the detainee as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- k. If The Detention Center did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the detainee.
- l. Following a detainee's allegation that a staff member committed sexual abuse against him or her, The Detention Center shall subsequently inform the detainee whenever:
 - i. The staff member is no longer posted within the detainee's unit;
 - ii. The staff member is no longer employed at the facility;
 - iii. The Detention Center learns that the staff member has been charged with or indicted on a charge related to sexual abuse within the facility; or

- iv. The Detention Center learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- m. Following a detainee's allegation that he or she has been sexually abused by another detainee, The Detention Center shall subsequently inform the alleged victim whenever:
 - i. The Detention Center learns that the alleged abuser has been charged with or indicted on a charge related to sexual abuse within the facility; or
 - ii. The Detention Center learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
 - iii. All such notifications or attempted notifications shall be documented. The Detention Center obligation to report under this standard shall terminate if the detainee is released from the agency's custody. [§ 115.73]
- n. Sexual abuse incident reviews [§ 115.386]
 - i. The Detention Center shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
 - ii. The review shall ordinarily occur within 30 days of the conclusion of the investigation.
 - iii. The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
 - iv. The review team shall:
 - 01. Consider whether the allegation or investigation indicates a need to change procedure or practice to better prevent, detect, or respond to sexual abuse;
 - 02. 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;

- 03. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - 04. Assess the adequacy of staffing levels in that area during different shifts;
 - 05. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - 06. Prepare a report of its findings, including determinations made pursuant to this section, and any recommendations for improvement and submit the report to the facility head and the PREA Compliance manager or agency PREA Coordinator.
- v. The Detention Center shall implement the review team's recommendations for improvement, or document its reasons for not doing so.

I. Protection from Retaliation [§ 115.367]

Note: For rules regarding reporting by detainees and staff of retaliation after it has occurred, see Section 7. A. (Procedures for Reporting Sexual Abuse/Sexual Harassment) above.

- a. The Detention Center SOP is to protect all detainees and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other detainees or staff.
- b. The Detention Center designates the Inmate Programs Department to monitor for possible retaliation. To protect residents and staff who report or cooperate with a sexual abuse and sexual harassment allegation. Any suspected retaliation will be reported immediately to the Capitan of Operations.
- c. The Detention Center shall employ multiple protection measures, such as housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

- d. For at least 90 days following a report of sexual abuse, The Detention Center shall monitor the conduct and treatment of detainees or staff who reported sexual abuse, and of detainees who were reported to have suffered sexual abuse, to see if there are changes that may suggest possible retaliation by detainees or staff, and shall act promptly to remedy any such retaliation.
 - i. The Detention Center shall continue such monitoring beyond 90 days if the initial monitoring indicates an ongoing need. Monitoring shall include:
 - ii. Periodic in-person conversations with detainees and/or staff;
 - iii. Review of disciplinary incidents involving detainees;
 - iv. Review of housing or program changes; and
 - v. Review of negative performance reviews or reassignments of staff.
 - e. Any use of segregated housing to protect a detainee who is alleged to have suffered sexual abuse shall be subject to the same requirements that are discussed above in Section 4.G(3) (Protective Custody).
 - f. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.
- J. Post-allegation protective custody [§ 115.368]
15. Any use of segregated housing to protect a detainee who is alleged to have suffered sexual abuse shall be subject to the requirements of PREA standard 115.342.
- A. Sanctions for Individuals Found to have Participated in Sexual Abuse or Harassment
- a. Disciplinary Sanctions for Staff [§ 115.376(a)(b)(c)(d)]
 - i. Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.
 - ii. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

- iii. Disciplinary sanctions for violations of The Detention Center policies relating to sexual abuse or sexual harassment shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
 - iv. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
- b. Corrective Action for Contractors and Volunteers [§ 115.377(a)(b)]
 - i. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
 - ii. The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with detainees, in the case of any other violation of The Detention Center sexual abuse or sexual harassment policies by a contractor or volunteer.
- c. Disciplinary Sanctions for Detainees [§ 115.378]
 - i. Detainees shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the detainee engaged in detainee-on-detainee sexual abuse or following a criminal finding of guilt for detainee-on-detainee sexual abuse.
 - ii. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the detainee's disciplinary history, and the sanctions imposed for comparable offenses by other detainees with similar histories.
 - iii. The disciplinary process shall consider whether a detainee's mental disability or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

- iv. If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending detainee to participate in such interventions as a condition of access to programming or other benefits.
- v. The Detention Center may discipline a detainee for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- vi. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident, even if an investigation does not establish evidence sufficient to substantiate the allegation.

B. Notifying Other Confinement Agencies [§ 115.363(a)(b)(c)]

- a. Upon The Detention Center receiving an allegation that a detainee was sexually abused while confined at another facility, the head of the Detention Center shall notify the head of the facility or agency where the alleged abuse occurred.
- b. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- c. The Detention Center shall document that it has provided such notification.
- d. The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

16. Staff training and detainee education

- A. The Detention Center is committed to communicating to the detainees at its jail, to its employees, and to contractors and volunteers, the following information through the training, education and orientation programs described in this section:
- B. The Detention Center zero tolerance SOP;
- C. The Detention Center policies to prevent, detect, and respond to sexual abuse and sexual harassment; and

- D. Other rights and obligations under this SOP.
- E. Employee Training [§ 115.331(a)(b)(c)]
 - a. The Detention Center shall train all employees who may have contact with detainees on:
 - i. Its zero-tolerance SOP for sexual abuse, sexual harassment and retaliation;
 - ii. How to fulfill their responsibilities regarding prevention, detection, reporting, and response to sexual abuse and sexual harassment;
 - iii. Detainees' right to be free from sexual abuse and sexual harassment;
 - iv. The right of detainees and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - v. The dynamics of sexual abuse and sexual harassment in confinement;
 - vi. The common reactions of sexual abuse and sexual harassment victims;
 - vii. How to detect and respond to signs of threatened and actual sexual abuse;
 - viii. How to avoid inappropriate relationships with detainees;
 - ix. How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees;
 - x. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
 - b. Security staff employees shall be trained in how to conduct cross-gender pat-down searches, and how to conduct searches of transgender and intersex detainees, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

- c. All current employees shall receive this training, and The Detention Center shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment procedures. In years in which an employee does not receive refresher training, The Detention Center shall provide refresher information on current sexual abuse and sexual harassment policies.
- d. Specialized Training: Investigators [§ 115.334(a)(b)]
 - i. In addition to the general training provided to all employees, The Detention Center shall ensure that, to the extent it conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.
 - ii. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of *Miranda* and *Garrity* warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
- e. Specialized Training: Medical and Mental Health Professionals [§ 115.335]
 - i. The Detention Center shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facility have been trained in:
 - ii. How to detect and assess signs of sexual abuse and sexual harassment;
 - iii. How to preserve physical evidence of sexual abuse;
 - iv. How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
 - v. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

- f. The Detention Center shall document, through employee signature or electronic verification, that employees have received and understand the training. In the case of investigators who investigate sexual abuse in the facility, it shall maintain documentation they have completed the required specialized training in sexual abuse investigations. In the case of medical and mental health practitioners, it shall maintain documentation that they have received the specialized training described in this section.

F. Detainee Orientation and Education [§ 115.333(a)(b)(d)(f)]

- a. During the intake process, detainees shall receive information explaining The Detention Center zero-tolerance SOP regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

Within 10 days of intake, The Detention Center shall provide comprehensive education to detainees either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents.

- b. The Detention Center shall provide detainee education 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. In addition to providing such education, The Detention Center shall ensure that key information is continuously and readily available or visible to detainees through posters, detainee handbooks, and Tablet System.

G. Volunteer and Contractor Training [§ 115.332(a)(b)(c)]

- a. The Detention Center shall ensure that all volunteers and contractors who have contact with detainees have been trained on their responsibilities under The Detention Center sexual abuse and sexual harassment prevention, detection, and response procedures.
- b. The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with detainees, but all volunteers and contractors who have contact with detainees shall be notified of Doña Ana County zero-tolerance SOP regarding sexual abuse and sexual harassment and how to report such incidents.

- c. The Detention Center shall maintain documentation confirming that volunteers and contractors understand the training they have received.

17. Data collection and review [28 C.F.R. § 115.387–389]

A. Data Collection [§ 115.387(a)(b)(c)(d)(f)]

- a. The Detention Center shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
- b. The Detention Center shall aggregate the incident-based sexual abuse data at least annually.
- c. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
- d. The Detention Center shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
- e. Upon request, The Detention Center shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

B. Data Storage, Publication, and Destruction [§ 115.389]

- a. The Detention Center shall make all aggregated sexual abuse data, readily available to the public at least annually through its website.
- b. The Detention Center shall ensure that data collected pursuant to Section 7. A. are securely retained.
- c. Before making aggregated sexual abuse data publicly available, the Detention Center shall remove all personal identifiers.
- d. The Detention Center shall maintain sexual abuse data collected pursuant to Section 7. A. for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

18. Collective bargaining agreements [28 C.F.R. § 115.366(a)]

- A. The Detention Center or any governmental entity responsible for collective bargaining on The Detention Center behalf shall not enter into or renew any collective bargaining agreement or other agreement that limits The Detention Center ability to remove alleged staff sexual abusers from contact with any detainees pending the outcome of an investigation or a determination of whether and to what extent discipline is warranted.
- B. Nothing in this section shall restrict The Detention Center entering into or renewing agreements that govern:
 - a. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions in this procedure relating to the standard of evidence for substantiating allegations of sexual abuse/harassment in Section 7. F. (Investigation of Incidents) and disciplinary sanctions for staff in Section 7.H. (Sanctions Against Abusers When Allegations are Substantiated); or
 - b. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.



BRYAN W. BAKER, DIRECTOR

12/01/2022

DATE

SOP#	SOP	Section	Change Type	Change	Effective Date
8.14.14.14	PREA	SOP	Add	<u>The Doña Ana County Detention Center maintains a written procedure that requires the</u>	12/1/2022
8.14.14.14	PREA	SOP	Add	<u>facility provide information to detainees about sexual abuse/assault, including the</u>	12/1/2022
8.14.14.14	PREA	SOP	Add	<u>facility's mandate of a zero tolerance regarding all forms of sexual abuse and sexual</u>	12/1/2022
8.14.14.14	PREA	SOP	Add	<u>harassment. The facility also outlines the approach to preventing, detecting and</u>	12/1/2022
8.14.14.14	PREA	SOP	Add	<u>responding to sexual abuse and harassment. The detainees have a right to be free from</u>	12/1/2022
8.14.14.14	PREA	SOP	Add	<u>sexual abuse during their confinement. Sexual abuse of a detainee and sexual</u>	12/1/2022
8.14.14.14	PREA	SOP	Add	<u>harassment of a detainee are prohibited. The Detention Center is committed to zero tolerance of any form of sexual abuse and sexual harassment in facilitates it operates directly or with which it holds contracts for the confinement of detainees.</u>	12/1/2022
8.14.14.14	PREA	SOP	Delete	The Doña Ana County Detention Center maintains a written procedure that requires the facility provide information to detainees about sexual abuse/assault, including the facility's zero tolerance regarding all forms of sexual abuse and sexual harassment. The detainees have a right to be free from sexual abuse during their confinement. Sexual abuse of a detainee and sexual harassment of a detainee are prohibited.	12/1/2022
8.14.14.14	PREA	7.D.a.	Change	If the screening required in Section 115.3414.F(1) above indicates that a detainee has experienced prior sexual victimization, whether in an institutional setting or in the community, staff shall ensure that the detainee is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.	12/1/2022
8.14.14.14	PREA	7.D.a.i.	Add	<u>If the screening required in Section 115.341 indicates that a detainee has previously perpetrated sexual abuse, whether in an institutional setting or in the community, staff shall ensure that the detainee is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.</u>	12/1/2022

8.14.14.14	PREA	10.A.b.iv.	Add	<u>Upon receiving any allegation of sexual abuse, the facility head or his or her designee shall promptly report the allegation to the New Mexico CYFD office and to the alleged victims parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.</u>	12/1/2022
8.14.14.14	PREA	10.A.b.v.	Add	<u>If the alleged victim is under the guardianship of the child welfare system the report shall be made to the alleged victim's case worker instead of the parents or legal guardians.</u>	12/1/2022
8.14.14.14	PREA	10.A.b.vi.	Add	<u>If a Juvenile court retains jurisdiction over the alleged victim, the facility head or designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.</u>	12/1/2022
8.14.14.14	PREA	11.ii.	Add	<u>Each secure juvenile facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discreet exigent circumstances, which shall be fully documented. Only security staff shall be included in these ratios.</u>	12/1/2022
8.14.14.14	PREA	11.iii.	Add	<u>The facility shall provide residents with access to tools necessary to make a written report.</u>	12/1/2022
8.14.14.14	PREA	11.iv.	Add	<u>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.</u>	12/1/2022
8.14.14.14	PREA	13.C.iv.	Add	<u>The facility shall also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.</u>	12/1/2022
8.14.14.14	PREA	14.G.f.	Add	<u>If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.</u>	12/1/2022
8.14.14.14	PREA	16B.d.	Add	<u>The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.</u>	12/1/2022
8.14.14.14	PREA	17.B.a.	Add	<u>The Detention Center shall make all aggregated sexual abuse data, readily available to the public at least annually through its website.</u>	12/1/2022