

**§ 115.177**

abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

(d) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

**§ 115.177 Corrective action for contractors and volunteers.**

(a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

(b) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with detainees, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

**§ 115.178 Referrals for prosecution for detainee-on-detainee sexual abuse.**

(a) When there is probable cause to believe that a detainee sexually abused another detainee in a lockup, the agency shall refer the matter to the appropriate prosecuting authority.

(b) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall inform the investigating entity of this policy.

(c) Any State entity or Department of Justice component that is responsible for investigating allegations of sexual abuse in lockups shall be subject to this requirement.

**MEDICAL AND MENTAL CARE**

**§ 115.181 [Reserved]**

**§ 115.182 Access to emergency medical services.**

(a) Detainee victims of sexual abuse in lockups shall receive timely, unimpeded access to emergency medical treatment.

**28 CFR Ch. I (7-1-13 Edition)**

(b) 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.

**§ 115.183 [Reserved]**

**DATA COLLECTION AND REVIEW**

**§ 115.186 Sexual abuse incident reviews.**

(a) The lockup shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

(b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation.

(c) The review team shall include upper-level management officials, with input from line supervisors and investigators.

(d) The review team shall:

(1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

(2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the lockup;

(3) Examine the area in the lockup where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

(4) Assess the adequacy of staffing levels in that area during different shifts;

(5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

(6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1) through (d)(5) of this section, and any recommendations for improvement and submit such report to the lockup head and agency PREA coordinator.

## Department of Justice

## § 115.193

(e) The lockup shall implement the recommendations for improvement, or shall document its reasons for not doing so.

### § 115.187 Data collection.

(a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at lockups under its direct control using a standardized instrument and set of definitions.

(b) The agency shall aggregate the incident-based sexual abuse data at least annually.

(c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Local Jail Jurisdictions Survey of Sexual Violence conducted by the Department of Justice, or any subsequent form developed by the Department of Justice and designated for lockups.

(d) The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

(e) The agency also shall obtain incident-based and aggregated data from any private agency with which it contracts for the confinement of its detainees.

(f) Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

### § 115.188 Data review for corrective action.

(a) The agency shall review data collected and aggregated pursuant to § 115.187 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

- (1) Identifying problem areas;
- (2) Taking corrective action on an ongoing basis; and
- (3) Preparing an annual report of its findings and corrective actions for each lockup, as well as the agency as a whole.

(b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assess-

ment of the agency's progress in addressing sexual abuse.

(c) The agency's report shall be approved by the agency head and made readily available to the public through its Web site or, if it does not have one, through other means.

(d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a lockup, but must indicate the nature of the material redacted.

### § 115.189 Data storage, publication, and destruction.

(a) The agency shall ensure that data collected pursuant to § 115.187 are securely retained.

(b) The agency shall make all aggregated sexual abuse data, from lockups under its direct control and any private agencies with which it contracts, readily available to the public at least annually through its Web site or, if it does not have one, through other means.

(c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.

(d) The agency shall maintain sexual abuse data collected pursuant to § 115.187 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

## AUDITS

### § 115.193 Audits of standards.

The agency shall conduct audits pursuant to §§ 115.401 through 115.405. Audits need not be conducted of individual lockups that are not utilized to house detainees overnight.