U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS
ICE HEALTH SERVICE CORPS

SEXUAL ABUSE AND ASSAULT PREVENTION AND INTERVENTION

IHSC Directive: 03-01
ERO Directive Number: 11738.3
Federal Enterprise Architecture Number: 306-112-002b
Effective Date: September 27, 2023

9/27/2023

By Order of the Assistant Director X Stewart D. Smith
Stewart D. Smith, DHSc, FACHE

Dr. Stewart D. Smith
Assistant Director
Signed by: STEWART D SMITH

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1. **PURPOSE:** The purpose of this directive is to set forth policies and procedures to prevent, detect, and respond to sexual abuse or assault among detained noncitizens. This includes victim evaluation and treatment, and when appropriate, interventions for detained noncitizen abusers.

2. **APPLICABILITY:** This directive applies to all U.S. Immigration and Customs Enforcement (ICE) Health Service Corps (IHSC) personnel, including but not limited to, U.S. Public Health Service (PHS) officers, civil service employees, and contract personnel. It applies to IHSC personnel who support health care operations in ICE-owned and contracted detention facilities (CDFs) and to IHSC Headquarters (HQ) staff. This directive applies to contract personnel when supporting IHSC in detention facilities and at HQ. Federal contractors are responsible for the management and discipline of their employees who support IHSC.

3. **AUTHORITIES AND REFERENCES:**

   3-1. U.S. Department of Homeland Security (DHS) Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities; 79 Federal Regulation. 45, March 7, 2014. Codified at 6 C.F.R. pt. 115.

   3-2. U.S. Immigration and Customs Enforcement (ICE). (2014). Sexual Abuse and Assault Prevention and Intervention (ICE Policy 11062.2).

   3-3. National PREA Resource Center. (2013). Specialized Medical and Mental Care - Resources - General.

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4. **POLICY:** ICE has zero-tolerance for all forms of sexual abuse or assault. Victims of sexual abuse and sexual assault, with current or a history of sexual abuse or assault, have unimpeded access to immediate medical and behavioral health services. IHSC provides access to emergency medical and behavioral health services, and ongoing care, for detained noncitizens and residents (hereinafter known as patients) who are victims of sexual abuse or assault, and when deemed appropriate by mental health practitioners, detained noncitizen abusers.

IHSC provides treatment services to patients without financial cost, regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident. IHSC recognizes the trauma related to sexual abuse and assault, and integrates trauma-informed approaches to detect, prevent, intervene, and reduce these events.

5. **RESPONSIBILITIES:**

5-1. Behavioral Health Unit Chief or Designee

5-1.1 Reviews and approves health services staff mandatory sexual abuse/assault prevention and intervention (SAAPI) training annually.

5-1.2 Ensures the SAAPI policy incorporates the standards of care and response protocols.

5-2. Clinical Director (CD) or Designee

5-2.1 The CD is the facility clinical medical authority and directs clinical support, supervision, and oversight of patient health care services.

5-2.2 Coordinates a sexual assault forensic medical examination for patients when required for evidence, or as medically appropriate.

5-2.3 Coordinates with the health services administrators and ICE stakeholders to negotiate and maintain arrangements with nearby medical facilities and health care providers, to deliver health care and provide resources for victims of sexual abuse or assault not available within the facility.

5-3. Health Services Administrator (HSA) or Designee

5-3.1 Maintains a list of local hospital emergency departments or designated facilities certified to conduct sexual assault forensic medical examinations.

5-3.2 Maintains a list of resources related to sexual assault crisis intervention and counseling services to provide support to victims of sexual assault.

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5-3.3 Coordinates and communicates with the facility sexual assault compliance manager for sexual abuse and assault prevention activities.

5-3.4 Coordinates with ICE stakeholders to transport an alleged sexual abuse or assault patient to an outside facility for evaluation, medical care and crisis intervention services. These services include emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care.

5-3.5 Safeguards patient confidentiality within the facility and during transfers throughout detention.

5-3.6 Approves any release of information regarding sexual abuse or assault to ICE stakeholders or IHSC health services staff on a need-to-know basis or to support ongoing treatment of the patient.

5-3.7 Notifies the field office director (FOD) or designee and IHSC leadership in writing of any indications or instances of sexual assault or abuse.

5-3.8 Maintains all facility health services staff sexual abuse/assault training files.

5-3.9 Ensures annotation within the Risk Management Incident Reporting System if the sexual abuse, assault allegation, or incident, occurred within the facility in accordance with IHSC Directive 11-06, *Risk Management*, located in the IHSC Policy Library.

5-4. Physician and Advanced Practice Provider (APP)

5-4.1 Screen, identify, and perform medical evaluations and treatments for patients who have been allegedly sexually abused or assaulted.

5-4.2 Provide emergency medical services to patients who are victims of sexual abuse or assault.

5-4.3 Perform pregnancy tests.

5-4.4 Provide emergency contraception.

5-4.5 Test for sexually transmitted infections and provides treatment and prophylaxis as medically necessary.

5-4.6 Collaborate with the CD and HSA to refer patients with suspected sexual abuse and assault to evaluate treatment needs for community services and transfer.

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5-4.6.a Coordinate transfer to a hospital emergency department or designated off-site facility for appropriate level of care and assessment. This must include a sexual assault forensic medical examination by staff qualified and trained to conduct the examination.

5-4.6.b IHSC health services staff must not participate in the collection of forensic specimens or evidence for alleged sexual abuse or assault.

5-4.6.c Prepare transfer information.

5-4.6.d Evaluate need for medical, mental health, or social services.

5-4.7 Refers all sexual abuse or assault patients for a behavioral health provider evaluation.

5-4.8 Conducts a mental health evaluation for sexual abuse or assault patients, if behavioral health provider staff are not available.

5-5. Behavioral Health Provider (BHP)

5-5.1 Conducts sexual abuse and assault screenings during mental health encounters.

5-5.2 Conducts mental health evaluation and treatment for alleged sexual abuse or assault patients.

5-5.3 Designates a health services staff to liaise with ICE Prevention of Sexual Assault (PSA) coordinator.

5-5.4 Advises facility staff on placement of patients affected by alleged sexual abuse or assault, including transgender or intersex patients. Staff must house alleged or actual victims away from their actual or accused abusers.

5-5.5 Conducts a mental health evaluation of all abusers within 60 days upon learning of such history and offers treatment when appropriate.

5-6. Health Services Staff

5-6.1 Complete mandatory orientation and annual sexual abuse and assault training (see Section 6-8 of this document).

5-6.2 Identify patients who are at-risk for victimization.

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Health staff refer suspected incidents of sexual abuse or assault to a physician, APP, or BHP for screening, identification, assessment, examination, treatment, or referral, as medically indicated.

5-6.3 Keep information of patients' sexual abuse, assault or neglect confidential, in accordance with applicable law, and ICE and IHSC policies.

5-6.4 Educate patients who refuse medical and mental health evaluations for allegations of or actual sexual abuse or assault.

5-6.5 Report information to the appropriate authorities, upon reasonable belief that a patient is at a substantial risk of imminent sexual abuse or assault, to protect the patient from harm.

5-7. Behavioral Health Case Managers: Consult with the non-IHSC-staffed facilities and ICE stakeholders, to ensure sexual assault patients receive mental health care and resources that are not available within the facility.

5-8. Multidisciplinary Committee: The facility sexual assault response team includes a physician, APP, and BHP. The team responds to, and addresses, the safety, medical, or mental health needs of sexual abuse or assault patients in collaboration with ICE stakeholders.

6. PROCEDURES:

6-1. Patient Education

6-1.1 Health services staff provide patients with Sexual Abuse and Assault Prevention and Intervention Program information at intake.

6-1.2 Health services staff explain the facility's health program to the patient in a language they understand, including those who:

6-1.2.a Have limited English proficiency.

6-1.2.b Are deaf.

6-1.2.c Are visually impaired.

6-1.2.d Are otherwise disabled.

6-1.2.e Have limited reading skills.

6-2. Patient Screening and Assessment

6-2.1 Health services staff must assess and mitigate for risk of sexual victimization or abusiveness.

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6-2.2 Health service staff must report potential risks and signs of sexual abuse or assault; protect patients from potential abuse, assault or retaliation; and provide treatment at any time during detention.

6-2.3 Health services staff must not retaliate against any patient who reports, complains about, or participates in an investigation into an allegation of sexual abuse; or who participates in sexual abuse as a result of force, coercion, threats, or fear of force.

6-2.4 Health services staff consult with physicians, APPs, and behavioral health providers as soon as practical when assessing high-risk patients, such as transgender or intersex patients.

6-2.5 The BHP, physician, psychiatric mental health nurse practitioners, or physician assistant with specialty and certification in psychiatry, provide recommendations regarding alternative placement to the custody staff when appropriate.

6-3. Medical Services:

6-3.1 Health services staff perform assessments and evaluations for reported sexual abuse or assault.

6-3.2 The HSA informs the assistant field office director of the reported event.

6-3.2.a Physicians or APPs evaluate and treat female patients as outlined in IHSC Directive 04-01, *Female Health Services*, located in the IHSC Policy Library.

6-3.2.b Health services staff arrange for sexual abuse or assault examination, or forensic medical examination when required for evidence, or as medically appropriate with a sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE).

6-3.2.c Under no circumstances should IHSC health services staff collect forensic specimens or evidence.

6-3.2.d Only hospital emergency department staff, or staff at designated facilities qualified to conduct sexual assault forensic medical examinations, collect specimens.

6-3.2.e Physicians or APPs perform follow up assessments and treatments for all patients as medically necessary.

6-3.3 Health services staff document patient encounters for sexual abuse or assault in the electronic health record.

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6-4. Prevention of Sexual Assault: The PSA manager assists BHPs with the following:

6-4.1 Assists with medical and behavioral health aspects of the facility's zero tolerance and prevention of sexual assault and abuse training program development.

6-4.2 Coordinates community services and resources for all sexual abuse or assault victims, including requests for forensic examinations.

6-4.3 Coordinates community-based services and resources, that support alleged sexual abuse or assault patients and rape crisis advocacy.

6-5. Refusal of Care

6-5.1 Health services staff must explain to patients the importance, and consequences of refusal, of medical or mental health evaluation for alleged sexual abuse or assault.

6-5.2 Health services staff complete a refusal form, if a patient refuses medical and mental health evaluation related to a sexual abuse or assault allegation.

6-5.3 Health services staff must educate the patient on opportunities for access to ongoing health care, if desired.

6-6. Mental Health Services

6-6.1 BHPs perform an immediate mental health assessment for reported sexual abuse or assault.

6-6.2 BHPs conduct mental health assessments on known, suspected, or alleged sexual abusers or aggressors.

6-6.3 Physicians or APPs evaluate sexual abuse or assault patients, if BHP staff are not available.

6-6.3.a Physicians and APPs refer sexual abuse or assault patients to behavioral health providers.

6-6.3.b BHPs provide ongoing follow up assessment and treatment for sexual abuse/assault patients.

6-6.3.c BHPs prepare treatment plans and make referrals for continued care following transfers, placement in other facilities, or release from custody.

6-6.4 BHPs provide long term follow up services and trauma-informed care, as clinically indicated for patients and/or aggressors.

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6-7. Emergency Interventions

6-7.1 The physician, APP or BHP must educate the patient on how to safeguard physical evidence, during emergency treatment of a sexual abuse or assault patient, or abuser. They should instruct the patient:

6-7.1.a Do not shower.

6-7.1.b Do not wash.

6-7.1.c Do not brush teeth.

6-7.1.d Do not change clothes.

6-7.1.e Do not urinate.

6-7.1.f Do not defecate.

6-7.1.g Do not smoke.

6-7.1.h Do not drink.

6-7.1.i Do not eat.

6-7.1.j Do not perform any actions that could destroy evidence.

6-7.2 The HSA notifies and coordinates with ICE stakeholders regarding the collection and cataloguing of physical evidence.

6-7.3 Health services staff must transfer alleged sexual abuse or assault patients to available community resources for emergency medical and mental health care.

6-8. Reporting

6-8.1 (b)(7)(E)

6-8.2 The HSA notifies ICE stakeholders and IHSC leadership of any reported or discovered incident of sexual abuse or assault or indications of suspected sexual abuse or assault.

6-8.3 The HSA informs ICE stakeholders of all specimen collections.

6-8.4 The HSA reports sexual abuse or assault allegations or incidents within an IHSC facility immediately in compliance with mandatory reporting laws, regulations, and IHSC policies.

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6-8.5 The HSA refers alleged perpetrators in family residential centers to the law enforcement agency with jurisdiction over the case. The HSA reports the event to ICE stakeholders and IHSC leadership.

6-8.6 Report all allegations of suspected child abuse to child protective services immediately.

6-8.7 The behavioral health clinical consultant (BHCC) or designee requests the medical and mental health evaluation from the HSA or FMC, after receiving notification of the alleged sexual assault.

6-8.8 The behavioral health case manager monitors and consults with FMCs and ICE stakeholders on all ICE contract detention facilities in their respective areas of responsibility, for compliance with sexual abuse and assault program and training requirements.

6-9. Housing assignments

6-9.1 BHPs collaborate with facility staff to place sexual abuse or assault patients and vulnerable populations such as transgender, intersex, and special needs patients in a supportive housing environment that is the least restrictive option possible.

6-9.2 Housing placement options include:

6-9.2.a A different housing unit.

6-9.2.b Transfer to another facility.

6-9.2.c Medical housing.

6-9.2.d Protective custody keeping the patient's same level of privileges immediately prior to the sexual abuse/assault.

6-10. Sexual abuse/assault training components

6-10.1 BHU staff create the new hire and annual sexual abuse and assault training for health services staff.

6-10.2 The HSA maintains files for all facility staff sexual abuse/assault training. The deputy assistant director of Health Systems Support maintains training files for headquarters staff.

6-10.3 The training must include:

6-10.3.a Definitions and examples of prohibited and illegal sexual behavior, recognizing situations where sexual abuse or assault may occur.

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6-10.3.b Prevention, detection, response, and treatment of physically or sexually abused and assaulted patients in ICE custody.

6-10.3.c Appropriate interventions when a sexual abuse or assault occurs.

6-10.3.d Recognition of the physical, behavioral, and emotional signs and ways to prevent and respond to such occurrences.

6-10.3.e Description of how to respond effectively and professionally to a victim of sexual abuse or assault.

6-10.3.f How to recognize the physical, behavioral, and emotional signs of sexual abuse or assault.

6-10.3.g Discussion of how to communicate effectively and professionally with bisexual, transgender, intersex, lesbian, gay, or gender nonconforming patients.

6-10.3.h Instructions on how to identify and protect/safeguard physical evidence with patients of sexual abuse or assaults.

6-10.3.i Steps for reporting allegations or suspicious of sexual abuse and assault. IHSC staff do not suffer retaliation for reporting abuse or assaults.

6-10.3.j Appropriate response to allegations or suspicions of sexual assault involving patients with mental or physical disabilities.

6-10.3.k How to avoid inappropriate relationships with patients.

6-10.3.l Limitations on reporting of sexual abuse and assault to personnel with a need-to-know to make decisions concerning the patient's welfare, and for law enforcement and investigative purposes.

6-10.3.m Staff disciplinary actions for patient sexual abuse or assault.

7. **HISTORICAL NOTES:** This revision replaces IHSC Directive 03-01, *Sexual Abuse and Assault Prevention and Intervention*, October 15, 2021.

7-1. Summary of Changes

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7-1.1 Revised Authorities and References consistent with regulatory federal and state laws.

7-1.2 Revised policy statement to align with Performance-Based National Detention Standards (PBNDS), Family Residential Standards (FRS), American Correctional Association, ACA, National Commission on Correctional Health Care, NCCHC standards, and ICE policies.

7-1.3 Revised roles and responsibilities to ensure administrative and clinical practices were applicable to policy standards.

7-1.4 Revised and clarified procedures for alignment with accreditation standards and, adherence with scope of practice and professional competencies.

7-1.5 Added directive related definitions and links to applicable policies and guides.

7-1.6 Language "detainee/noncitizen" changed to "patient" throughout the document in the appropriate context.

8. **DEFINITIONS:** The following definitions apply for purposes of this directive only:

8-1. **Aggressor/Abuser/Perpetrator** is defined as person or persons who engage in sexual acts against the will of another by force, coercion, or intimidation.

8-2. **Confidentiality** is limited access for entrusted or private information.

8-3. **ICE Stakeholders** includes U.S. Immigration and Customs Enforcement (ICE)/Enforcement and Removal Operations (ERO)/field office director (FOD) and/or facility administrator and custody officials, and/or officer in charge.

8-4. **PREA Compliance Manager (CM)** designee assigned to the facility with sufficient time and authority to coordinate the facility efforts to complete the standards.

8-5. **Trauma-informed Care** is an approach that recognizes and responds to the impact of trauma on individuals. It assumes that an individual, more likely than not, has a history of trauma, and understands that trauma can negatively affect their current life. It promotes healing and recovery by providing physical, psychological, and emotional safety. It empowers individuals to make choices about their care. Moreover, it avoids re-traumatization by being sensitive to trauma symptoms and triggers.

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8-6. Trauma-informed Lens acknowledges the pervasive impact of trauma and the various pathways toward recovery. It integrates trauma-informed knowledge into policies, practices, and procedures.

9. APPLICABLE STANDARDS:

9-1. Performance-Based National Detention Standards (PBNDS, 2011, revised 2016).

9-1.1 Part 2: Security; 2.11 Sexual Abuse and Assault Prevention and Intervention. N Medical and Mental Health Care.

9-1.2 Part 4: Care; 4.3- Medical Care; P. Referrals for Sexual Abuse Victims or Abusers.

9-2. Family Residential Standards (FRS).

9-2.1 Part 2: Security; 2.7 Sexual Abuse and Assault Prevention and Intervention.

9-2.2 Part 4: Care; 4.3 Health Care; P. Referrals for Sexual Abuse Victims or Abusers.

9-3. American Correctional Association (ACA) 4th edition.

9-3.1 Sexual Assault.

9-3.1.a 4-ALDF-4D-22

9-3.1.b 4-ALDF-4D-22-1

9-3.1.c 4-ALDF-4D-22-2

9-3.1.d 4-ALDF-4D-22-3

9-3.1.e 4-ALDF-4D-22-4

9-3.1.f 4-ALDF-4D-22-5

9-3.1.g 4-ALDF-4D-22-6

9-3.1.h 4-ALDF-4D-22-7

9-3.1.i 4-ALDF-4D-22-8

9-4. National Commission on Correctional Health Care (NCCHC): Standards for Health Services in Jails, 2018.

9-4.1 J-F-06: Response to Sexual Abuse.

10. PRIVACY AND RECORDKEEPING: ICE uses detained noncitizen health records and information maintained in accordance with the DHS/ICE-013 Alien Health Records System of Records to provide for the care and safety of non-citizens.

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IHSC limits access to non-citizen health records and information to those individuals who need to know the information for the performance of their official duties, and who have appropriate clearances or permissions.

IHSC secures paper records in a locked cabinet or room when not under the direct control of an officer or employee with a need for the paper record to perform their duties.

10-1. IHSC staff complete annual training on the protection of patient health information and sensitive personally identifiable information.

10-2. IHSC staff reference the Department of Homeland Security Handbook for Safeguarding Sensitive PII (Handbook) at DHS Handbook for Safeguarding Sensitive PII for additional information concerning safeguarding sensitive PII.

10-3. All relevant documents produced or provided in accordance with this Directive must be maintained in accordance with an applicable National Archives and Records Administration (NARA) General Records Schedule (GRS) or a NARA-approved agency-specific records control schedule. If the records are not subject to a records schedule, they must be maintained indefinitely by the agency. In the event the records are subject to a litigation hold, they may not be disposed of under a records schedule until further notification. Prior to the disposition of any records referenced in this directive, ICE records officer approval must be obtained.

11. **NO PRIVATE RIGHT STATEMENT:** This directive is an internal statement of IHSC. It is not intended to, and does not create any rights, privileges, or benefits, substantive or procedural, enforceable against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

12. **POINT OF CONTACT:** Chief, Behavioral Health Unit.

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