

	<p style="text-align: center;">CORPORATE POLICY & PROCEDURE MANUAL</p> <p>CHAPTER: 05 - Oversight</p> <p>TITLE: Investigating Allegations of Sexual Abuse and Assault and Evidence Collection in Immigration Detention Facilities</p> <p>ACA STANDARDS: ACRS:</p> <p>5-ALDF- 4D-22, 4D-26, 4D-27, 4D-29</p>	<p><u>NUMBER:</u> 5.1.2-F</p> <p><u>SUPERSEDES:</u> 2/14/19</p> <p><u>EFFECTIVE:</u> 8/28/23</p>
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I. PROGRAM OBJECTIVES

The GEO Group, Inc. (GEO) mandates zero tolerance towards all forms of sexual abuse and assault in all its facilities. In accordance with this procedure manual, all employees, contractors, and volunteers have an affirmative duty to report all allegations or knowledge of sexual abuse, romantic, or sexual contact that takes place within any GEO facility or program. All cases of alleged sexual conduct, in accordance with Policy 5.1.2, Sexual Abuse and Assault Prevention and Intervention (SAAPI), shall be promptly, thoroughly, and objectively investigated. Upon substantiation of any allegation of sexual conduct, appropriate disciplinary actions will be taken against the employee, contractor, volunteer, or detainees, including possible criminal prosecution.

Specific procedures not listed in this policy which are required by contractual obligations shall be followed. Where any requirements of the DHS PREA Standards may conflict with PBNDS/NDS, the DHS PREA Standards shall supersede.

II. DEFINITIONS

A. General Definitions (§115.5)¹

1. **Contractor** means a person who or entity that provides services on a recurring basis pursuant to a Contractual agreement with the Agency or Facility.
2. **Detainee** means any person detained in an immigration detention facility or holding facility. Sometimes referred to as resident.
3. **Employee** means a person who works directly for GEO.
4. **Staff** means employees or contractors, including any entity that operates within the facility. means a person employed by GEO or any operational subsidiary. Sometimes referred to as staff or staff member.
5. **Facility Administrator** means the principal official of a facility (i.e., warden).
6. **Facility** means a place, building (or part thereof), set of buildings, structure, or area

¹ Numerical references are to the section of PREA (6 C.F.R. Part 115 of the DHS Standards).

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(whether enclosing a building or set of buildings) that was built or retrofitted for the purpose of detaining individuals and is routinely used by the agency to detain individuals in its custody. References to requirements placed on facilities extend to the entity responsible for the direct operation of the facility.

7. **Juvenile** means any person under the age of 18.
8. **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. A “**Qualified Medical Practitioner**” refers to such a professional who has also successfully completed training for treating Sexual Abuse victims.
9. **Substantiated** means an allegation that was investigated and determined to have occurred.
10. **Unsubstantiated** means an allegation that was investigated, and the investigation determined the allegation produced insufficient evidence to make a final determination as to whether or not the event occurred.
11. **Unfounded** means an allegation that was investigated and determined not have occurred.
12. **Volunteer** means an individual, who is not an employee, who donates time and effort on a recurring basis to enhance the activities and programs of GEO.

B. Definitions Related to Sexual Abuse (§115.6)

1. **Sexual Abuse of a Detainee by another Detainee** includes any of the following acts by one or more detainees, prisoners, inmates, or residents of the facility in which the detainee is housed who, by force, coercion, or intimidation, or if the victim did not consent or was unable to consent or refuse, engages in or attempt to engage in:
 - a. Contact between the penis and the vulva and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;
 - b. Contact between the mouth and the penis, vagina, or anus;
 - c. Penetration, however slight, of the anal or genital opening of another person by a hand or finger, or by any object;
 - d. Touching, of the genitalia, anus, groin, breast, inner thigh, or buttocks either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person, or,
 - e. Threats, intimidation, or other actions or communications by one or more detainees aimed at coercing or pressuring another detainee to engage in a sexual act.

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- 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, contractors contract personnel or volunteers 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 the anus and, for purposes of this subparagraph; contact involving the penis upon penetration, however slight;
 - b. Contact between the mouth and the penis, vagina, or anus;
 - c. Contact between the mouth and any body part where the employee, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - d. Penetration, however slight, of the anal or genital opening of another person by a hand, 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;
 - e. Intentional touching of or with the genitalia, anus, groin, breast, inner thigh, or the 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;
 - f. 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;
 - g. Repeated verbal statements or comments of a sexual nature to a detainee; **Note:** "Repeated," in the context of this provision, means more than one incident. The seriousness of the conduct shall be considered in determining the appropriate commensurate response by the facility and serious misconduct along these lines, even if committed once, shall still be addressed.
 - h. Any display of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident; or
 - i. **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 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.

Note: Sexual acts or contact between a detainee and an employee, contractor, or volunteer, even when no objections are raised by either party, are always forbidden and illegal. Accordingly, except in cases where the employee, contractor or volunteer is clearly the victim of detainee sexually abusive behavior, sexual behavior between an employee, contractor or volunteer and detainees is always the employee's, contractor's or volunteer's responsibility. Sexual abuse and/or assault is never an acceptable consequence of detention.

C. Additional Definitions

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1. **Sexual Activity:** Physical contact between two or more detainees of the same or opposite sex for the purpose of sexual arousal or gratification where all involved detainees independently express or implies consent. Such contact includes the following: active or passive contact or fondling of genitals, hands, mouth, buttocks, anus, or breast.

Note: Consensual sexual conduct between detainees does not constitute sexual abuse or assault and need not be reported to the Joint Intake Center, although it is prohibited and subject to disciplinary sanctions. Staff should be sensitive to the possibility that seemingly consensual behavior may have involved coercion by either person involved.

2. **Sexually Abusive Behavior:** The term used in this policy to describe all prohibited sexual behavior. Sexually Abusive Behavior includes acts of intimacy, sexual activity and sexual abuse as defined in this section.

III. GUIDELINES

A. Policy Statements

1. Policies to Ensure Referrals of Allegations for Investigations (§115.22)

- a. Each facility shall have a policy in place to ensure that each allegation of sexual abuse is investigated by the facility or referred to an appropriate law enforcement agency with legal authority to conduct criminal investigations. The facility shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse. Facilities shall document all referrals.
- b. Each facility shall attempt to secure a PREA MOU with local law enforcement outlining the responsibilities of each entity related to conducting PREA investigations that involve potentially criminal behavior and unsuccessful attempts to secure a law enforcement MOU shall also be documented and retained by the facility.
- c. GEO shall publish this policy on its website in lieu of each facility making their local protocol available to the public.
- d. When a detainee or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure the incident is promptly reported to the ICE Office of Enforcement and Removal Operations (ERO), who shall ensure the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or DHS Office of the Inspector General and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation. When an employee, contractor or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure the incident is promptly reported to ERO, who shall ensure the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of the Inspector General. If the allegation is potentially criminal, the facility shall ensure it is promptly referred to an appropriate law enforcement agency having jurisdiction for investigation.

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- e. Ensure that the facility administrator, ICE Field Office, PSA compliance manager, facility investigator, corporate PREA coordinator, and other designated individuals are notified within two (2) hours of the occurrence. If the incident is “potentially criminal,” and involves coercion, force, threats, or intimidation, the facility should promptly contact the local law enforcement having jurisdiction for investigation.

2. Ability to Protect Detainees from Contact with Abusers (§115.66)

- a. Employees, contractors, and volunteers suspected of perpetrating sexual abuse shall be removed from **all** duties requiring detainee contact pending the outcome of an investigation. Separation orders requiring “no contact” shall be documented by facility management via email or memorandum within 24 hours of the reported allegation. The email or memorandum shall be printed and maintained as part of the related investigation file. **Note:** A GEO OPR Referral of Staff Misconduct shall be completed for all allegations in which staff is the alleged abuser. This includes all employees, contractors, or volunteers.
- b. GEO shall not enter into or renew any collective bargaining agreement or other agreement that limits a facility’s ability to remove alleged employee sexual abusers from contact with any detainee pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

B. Investigations

1. Criminal and Administrative Agency Investigations (§115.71), (§115.34), (§115.65)

- a. An administrative investigation shall be completed for all allegations of sexual abuse at GEO facilities, regardless of whether a criminal investigation is completed.
- b. The facility administrator and contracting agencies shall be notified prior to investigating all allegations of sexual abuse. Client notifications shall be documented and maintained as part of the investigative file.
- c. In addition to the general training provided to all facility staff and employees in **§115.31** GEO shall provide specialized training on sexual abuse and effective cross-agency coordination to facility investigators, who conduct investigations into allegations of sexual abuse at immigration detention facilities. . All investigations into alleged sexual abuse must be conducted by qualified investigators. The specialized training shall also include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. When the facility conducts its own investigations into allegations of sexual abuse, it shall do so promptly, thoroughly, and objectively for all allegations, including third- party and anonymous reports.
- d. Following receipt of a reported PREA allegation, the facility administrator will assign the investigation to an investigator who has received specialized training in conducting sexual abuse investigations.
- e. An administrative investigation will begin within 24 hours of notifying ICE of a sexual



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- abuse allegation except for allegations where the facility has been advised a criminal investigation is pending by either local law enforcement or ICE Office of Professional Responsibility (OPR) or DHS Office of Inspector General (OIG). **Note:** Should the ICE OPR or DHS OIG open a criminal investigation, they will notify the facility within 24 hours of the report to inform them of their interest.
- f. Allegations of sexual abuse that involve potentially criminal behavior or that include penetration or touching, of the genitalia, anus, groin, breast, inner thigh, or buttocks either directly or through the clothing, shall be referred to outside law enforcement agencies. Facilities shall document all referrals.
 - g. In allegations where a criminal investigation is initiated by ICE OPR, DHS OIG or outside law enforcement, the facility shall begin an administrative investigation as soon as the criminal investigation has concluded or at such time as the outside investigative entity indicates the facility may begin their administrative investigation.
 - h. When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. Facilities shall request copies of completed investigative reports. Upon receipt, the investigative report will be forwarded to the corporate PREA manager with oversight of your facility for review and closure.
 - i. 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, staff, or employee.
 - j. No agency shall require a detainee who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
 - k. 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.
 - l. If the victim of sexual abuse is transferred between DHS immigration detention facilities, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services.
 - m. If the victim of sexual abuse is transferred from a DHS facility to a non-DHS facility, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.
 - n. Facilities shall utilize the Notification of PREA Incident form to inform receiving facilities of PREA incidents and the victim's potential need for medical or social services.
 - o. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
- 2. Investigative Reports**
- a. An investigative report shall be written for all investigations of allegations of sexual abuse conducted at the facility level. Facilities shall utilize the investigative report template (See attachment A) for all PREA investigations unless individual facility

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contract or client policy dictates otherwise.

- b. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the victim and suspected perpetrator.
- c. Administrative investigations (1) shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and (2) shall be documented in a written report format that includes at a minimum, a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- d. Evidentiary standard for administrative investigations (§115.72). Facilities shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.
- e. Investigative reports shall include attached copies of all documentary evidence where feasible.
- f. Investigators shall maintain complete, comprehensive, and well-organized investigation files for each allegation which contain at a minimum: (investigative report, witness statements, medical and/or mental health assessments or documented refusal, notice of outcome of investigation, retaliation logs, etc.). Sexual abuse incident reviews and video footage as applicable.
- g. Each file shall be labeled with case number and include a file folder checklist indicating what documents are included and all documentation shall be secured inside the file (not loose leaf).
- h. All investigations shall be logged and tracked by the facility upon receipt of notification.
- i. At the conclusion of every administrative investigation of sexual abuse conducted by the facility, the written results shall be promptly forwarded to the corporate PREA coordinator, via the corporate PREA manager with oversight of your facility, for review and approval no later than 30 calendar days after the allegation is reported. Extensions must be authorized by the corporate PREA manager.
- j. Due to their confidential nature, all sexual abuse investigative files shall be retained in a secure location with restricted access as designated by the facility administrator.
- k. GEO shall retain all written reports referenced in this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years; however, for any circumstance, files shall be retained no less than ten years.
- l. Because of the very sensitive nature of information about victims and their medical condition, including infectious disease testing, staff must be particularly vigilant about maintaining confidentiality and releasing information only for legitimate need-to-know reasons.

C. Receipt of Allegations of Sexual Abuse and Assault

First responder duties and actions will be carried out in accordance with Procedure Manual 5.1.2-D,

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Sexually Abusive Behavior Prevention and Intervention for Immigration Detention Facilities, Section L (1-4).

D. Evidence Protocol and Forensic Medical Examinations (§115.21)

1. Facilities that are responsible for investigating allegations of sexual abuse are required to follow uniform evidence protocols that maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Facilities shall offer all detainees who experience sexual abuse access to forensic medical examinations (whether on-site or at an outside facility) with the victim’s consent and without cost to the detainee and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
2. Facility medical staff shall not participate in sexual assault forensic medical examinations or evidence gathering. Examinations shall be performed by a Sexual Assault Nurse Examiner (SANE) or Sexual Assault Forensic Examiner (SAFE). An offsite qualified medical practitioner may perform the examination if a SAFE or SANE is not available.
3. The outside or internal victim advocate shall provide emotional support, crisis intervention, information, and referrals.
4. As requested by the victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting the forensic exam, shall be allowed for support during a forensic exam and investigatory interviews.
5. The victim advocate may not obstruct or interfere with the course of the investigation in any manner and will not serve as a translator.
6. GEO facilities may not utilize facility employees as victim advocates unless the following documentation exists:
 - a. Documentation is on file that no other alternatives are available in the community; and,
 - b. Documentation exists that validate designated employees have been screened for appropriateness to serve in this role and have received education concerning sexual assault and forensic examination issues in general.

E. Preservation of Evidence – Victim

1. The alleged victim shall immediately be escorted for medical treatment as deemed necessary by medical providers.
2. The alleged victim and alleged abuser shall not be permitted to communicate and shall be escorted and held separately out of sight and sound from each other on site, at the hospital and upon return to the facility.
3. If the alleged sexual abuse is reported or discovered within 96 hours or within a period that still allows for the collection of physical evidence, and if determined appropriate by the medical provider and/or investigator, the alleged victim shall be either be transported to the designated offsite facility or a SANE or SAFE shall be called to the facility for the collection of forensic evidence and medical treatment.
4. No attempt will be made by facility medical staff to clean or treat the victim unless the

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injuries are such that not treating them would cause deterioration of the victim’s medical condition: However, visible injuries shall be documented both photographically and in writing and placed in the victim’s medical record.

5. All refusals of medical services shall be documented.
6. If the alleged victim does not consent to the forensic exam, or if more than 96 hours have passed since the alleged sexual abuse was reported or alleged to have occurred, the alleged victim will be offered access to other specialized services (i.e., medical referral for sexually transmitted diseases and pregnancy testing and ongoing counseling and treatment services) as deemed appropriate by medical and mental health staff. All refusals of these services shall be documented.
7. Facility management shall implement necessary follow up actions in accordance with this procedure, their facility Coordinated Response protocol, and any other client mandates. The Victim Centered Care Checklist (See attachment B) will be completed by medical staff as part of the initial medical assessment.
8. GEO shall employ multiple protection measures, such as housing changes or transfers for victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for victims or staff who fear retaliation for reporting sexual abuse or assault or for cooperating with investigations.
9. Involuntary segregated housing may be used only after an assessment of all available housing alternatives has shown that there are no other means of protecting the alleged victim. Facilities shall utilize the Sexual Assault/Abuse Available Alternatives Assessment form to document the assessment.
10. If the facility cannot conduct the assessment immediately, the victim may be placed in involuntary segregated housing for no more than 24 hours while awaiting completion of the assessment.

F. Preservation of Evidence – Abuser

1. The alleged abuser shall remain in the dry cell/area under direct supervision of a same sex security staff member to ensure he/she does not destroy potential evidence (i.e., wash, shower, change clothes, etc.). **Note:** Any referral of the abuser for a forensic exam must be approved by the client.
2. After the investigator(s) has completed the interview, separate and apart from the alleged victim, the alleged abuser shall be referred to medical for further assessment and treatment as deemed necessary by healthcare providers. Visible injuries shall be documented both photographically and in writing and placed in the abuser’s medical record.
3. Thereafter, the alleged abuser shall be held in segregation pending further investigation.
4. During the investigation, the alleged victim and alleged abuser shall remain separated and housed out of sight and sound range from one another.

G. Mental Health Assessments

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1. Upon completion of the forensic medical exam or if the victim does not consent, or if more than 96 hours have passed since the alleged sexual abuse was reported or alleged to have occurred, a mental health evaluation will be completed prior to any housing determination. The alleged victim must not be left alone until evaluated by a mental health provider to determine suicide risk.
2. A PREA Mental Health Incident Report will be completed by the individual completing the evaluation (see Attachment C).
3. In the event a report of sexual abuse is received after normal business hours, on-call mental health providers shall be contacted.
4. If the on-call mental health provider is unable to respond in person, the victim shall be interviewed over the telephone, with an on-duty nurse present during the interview.
5. In the event there is no mental health provider available, a physician shall perform the assessment.
6. After assessing the victim, the mental health provider shall consult with and advise the on-duty nurse of mental health interventions, such as the need for implementation of suicide precautions.
7. In the absence of a nurse, the on-call mental health provider shall provide direction about mental health interventions to security staff.
8. All facilities 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. **Note:** “Known abusers” are those detainee abusers in which a SAAPI investigation was substantiated either administratively or by outside law enforcement.
9. All refusals of these services shall be documented.

H. Sources of Evidence

Evidence is anything that can be used as proof of innocence or guilt. Evidence can include at a minimum: verbal and written statements from the alleged victim, alleged abuser, or other individuals; material objects; video footage; letters; cards; mail; phone systems; logbooks; etc. Investigators shall consider these things during their investigations.

I. Physical Evidence – Crime Scene

1. If determined that the possibility of evidence still exists, it shall only be retrieved by trained personnel.
2. Facility investigators may be responsible for collecting information or evidence in accordance with facility policy, contract requirements and coordination with the outside agency to which the case may be referred.
3. Access to the crime scene shall be controlled. A crime scene log shall be maintained to record the names of each person entering the crime scene, the time of entry and time of departure. Persons entering the crime scene area shall be limited to those persons performing specific related tasks.

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4. The crime scene and all evidence gathered shall be photographed and/or video-taped (as appropriate) and all evidence gathered shall be logged and properly stored with a chain of custody evidence form attached in accordance with facility policy.
5. Each item suspected as contaminated with bodily fluids shall be stored in individual paper wrapping or a paper bag and a chain of custody shall be initiated.
6. The crime scene shall remain secured until cleared and released by the investigating authority in charge of the scene.

J. Interviewing Alleged Victims, Suspected Abusers and Witnesses

1. Interviews shall be conducted in a thorough, professional, non-abusive and non-threatening manner. Interviews shall take place in a private location, away from assigned housing areas/units.
2. Initially, a brief inquiry about the abuse should be taken from the alleged victim (only) as he/she may be in shock, embarrassed to discuss the incident in detail, and even unable to give many details. If this is the case, it is important to be understanding and responsive. Opportunities to secure more details will occur later.
3. If an employee, contractor, or volunteer is the alleged abuser, the individual will be removed from all duties requiring detainee contact pending the outcome of the investigation.
4. If outside law enforcement declines to investigate, a full administrative investigation shall be conducted by a facility staff member who has received the PREA specialized investigations training.
5. In matters relating to allegations of sexual abuse, each facility shall provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee unless the detainee expresses a preference for a detainee interpreter, and the facility determines that such interpretation is appropriate. Any use of these interpreters under these type circumstances shall be justified and fully documented in the written investigative report. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse.
6. In accordance with GEO Policy 3.2.2; Standards of Employee Conduct, during an official investigation, employees are to cooperate fully by providing all pertinent information they may have. During an investigation, failure by any employee to answer any inquiry fully and to the best of their knowledge will be grounds for taking disciplinary action. Any attempt to obstruct an investigation will subject the person to immediate disciplinary action, up to and including termination.
7. Allegations of sexual abuse where an employee is the alleged abuser shall be investigated in accordance with GEO Policy 5.3.1; Staff Misconduct.
8. When the quality of evidence appears to support criminal prosecution, the facility shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
9. The facility shall not terminate an investigation solely because the source of the

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allegation recants the allegation.

K. Reporting to Detainees (§115.73)

1. At the conclusion of all investigations (once the investigation has been reviewed and approved by corporate staff), when the detainee is still in custody, or where otherwise feasible, following an investigation into a detainee’s allegation of sexual abuse the facility investigator or staff member designated by the facility administrator shall notify the detainee victim of sexual abuse in writing, whether the allegation has been: substantiated, unsubstantiated or unfounded and any responsive action taken (disciplinary or criminal sanctions).
2. The detainee shall receive the original completed Notification of Outcome of Allegation form (see attachment D) in a timely manner and a copy of the form shall be retained as part of the investigative file.
3. The detainee will be provided with an updated notification at the conclusion of a criminal proceeding if the detainee is still in custody at the facility.
4. The facility’s obligation to report to the detainee under this section shall terminate if the detainee is released from custody or if not feasible.
5. If the facility did not conduct the investigation, it shall request the relevant information from the investigating agency to inform the detainee.

L. Disciplinary Actions

1. Employee Disciplinary Sanctions (§115.76)

- a. Staff shall be subject to disciplinary or adverse action up to and including removal from their position and the federal service for substantiated allegations of sexual abuse or for violating agency or facility sexual abuse policies.
- b. The agency shall review and approve facility policies and procedures regarding disciplinary or adverse actions for staff and shall ensure that the facility policy and procedures specify disciplinary or adverse actions for staff, up to and including removal from their position and from the federal service for staff, when there is a substantiated allegation of sexual abuse, or when there has been a violation of agency sexual abuse rules, policies, or standards. Removal from their position and from the federal service is the presumptive disciplinary sanction for staff who have engaged in or attempted or threatened to engage in sexual abuse, as defined under the definition of Sexual Abuse of a Detainee by an Employee, Contractor, or Volunteer.
- c. Each facility shall report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to appropriate law enforcement agencies, unless the activity was clearly not criminal.
- d. Each facility shall make reasonable efforts to report removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to any relevant licensing bodies, to the extent known.

2. Detainee Disciplinary Sanctions (§115.78)

- a. Each facility shall subject a detainee to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee

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engaged in sexual abuse.

- b. At all steps in the disciplinary process any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future.
- c. Each facility holding detainees in custody shall have a detainee disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedure.
- d. The disciplinary process shall consider whether a detainee’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
- e. 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.
- f. 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 or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- g. The PSA compliance manager shall receive copies of all disciplinary reports regarding sexual activity and sexual abuse for monitoring purposes.

3. Corrective Action for Contractors and Volunteers (§115.77)

- a. Any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees. Each facility shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. Such incidents shall also be reported to law enforcement agencies unless the activity was clearly not criminal.
- b. Contractors and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation.
- c. 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 but have violated other provisions within these standards.

M. Recordkeeping Requirements for Allegations of Sexual Abuse or Sexual Assault

At a minimum, facilities shall maintain, in a secure area, all case records associated with claims of sexual abuse and assault, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary, and/or counseling shall be maintained in appropriate files in accordance with site specific contractual requirements, and applicable policies and retained in accordance with established schedules. Particularly applicable to the storage, confidentiality and release of case records are the requirements of the “Confidentiality and Release of Medical Records” section of the National Detention Standards 2019 Standard 4.3 “Medical Care” and the requirements of Standard 7.1 “Detention Files,” especially in regard to the Privacy Act of 1974.

Because of the very sensitive nature of information about victims and their medical condition

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including infectious disease testing, staff must be particularly vigilant about maintaining confidentiality and releasing information only for legitimate need-to-know reasons.

Monitoring and evaluation are essential for assessing both the rate of occurrence of sexual abuse and assault and agency effectiveness in reducing sexually abusive behavior. Accordingly, the facility administrator must maintain two types of files of sexual abuse and assault incidents which include the following minimum information:

Investigative files include:

- The victim(s) and assailant(s) of 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 other evidentiary materials to the allegation.

In addition, the facility administrator shall maintain a listing of the names of sexual abuse and assault victims and assailants, along with the dates and locations of all sexual abuse and assault incidents occurring with the facility, on his or her computerized incident reporting system. Such information shall be maintained on a need-to-know basis, which includes the 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 abuse and assault across the system.

On an ongoing basis the PSA Compliance Manager and facility administrator must work with the ICE/ERO and the ICE/ERO PSA Coordinator to share data regarding sexual abuse incidents and response.