

# Caroline Detention Facility

## Chapter 2 – Security

### 2.11 – Sexual Abuse and Assault Prevention and Intervention (SAAPI)

#### Purpose/Scope

The management of the Caroline Detention Facility (CDF) mandates a zero tolerance towards all forms of sexual abuse and sexual harassment. This policy outlines the facility's approach to preventing, detecting, and responding to such conduct. The facility goal is to create an environment and culture of mutual respect. For the purposes of this policy, contractors and volunteers will be treated the same as staff.

The CDF will not hire or promote anyone who may have contact with detainees, and shall not enlist the services of any contractor or volunteer who may have contact with detainees, who has engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution; who has been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or who has been civilly or administratively adjudicated to have engaged in such activity.

All candidates for employment, as well as contractors and volunteers, are required to undergo a Background Investigation prior to being considered at the CDF.

The CDF will provide employees the training and direction needed to:

- act affirmatively to prevent sexual abuse and assaults on detainees;
- provide prompt and effective intervention and treatment for victims of sexual abuse and assault; and
- control, discipline and prosecute the perpetrators of sexual abuse and assault.

#### Definitions

**Nonconsensual Sexual Acts:** Sexual contact of any person without his or her consent, or of a person who is unable to consent or refuse; and contact between the penis and the vulva or the penis and the anus including penetration, however slight; or contact between the mouth and the penis, vulva, or anus; or penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.

**Sexual Harassment:** Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one detainee directed toward another.

**Staff Sexual Misconduct:** Any behavior or act of a sexual nature directed toward a detainee by an employee, volunteer, contractor, official visitor or other agency representative (exclude family, friends or other visitors).

Sexual relationships of a romantic nature between staff and detainees are included in this definition. Consensual or nonconsensual sexual acts include:

- Intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or with the intent to abuse, arouse, or gratify sexual desire; OR
- Completed, attempted, threatened, or requested sexual acts; OR
- Occurrences of indecent exposure, invasion of privacy, of staff voyeurism for reasons unrelated to official duties or for sexual gratification.

**Staff Sexual Harassment:** Repeated verbal comments or gestures of a sexual nature to a detainee by an employee, volunteer, contractor, official visitor or other agency representative (exclude family, friends, or other visitors), such as Demeaning references to gender; or sexually suggestive or derogatory

comments about body or clothing; OR repeated profane or obscene language or gestures.

## Practice

### A. Written Policy and Procedures

The CDF policies on sexual abuse and assault prevention and intervention include information regarding specialized community-based services, including the locations of rape crisis/trauma units in local medical centers, clinics and hospitals.

- Rappahannock Council Against Sexual Assault  
615 Patriot Highway, Suite 201  
Fredericksburg, VA 22401  
(540) 371-6771
- Mary Washington Hospital  
1001 Sam Perry Boulevard  
Fredericksburg, VA 22401  
(540) 741-1100

The CDF has written policy and procedures for a Sexual Abuse or Assault Prevention and Intervention Program that mandate zero tolerance toward all forms of sexual abuse or assault and detail the facility's approach to preventing, detecting, and responding to such conduct. The facility's methods for preventing, detecting and responding to allegations are outlined below.

#### 1. General Prevention Methods

The facility's architectural design facilitates continuous personal contact between detainees and staff in the living units. The management of detainees is provided through direct supervision where the staff member is stationed 24/7 in the living unit holding no greater than 56 detainees. Four detainees are housed in each room. Detainees are prohibited from entering other detainees' rooms. Movements outside of the units are monitored by roving staff and cameras.

Each detainee room has a slotted window in the door which allows for staff observation while providing some privacy to the detainees in the room. Windows are not permitted to be covered.

Every office, classroom, work area, and program space have a large window for staff observation. No

window is permitted to be covered for any reason. These areas are kept locked to avoid unauthorized admittance. Only applicable staff and management have keys to these areas.

Detainees are able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement.

Staff of the opposite gender shall announce their presence when entering a detainee living unit – an area where detainees are likely to be showering, performing bodily functions, or changing clothing.

Security night lights are used through all buildings providing enough light for staff to be able to see any activity during evening hours.

Shower curtains are provided for privacy. The shower curtain is clear at the bottom so the feet to mid-calf portion of the leg of the person taking the shower may be viewed.

Electrical rooms and plumb chases are only accessible by maintenance staff scheduled to work during the day hours.

Detainee rooms which lock from the inside have an intercom system connected to the Housing Unit Officer's panel and the Control Center for emergency notification, when necessary.

All detainees receive information of the facility's Sexual Abuse and Assault Prevention and Intervention Program during the intake process.

All detainees are housed in a living unit in accordance with their classification level.

All staff, contractors, and volunteers are trained on the facility's zero tolerance policies and the duties and responsibilities of their role under those policies.

The open campus style facility encourages frequent movement monitored by a variety of staff. This

assists in creating a culture where misconduct is more noticeable and not likely to occur.

## **2. General Detection Methods**

All staff receives training which enables them to detect signs of sexual abuse.

First responders, security and non-security, are trained by facility staff on how to instruct the detainee on what to do after reporting a sexual assault.

Security staff provides around the clock supervision of living units at a minimum of twice per hour at random intervals. Security staff also provides supervision of programs while in session.

Supervisors, including the Compliance Manager, conduct unannounced rounds throughout the facility to determine the general atmosphere of the detainees and staff and to identify and deter staff sexual abuse and sexual harassment.

Detention Officers will retain authority of detainees entrusted to their care. Officers will not relinquish the care and custody of a detainee to another staff member except as ordered by a supervisor or as a routine operation of the facility such as visitation, recreation, programs, work crew, etc. Detention Officers will never relinquish custody of a detainee to another staff member for the sole purpose of wanting to talk with the detainee or “tell him something,” etc.

Detainees will never be placed in a supervisory position over other detainees.

Detention Officer’s observations of perceived aggressive nature will be recorded on an Incident Summary submitted for review by the Chain of Command. Supervisors’ actions will be recorded on the same report.

Staff are not permitted to leave their post and “visit” an adjacent living unit. Staff are never permitted to “visit” with detainees not under their supervision. Staff are never to relay messages between detainees. Staff observing such behavior are directed to notify their supervisor immediately and place the incident in

writing. Failure to do so risks the perception of complicity in such acts.

Detainees determined at the time of intake, or any time thereafter, to have tendencies of a sexually aggressive nature will be housed separately from detainees identified as victims or those identified as likely victims.

Detainees are encouraged to report any knowledge or suspicion of any sexual assault, sexual misconduct, or unauthorized relationship to any staff member they feel comfortable, to the medical staff, ICE staff or through a grievance. These complaints may be made verbally, in writing, anonymously, or from third parties.

Third parties may report sexual misconduct to the Superintendent, ICE staff, legal counsel to the Authority, or to the Caroline County Sheriff’s Office. Third-party reporting information is publicized on the facility website.

## **3. General Response Methods**

The facility provides multiple internal ways for detainees to privately report sexual assault and sexual harassment, retaliation by other detainees or staff for reporting sexual assault or sexual harassment, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual assault or sexual harassment. The facility also provides at least one way for detainees to privately report the assault to an outside public entity or office not affiliated with the facility that has agreed to receive reports and forward them to the facility Superintendent, except when a detainee requests confidentiality.

Staff accepts reports made verbally, in writing, anonymously, and from third-parties and immediately puts into writing any verbal reports using an Incident Summary.

Detainees may privately report incidents as described above by:

- a. Telling any staff member or write a Detainee Request Form to staff, such as a counselor, chaplain, shift commander, etc.;
- b. Telling an ICE staff member or write a request form to an ICE staff member;
- c. Writing a Medical Request to the medical section;
- d. Writing a grievance to the Grievance Officer;
- e. Call the SAAPI Coordinator; or
- f. Writing or calling the DHS Office of Inspector General or the Joint Intake Center. Contact information to the DHS Office of the Inspector General and the Joint Intake Center are posted in each living unit.

No detainee is required to report an allegation of sexual abuse to a staff member who is the subject of complaint unless he/she chooses to do so.

Detainees may report sexual assault or sexual harassment to the Rappahannock Council Against Sexual Assault (RCASA) by dialing toll-free 540-371-1666. Detainees may also correspond in privileged status with RCASA. RCASA is able to receive and immediately forward detainee reports of sexual assault and sexual harassment to the Superintendent, allowing the detainee to remain anonymous upon request.

All staff, contractors, and volunteers are required to immediately report any allegations, suspicions or knowledge of sexual assault and sexual harassment. Reports must be immediately made both verbally and in writing. Staff, contractors, and volunteers may privately report said allegations outside of their normal chain of command by speaking with a staff member they trust, calling RCASA directly using their hotline, or contacting the Caroline County Sheriff's Office. They may also go directly to the Superintendent without disclosing to their immediate supervisor. An Incident Summary will be submitted as soon as possible to the Shift Commander or, in the case of private reporting, in a sealed envelope addressed to the Superintendent.

When the facility receives an allegation that a detainee was sexually abused while detained at

another facility, the Superintendent will notify the head of the facility where the alleged abuse occurred. Such notification is provided as soon as possible, but not later than 72 hours after receiving the allegation. The Superintendent makes notification by telephone and via email and documents such notification. The Superintendent ensures the allegation is investigated as other incidents of sexual abuse.

The Superintendent immediately notifies the Washington Field Office Director regarding sexual abuse incidents.

Detainees and staff who report sexual assault or sexual harassment or cooperate with investigations are protected from retaliation by other detainees or staff members as monitored by the Section Managers as to their employees assigned to them. CDF retaliation protection measures include 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 assault or sexual harassment or for cooperating with investigators.

Management monitors the conduct and/or treatment of detainees or staff who have reported sexual assault and of detainees who were reported to have suffered sexual abuse or cooperated with investigations for at least 90 days following their report or cooperation to see if there are changes that may suggest possible retaliation by detainees or staff and acts promptly to remedy any such retaliation. The assigned manager discusses any changes with the appropriate detainee or staff member as part of efforts to determine if retaliation is taking place and, when confirmed, immediately takes steps to protect the detainee or staff member.

Management monitors other items such as, detainee discipline reports, housing or program changes, negative performance reviews, grievances and assignments of staff and/or detainees. Monitoring will extend beyond 90 days if the initial monitoring indicates a continuing need. In reference to

detainees, such monitoring also includes periodic status checks. If any other individual who cooperates with an investigation expresses a fear of retaliation, the manager shall take appropriate measures to protect that individual against retaliation.

All allegations of sexual assault and sexual harassment, including third-party and anonymous reports, are normally reported through the chain of command. The Superintendent will assign a trained sexual abuse investigator to determine the outcome of the allegation. All criminal allegations of sexual assault or sexual harassment will be reported to the Caroline County Sheriff's Office for criminal investigation.

Sexual assault/harassment administrative investigations are prompt, thorough, objective, including third-party and anonymous reports, and conducted by investigators who have received special training in sexual assault investigations. When the Caroline County Sheriff's Office investigates sexual assault or sexual harassment, facility investigators will keep abreast of the investigation and cooperate with Sheriff's Office Investigators and remain informed about the progress of the investigation.

Following an investigation into a detainee's allegation that he/she suffered sexual abuse while at CDF, the investigator shall inform the detainee as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

CDF conducts a sexual assault 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.

Disciplinary action is taken when staff or detainees make reports of false allegations. The Grievance Officer may discipline a detainee for filing a grievance related to alleged sexual assault only when the investigator demonstrates the detainee filed the grievance in bad faith.

Staff response efforts have been established in policy 2.11.A, Coordinated Response Plan. Staff shall follow the coordinated response subsequent to an allegation of sexual abuse.

## **B. Defining Acts of Sexual Abuse and/or Assault**

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

### **1. Detainee-on-Detainee Sexual Abuse and/or Assault**

Sexual abuse of a detainee by another detainee includes any of the following acts by one or more detainees who, by force, coercion, or intimidation, or if the victim did not consent or was unable to consent or refuse, engages in or attempts to engage in:

- a. contact between the penis and the vagina or 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. penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object;
- d. touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, with an intent to abuse, humiliate, harass, 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.

### **2. Staff-on-Detainee Sexual Abuse and/or Assault**

Sexual abuse of a detainee by a staff member, contractor, or volunteer includes any of the following acts, if engaged in by one or more staff members, volunteers, or contract personnel who, with or without the consent of the detainee, engages in or attempts to engage in:

- a. contact between the penis and the vagina or 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. penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  - d. intentional touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  - e. threats, intimidation, harassment, indecent, profane or abusive language, or other actions or communications aimed at coercing or pressuring a detainee to engage in a sexual act;
  - f. repeated verbal statements or comments of a sexual nature to a detainee;
  - g. any display of his or her uncovered genitalia, buttocks, or breast in the presence of a detainee, detainee, or resident, or;
  - h. voyeurism, which 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.

### C. Compliance Manager

The Superintendent has designated the Training Lieutenant to serve as the facility's Prevention of Sexual Assault Compliance Manager (PSA Compliance Manager). *The Security Support Chief will serve as the backup PSA Compliance Manager in the absence of the Training Lieutenant.* The PSA shall serve as the

facility's point of contact for the ICE PSA Coordinator. The Superintendent shall ensure the PSA has sufficient time and authority to oversee facility efforts to comply with facility sexual abuse prevention and intervention policies and procedures.

The Compliance Manager shall be responsible for:

1. assisting with the development of written policies and procedures for the Sexual Abuse and Assault Prevention and Intervention Program, as specified in this standard, and with keeping them current;
2. assisting with the development of initial and ongoing training protocols;
3. serving as a liaison with other agencies;
4. coordinating the gathering of statistics and reports on incidents of sexual abuse or assault, as detailed in this standard;
5. reviewing the results of every investigation of sexual abuse and assist in conducting an annual review of all investigations in compliance with the Privacy Act to assess and improve prevention and response efforts; and
6. reviewing facility practices to ensure required levels of confidentiality are maintained.

### D. Detainee Sexual Conduct

In addition to the forms of sexual abuse and/or assault defined above, all other sexual conduct – including consensual sexual conduct – between detainees is prohibited and subject to disciplinary sanctions. However, staff should be sensitive to the possibility that seemingly consensual behavior may have involved coercion by either person involved.

Consensual sexual conduct between detainees and staff, volunteers, or contract personnel is included within the definition of staff-on-detainee sexual abuse and/or assault above and is prohibited at the CDF.

### E. Training

#### 1. Staff Training

Training on the facility's Sexual Abuse or Assault Prevention and Intervention Program is provided to

all new employees and shall also be included in annual refresher training thereafter.

Employee training shall ensure facility staff are able to fulfill their responsibilities under this policy. The Compliance Manager will ensure CDF's employee training includes the following:

- a. the facility's zero-tolerance policies for all forms of sexual abuse;
- b. the right of detainees and staff to be free from sexual abuse, and from retaliation for reporting sexual abuse or cooperating during investigations;
- c. definitions and examples of prohibited and illegal sexual behavior;
- d. recognition of situations where sexual abuse and/or assault may occur;
- e. recognition of the physical, behavioral and emotional signs of sexual abuse and/or assault and ways to prevent and respond to such occurrences;
- f. how to avoid inappropriate relationships with detainees;
- g. how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees;
- h. procedures for reporting knowledge or suspicion of sexual abuse;
- i. the requirement to limit reporting of sexual abuse and assault to personnel with a need-to-know in order to make decisions concerning the detainee victim's welfare, and for law enforcement/investigative purposes;
- j. working with vulnerable populations and addressing their potential vulnerability in the general population;
- k. instruction that sexual abuse and/or assault is never an acceptable consequence of detention;
- l. the investigation process and how to ensure that evidence is not destroyed;
- m. the duties of a first responder;
- n. prevention, recognition and appropriate response to allegations or suspicions of sexual

assault involving detainees with mental or physical disabilities;

- o. instruction on reporting knowledge or suspicion of sexual abuse and/or assault; and
- p. instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse and/or assault.

Training shall be documented in the employee's training record.

## **2. Contractor/Volunteer Training**

The Training and Accreditation Lieutenant will conduct training for all volunteers and contractors who have contact with detainees prior to their assignment.

Contractor/Volunteer training will include their responsibilities under the facility's sexual abuse prevention, detection, intervention and response policies and procedures.

The level and type of training provided to contractors and volunteers will be based upon the level of services they provide and their level of contact with detainees.

Every contractor and volunteer shall be notified of the facility's zero-tolerance policy and will be informed how to report such incidents.

Records of contractor and volunteer training will be maintained by the Training and Accreditation Lieutenant.

## **3. Investigative Training**

The facility will provide specialized training on sexual abuse and effective cross-agency coordination to facility investigators who conduct investigations into allegations of sexual abuse.

Specialized investigative training must include the following topics:

- Interviewing sexual abuse and assault victims;
- Sexual abuse and assault evidence collection in confinement settings;
- Criteria and evidence required for administrative action or prosecution; and



- Information about effective cross-agency coordination in the investigative process.

In addition to specialized investigative training, all investigators will receive the training offered to all facility employees.

Documentation of the specialized investigative training will be maintained in the employees training record.

#### 4. Medical Training

The Health Services Administrator will ensure all medical personnel are trained in procedures for examining and treating victims of sexual abuse, where assigned these activities. This training shall be subject to the review and approval of the Field Office Director or other designated ICE official.

The HSA will ensure documentation of medical training is maintained in medical personnel training files.

#### F. Detainee Notification, Orientation and Instruction

The CDF has included information on zero tolerance towards sexual abuse and sexual harassment in the Detainee Handbook Supplement and within the initial detainee orientation video.

Booking staff shall provide each detainee the Sexual Assault Awareness Information brochure upon arrival to the facility.

Information provided within the orientation video, Detainee Handbook Supplement, and brochure shall collectively include:

1. the facility's zero-tolerance policy for all forms of sexual abuse or assault;
2. prevention and intervention strategies;
3. definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity;
4. explanation of methods for reporting sexual abuse or assault, including one or more staff members other than an immediate point-of contact line officer, the Detention and Reporting

Information Line (DRIL), the DHS/OIG and the ICE/OPR investigation processes;

5. information about self-protection and indicators of sexual abuse;
6. prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainee's immigration proceedings; and
7. right of a detainee who has been subjected to sexual abuse to receive treatment and counseling.

Detainee notification, orientation and instruction must be in a language or manner that the detainee understands, including for those who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to detainees who have limited reading skills. The facility shall maintain documentation of detainee participation in the instruction session in the detainee's detention file.

Information is posted in each detainee living unit informing how to contact the Compliance Manager. Information informing detainees how to contact the Compliance Manager is included in the Detainee Handbook Supplement and Orientation video.

Detainees are informed how to report an incident or situation regarding sexual abuse, or intimidation to any staff member, the DHS Office of Inspector General, and the Joint Intake Center.

Each detainee is provided information about the Rappahannock Council Against Sexual Assault in the Detainee Handbook Supplement. Detainees are informed how RCASA assists victims of sexual assault. The telephone number and mailing address is provided. This information shall also be posted in each detainee living unit. Classification staff shall ensure each detainee who is limited English proficient or otherwise disabled benefits from the provided information.

#### G. Accommodating Detainees with Disabilities or Limited English Proficiency

The CDF shall take appropriate steps to ensure that detainees with disabilities (including, for example,



detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse.

The facility's orientation video shall be in audio and closed captioned in English and Spanish. Classification staff shall identify detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities during the booking process. Individualized efforts will be made by classification staff to ensure these detainees receive prevention, detection and response information. Individualized efforts shall include:

1. providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary; and
2. providing access to written materials related to sexual abuse in formats or through methods that ensure effective communication.

Classification staff will coordinate with the detainee ADA Coordinator (Assistant Health Services Administrator) to determine an appropriate delivery method.

In matters relating to allegations of sexual abuse, the CDF shall employ effective expressive and receptive verbal communication techniques while communicating with detainees with disabilities in accordance with professionally accepted standards of care.

The facility shall provide detainees with disabilities and detainees with Limited English Proficiency with in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary.

A staff member will be utilized for interpretive services when available. If a staff member is unavailable to interpret the language line shall be utilized. Another detainee may be utilized if a detainee expresses a preference for another detainee to provide interpretation and management determines that such interpretation is appropriate and consistent with DHS policy. 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 shall never be appropriate in matters relating to allegations of sexual abuse.

Where practicable, provisions for written translation of materials related to sexual abuse or assault shall be made for other significant segments of the population with limited English proficiency. Oral interpretation or language line assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

#### **H. Victim Advocate Services**

The CDF shall utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse perpetrators, to address victims' needs most appropriately.

The CDF maintains a memorandum of understanding with the Rappahannock Council Against Sexual Assault to provide crisis intervention, counseling, victim advocacy, referrals and emotional support services.

The CDF shall allow RCASA personnel access to detainees to provide victims services.

All written correspondence between a detainee and RCASA shall be handled as privileged correspondence.

Telephone calls from a detainee to the RCASA shall not be recorded or monitored and shall be free to the detainee.

The CDF will provide a private room for RCASA staff to meet with detainees.

Any detainee who has experienced sexual victimization, whether it occurred in an institutional setting or a community setting shall be afforded the opportunity to access services rendered by RCASA.

- Rappahannock Council Against Sexual Assault  
615 Jefferson Davis Highway  
Suite 201  
Fredericksburg, VA 22401  
(540) 371-6771

### I. Staff Responsibilities

The CDF requires all staff and detainees to be responsible for being alert to signs of potential situations in which sexual assaults might occur.

All staff is mandated to immediately report any knowledge, suspicion, or information related to sexual assault or sexual harassment. Medical is immediately notified in all cases requiring emergency medical treatment

Staff shall make intervention referrals to their supervisor or medical personnel as appropriate.

If a facility staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee. Immediate action shall include, at a minimum:

- Separate the detainee in danger;
- Immediately inform his/her supervisor;
- Stay with the detainee until the supervisor arrives; and
- Promptly submit an Incident Summary

### J. Classification and Screening

Classification staff shall conduct an assessment of all detainees upon intake to identify those likely to be sexual aggressors or sexual abuse victims. Detainees so identified shall be housed separately to prevent sexual abuse. Appropriate steps shall be taken to minimize such danger.

Classification staff shall use the risk assessment when determining housing, assignment of detainees to recreation and other activities, and voluntary work assignments.

Booking staff shall ensure each new arrival is kept separate from the general population until he/she has been classified and housed accordingly.

When assessing detainees for risk of sexual victimization classification staff shall consider:

- a. Whether the detainee has a mental, physical, or developmental disability;
- b. The age of the detainee;
- c. The physical build and appearance of the detainee;
- d. Whether the detainee has previously been incarcerated or detained;
- e. The nature of the detainee's criminal history;
- f. Whether the detainee has any convictions for sex offenses against an adult or child;
- g. Whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- h. Whether the detainee has self-identified as having previously experienced sexual victimization; and
- i. The detainee's own concerns about his or her physical safety. 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 facility, in assessing detainees for risk of being sexually abusive.

Detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to the items above.

Information gained from the risk assessment shall be limited to classification, supervisors, management, investigators and medical and mental health personnel. Information obtained will be maintained the detainee's detention file.

Classification staff will place detainees who are considered at risk of sexual victimization in the least restrictive housing available and appropriate. Such detainees should be assigned to administrative segregation for protective custody only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.

Victims of sexual abuse or assault will not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances, at the request of the detainee, or no other available means of housing exist to ensure the detainee's safety.

A detainee victim who is in protective custody after having been subjected to sexual abuse shall not be returned to the general population until completion of a proper re-assessment by classification staff, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse.

#### **K. Transportation Considerations**

The CDF only conducts emergency and routine transportations to health care appointments. At no time will CDF transportation staff transport a detainee who has been identified at risk of sexual victimization with a detainee who has been identified as an aggressor.

Classification staff will inform the ICA or other agency transporting officer of any detainee who has been identified at risk of sexual victimization prior to loading of the vehicle.

#### **L. Upgrades to Facilities and Technologies**

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the facility shall consider the effect of the design, acquisition, expansion, or modification upon its ability to protect detainees from sexual abuse.

When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology in a facility, the facility shall

consider how such technology may enhance its ability to protect detainees from sexual abuse.

#### **M. Prompt and Effective Intervention**

Staff sensitivity toward detainees who are victims of sexual abuse and/or assault is critical.

Staff shall take seriously all statements from detainees claiming to be victims of sexual assaults and shall respond supportively and non-judgmentally. Any detainee who alleges that he/she has been sexually assaulted shall be offered immediate protection and separation from the assailant and shall be referred for a medical examination and/or clinical assessment for potential negative symptoms. Staff members who become aware of an alleged assault shall immediately follow the reporting requirements set forth in this policy.

If a victim is transferred to another detention facility, the CDF shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services (unless, in the case of transfer to a non-ICE facility, the victim requests otherwise). If the receiving facility is unknown to the sending facility, the sending facility shall notify the Field Office Director, so that he or she can notify the receiving facility.

Where an alleged victim of sexual abuse or assault that occurred elsewhere in ICE custody is subsequently transferred to the CDF, the facility shall comply with all applicable response and intervention requirements in the PBNDS standards, as appropriate based on the nature and status of the case.

The CDF may use a Sexual Abuse Response Team (SART) approach in responding to allegations of sexual assault. The SART will minimally consist of the following:

- Medical/Mental health professional
- Security Staff Member
- Compliance Manager
- Security Chief
- *Security Support Chief*
- Investigator

The CDF will attempt to confirm participation in SART efforts with the following:

- Relevant outside provider representative (RCASA)
- SANE
- Caroline County Sheriff's Office Sexual Assault Investigator

The SART is encouraged to conduct monthly meetings. The SART will meet at least quarterly to discuss prevention, detection, intervention and response practices.

The SART shall review policy and procedures and recommend changes or updates that align with best practices and compliance with PBNDS, SAAPI, and PREA standards.

The team shall conduct after action reviews and recommend needed changes to the Superintendent.

Team members shall coordinate and collaborate immediately following a sexual assault allegation.

Goals of the SART shall be to:

- Encourage survivor healing and well-being
- Strengthen investigations
- Eliminate sexual violence
- Ensure compliance with SAAPI (PREA)

#### **N. Protection Against Retaliation**

Staff, contractors, volunteers, and detainees are prohibited from retaliating against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual abuse as a result of force, coercion, threats, or fear of force.

The facility shall employ multiple protection measures, such as housing changes, 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 for cooperating with investigations.

The Superintendent will assign the appropriate manager to monitor activity for at least 90 days

following a report of sexual abuse. The monitor shall see if there are facts that may suggest possible retaliation by detainees or staff and shall act promptly to remedy any such retaliation. The assigned manager shall monitor the following:

- Disciplinary reports
- Housing, program, and work assignment changes
- Grievances
- Detainee requests
- Negative performance reviews
- Staff re-assignments

The assigned monitor will continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

The monitor will document activity, etc. using CDF form 2.11.E, SAAPI Retaliation Monitoring Form.

#### **O. Reporting, Notifications and Confidentiality**

The CDF requires all staff to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in a facility; retaliation against detainees or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Staff is required to make the immediate report verbally and submit an Incident Summary as soon as possible.

Staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, make medical treatment, investigation, law enforcement, or other security and management decisions.

If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the Superintendent shall report that information to the Field Office Director so that the facility can report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

Any staff member found to have revealed information related to a sexual abuse incident to an unauthorized person will be subject to disciplinary action, up to and including termination.

Staff shall accept reports made verbally, in writing, anonymously, and from third parties, and promptly document any verbal reports.

#### **1. Alleged Detainee Perpetrator**

When a detainee(s) is alleged to be the perpetrator, it is the Superintendent's responsibility to ensure that the incident is promptly referred to the Caroline County Sheriff's Office and reported to the Field Office Director, who shall report it to the OPR Joint Intake Center.

#### **2. Alleged Staff Perpetrator**

When an employee, contractor or volunteer is alleged to be the perpetrator of detainee sexual abuse and/or assault, it is the Superintendent's responsibility to ensure that the incident is promptly referred to Caroline County Sheriff's Office and reported to the Field Office Director, who shall report it to the OPR Joint Intake Center.

The Superintendent will ensure staff, contractors, and volunteers suspected of perpetrating sexual abuse or assault are removed from all duties requiring detainee contact pending the outcome of an investigation.

Upon receiving an allegation that a detainee was sexually abused while confined at another facility, the Superintendent will notify the Field Office Director and the appropriate administrator of the facility where the alleged abuse occurred. The notification shall be made as soon as possible, but no later than 72 hours after receiving the allegation. The Superintendent will document the notification.

Upon receiving notification from another facility that a former CDF detainee was sexually abused, the Superintendent will ensure the allegation is referred for investigation and reported to the appropriate Field Office Director.

## **P. Investigation, Discipline and Incident Reviews**

The facility shall coordinate with ICE and other appropriate investigative agencies to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse.

The CDF maintains a memorandum of understanding with the Caroline County Sheriff's Office to provide criminal investigations into allegations of sexual assault occurring at the facility.

All investigations into alleged sexual assault shall be prompt, thorough, objective, and fair and conducted by specially trained, qualified investigators.

Where an alleged victim of sexual abuse or assault that occurred elsewhere is subsequently transferred to CDF, the facility shall cooperate with any administrative or criminal investigative efforts arising from the incident.

#### **1. Preservation of Evidence**

The first security staff member to respond to a report of sexual abuse, or his or her supervisor, shall separate the alleged victim and abuser, preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence.

Once the crime scene is preserved the Shift Commander will post a staff member to protect entry into the crime scene. A logbook will be started to document when the crime scene was secured, entry and exit of the investigator from the crime scene, any removal of items from the crime scene, and when the crime scene was determined processed by the investigator.

The only person allowed to enter the crime scene will be the Caroline County Sheriff's Office investigator. The criminal investigator will process all evidence in the crime scene.

If the alleged abuse occurred within a time period that still allows for the collection of physical evidence, the responder shall request the alleged victim not to take any of the following actions:

- Washing
- Brushing teeth
- Changing clothes
- Urinating
- Defecating
- Smoking
- Drinking
- Eating

The responder shall ensure the alleged abuser not take the above listed actions.

Non-Security first responders shall stay with the detainee and request that the alleged victim not take any actions that could destroy physical evidence and then immediately notify a security staff member.

## 2. Forensic Examinations

The CDF will ensure a victim of sexual assault is offered a forensic examination by a Sexual Assault Nurse Examiner (SANE) from the Mary Washington Hospital, 1001 Sam Perry Boulevard, Fredericksburg, VA 22401; (540) 741-1100.

Detainee victims of sexual assault will be transported to the Mary Washington Hospital for a forensic medical examination by a Sexual Assault Nurse Examiner if the incident occurred within a time period, normally within 96 hours, which allows for the collection of forensic evidence.

The detainee must consent to the forensic examination and will not incur any costs for treatment associated with the sexual assault.

The SANE will contact the RCASA to provide victim advocacy to the alleged victim. The detainee has the right to refuse victim advocacy. The victim advocate will be allowed to accompany the victim during the forensic examination and the Caroline County Sheriff's Office investigatory interview.

The facility will transport the alleged abuser to the Mary Washington Hospital for forensic evidence collection.

## 3. Procedures for Administrative Investigations

Upon conclusion of a criminal investigation where the allegation was substantiated, or in instances where no criminal investigation has been completed, an administrative investigation shall be conducted by the facility sexual assault investigator.

Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Substantiated allegation means an allegation that was investigated and determined to have occurred. Unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the Caroline County Sheriff's Office Investigator. The ICE Office of Professional Responsibility will typically be the appropriate investigative office within DHS, as well as the DHS OIG in cases where the DHS OIG is conducting an investigation. The facility shall impose no higher standard than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated during an administrative investigation.

Facility investigators will:

- Preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;
- Conduct interviews with alleged victims, suspected perpetrators, and detainee and staff witnesses;
- Review prior complaints and reports of sexual abuse involving the suspected perpetrator;
- Conduct an assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee. Credibility assessments will



include, at a minimum, reviews of detention files, requests, grievances, prior information given, criminal history, and personnel files;

- e. Not require any detainee who alleges sexual abuse to submit to a polygraph or other truth telling device;
- f. Make an effort to determine whether staff actions or failures to act contributed to the abuse;
- g. Document each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, monitoring data review, review of staff actions, and investigative facts and findings; and
- h. Retain investigative reports for as long as the alleged abuser is detained or employed by the facility, plus an additional five years.

CDF investigators will coordinate investigative efforts with DHS Investigators, Commonwealth's Attorney, and Caroline County Sheriff's Office Investigators prior to conducting compelled interviews to ensure administrative investigations do not compromise criminal prosecution efforts.

The departure of the alleged abuser or victim from CDF employment or control of the facility shall not provide a basis for terminating an investigation. All allegations shall be investigated to the fullest extent possible.

When outside agencies investigate sexual abuse, CDF investigators shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

Following an investigation conducted by the facility into a detainee's allegation of sexual abuse, the Superintendent shall notify the Field Office Director of the results of the investigation and any responsive actions taken so that the information can be reported to ICE headquarters and to the detainee.

#### **4. Discipline**

- a. Disciplinary sanctions for staff

Staff shall be subject to disciplinary or adverse action up to and including termination for substantiated

allegations of sexual abuse or for violating facility sexual abuse rules, policies or standards. Termination shall be the presumptive disciplinary sanction for staff that have engaged in or attempted or threatened to engage in those acts of sexual abuse defined in the Acts of Sexual Abuse and/or Assault section of this policy.

The Superintendent will report all incidents of substantiated sexual abuse by staff, and all terminations of staff, or resignations in lieu of termination for violations of facility sexual abuse policies, to the Caroline County Sheriff's Office unless the activity was clearly not criminal.

The Superintendent will also report all such incidents of substantiated abuse, terminations or resignations in lieu of termination to the Field Office Director, regardless of whether the activity was criminal, and shall make reasonable efforts to report such information to any relevant licensing bodies, to the extent known.

- b. Corrective action for contractors and volunteers  
Any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees. The Superintendent 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 the policy.

The Superintendent shall report incidents of substantiated sexual abuse by a contractor or volunteer to the Caroline County Sheriff's Office, unless the activity was clearly not criminal. The Superintendent shall also report such incidents to the Field Office Director regardless of whether the activity was criminal and shall make reasonable efforts to report such incidents to any relevant licensing bodies, to the extent known.

- c. Disciplinary sanctions for detainees

Detainees shall be subjected to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee



engaged in sexual abuse. 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.

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.

### 5. Sexual Abuse Incident Reviews

The CDF shall conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse unless the allegation was determined to be unfounded. The sexual abuse incident review will be conducted by an incident review team consisting of the following members:

- Compliance Manager
- Investigator
- Security Supervisor
- Medical or Mental Health Professional
- Security Chief
- *Security Support Chief*

The incident review team will review the incident and prepare written report within 30 days of the conclusion of the investigation.

The incident review team shall consider and document whether the incident or allegation was motivated by:

- Race;
- Ethnicity;
- Gender identity;
- Lesbian, gay, bisexual, transgender, or intersex identification;
- Status, or perceived status;
- Gang affiliation; or
- Other group dynamic.

The review team's report shall include recommendations whether the allegation or investigation indicates that a change in policy or

practice could better prevent, detect, or respond to sexual abuse. A copy of the report will be submitted to the Compliance Manager and Superintendent.

The Superintendent shall implement the recommendations for improvement or shall document reasons for not doing so in a written response. The Superintendent shall forward both the report and response to the Field Office Director or his or her designee, for transmission to the ICE PSA Coordinator. The facility shall also provide any further information regarding such incident reviews as requested by the ICE PSA Coordinator.

The Compliance Manager will conduct an annual review of all sexual abuse investigations and incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. The Compliance Manager will prepare a negative report if no sexual assault allegations were received during the annual reporting period.

The results and findings of the annual review shall be provided to the Superintendent, Field Office Director or his or her designee, for transmission to the ICE PSA Coordinator.

### Q. Medical and Mental Health Care

Detainee victims of sexual abuse shall be provided emergency medical and mental health services and ongoing care. All treatment services, both emergency and ongoing, shall be provided to the detainee victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

#### 1. Access to emergency medical and mental health services

- a. Detainee victims of sexual abuse and assault will receive timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care.
- b. Where evidentiary or medically appropriate, the alleged victim shall be transported to the Mary

Washington Hospital to undergo a forensic medical examination conducted by a Sexual Assault Nurse Examiner.

- c. Transportation of an alleged victim for emergency care or other services provided off-site shall be arranged in a manner that takes into account the special needs of victimized detainees.

## **2. Ongoing medical and mental health care for sexual abuse victims and abusers**

- a. The Ice Health Services Corps (IHSC) shall offer a medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while detained.
- b. The evaluation and treatment of detainee victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. Once a referral and/or follow-up is initiated, the detainee will receive a health evaluation no later than two working days from the date of the assessment.
- c. The IHSC shall provide such victims with medical and mental health services consistent with the community level of care.
- d. Detainee victims of sexually abusive vaginal penetration by a male abuser while detained shall be offered a pregnancy test. If pregnancy results from an instance of sexual abuse, the victim shall receive timely and comprehensive information about lawful pregnancy-related medical services and timely access to all lawful pregnancy-related medical services.
- e. Detainee victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate.
- f. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- g. The IHSC 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.

## **R. Data Collection**

The CDF will maintain in a secure area all case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary.

The Investigator will maintain investigative case records in a locking cabinet in a locked office or electronically password protected in a locked office. Investigative files shall be retained for as long as the alleged abuser is detained, plus five (5) years.

Reports of sexual assault are to be treated as any other medical complaint and shall be kept confidential between investigators, service providers and the detainee. All staff are charged with the responsibility of the protection of the victim from acts of retribution or reprisal. Information related to a sexual assault shall only be released to those with a legitimate "need-to-know."

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

- a. General files include:
- b. the victim(s) and assailant(s) of a sexual assault;
- c. the date, time, location, and nature of the incident;
- d. the demographic background of the victim and perpetrator (including citizenship, age, gender, and whether either has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming);
- e. detailed reporting timeline, including the names of the individuals 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;

- f. any injuries sustained by the victim;
- g. 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.);
- h. all reports;
- i. medical forms or other relevant medical information;
- j. supporting memos and videotapes, if any;
- k. any sanctions imposed on the perpetrator; and
- l. any other evidentiary materials pertaining to the allegation.

The SAAPI Coordinator shall maintain these files chronologically in his/her locked office.

In addition, the Superintendent shall maintain a listing of the names of sexual assault victims and assailants, along with the dates and locations of all sexual assault incidents occurring within the facility, on his/her computerized incident reporting system.

This information maintained by the Superintendent shall only be shared with those with a legitimate "need-to-know."

At no time may law enforcement sensitive documents or evidence be stored at the facility. Those documents or evidence will be immediately turned over to the appropriate agency.

Access to this designation shall be limited to those staff involved in the treatment of the victim or the investigation of the incident. The authorized designation shall allow appropriate staff to track the detainee victim or assailant of sexual assault across the system.

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

## S. Facility Audits

CDF staff shall cooperate with all DHS audits of the facility's compliance with standard 2.11 Sexual Abuse and Assault Prevention and Intervention.

The facility shall make available all relevant documents, records, and other information as requested (including available videotapes and other electronically available data).

The CDF shall permit auditors access to all areas of the facility and shall make available space suitable for interviews of detainees and staff. Detainees shall be permitted to have private interviews with auditors, and to send confidential information or correspondence to the auditor.

## Reference

Questions or suggestions regarding this policy should be directed to the Assistant Superintendent.

## Standards

**ACA-4-ALDF, 4<sup>th</sup> Edition:**

**PBND 2011:** 2.1; 2.2; 2.4; 2.6; 2.10; 2.12; 3.1; 4.3; 4.4; 4.5; 6.2; 7.1

**Other:** National Commission on Correctional Health Care, Standards for Health Services in Jails (2014)

"Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities," 79 Fed. Reg. 13100 (Mar. 7, 2014)

## CDF Policies

2.11.A; 8.34; 8.34.A, 10.0

## Policy Approval



Colonel Paul Perry, Superintendent  
Caroline Detention Facility

July 16, 2018

Origination Date