

U.S. CUSTOMS AND BORDER PROTECTION DIRECTIVE

CBP DIRECTIVE NO. 2130-030

DATE: 1/19/2018

ORIGINATING OFFICE: OC: PDO

SUPERSEDES: N/A

REVIEW DATE: 1/19/2021

SUBJECT: PREVENTION, DETECTION AND RESPONSE TO SEXUAL ABUSE AND/OR ASSAULT IN CBP HOLDING FACILITIES

1. **PURPOSE.** This Directive establishes U.S. Customs and Border Protection's (CBP's) procedures for the prevention, detection, and response to sexual abuse and assault in CBP holding facilities.¹
2. **SCOPE.** This Directive applies to all CBP offices and personnel.
3. **POLICY.** In all of its holding facilities, CBP shall adhere to the requirements of Subpart B of the Department of Homeland Security (DHS) Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities, 6 C.F.R. Part 115, (the "DHS Standards").² CBP prohibits sexual abuse and/or assault of a detainee by another detainee; sexual abuse and/or assault of a detainee by agents, officers, other CBP personnel, contractors, and volunteers; and/or retaliation against any person, including a detainee, who reports, complains about, or participates in an investigation of sexual abuse and/or assault.
4. **AUTHORITIES/REFERENCES.**
 - 4.1 Prison Rape Elimination Act (PREA) of 2003, Pub. L. No. 108-79, 117 Stat. 972 (2003)
 - 4.2 Presidential Memorandum – Implementing the Prison Rape Elimination Act (May 17, 2012)
 - 4.3 Department of Homeland Security, Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities, 6 C.F.R. Part 115 (March 7, 2014)
 - 4.4 CBP Policy on Zero Tolerance of Sexual Abuse and Assault (March 11, 2015)
5. **DEFINITIONS.**

¹ This Directive also constitutes CBP's written institutional plan pursuant to 6 C.F.R. § 115.165 for utilizing a coordinated multidisciplinary team approach to respond to sexual abuse and/or assault.

² This Directive addresses CBP's responsibilities in connection with the requirements in Subpart B of the DHS Standards. In addition, CBP is committed to participating in the audit process established in Subpart C of the DHS Standards.

- 5.1 **CBP INFO Center:** The primary point of contact for the general public to ask questions; to seek clarification on CBP-related regulations, requirements, processes, and practices; and to make service-related compliments or complaints.
- 5.2 **Commissioner's Situation Room:** The central CBP point of contact for initial reporting of all significant incidents to senior leadership of DHS and CBP.
- 5.3 **Detainee:** Any person detained in a holding facility by CBP.
- 5.4 **Holding Facility:** A facility that contains holding cells, cell blocks, or other secure enclosures that are under the control of CBP and primarily used for the short-term confinement of individuals who have recently been detained, or are being transferred to or from a court, jail, prison, other agency, or elsewhere within CBP.
- 5.5 **Joint Intake Center (JIC):** The central "clearinghouse" for receiving, processing, and tracking allegations of misconduct involving personnel and contractors employed by CBP and U.S. Immigration and Customs Enforcement (ICE).
- 5.6 **Limited English Proficient Persons:** Persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.
- 5.7 **Prevention of Sexual Assault (PSA) Coordinator:** The upper-level, agency-wide CBP official designated to develop, implement, and oversee CBP's efforts to comply with Subpart B of the DHS Standards in all of CBP's holding facilities.
- 5.8 **Sexual Abuse:** (1) Sexual abuse and assault of a detainee by another detainee; and (2) sexual abuse and assault of a detainee by a staff member, contractor, or volunteer.
- 5.8.1 **Sexual Abuse of a Detainee by Another Detainee:** Sexual abuse of a detainee by another detainee includes any of the following acts by one or more detainees 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 attempts to engage in:
- Contact between the penis and the vulva or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;
 - Contact between the mouth and the penis, vulva, or anus;
 - Penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object;
 - 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
 - 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.

5.8.2 Sexual Abuse of a Detainee by a Staff Member, Contractor, or Volunteer: 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:

- Contact between the penis and the vulva or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;
- 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;
- 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;
- 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;
- Repeated verbal statements or comments of a sexual nature to a detainee;
- Any display of his or her uncovered genitalia, buttocks, or breast in the presence of a detainee; or
- Voyeurism.

5.9 PREA Investigation: The investigation of alleged sexual abuse and/or assault of a detainee in a CBP holding facility by a specially trained and qualified investigator.

5.10 Substantiated Allegation: An allegation of sexual abuse and/or assault that was investigated and determined to have occurred.

5.11 Unfounded Allegation: An allegation of sexual abuse and/or assault that was investigated and determined not to have occurred.

5.12 Unsubstantiated Allegation: An allegation of sexual abuse and/or assault that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

5.13 Voyeurism: Inappropriate visual surveillance of a detainee for reasons unrelated to official duties. Where not conducted for the 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.

- 5.14 Zero Tolerance Policy:** CBP's written policy prohibiting all forms of sexual abuse and/or assault of individuals in CBP custody. CBP's Zero Tolerance Policy mandates zero tolerance toward all forms of sexual abuse and/or assault in holding facilities and outlines the agency's approach to preventing, detecting, and responding to such conduct, as required by Subpart B of the DHS Standards.

6. RESPONSIBILITIES.

- 6.1 Privacy and Diversity Office (PDO).** PDO shall oversee CBP's efforts to implement Subpart B of the DHS Standards and shall employ or designate an upper-level, agency-wide PSA Coordinator with sufficient resources and time to develop, implement, and oversee the agency's efforts to comply with Subpart B of the DHS Standards in its holding facilities.
- 6.2 PSA Coordinator.** The PSA Coordinator shall oversee CBP's efforts to implement Subpart B of the DHS Standards. As part of this oversight, the PSA Coordinator shall receive copies of reports, allegations, and other information that is relevant to the implementation of Subpart B of the DHS Standards.
- 6.3 Office of Field Operations (OFO) and U.S. Border Patrol (USBP).** For the holding facilities under their respective control, OFO and USBP shall:
- 6.3.1** Develop and document comprehensive detainee supervision guidelines to determine and meet each facility's detainee supervision needs and review those supervision guidelines and application at each facility at least annually to determine whether adequate levels of detainee supervision and monitoring exist. The results of the development of comprehensive detainee supervision guidelines and annual review will be provided to the PSA Coordinator;
 - 6.3.2** Take appropriate steps to provide reasonable accommodations to detainees with disabilities so that they may have an equal opportunity to participate in and benefit from CBP's efforts to prevent sexual abuse and take reasonable steps to ensure meaningful access to services for persons with limited English proficiency;
 - 6.3.3** Take reasonable steps to determine whether a detainee may be at a high risk of being sexually abused or of being sexually abusive before placing any detainees together in a holding facility. To the extent that the information is available, OFO and USBP will consider the criteria provided in Subpart B of the DHS standards. As described in Subpart B, where appropriate, OFO and USBP will take necessary steps to mitigate any identified danger to a detainee, and will ask the detainee whether the detainee has reason(s) for concern for their physical safety;
 - 6.3.4** Provide detainees determined to be at high-risk of sexual abuse victimization with heightened protection. This includes continuous direct sight and sound supervision, placement in a single-occupancy hold room, monitoring in open areas or placement in a

hold room actively monitored on video by an officer/agent sufficiently proximate to intervene, unless no such option is determined to be feasible;

- 6.3.5 Ensure that key information regarding CBP's Zero Tolerance Policy is visible or continuously and readily available to detainees, for example, through posters, pamphlets, or other written formats;
- 6.3.6 Accept and promptly document in a Significant Incident Report allegations of sexual abuse and/or assault of detainees made verbally, in writing, and/or anonymously from detainees or third parties. All sexual abuse and/or assault allegations shall be considered significant incidents and reported to the Commissioner's Situation Room and the JIC;
- 6.3.7 Ensure a swift response to allegations of sexual abuse and/or assault of detainees in holding facilities by separating an alleged victim from the alleged abuser, preserving and protecting any alleged crime scene, and ensuring the alleged victim has timely, unimpeded access to emergency medical treatment and crisis intervention services, and otherwise respond in accordance with this Directive, other relevant CBP policies, and Subpart B of the DHS Standards;
- 6.3.8 Cooperate fully with investigations relating to allegations of sexual abuse and/or assault of detainees and take appropriate corrective actions;
- 6.3.9 Conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and/or assault. Where the allegation was not determined to be unfounded, prepare a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse, and provide a copy of the report to the PSA Coordinator; and
- 6.3.10 Work in conjunction with PDO to ensure compliance with Subpart B of the DHS Standards.
- 6.4 **Office of Professional Responsibility (OPR).** OPR shall:
 - 6.4.1 Ensure that background investigations are conducted for applicants for employment who may have contact with detainees to determine suitability and that updated background investigations are conducted every five (5) years for CBP personnel who may have contact with detainees;
 - 6.4.2 Ensure that background investigations are conducted for contractors who may have contact with detainees before enlisting their services;
 - 6.4.3 Develop and implement policies and procedures for investigation of sexual abuse and/or assault allegations and agency oversight of such investigations;

- 6.4.4 Provide specialized training to CBP investigators who conduct investigations into allegations of sexual abuse and/or assault at holding facilities and assign qualified investigators to conduct such investigations;
- 6.4.5 Receive, document, and, if appropriate, refer to the appropriate investigative entity and the PSA Coordinator all allegations of sexual abuse and/or assault of individuals in CBP holding facilities;
- 6.4.6 Determine whether sexual abuse and/or assault allegations fall within the scope of Subpart B of the DHS Standards and designate them as such for tracking purposes;
- 6.4.7 If an alien, provide the alleged victim of sexual abuse and/or assault timely access to U nonimmigrant status information;
- 6.4.8 Report all removals or resignations in lieu of removal to appropriate law enforcement agencies for violations of agency or facility sexual abuse and/or assault policies, unless the activity was clearly not criminal; and
- 6.4.9 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.
- 6.5 **Office of Chief Counsel (OCC).** OCC shall provide legal advice regarding proposed CBP actions (including, but not limited to, the development, implementation, and evaluation of nationwide programs, policies, and procedures associated with the implementation of the DHS Standards) to ensure compliance with legal requirements, and prepare formal legal opinions as appropriate.
- 6.6 **Office of Human Resources Management (HRM).** HRM shall:
 - 6.6.1 Ensure compliance with hiring, promotion, and discipline requirements set forth in Subpart B of the DHS Standards;
 - 6.6.2 Establish policy and procedures to ensure that CBP does not hire or promote personnel, who have had previous substantiated allegations of engaging in sexual abuse and/or assault to positions where the employee may interact with detainees in CBP holding facilities; and
 - 6.6.3 Report to OPR any removals or resignations of staff in lieu of removal for violating agency or facility sexual abuse and/or assault policies.
- 6.7 **Office of Acquisition (OA).** OA shall:
 - 6.7.1 Ensure that policies and procedures are established to ensure that CBP does not hire contractors who have had previous substantiated allegations of engaging in sexual abuse and/or assault for positions where the contractor may interact with detainees in CBP holding facilities; and

- 6.7.2** Where an investigation of an allegation of sexual abuse and/or assault has been initiated against the contractor, or an investigation results in a finding of a substantiated allegation of sexual abuse and/or assault, OA shall take appropriate action consistent with the contract, this Directive, and applicable procurement regulations.
- 6.8 Office of Training and Development (OTD).** OTD shall develop training, in consultation with the PSA Coordinator, OFO, USBP, and OPR, as applicable, that meets training standards identified in Subpart B of the DHS Standards.
- 6.9 Office of Intergovernmental Public Liaison, CBP INFO Center.** The CBP INFO Center shall document all allegations of sexual abuse and/or assault as defined in the DHS Standards or herein, and refer them to the JIC, the Commissioner's Situation Room, the PSA Coordinator, and the DHS Office for Civil Rights and Civil Liberties.
- 6.10 Incident and Information Coordination Center, Commissioner's Situation Room.** The Commissioner's Situation Room shall disseminate Significant Incident Reports of sexual abuse and/or assault of individuals in CBP holding facilities to OPR, the PSA Coordinator, and the DHS Office for Civil Rights and Civil Liberties.
- 7. PREVENTION PLANNING.** Efforts shall be made to prevent the sexual abuse and/or assault of individuals in CBP holding facilities, to include ensuring new facilities and personnel contracts adopt all requirements under Subpart B of the DHS Standards, and ensuring policies and procedures are in place for the supervision and monitoring of individuals in CBP holding facilities.
- 8. ACCOMMODATING DETAINEES WITH DISABILITIES.**
- 8.1** Detainees with disabilities (e.g., detainees who are hearing impaired, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) shall have access to CBP efforts to prevent, detect, and respond to sexual abuse and/or assault.
- 8.1.1** When necessary to ensure effective communication with detainees who are hearing impaired, such steps shall include 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. Interpretation services will not be provided by another detainee unless the detainee expresses a preference for the detainee to provide interpretation, and CBP determines that such interpretation would be consistent with DHS policy. However, interpretation shall not be provided by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser.
- 8.1.2** Any written materials related to sexual abuse shall be provided in formats or through methods that ensure effective communication with detainees with disabilities, including

detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision.

9. ACCOMMODATING DETAINEES WHO ARE LIMITED ENGLISH PROFICIENT.

- 9.1** Detainees who are limited English proficient shall be provided in-person or telephonic interpretation services that enables effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation, and the supervisor determines that such interpretation is appropriate and consistent with the operational office's policies and procedures.
- 9.2** Interpretation services will not be provided by another detainee unless the detainee expresses a preference for the detainee to provide interpretation, and CBP determines that such interpretation would be consistent with DHS policy. However, 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.
- 10. RESPONSIVE PLANNING.** Reasonable efforts shall be made to ensure that CBP personnel and individuals detained in CBP holding facilities are aware of CBP's Zero Tolerance Policy; that such information is available to the public; and that CBP has in place procedures to accept reports from third-parties, CBP personnel, and detainees, including at-risk detainees with a disability and/or who are limited English proficient.

11. TRAINING AND EDUCATION.

- 11.1** All uniformed agents and officers, special agents, fact finders, contractors, and volunteers who may have contact with detainees in CBP holding facilities shall receive the training required in Subpart B of the DHS Standards.
- 11.2** Training shall be completed by all newly hired CBP personnel and contractors identified in Section 11.1 within one year of their entrance on duty. Training shall be completed by volunteers who may have contact with holding facility detainees before enlisting their services in a holding facility.
- 11.3** Training shall be provided and records maintained through the DHS Performance and Learning Management System (PALMS) every two years for CBP personnel identified in Section 11.1.
- 11.4** Training shall be documented and records maintained by the Contracting Officer's Representative for at least five (5) years after course completion for all contractors identified in Section 11.1 who have completed the training.

- 11.5** Training shall be provided and records maintained at the holding facility for at least five (5) years after course completion for volunteers identified in Section 11.1 who have completed the training.

12. REPORTING AN ALLEGATION OF SEXUAL ABUSE AND/OR ASSAULT.

- 12.1** Detainees shall be provided multiple ways to privately report sexual abuse and/or assault, retaliation for reporting sexual abuse and/or assault, or staff neglect or violations of responsibilities that may have contributed to such incidents. Third parties not connected to a detainee may also report these allegations. Reports are confidential and may be made anonymously, if desired, both verbally and in writing. CBP's procedures for reporting alleged sexual abuse and/or assault shall be visible or continuously and readily available to detainees at holding facilities and posted on the CBP public Web site.

- 12.2** CBP staff have a duty to make reasonable efforts to report as promptly as possible any knowledge, suspicion, or information of the following: an incident of sexual abuse and/or assault of a detainee in a holding facility; retaliation against any person, including a detainee, who reports, complains about, or participates in an investigation about an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. All CBP staff shall report any incident meeting this criteria to the JIC and the Commissioner's Situation Room with the following information, when available:

- Date, time, and location of incident;
- Date/time of notification to law enforcement and contact information;
- Alleged victim's(s') and alleged abuser's(s') demographic information;
- Emergency medical services referred and provided, if applicable, to include sexual assault forensic medical exam and victim service(s);
- If the alleged victim is a vulnerable adult or under the age of 18, date/time of notification to relevant agency and agency contact information, as appropriate;
- If the alleged incident occurred at another confinement facility, date/time of notification to the appropriate office of the agency or the administrator of the facility where the alleged sexual assault and/or abuse occurred;
- If the alleged victim was transferred to another DHS facility, date/time of notification to the receiving facility or agency of the alleged incident and the alleged victim's potential need for medical or social services;
- If the alleged victim was transferred to a non-DHS facility, date/time of notification (as permitted by law) to the receiving facility or agency of the alleged incident and the alleged victim's potential need for medical or social services; and
- Alleged victim's(s') injury(ies).

- 12.3** Except as necessary to report the incident, CBP and its staff shall not reveal any information related to the incident except as necessary to aid the detainee, to protect other detainees or staff, or to make security and management decisions contemplated by Subpart B of the DHS Standards.

13. RESPONSE FOLLOWING DETAINEE ALLEGATION OF SEXUAL ABUSE AND/OR ASSAULT.

- 13.1** Upon learning of an allegation that a detainee was sexually abused and/or assaulted, the first law enforcement staff member³ to respond to the report, or his or her supervisor, shall:
- 13.1.1** Separate the alleged victim and the alleged abuser;
 - 13.1.2** Preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence;
 - 13.1.3** If the alleged sexual abuse and/or assault occurred within a time period that still allows for the collection of evidence, request that the alleged victim, and ensure that the alleged abuser, does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating;
 - 13.1.4** In accordance with Section 15, provide the alleged victim timely, unimpeded access to emergency medical treatment and crisis intervention services;
 - 13.1.5** Report sexual abuse and/or assault allegations involving alleged victims under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute to the designated State or local services agency under applicable mandatory reporting laws. If any CBP employee encountering a detainee is unsure whether the detainee is a “vulnerable adult” under an applicable State or local law, the employee should contact his or her OCC field counsel for consultation on whether the individual qualifies under applicable law;
 - 13.1.6** Upon receipt of an allegation that a detainee was sexually abused and/or assaulted while confined at another facility, notify the appropriate office of the agency or the administrator of the facility where the alleged sexual assault and/or abuse occurred; and
 - 13.1.7** If the alleged victim of sexual abuse and/or assault is transferred to another DHS facility, inform the receiving DHS agency of the alleged incident and the alleged victim’s potential need for medical or social services. If the alleged victim of sexual abuse and/or assault is transferred to a non-DHS facility, inform the receiving facility or agency, as permitted by law, of the incident and the alleged victim’s potential need for such services, unless the alleged victim requests otherwise.
- 13.2** Agency management shall consider whether any staff, contractor, or volunteer alleged to have perpetrated sexual abuse and/or assault should be removed from duties requiring

³ If the first staff responder is not a law enforcement staff member, the responder shall request that the alleged victim not take any actions that could destroy physical evidence and then notify law enforcement staff.

detainee contact pending the outcome of an investigation, and shall do so if the seriousness and plausibility of the allegation make removal appropriate.

14. INVESTIGATIONS.

- 14.1** Criminal and administrative investigations of sexual abuse and/or assault allegations within CBP holding facilities shall be prompt, thorough, objective, and conducted by specially trained and qualified investigators. Requirements for such investigations shall include:
 - 14.1.1** Preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;
 - 14.1.2** If an alien, providing the alleged victim of sexual abuse and/or assault access to U nonimmigrant status information;
 - 14.1.3** Ensuring that an investigation is not terminated because of the departure of the alleged abuser or alleged victim from the employment or control of the agency;
 - 14.1.4** When an administrative investigation is undertaken, imposing no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse and/or assault; and
 - 14.1.5** Reporting investigative findings to the PSA Coordinator and the USBP and OFO points of contact responsible for coordinating and/or conducting sexual abuse incident reviews.

15. MEDICAL AND MENTAL CARE.

- 15.1** When an alleged incident occurs, 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, shall be provided.
 - 15.1.1** The forensic medical examination should be done by qualified health care personnel, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE), where practicable. If SAFEs or SANEs cannot be made available, the examination may be performed by other qualified health care personnel.
 - 15.1.2** In connection with an allegation of sexual abuse, if the detainee is transported for a forensic examination to a medical facility that offers victim advocacy services, officers and agents shall permit the detainee to use such services to the extent available, consistent with security needs.
 - 15.1.3** Emergency medical treatment services provided to the alleged victim shall be without financial cost and regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident.

- 16. DISCIPLINE.** CBP personnel may be subjected to disciplinary or adverse action up to and including removal from their position and Federal service for substantiated allegations of sexual abuse and/or assault and/or for violating CBP's sexual abuse policies.
- 17. CORRECTIVE ACTION FOR CONTRACTORS AND VOLUNTEERS.** Any contractor or volunteer suspected of perpetrating sexual abuse and/or assault shall be removed from all duties requiring detainee contact pending the outcome of an investigation, as appropriate.
- 18. DATA COLLECTION AND REVIEW.** Sexual abuse and/or assault data collection, review, and reporting shall include:
- 18.1** A sexual abuse incident review conducted by OFO or USBP at the conclusion of every investigation of sexual abuse and/or assault. Such review shall ordinarily occur within 30 days of the conclusion of every investigation.
- 18.1.1** Where the allegation was not determined to be unfounded, prepare a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse.
- 18.1.2** Implement the recommendations for improvement, or document the reasons for not doing so, in a written response and forward both the report and the response to the PSA Coordinator.
- 18.2** On an annual basis, aggregation of the incident based sexual abuse and/or assault data available by the PSA Coordinator in a manner that will facilitate the agency's ability to detect possible patterns and help prevent future incidents, including the number of reported sexual abuse allegations determined to be substantiated, unsubstantiated, or unfounded, or for which investigation is ongoing, and for each incident found to be substantiated, information concerning:
- The date, time, location, and nature of the incident;
 - The demographic background of the alleged victim and alleged abuser (including citizenship, age, gender, and whether either has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming);
 - The reporting timeline for the incident (including the name of the individual who reported the incident, and the date and time the report was received);
 - Any injuries sustained by the victim;
 - Post-report follow up responses and action taken by CBP or the facility (e.g., supervision, referral for medical or mental health services, etc.); and
 - Any sanctions imposed on the alleged abuser.
- 18.3** An annual report prepared by the PSA Coordinator and approved by the Commissioner with a comparison of the current year's data and corrective actions with those from prior

years and an assessment of the Agency's progress in preventing, detecting, and responding to sexual abuse. Following approval by the Commissioner, the annual report shall be made available to the public through the CBP public Web site.

- 18.4** Sexual abuse and/or assault case records shall be maintained in an electronic system of records in accordance with the DHS Standards and applicable policies, and in accordance with established schedules. This system of records will also comply with applicable law, including the Privacy Act, 5 U.S.C. § 552a. The DHS Office of Inspector General (OIG) shall maintain the official investigative file related to claims of sexual abuse and/or assault investigated by the DHS OIG. Pursuant to 6 C.F.R. §115.187, all agency case records associated with claims of sexual abuse of detainees shall be securely retained in accordance with agency records retention policies and CBP protocol regarding investigation of allegations.
- 19. COMPLIANCE.** Measures to assess compliance with Subparts B of the DHS Standards include:
- 19.1** Monitoring and tracking compliance;
- 19.2** Performing annual self-assessments and reporting through CBP's Self-Inspection Program;
- 19.3** Managing training compliance with completion reports and non-completion reports generated by DHS PALMS; and
- 19.4** Ensuring external audits are conducted of CBP holding facilities.
- 20. BARGAINING UNIT EMPLOYEES.** This policy does not supersede any procedures contained in existing collective bargaining agreements covering bargaining unit employees within CBP.
- 21. NO PRIVATE RIGHTS CREATED.** The procedures set forth in this Directive are for CBP internal use only and create no private rights, benefits, or privileges for any private person or party. This Directive does not create a private right of appeal, claim, complaint, or other cause of action on the part of any person or party.



Kevin K. McAleenan
Acting Commissioner
U.S. Customs and Border Protection