

**PREA Audit: Subpart A
DHS Immigration Detention Facilities
Audit Report**



**Homeland
Security**

AUDIT DATES			
From:	8/20/2019	To:	8/22/2019
AUDITOR INFORMATION			
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PROGRAM MANAGER INFORMATION			
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AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		
FIELD OFFICE INFORMATION			
Name of Field Office:	Chicago Field Office-Kansas City Sub-Office		
Field Office Director:	(Acting) FOD Louie Zamora		
ERO PREA Field Coordinator:	Assistant FOD (b) (6), (b) (7)(C)		
Field Office HQ physical address:	11125 N. Ambassador Drive, Kansas City, MO, 64153		
Mailing address: (if different from above)	Click or tap here to enter text.		
INFORMATION ABOUT THE FACILITY BEING AUDITED			
Basic Information About the Facility			
Name of facility:	Morgan County Adult Detention Center (MCADC)		
Physical address:	211 East Newton Street, Versailles, MO, 65084		
Mailing address: (if different from above)	Click or tap here to enter text.		
Telephone number:	(573) 378-6860		
Facility type:	IGSA		
PREA Incorporation Date:	5/23/2018		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Captain
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(573) 378-(b) (6), (b) (7)(C)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Sergeant
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ICE HQ USE ONLY			
Form Key:	29		
Revision Date:	08/14/2019		
Notes:			

NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS

Directions: Discuss the audit process to include the date of the audit, names of all individuals in attendance, audit methodology, description of the sampling of staff and detainees interviewed, description of the areas of the facility toured, and a summary of facility characteristics.

The Prison Rape Elimination Act (PREA) audit of the Morgan County Adult Detention Center (MCADC) was conducted on August 20-22, 2019, by Thomas Eisenschmidt, U.S. Department of Justice (DOJ) and U.S. Department of Homeland Security (DHS) certified PREA Auditor for Creative Corrections, LLC. The purpose of the audit was to determine compliance with the DHS PREA Standards. The Auditor was provided guidance and review during the report writing and review process by the ICE PREA Program Manager, (b) (6), (b) (7)(C) and ICE Assistant Program Manager (b) (6), (b) (7)(C), both DOJ and DHS certified PREA Auditors. The Program Manager's and Assistant Program Manager's roles are to provide oversight to the Immigration and Customs Enforcement (ICE) PREA audit process and liaison with the ICE External Reviews and Analysis Unit (ERAU) during the audit report review process. The MCADC is operated by the Morgan County Sheriff's Office and contracted by ICE for the housing of adult male detainees. MCADC has a designed capacity for 154 detainees. According to the PAQ, the top three nationalities are from Honduras, Guatemala, and Mexico. The facility does not house juveniles, females, or family detainees. There were 56 ICE detainees held at MCADC on the first day of the audit. This was the first PREA audit for MCADC and included a review of 12 months from 8/20/2018 through 8/22/2019. MCADC is located in Versailles, Missouri.

The onsite inspection of the MCADC was conducted on August 20-22, 2019. The Team Lead opened the entry briefing at 8:15 A.M. on the first day of the on-site visit. In attendance were:

(b) (6), (b) (7)(C)	Management and Program Analyst, Team Lead, Office of Professional Responsibility (OPR), ERAU, ICE
(b) (6), (b) (7)(C)	Inspection Compliance Specialist (ICS), ICE, OPR, ERAU
(b) (6), (b) (7)(C)	Detention Officer-ICE
(b) (6), (b) (7)(C)	Sergeant, MCADC
(b) (6), (b) (7)(C)	Human Resources, MCADC

The Auditor provided an overview of the audit process and methodology used to demonstrate PREA compliance to those present. The Auditor explained that the audit process is designed to not only assess compliance through written policies and procedures but also to determine whether such policies and procedures are reflected in the knowledge of staff at all levels. The Auditor further explained compliance with the PREA standards will be determined based on the review of policy and procedures, observations made during the facility tour, provided documentation review, and conducting both staff and detainee interviews.

Prior to the audit, ERAU Team Lead, (b) (6), (b) (7)(C) provided the Auditor with the facility Pre-Audit Questionnaire (PAQ), agency policies, and other pertinent documents approximately three weeks prior to the site visit. The PAQ and supporting documentation was for the most part accurate and well organized. MCADC staff and ICE ERAU staff provided additional documentation during the onsite portion of the audit, and accurate documentation and audit information three months after the audit inspection. The facility PAQ indicated there were six reported PREA incidents alleged for the previous 12 months. This document and the PREA Allegation Spreadsheet provided by ICE to the Auditor were inaccurate. There were only five allegations made and investigated during the audit period. Two cases were still open at the time of the site visit. Three investigations were completed.

The audit began with a tour of the MCADC sally port, booking area, and then was directed into the detainees housing unit and recreation yard. The detainees only have access to medical, visitation, and the recreation yard. The facility has a medical room that is located off the housing unit hallway and near the detainee housing unit that is utilized for detainees. (b) (7)(E)

Each of the hold rooms has a toilet that is not in direct view of staff. The recreation yard is a fenced outside yard located outside the detainee housing unit areas. Detainee housing is referred to as pods. At the time of the site visit there were three pods (A, D and E) being utilized by ICE detainees. E pod is comprised of 36 dorm beds with pods A and D containing multiple occupancy cells. Signage was observed in each of the pods and located so that detainees are aware of: PREA educational information, zero tolerance policy, methods for reporting sexual misconduct, and victim advocacy contact information, all in predominantly Spanish and English with reporting information on ICE posters also in Arabic, Farsi, French, Hindi, Korean, Romanian, Simplified Chinese, Tagalog and Urdu. The detainee reporting hotline was not operational at the time of the site visit. The facility was not aware the telephones were out of order and immediately contacted the company for repairs. They were not repaired before the auditor ended the site visit. PREA audit notices were also observed in multiple locations throughout the tour to include in the detainee dorm and housing pods. The facility has no dedicated segregation cells. Should the facility need to segregate any ICE detainees, the three secure holding cells in booking area are used. (b) (7)(E)

(b) (7)(E) During the course of the site visit, the Auditor conducted informal interviews with staff and detainees, questioning them on their knowledge of PREA. The Auditor observed opposite gender staff announcing their presence when entering the detainee holding cells and general population pods.

According to facility PAQ, the total number of staff includes six ICE employees, 36 county government employees, and three contractors at the MCADC who may have recurring contact with detainees. Facility security staff total is 36. There are 30 male and six female security staff. There are three medical staff.

At the conclusion of the tour, the Auditor was provided with a staff and detainee roster. The Auditor randomly selected both staff and detainees for formal interviews. The Auditor interviewed ten random staff (including Line-Staff and First-Line Supervisors), seven volunteers, one contractor, and also specialized staff to include: the acting Jail Administrator, PSA Compliance Manager, Human Resources, Training Supervisor, Intake staff, Criminal and Administrative Investigator, Grievance Coordinator, Classification Supervisor, and Medical staff. The Auditor interviewed a total of 12 random detainees. Six detainees interviewed were limited English proficient (LEP) and required the use of a language line through Language Services Associates (LSA) provided by Creative Corrections. There were no targeted categories available for interview. The Auditor was provided with an overview of the intake procedures which included the initial classification of the detainee. The detainee intake process is completed by the booking officer and the classification staff person. Each detainee is provided written PREA educational information to include: MCADC Detainee Handbook; ICE Sexual Abuse and Assault Awareness pamphlet; ICE National Detainee Handbook, and the viewing of the comprehensive orientation video, in English and Spanish.

The countries of origin for detainees interviewed were Honduras, Guatemala, and Mexico.

On August 22, 2019 an exit briefing was held in the MCADC Training room. The Team Lead opened the briefing and then turned it over to the Auditor.

In attendance were:

(b) (6), (b) (7)(C) Management and Program Analyst, Team Lead, OPR, ERAU, ICE
(b) (6), (b) (7)(C) ICS, ICE, OPR, ERAU
(b) (6), (b) (7)(C) Detention Officer-ICE
(b) (6), (b) (7)(C) Sergeant, MCADC
(b) (6), (b) (7)(C) Human Resources, MCADC

The Auditor discussed observations made during the onsite portion of the audit and was able to give some preliminary findings. The Auditor informed those in attendance he was appreciative of the hospitality received and for the professionalism provided by all staff during the visit. The Auditor also stated how impressed he was with the staff knowledge on PREA reporting and responding to any allegation of sexual abuse. It was clear to the Auditor, staff take their duties seriously and have fostered a culture to better prevent, detect, and respond to sexual misconduct.

SUMMARY OF AUDIT FINDINGS

Directions: Discuss audit findings to include a summary statement of overall findings and the number of provisions which the facility has achieved compliance at each level: Exceeds Standard, Meets Standard, and Does Not Meet Standard.

Number of Standards Exceeded: 2

- §115.17 Hiring and promotion decisions
- §115.35 Specialized training: Medical and Mental Health care

Number of Standards Met: 27

- §115.11 Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator
- §115.15 Limits to cross-gender viewing and searches
- §115.16 Accommodating detainees with disabilities and detainees who are limited English proficient
- §115.18 Upgrades to facilities and technologies
- §115.31 Staff training
- §115.32 Other training
- §115.33 Detainee education
- §115.34 Specialized training: Investigations
- §115.42 Use of assessment information
- §115.43 Protective custody
- §115.51 Detainee reporting
- §115.52 Grievances
- §115.53 Detainee access to outside confidential support services
- §115.61 Staff reporting duties
- §115.62 Protection duties
- §115.63 Reporting to other confinement facilities
- §115.64 Responder duties
- §115.65 Coordinated response
- §115.66 Protection of detainees from contact with alleged abusers
- §115.68 Post-allegation protective custody
- §115.72 Evidentiary standard for administrative investigations
- §115.76 Disciplinary sanctions for staff
- §115.77 Corrective action for contractors and volunteers
- §115.78 Disciplinary sanctions for detainees
- §115.82 Access to emergency medical and mental health services
- §115.83 Ongoing medical and mental health care for sexual abuse victims and abusers
- §115.87 Data collection
- §115.201 Scope of audits.

Number of Standards Not Met: 11

- §115.13 Detainee supervision and monitoring
- §115.21 Evidence protocols and forensic medical examinations
- §115.22 Policies to ensure investigation of allegations and appropriate agency oversight
- §115.34 Specialized training: Investigations
- §115.41 Assessment for risk of victimization and abusiveness
- §115.54 Third-party reporting
- §115.67 Agency protection against retaliation
- §115.71 Criminal and Administrative Investigations
- §115.73 Reporting to detainees
- §115.81 Medical and mental health assessments; history of sexual abuse
- §115.86 Sexual abuse incident reviews

Number of Standards Not Applicable: 1

- §115.14 Juvenile and family detainees

PROVISIONS

Directions: In the notes, the auditor shall include the evidence relied upon in making the compliance or non-compliance determination for each provision of the standard, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Corrective Action Plan Final Determination, accompanied by information on specific corrective actions taken by the facility. Failure to comply with any part of a standard provision shall result in a finding of "Does not meet Standard" for that entire provision, unless that part is specifically designated as Not Applicable. For any provision identified as Not Applicable, provide an explanation for the reasoning. If additional space for notes is needed, please utilize space provided on the last page.

§115.11 - Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(c) Policy P-3-11-01 Prison Rape Elimination Act (Sexual Abuse and Assault Prevention and Intervention) mandates a zero tolerance toward all forms of sexual abuse and outlines MCADC's approach to preventing, detecting, and responding to any such prohibited conduct. The interview with the acting Jail Administrator confirmed that the facility zero tolerance policy has been approved by ICE. The Auditor determined compliance based on review of this provided policy confirming MCADC has a written zero tolerance policy toward all forms of sexual abuse and interviews conducted with staff confirming that the facility has fostered an environment for zero tolerance of sexual misconduct.

(d) MCADC has a designated PSA Compliance Manager at the supervisory level, who oversees the efforts to comply with the PREA standards who serves as the facility point of contact. The Auditor determined compliance based on the review of facility policies and procedures and interviews with the facility Jail Administrator and the PSA Compliance Manager. The Jail Administrator confirmed the appointment from the supervisory level and the PSA Compliance Manager confirmed he has sufficient time and authority to oversee facility efforts to comply with sexual abuse prevention and intervention policies and procedures.

§115.13 - Detainee supervision and monitoring.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) As previously noted, MCADC has a staffing component of 36 staff. Security staff work (b) (7)(E) During the on-site visit, the Auditor observed sufficient supervision of detainees including supervisory staff. The Auditor noted positive interaction between all levels of security staff at the facility. Daily security shift rosters/assignments for each of the two shifts were examined and the Auditor determined the facility is ensuring staffing levels are being maintained in accordance with the standard. The interview with the acting Jail Administrator confirmed each shift has an established number of staff positions that cannot be deviated from in the detainee housing locations to maintain detainee supervision coverage. Supervision for line staff is provided by corporals whose duties include ensuring adequate staffing is available to maintain safety and security of detainees. (b) (7)(E)

The video footage would be utilized, if appropriate, during a PREA sexual abuse investigation. The video retention time for these cameras is 30 days. The video monitoring for the cameras is available to the Jail Administrator, Executive staff, and the officer in the tower.

(b) The facility was unable to provide the Auditor with a comprehensive detainee supervision guideline to meet detainee supervision needs as required by this subpart. The facility was also unable to provide the annual review as required by this subpart. Facility needs to provide a comprehensive guideline and complete an annual review as required.

Does Not Meet: The facility does not have written comprehensive supervision guidelines and annual review as required. The facility needs to develop a comprehensive supervision guideline and complete an annual review as required.

(c) MCADC did not provide documentation that they took into account generally accepted detention/correctional practices, judicial finding of inadequacy, physical plant, detainee population, prevalence of substantiated or unsubstantiated incidents, recommendations of sexual abuse incident reviews or other relevant factors when determining adequate levels.

Does Not Meet: The facility could not provide documentation that the standard elements were considered in determining adequate levels of detainee supervision and the need for video monitoring. The facility must when developing the comprehensive supervision guidelines take into consideration the elements listed in this standard provision.

(d) Policy P-3-11-01 states facility management, department heads and supervisors will conduct and document random, unannounced rounds to identify and deter sexual abuse and sexual harassment. Interviews with supervisors from each shift confirmed that staff by policy is prohibited from alerting other staff members that supervisory rounds are occurring. The Auditor was able to verify supervisors are conducting security inspections/rounds both on day and night shifts through the review of log sheets and staff interviews.

§115.14 - Juvenile and family detainees.

Outcome: Not Applicable (provide explanation in notes)

Notes:

Review of the MCDAC PAQ and interviews with the acting Jail Administrator and PSA Compliance Manager confirm MCADC does not house juveniles, females or family detainee units. Therefore, this provision is not applicable.

§115.15 - Limits to cross-gender viewing and searches.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(b)(d) Policy P 3-15A Detainee Searches outlines that staff conducting pat down searches of detainees will be the same gender of the inmate/detainee. Cross gender searches shall only be permitted during exigent circumstances. During the previous year, there have been no reports of opposite gender staff performing cross-gender pat-searches of male detainees. If such a search was to be conducted, the facility policy requires it be documented in the control center logbook. Interviews with security staff corroborated same gender staff are required to pat-search same gender inmates and

detainees and, if an exigent circumstance was to occur it would be properly documented. The log will include the circumstances which necessitated the cross-gender search.

(c) MCADC does not house female detainees or family detainees, therefore provisions (c) is not applicable.

(e)(f)(i) Policy P 3-15A requires cross-gender strip searches or cross-gender body cavity searches only be conducted in exigent circumstances and never to determine the detainee's genital status. The Auditor was informed by the acting Jail Administrator that during the previous year there were no reports of opposite gender staff performing cross-gender strip or body cavity searches. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a medical examination detainees undergo as part of intake or other processing procedure conducted in private, by a medical practitioner. Policy also indicates body cavity searches will only be conducted by medical practitioners. Interviews with the Acting Jail Administrator, medical and security staff confirmed staff are aware of facility protocols for conducting strip or body cavity searches, and if performed shall be documented. There were no transgender or intersex detainees present to interview at the time of the site visit.

(g) Policy P-3-11-01 requires detainees be able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender. During the site review the Auditor observed staff of the opposite gender announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothes. Interviews with detainees confirmed security staff of the opposite gender announce their presence prior to entering the housing unit pods. Female staff interviewed confirmed they announce their intention to enter the housing units prior to entering. The Auditor was further able to determine through observation detainees are able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender.

(h) This substandard is not applicable. MCADC is not a Family Residential Facility.

(j) The facility training curriculum was reviewed by the Auditor. The curriculum covered the proper procedures for conducting pat-down searches, including cross-gender pat-down searches, and pat-down searches of transgender and intersex detainees. The training was compliant with the standard requirement in all material ways. Interviews with the training staff and review of all staff training records confirmed all security staff have received proper training on how to perform pat searches in a professional and respectful manner, and in the least intrusive manner. Security staff were able to communicate proper pat search procedures during interviews.

§115.16 - Accommodating detainees with disabilities and detainees who are limited English proficient.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c) Policy P-3-11-01 indicates staff are to take the appropriate steps to ensure detainees with disabilities and who are LEP have an equal opportunity to participate or benefit from the facility's efforts to prevent, detect, and respond to incidents of sexual abuse. Upon arrival at intake, detainees are provided with the MCADC Detainee Handbook; ICE Sexual Abuse and Assault Awareness pamphlet; ICE National Detainee Handbook, and view the comprehensive orientation video. These documents provide detainees with information on the agency and facility's zero tolerance policy for sexual abuse and how to report incidents of sexual abuse. The Classification staff member confirmed if a detainee arrives in intake who spoke a language that was not available in a written format, they utilize an interpretive service (Language Line) to provide the information to the detainee. The acting Jail Administrator confirmed if an allegation of sexual abuse was reported at MCADC the facility would provide interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee, unless a detainee prefers for another detainee to provide interpretation and the use was approved by ICE. It was evident MCADC staff are very familiar with the facility's protocols for utilizing interpretive services when needed.

The first page of the ICE National Detainee Handbook provides a language identification guide to aide detainees and staff identify the language other than English or Spanish. As noted earlier, signage is available in every area detainees have access. It includes DHS/ICE PREA posters, in English and Spanish with reporting information in Arabic, Farsi, French, Hindi, Korean, Romanian, Simplified Chinese, Tagalog and Urdu. Also posted is the name of the facility PSA Compliance Manager. Each of the housing units also provide the contact information for the Morgan County victim advocate and the contact information for the Jefferson City Rape and Abuse Crisis Center. The PREA comprehensive orientation video is played for all detainees upon intake. The interview with the acting Jail Administrator, Classification staff member, and Intake Officer confirmed there are staff at MCADC who speak several languages who are also able to assist detainees with interpretive services, if needed. Detainees who are LEP are provided with interpretive services, either through available staff or an interpretive service. Random staff confirmed that when they are confronted with a detainee that may be hearing impaired or deaf, they would utilize the facility Text Telephone Machine (TTY) and provide information in writing. They also stated that detainees who are blind would be provided individualized service including reading the information to them. They also stated that detainees that have a low intellect or limited reading skills would receive services from medical staff. These type of detainee services were also confirmed by the Auditor during interviews with the acting Jail Administrator, PSA Compliance Manager, intake staff, and medical staff. During the site visit, there were no detainees to interview who were identified as deaf, blind, or hearing impaired. The Auditor interviewed four detainees who were LEP through the use of telephonic interpretive services. The Auditor was able to verify the use of interpretive services through a review of six detainee intake documents in their case files. Most detainees interviewed recalled receiving information during the intake/orientation process on the agency and facility's zero tolerance policy and efforts to prevent, detect, and respond to sexual abuse.

§115.17 - Hiring and promotion decisions.

Outcome: Exceeds Standard (substantially exceeds requirement of standard)

Notes:

(a)(b)(d)(e)(f) Policy P-3-11-01 prohibits MCADC from hiring or promoting anyone who may have contact with detainees, who have engaged in sexual abuse in a prison, jail, community confinement facility, juvenile facility, or other institution. The Human Resource (HR) staff interviewed confirmed every potential employee and individuals eligible for promotion who may have contact with detainees are directly asked during the hiring process and promotion interviews about previous misconduct. Each is specifically asked "if they have ever engaged in sexual abuse in a prison, jail, community confinement facility, juvenile facility, or other institution". The policy and interviews with HR staff also confirmed making false statements of material fact, fraud, or deception in obtaining or attempting to obtain employment is an automatic disqualification for any potential employee. This same policy always informs staff that they have an affirmative duty to report any sexual misconduct. All MCADC employees and contractors receive a Federal Bureau of Investigation (FBI) background check and a complete background check through the National Crime Information Center (NCIC) prior to entering the facility. Volunteers receive a NCIC background check before admittance as well. MCADC performs background rechecks in the following manner: all staff-annually;

contractors-every six months and volunteers-weekly. The standard requirement is every 5 years. The Auditor reviewed 10 MCADC employee files, 4 contractor files, and 5 volunteer's records for background rechecks and found all current and up to date.

The Auditor reviewed six ICE employees personnel records/background check information; each was complete and up to date as required by ICE policy 5-7.0 ICE Personnel Security Suitability Program. Through review of Executive Order 10450 Security Requirements for Government Employment and the Office of Personal Management Section Part 731 Suitability; and ICE Policy system Directive Title ICE Personnel Security and Suitability Program, it was determined that the agency has established a system of conducting criminal background checks for new ICE employees, contractors, and volunteers who have contact with detainees to ensure they do not hire or promote anyone who engaged in sexual abuse in a prison or other confinement settings; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, coercion, or if the victim did not consent or was unable to consent to refuse; or had civilly or administratively adjudicated to have engaged in sexual in such activity. Through a previous interview with the Unit Chief of Personnel Security Unit (PSU) stated that all new employees are required to answer the three questions to ensure that they have not: engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt, or implied threats of force, coercion, or if the victim did not consent or was unable to consent or refuse; and have not been civilly or administratively adjudicated to have engaged in the activity described within the standard. He indicated this is completed on the job application form and at the front of the interview. This is also reviewed as part of the background process. The standard addresses the utilization of this process in the promotional system, after reviewing the above policies, if any employee or contractor were involved in any misconduct of this nature, they would not be employed or contracted by DHS. Employees also have a continuing affirmative duty to report. The Unit Chief of Personnel stated staff are required to report any misconduct to their supervisor and to the Joint Intake Center (JIC) managed by ICE. This requirement is shared with staff in the PREA training. If the agency receives an arrest notification, this will be forwarded to OPR Investigation Unit and ICE Labor Relations. Background checks of ICE employees are conducted through the PSU prior to an ICE employee or contractor being approved for hire or a volunteer approved to provide services. The agency conducts personnel security reviews on everyone that works for ICE by ensuring they are suitable for the position selected and they maintain a high level of character. During the background process the applicant, employee or contractor is asked questions directly related to sexual abuse in confinement settings enumerated in the standard, these questions are asked both in a written form and in person by the assigned investigator who conducts the interviews. The background check consists of a National Agency Check (NAC), education checks, residence checks, personal reference checks, and fingerprint check. The background coverage period is five years. The previous interview with the Unit Chief of PSU stated that contractors are background checked by their company and asked the three questions during the application process. The agency also conducts background checks on the contractors. The background coverage period is determined by the risk of the position. Low or moderate risk positions have background checks completed every ten years. Positions that are considered high risk have background checks every five years. The background check for a contractor consists of National Agency Check (NAC), personal subject interview, employment checks, education checks, residence checks, credit checks, fingerprint check, and law enforcement check. The Auditor completed a request through PSU for background information on the one ICE facility staff member. The Auditor confirmed the background investigation for the ICE staff member at the facility, it was within the specified time limit of five years from the date of entry or the initiation of PREA. The facility exceeds the standard by conducting background checks annually on all staff, contractors every six months, and volunteers weekly.

§115.18 - Upgrades to facilities and technologies.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b) A review of the PAQ, and an interview with the acting Jail Administrator indicated MCADC has not made any substantial expansion to the existing facility. Additional cameras for the facility were approved two years ago but were installed within the previous 12 months. The acting Jail Administrator informed the Auditor that the previous PSA Compliance Manager was involved with the current placement of cameras taking in consideration the protection of detainees from sexual abuse. Durign the interview the acting Jail Administrator stated any future improvements including the installation of cameras, the PSA Compliance Manager would be involved to take into consideration protecting detainees from sexual abuse.

§115.21 - Evidence protocols and forensic medical examinations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) Policy P-3-11-01 describes MCADC's procedures for following a uniform evidence protocol that was developed in coordination with DHS according to the acting Jail Administrator. MCADC is responsible for investigating allegations of sexual abuse and required to follow uniform evidence protocols that maximize the potential for obtaining usable physical evidence, for both administrative proceedings and criminal prosecutions. Security staff interviewed were aware of evidence preservation based on training received.

(b)(c)(d) The facility utilizes the services of the Morgan County Victims Advocate for sexual assault victims to provide valuable expertise and support in the areas of crisis intervention and counseling. These services are county funded; therefore, no agreement or Memorandum of Understanding (MOU) is required. The Auditor interviewed this county advocate and she confirmed her office either provides directly or through referral to her office emotional support, crisis intervention, information and referrals if needed. She also confirmed she would accompany the victim through any forensics exams and investigative process if requested. Contact information (telephone number) for the Morgan County Victims Advocate was readily available in each of the housing units. Medical staff informed the Auditor that forensic exams are performed by Sexual Assault Forensic Examiner (SAFE)/ Sexual Assault Nurse Examiner (SANE) at the Lake Regional Hospital at no cost to the alleged detainee victim and only with the detainee consent. There are no juveniles placed in the MCADC.

(e) This subpart is not compliant as MCADC did not request or provide documentation to the Missouri State Highway Patrol requesting their Investigators follow the requirements of subparts (a) through (d) of the Standard if they are called in to conduct criminal investigations regarding incidents of sexual abuse involving employees. MCADC is a fully functioning law enforcement agency with the authority to conduct criminal investigations and they would complete it for detainee-on-detainee allegations; however, if the allegation was staff-on-detainee it would be referred to the Missouri State Highway Patrol for investigation.

Does Not Meet: Facility must provide documentation it has requested the Missouri State Highway Patrol follow the requirements of subparts (a) through (d) as required by Subpart (e) of the Standard.

§115.22 - Policies to ensure investigation of allegations and appropriate agency oversight.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) Policy P-3-11-01 requires an administrative or criminal investigation be completed for all allegations of sexual abuse and sexual harassment. Investigations into alleged sexual assaults will be prompt, thorough, objective, fair, and conducted by qualified investigators. Staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified, to perform treatment, investigation, and other security and management decisions. Because MCADC is a fully functioning law enforcement agency, all sexual assault allegations can be investigated internally. The Missouri State Highway Patrol would conduct any allegations involving a staff member. ICE also may conduct investigations on allegations within the facility. The jail administrator shall coordinate as necessary with the ICE OPR and/or criminal investigative entities responsible for investigation of the incident. Policy also requires that data collected pursuant to this policy are securely retained and shall maintain such data for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise. The Morgan County Records Clerk will maintain all files in the archive for any incident that is criminal in nature or a minimum of five years. The Jail Administrator will maintain all non-criminal i.e. unfounded or unsubstantiated files, referrals, and reviews in the Jail's archive for a minimum of 10 years. The Auditor reviewed investigation files available at the time of the audit and subsequent documentation provided three months after the site visit and found the documentation to be non-compliant with the protocol requirements outlined in both ICE and MCADC policy. Three investigations conducted by ICE were completed by untrained investigators.

Recommendation: ICE must comply with standard requirement of utilizing only trained investigators to conduct sexual abuse investigations. Further information within standard 115.34.

(c) A review of the ICE website (www.ice.gov/prea) confirms the protocols are available to the public. A review of MCADC website (<http://www.morgancountymoso.org>) confirmed the protocols are not available to the public as indicated in policy.

Does Not Meet: The facility must update the website to include the posting of their investigative protocols. A review of MCADC website (<http://www.morgancountymoso.org>) confirmed the protocols are not available to the public as indicated in policy.

(b)(e)(f)(d) MCADC is a fully functioning law enforcement agency, all sexual assault allegations are investigated both criminally and administratively internally by MCADC except in cases involving an employee or outside the scope of the Morgan County Sheriff detectives. If a sexual abuse case would need to be initiated involving a staff-on-detainee, the MCADC investigator would contact the Missouri State Highway Patrol who would conduct the investigation. The facility PAQ indicated there were six reported PREA incidents alleged for the previous 12 months. This document and the document provided by ICE to the Auditor was inaccurate. There were only five allegations made and investigated during the audit period. Two sexual abuse cases were still open at the time of the site visit. Three investigations were completed. In review of investigative case file documentation, the Auditor determined the investigations were completed timely and in accordance with the standard. Interviews with the Acting Jail Administrator, PSA Compliance Manager and facility Investigator confirmed all allegations are promptly reported to the Joint Intake Center (JIC), OPR or the DHS Office of Inspector General (OIG), as well as the appropriate ICE Field Office Director (FOD). Policy P-3-11-01 states an administrative and criminal investigation shall be completed for all allegations of sexual abuse and sexual harassment, including third party and anonymous reports. Investigations into alleged sexual assaults will be prompt, thorough, objective, fair, and conducted by qualified investigators. Staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified, to perform treatment, investigation, and other security and management decisions. The Jail Administrator shall coordinate as necessary with OPR and/or criminal investigative entities responsible for the investigation of the incident. Policy 204 PREA indicates all sexual abuse data is maintained for as long as the detainee is at MCADC, or as long as the staff person is employed with MCADC, plus five years. Interviews with the PSA Compliance Manager, Acting Jail Administrator and MCADC Investigator corroborated the aforementioned. The investigative files documented JIC notifications being completed the same date the allegation was made.

§115.31 - Staff training.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c) MCADC Policy P-3-11-01 requires the training of all full and part time employees, who may have contact with detainees, on how to fulfill their responsibilities with each element of the standard. The MCADC training curriculum is from the ICE PREA training provided to all ICE staff. The Auditor reviewed the training curriculum and completed staff training sign-in sheets identifying staff who have completed the required PREA training while onsite. All staff at MCADC have received the mandatory PREA training since the facility PREA incorporation date. While onsite the Auditor reviewed the PREA training curriculum and determined it to be compliant with the standard in all material ways. Interviews with the PSA Compliance Manager and facility Training Supervisor confirmed all current staff assigned at MCADC have received the required PREA training. The facility staff also receives the same level of PREA comprehensive refresher training every two years. It was evident to the Auditor, staff understand their responsibilities in preventing, detecting, and responding to sexual abuse. MCADC also provide staff with laminated cards, indicating responder duties for both security and non-security staff.

§115.32 - Other training.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c) MCADC Policy P-3-11-01 requires the facility train all volunteers and contractors who may have contact with immigration detainees, on their responsibilities under the facility's sexual abuse prevention, detection, and response policies and procedures. The Auditor determined all the required elements of the standard were covered based on interviews with random volunteers and a contractor. The Auditor also reviewed the curriculum for each group and found it meets the level and type of training required for volunteers and contractors who may have contact with detainees. The Training Supervisor, who is responsible for conducting volunteer and contractor training provided the Auditor with signed documentation, to include the completion of 47 PREA training certificates for volunteers acknowledging his/her understanding of the training received. The Auditor was also provided the signed training documents for the 15 contractors at the facility.

§115.33 - Detainee education.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(e)(f) MCADC Policy P-3-11-01 requires the facility, during the intake process, inform detainees about the facility's zero-tolerance policy for all forms of sexual abuse. The Auditor was provided a step by step tour of the detainee intake orientation process and observed each of the six subpart (a) requirements not only covered in the policy but are also provided to the detainee at intake. The Auditor was informed by the intake staff at MCADC that any detainee determined to be LEP would be provided information through interpretive services or staff interpretation. Those detainees who may be hearing impaired or deaf are provided written materials (the MCADC Detainee Handbook; ICE Sexual Abuse and Assault Awareness pamphlet; ICE

National Detainee Handbook). These documents provide detainees with information on the agency and facility's zero tolerance policy. Detainees who have learning disabilities or mental illness would receive individualized staff assistance depending on their need. Policy further indicates PREA information will also be provided to inmates/detainees via the inmate/detainee orientation video, posted signage, to include the sexual assault awareness pamphlets and handbooks. The Auditor randomly selected ten detainees and reviewed signed documentation indicating the distribution of both the Detainee National and local facility handbooks, and the DHS "Sexual Assault Awareness Information" pamphlet. Detainees who required the use of interpretive services was clearly noted in the detainee orientation documentation.

(b)(c) MCADC Policy P-3-11-01 indicates educational information will be provided in all languages required. The Auditor interviewed four detainees who were LEP and they recalled receiving the required information in a format they could understand upon intake through the use of interpretive services. The Auditor observed the PREA educational video playing in the intake area on a large flat screen TV. The video is formatted in English and Spanish only and closed captioned for the hearing impaired. The information provided in this video is the same information provided to each detainee as required and noted in subparts (a), (e), (f). The Auditor reviewed 10 detainee files and found signed orientation documentation in each of the files.

(d) The Auditor observed posted throughout the detainee housing units the DHS-prescribed sexual assault awareness notice; the name of the PSA Compliance Manager; and contact information for the local rape crisis center, Morgan County Victim Advocate, that can assist detainees who have been victims of sexual abuse.

§115.34 - Specialized training: Investigations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) MCADC Policy P-3-11-01 requires staff responsible for conducting sexual abuse investigations receive specialized training in techniques for interviewing sexual abuse victims, sexual abuse evidence collection in confinement settings and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The facility administrative Investigator indicated he received specialized training for conducting sexual abuse investigations in accordance with the standard including effective cross-agency coordination to agency investigators. Review of training curriculum NIC Training: Investigating Sexual Abuse in Correctional Settings, confirmed the standard requirements needed to conduct sexual abuse investigations within a confinement setting. Also, the review of his training record demonstrated completion of the required course. Documentation provided to the auditor after the site visit indicated that three investigations were conducted by untrained ICE staff.

Does not Meet: ICE must comply with standard requirement of utilizing only trained investigators to conduct sexual abuse investigations.

§115.35 - Specialized training: Medical and mental health care.

Outcome: Exceeds Standard (substantially exceeds requirement of standard)

Notes:

(a)(b) N/A – MCADC does not have any ICE Health Service Corps. (IHSC/USPHS) staff onsite.

(c) The MCADC PAQ indicates the facility has three medical staff. Interviews with health staff indicate they are trained in procedures for examining and treating victims of sexual abuse; how to detect and assess signs of sexual abuse; how to respond effectively and professionally to victims of sexual abuse; how and to whom to report allegations or suspicions of sexual abuse; and how to preserve physical evidence of sexual abuse as required by the subpart of the standard. The Auditor reviewed the training documentation and course curriculum required by the standard for each of the three specialized staff and found it met all requirements. The facility exceeds the standard by providing specialized training to healthcare staff beyond standard requirement. MCADC medical staff do not conduct forensic examinations. If a forensic examination is required, the detainee is sent to the Lake Regional Hospital where a SAFE or SANE will examine the victim and offer rape crisis services from the Morgan County Victim Advocate Office. The facility's policies have been approved ICE. The interview with the Facility Administrator also noted that all facility policies were approved by ICE.

§115.41 Assessment for risk of victimization and abusiveness

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(d)(f) MCADC Policy P-3-11-01 requires all detainees be assessed during an intake screening and/or upon transfer to another facility for their risk of being sexually abused by other detainees or sexually abusive toward other detainees. The facility is required to use information from the risk screening required by 115.41 to inform housing, bed, education, and program assignments with the goal of keeping separate those detainees at high risk of being sexually victimized from those at high risk of being sexually abusive to mitigate such dangers. ICE detainees upon arrival will also have a security level classification based on ICE's classification level paperwork provided. All other detainees' classification will be based on criminal history in conjunction with the facility classification worksheet. Interviews with the intake and classification staff confirmed detainees are screened within 12 hours of their arrival. The classification staff member interview confirmed detainees are maintained separate from the general population in the holding cells until such time as the risk assessment is performed and are never disciplined for refusing to answer any questions during processing. Intake staff confirmed detainees are processed normally within an hour or two of arrival. The Auditor was able to determine the facility considers, to the extent that the information is available, all elements required in the standards criteria to assess detainees for risk of sexual victimization and abusiveness from interviews and review of the risk assessment form. MCADC has three housing units for detainees. If a detainee is classified as a sexual aggressor, the detainee would be moved to a different unit.

(e) MCADC Policy P-3-11-01 requires all detainee PREA reassessments to be completed within 60-90 days after their initial assessment or if an incident occurs that would affect their classification. Case file review found four case files out of 10 where there was no second assessment completed.

Does Not Meet: Facility must conduct, and document reassessments as required by the policy and standard.

(g) The acting Jail Administrator informed the Auditor that all information obtained during the intake process is secured and available to staff with a need to know only to avoid potentially sensitive information about detainees becoming available for exploitation.

§115.42 - Use of assessment information.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a) MCADC Policy P-3-11-01 requires MCADC to use the information from the risk assessment in consideration of housing, recreation, work program and other activities. The Classification staff member confirmed that detainees do not have work programs, but housing unit assignments and voluntary work assignments are individually determined based on the safety of each detainee.

(b)(c) MCADC Policy P-3-11-01 requires the facility when deciding whether to house a transgender or intersex detainee in a male housing unit/area or female housing unit/area, or when making other housing and programming assignments for such detainees, the facility confer with medical/mental health practitioners, consider the transgender or intersex detainee's gender self-identification and an assessment of the effect of placement and shall consider on a case-by-case basis whether such a placement would ensure the detainee's health and safety. The facility had no transgender or intersex detainees at the time of the site visit. The acting Jail Administrator and PSA Compliance Manager confirmed that transgender placements would be considered on a case by case basis, taking into account the concerns voiced by the detainee. They also stated that the MCADC current policy requires placement and programming assignments for each transgender or intersex detainee would be reassessed at least twice each year if they remained that long at the facility. The PSA Compliance Manager confirmed that if operationally feasible, transgender and intersex detainees shall be given the opportunity to shower separately from other detainees.

§115.43 - Protective custody.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c)(e) MCADC Policy P-3-11-01 prohibits the use of administrative segregation to protect detainees at high risk for sexual abuse and assault except in those instances where reasonable efforts have been made to provide appropriate housing. Segregation placement is for the least amount of time practicable when no other viable housing options exist. The acting Jail Administrator and PSA Compliance Manager confirmed that DHS approved MCADC Policy P-3-11-01. Both also stated that any high-risk detainee placement in segregation must be reported to the FOD within 72 hours of placement and, if appropriate custodial options are not available at the facility, the facility will consult with the ICE FOD to determine if ICE can provide additional assistance. The acting Jail Administrator also confirmed that detainees placed in administrative segregation for protective custody until an alternative means of separation from likely abusers can be arranged, and such an assignment would not ordinarily exceed a period of 30 days. He further stated the detainee will be provided access to programs, visitation, counsel and other services available to the general population detainees to the extent possible. According to him MCADC has not used segregation to protect any detainees at high risk for sexual abuse and assault.

(d) MCADC Policy P-3-11-01 requires a supervisory staff member shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is warranted. An identical review must be completed after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days and every 10 days thereafter. The Auditor confirmed through interviews with the PSA Compliance Manager and the acting Jail Administrator segregation at MCADC was never used to protect a detainee at high risk for sexual abuse and assault.

§115.51 - Detainee reporting.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b) MCADC Policy P-3-11-01 details the facility's approach to ensure detainees have multiple ways to privately report sexual abuse and retaliation for reporting sexual abuse, and staff neglect or violation of responsibilities that may have contributed to any incidents. This directive describes how detainees can contact their consular official, the DHS OIG or, as appropriate, another designated office, to confidentially and, if desired, anonymously report incidents of sexual misconduct. Interviews with 10 random detainees indicated to the Auditor most were aware of the processes in place to report incidents of sexual misconduct, either by reporting to a staff member, filing a grievance, placing a phone call, contact their consular official, the DHS OIG or, as appropriate, another designated office to anonymously report. During the tour of the facility the Auditor saw ICE zero tolerance signage for detainees to report incidents of sexual misconduct, to include in all housing areas, posted in secure bulletin boards, and/or next to detainee phones. During intake/orientation, detainees receive a copy of the ICE detainee handbook and facility local handbook that includes all the mechanisms that are in place for detainees to report allegations of sexual misconduct. Detainees can place a DHS OIG hotline reporting call with complete anonymity by allowing the detainee to report sexual abuse to the public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request.

As previously noted, the reporting line was not operational at the time of the site visit and the facility was unaware of how long the system required detainees to enter their PIN number to dial out. The PSA Compliance Manager contacted the Auditor and informed him the system was fixed and operational on September 9, 2019. The Auditor would recommend the facility have someone test the system on a bi-weekly schedule to ensure the reporting line is operational.

(c) MCADC Policy P-3-11-01 outlines the procedures for staff to accept reports made verbally, in writing, anonymously, and from third parties and to promptly document any verbal reports. The PSA Compliance Manager, Line Staff and First-Line Supervisors stated if they were to receive a report of sexual misconduct, they would document it on a facility incident report and forward it on through the appropriate channels for investigation.

§115.52 - Grievances.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c)(d) MCADC Policy P-3-11-01 requires MCADC staff to accept formal grievances, on behalf of any detainee, related to any staff misconduct to include allegations of sexual abuse with no time limits imposed. The grievance process is outlined in detail within this policy. The interview with the grievance staff person and the PSA Compliance Manager confirmed the policy requirements that a detainee may file a formal grievance related to sexual abuse anytime with no time limits on when it may be filed. Both also confirmed any time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse will be made a priority and investigated immediately after receiving them, including reporting medical emergencies immediately to medical staff.

(e)(f) MCADC Policy P-3-11-01 requires staff issue a decision on the grievance within five days of receipt and respond to an appeal of the grievance decision within 30 days. Facilities shall send all grievances related to sexual abuse and the facility's decisions with respect to such grievances to the appropriate ICE FOD at the end of the grievance process. The policy further states when preparing the grievance, the detainee may obtain assistance from another detainee, housing officer, family member, or legal representative. Staff shall take reasonable steps to expedite requests for assistance from these other parties. Random security staff interviewed were aware that detainees could utilize the grievance process to make allegations of

sexual abuse and the assistance requirements outlined in the policy. The Grievance staff person acknowledged these requirements and also stated the facility has had no sexual abuse allegations made through the grievance process.

§115.53 - Detainee access to outside confidential support services.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b) MCADC Policy P-3-11-01 details the facility's procedures to provide outside confidential support services in the areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse perpetrators and to address victim's needs. MCADC utilizes the Morgan County Victims Advocate, a local community service provider in the area. This is a county funded organization and does not require an MOU. The Auditor interviewed the advocate from this office and was advised if there was an incident at MCADC requiring their service they would assist with crisis intervention, counseling, investigation, and victim needs. The PSA Compliance Manager confirmed he had been in contact with the Advocate's office and both parties understand the services to be rendered in the case of a reported incident of sexual abuse.

(c) As noted earlier, detainees receive educational information on the agency's zero tolerance policy to include information on how to contact local organizations that can assist detainees who have been victims of sexual abuse, including the telephone number. During the tour of the facility the Auditor observed specific reporting information on ICE posters in English and Spanish, including a "report sexual abuse" sentence in Arabic, Farsi, French, Hindi, Korean, Romanian, Simplified Chinese, Tagalog and Urdu throughout the facility, to include in the detainee housing units, on walls, and bulletin boards. During the 10 random detainee interviews, a majority recalled receiving and observing the information.

(d) Contact information for the Morgan County Victims Advocate is by telephone. Monitoring information of the telephones is posted at every detainee phone location. Detainees are advised, through the facility handbook, telephone calls may be recorded and monitored. The interview with the PSA Compliance Manager indicated to the Auditor, detainees have been advised to the extent in which such communications are monitored. Interviews with 10 random sample of detainees also revealed four were familiar that calls are or can be monitored and allegations of sexual abuse will be forwarded and investigated in accordance with mandatory reporting laws.

§115.54 - Third-party reporting.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

A review of ICE's website (<https://www.ice.gov>) provides means for the public to report incidents of sexual abuse/harassment on behalf of any detainees. MCADC policy indicates the public can make reports on their web page as well. The web page was not up and operational during the site visit. The facility needs to have their web page operational with reporting information as stated in the policy. Random staff confirmed they would accept and report any allegation regardless of how it was received including from third party sources. According to documentation in one of the investigative files a third-party report was made by another detainee at MCADC to a staff person.

Does Not Meet: Facility must have their web page operational with reporting information as stated in the policy.

§115.61 - Staff reporting duties.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c) MCADC Policy P-3-11-01 details the responsibilities of staff who are required to report, immediately and accordingly any knowledge, suspicion, or information regarding incidents of sexual abuse, retaliation against detainees or staff who have reported incidents of sexual abuse or participated in an investigation. Random staff confirmed they are to report all incidents or allegations to their supervisors and not reveal any information related to a report of sexual abuse to anyone to the extent necessary, as specified, to make treatment, investigation, and any other security management decisions. Employees reporting sexual abuse or sexual harassment are afforded the opportunity to report outside the chain of command directly to the Chief Deputy. Interviews with the PSA Compliance Manager and acting Jail Administrator confirmed reporting protocols are in place as it relates to staff reporting duties and were approved by ICE before issuance.

(d) MCADC does not house juvenile detainees. Interviews with the acting Jail Administrator and PSA Compliance Manager indicated if MCADC was to receive a report of sexual abuse from a detainee identified as a vulnerable adult, it would be reported to the designated State or local services agency under applicable mandatory reporting laws.

§115.62 - Protection duties.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

MCADC Policy P-3-11-01 outlines the facility's approach when staff learns that an inmate or detainee is subject to a substantial risk of imminent sexual abuse immediate action is taken to protect the detainee. Interviews with the acting Jail Administrator, PSA Compliance Manager, and random staff revealed if a detainee was determined to be at an imminent risk of sexual abuse the detainee would be immediately removed from the threat. Both also indicated that during the past 12 months no staff member at MCADC had reasonable belief that a detainee was subject to substantial risk of imminent sexual abuse.

§115.63 - Report to other confinement facilities.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c)(d) MCADC Policy P-3-11-01 states upon receiving an allegation that an inmate or detainee was sexually abused while confined at another facility it shall be documented. The Jail Administrator at MCADC is required to contact the Jail Administrator or designee, where the abuse is alleged to have occurred. As soon as possible, but no later than 72 hours after the receiving the notification and document the notification. Interviews with the PSA Compliance Manager and acting Jail Administrator indicate both are aware of the proper steps for making such notifications, and for maintaining documentation if a notification is made. The acting Jail Administrator and PSA Compliance Manager indicated documentation of such notifications would be maintained through electronic means, i.e. email correspondence, faxes, and/or facility incident reports. Interviews further indicated, if MCADC was to receive notification from another facility of an allegation of sexual abuse that occurred at their facility, an investigation would immediately be

initiated. Staff will ensure that the allegation is referred for investigation in accordance with the standard and reported to the appropriate ICE FOD as required by policy. The MCADC PAQ noted there were no reports of sexual abuse that occurred at another confinement facility.

§115.64 - Responder duties.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b) MCADC Policy P-3-11-01 details the facility response procedure and covers all elements of the standard for security and non-security staff responder duties to an allegation of sexual abuse. Security staff, line supervisors, and non-security staff demonstrated to the Auditor, they have received training in responder duties and are aware of the proper procedures to take if a detainee was to report an allegation of sexual abuse. According to staff, these duties were part of their PREA training. Further evidence the Auditor relied upon in determining compliance was, most staff (uniformed and civilians) interviewed had laminated cards, indicating responder duties for both security and non-security staff. In the three investigations completed, the Auditor was able to confirm staff adhered to the responsibilities outlined on the laminated responder duty cards.

§115.65 – Coordinated response.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b) MCADC Policy P-3-11-01 outlines the procedures for the facility's coordinated response and covers all elements of the standard if an allegation of sexual abuse was reported. The written institutional plan to coordinate actions are outlined as followed. The Acting Jail Administrator and/or PSA Compliance Manager will coordinate the necessary actions required in response to incidents of sexual abuse, which include, at a minimum: Investigators will coordinate with staff to collect and place clothing and bedding in a paper evidence bag by a staff member including medical staff. Security staff will notify medical staff and the Sergeant to coordinate further resources as needed. After the sexual assault exam has been completed, (or refused), the victim will be given access to a shower, food, and drink. Telephone calls to family, visits from clergy, community victim services, etc., will be allowed, whenever possible. A detainee will not be returned to the general population until he has been properly reclassified, taking into consideration any increased vulnerabilities. Interviews with the acting Jail Administrator, PSA Compliance Manager, and staff who would have any responsibility in a coordinated response for an incident of sexual abuse indicated to the Auditor they are prepared for such an incident. The review of the three provided case files demonstrated the coordinated response of staff at MCADC.

(c)(d) MCADC has had no sexual abuse incident in the past 12 months where the detainee was transferred to another facility requiring a notification to the detainee's new facility of his potential needs or social services. Interviews with the acting Jail Administrator, Investigator and PSA Compliance Manager confirm they are aware of the facility's coordinated response procedures for allegations of sexual abuse. Both the Acting Jail Administrator and PSA Compliance Manager articulated to the Auditor, proper notifications in accordance with the standard would be made to the receiving facility, to include a DHS immigration detention facility if a detainee was to be transferred.

§115.66 - Protection of detainees from contact with alleged abusers.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

MCADC Policy P-3-11-01 indicates any staff member, contractor, or volunteer suspected of sexual abuse will be removed from all duties requiring detainee contact pending the outcome of an investigation. Interviews with the acting Jail Administrator, Investigator, and the PSA Compliance Manager confirmed that staff, contractors, or volunteers who are being investigated for sexual abuse allegations or any other serious misconduct involving a detainee are prohibited from having contact. MCADC has had no reports of sexual abuse involving staff, contractors, or volunteers within the past 12 months.

§115.67 - Agency protection against retaliation.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) MCADC Policy P-3-11-01 prohibits staff, volunteers, detainees, and contract staff from retaliating against anyone who reports sexual abuse. Interviews with MCADC staff confirm they are aware of the prohibition against retaliation. Policy states the facility PSA Compliance Manager would monitor detainee retaliation and HR would monitor staff for a period of 90 days or as long as monitoring for retaliation is required. Interviews with the Acting Jail Administrator and PSA Compliance Manager confirmed if detainees experience any form of retaliation, including a detainee who reports, complains about, or participates in an investigation into an allegation of sexual abuse, then housing changes and or a facility transfer would be considered. Alleged staff or detainee abusers would be removed from contact with the victim, and emotional support services would be utilized if needed.

(c) Interview with the PSA Compliance Manager indicated if an incident of sexual abuse were to occur, he would be responsible for coordinating the monitoring of retaliation. Monitoring for retaliation would include the review of detainee disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff for possible indicators of retaliation. MCADC had five allegations of sexual abuse requiring retaliation monitoring according to policy. The facility could not demonstrate it had performed retaliation monitoring in any of these cases.

Does not Meet: The facility must demonstrate retaliation monitoring being performed as required by the standard and their own policy.

§115.68 - Post-allegation protective custody.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c)(d) MCADC Policy P-3-11-01 requires sexual abuse victims and vulnerable detainees be housed in a supportive environment that represents the least restrictive housing option possible (a different housing unit, transfer to another facility, medical housing, or protective custody), and that will, to the extent possible, permit the victim the same level of privileges he/she was permitted immediately prior to the sexual assault. This placement should take into account any ongoing medical or mental health needs of the victim. Victims may not be held for longer than five days in any type of administrative segregation for protective purposes, except in highly unusual circumstances or at the request of the victim. The facility shall notify the appropriate ICE FOD whenever a detainee victim, or detainee placed due to vulnerability to sexual abuse or assault, has been held in administrative segregation for 72 hours. The PSA Compliance Manager confirmed the victim would be separated from the threat immediately and proper housing considerations would be taken into consideration keeping in mind to utilize the least restrictive housing environment available. In cases of sexual

abuse/assault victims involuntarily placed in segregation housing, the detainee will be re-assessed, within five calendar days, taking into consideration any increased vulnerability of the detainee. Interviews with the PSA Compliance Manager and acting Jail Administrator further indicated detainees being released from segregation will receive an additional classification review, taking into consideration any increased vulnerability of the detainee as a result of the reason for being placed in segregation, to include sexual misconduct incidents. A review of the three available case files indicated the alleged victim of sexual abuse was never placed in protective custody as a result of the allegation.

(d) Interviews with the acting Jail Administrator and PSA Compliance Manager indicated the facility will notify the appropriate ICE FOD whenever a detainee victim has been placed in administrative segregation and normally as soon as possible but would not exceed 72 hours in accordance with the standard.

§115.71 - Criminal and administrative investigations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) MCADC Policy P-3-11-01 outlines the responsibility for investigating allegations of sexual abuse by MCADC Investigators. ICE policy 11062.2. Sexual Abuse and Assault Prevention and Intervention outlines the responsibility for investigating allegations of sexual abuse by OPR Investigators, Policy indicates all investigations regarding alleged sexual abuse will be conducted promptly, thoroughly, objectively, and conducted by a specially trained, qualified investigators. The Auditor reviewed the investigation files available at the time of the audit and subsequent documentation provided three months after the site visit and found the documentation to be non-compliant with the PREA standards in all material ways. Three investigations conducted by ICE were completed by untrained investigators contrary to ICE policy. An interview with the MCADC Investigator indicated he would handle all investigations regarding reports of detainee sexual abuse. Interviews with the Acting Jail Administrator and Investigator confirmed if a criminal investigation was determined to be unsubstantiated, the facility would review the completed investigation and determine if there is a need to conduct an administrative investigation. If an administrative investigation is considered necessary, the facility would consult with the appropriate investigative office within DHS before doing so. As noted, earlier MCADC is a fully functioning law enforcement department and conducts all criminal and administrative investigations, to include sexual misconduct/abuse investigations. Interview with the PSA Compliance Manager, who is also the facility Investigator, confirmed he is responsible for conducting sexual abuse allegations and has received Investigator training through the National Institute of Corrections on how to conduct such investigations. The Auditor verified the current Investigator training and certificate of completion he received from NIC.

Recommendation: ICE must comply with standard requirement of utilizing only trained investigators to conduct sexual abuse investigations. Further information provided in standard 115.34.

(c)(e) MCADC Policy P-3-11-01 requires administrative investigations include: preservation of direct and circumstantial evidence, including any available physical DNA evidence and any available electronic monitoring data, interviewing alleged victims, suspected perpetrators, and witnesses; reviewing prior complaints and reports of sexual abuse or assault involving the suspected perpetrator; assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as a detainee, staff or employee and without requiring any detainee who alleged sexual abuse or assault to submit to a polygraph; departure of the alleged abuser or victim from the control or employment shall not provide a basis of terminating the investigation, an effort to determine whether actions or failures to act at the facility contributed to the abuse; documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings, retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years; and coordination and sequencing of administrative and criminal investigations to ensure that a criminal investigation is not compromised by an internal administrative investigation.

(f) Interviews with the acting Jail Administrator and PSA Compliance Manager indicate they remain in constant contact and cooperate when necessary with the criminal Investigators during open cases. Both indicated they remained in contact with ICE investigators during the time ICE conducted the three cases during the previous 12 months.

§115.72 - Evidentiary standard for administrative investigations.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

MCADC Policy P-3-11-01 requires MCADC impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or harassment are substantiated. The facility PAQ indicated there were six reported PREA incidents alleged for the previous 12 months. This document and the document provided by ICE to the Auditor was inaccurate. There were only five allegations made and investigated during the audit period. Two sexual abuse cases were still open at the time of the site visit. Three investigations were completed. The MCADC Investigator during his interview confirmed that in each of those cases and in any subsequent cases the standard utilized would be no higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.

§115.73 - Reporting to detainees.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

MCADC Policy P-3-11-01 states victims are to be notified of the results of the investigation and any action taken. The notification is to be documented within the case file. Interviews with the Acting Jail Administrator, and Investigator indicated at the conclusion of an investigation, and if the detainee is still in immigration detention, he will be notified of the investigation results in writing according to policy. The facility PAQ inaccurately indicated there were six reported PREA incidents alleged for the previous 12 months. While onsite the Auditor determined two cases were still open with three being completed. The facility was unable to demonstrate the detainees were provided outcome notifications as required by the standard. The facility needs to provide a means to provide proof of the delivery of the investigative outcome to the detainee.

Does Not Meet: Facility must provide a means to provide proof of the delivery of the investigative outcome to the detainee.

§115.76 - Disciplinary sanctions for staff.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c)(d) MCADC Policy P-3-11-01 states staff are subject to discipline to include termination for violation of the facility's sexual abuse and sexual harassment policies. Termination is the presumptive disciplinary sanction for staff who has engaged in sexual abuse. During the past 12 months MCADC has not had any sexual abuse allegations involving staff. Therefore, files demonstrating termination, resignation, or other disciplinary actions do not exist. An interview with the Acting Jail Administrator confirmed staff are subject to discipline for violations of the facility's sexual abuse policies and termination is the presumptive disciplinary sanction for a staff member who has engaged in sexual abuse. The Acting Jail Administrator also confirmed all reports of removals or resignations for violations of agency or facility sexual abuse policies would be forwarded to local police and any relevant licensing bodies by MCADC to the extent known. According to the acting Jail Administrator all policies including their disciplinary policy was reviewed and approved by ICE.

§115.77 - Corrective action for contractors and volunteers.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c) MCADC Policy P-3-11-01 requires contractors, and volunteers suspected of perpetrating sexual abuse shall be removed from contact with detainees pending the outcome of the investigation. During the past 12 months MCADC has not had an allegation where a contractor or volunteer was involved in sexual misconduct. Therefore, files demonstrating termination, or removal from contact with detainees weren't provided. The acting Jail Administrator confirmed volunteers and contractors are subject to termination and/or prohibited contact from inmates or detainees for violations of the facility sexual abuse policies. The facility will take appropriate measures when considering 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 standard.

§115.78 - Disciplinary sanctions for detainees.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c)(d) MCADC Policy P-3-3A Disciplinary Process outlines MCADC formal disciplinary process following an administrative or criminal finding to include detainees who have engaged in sexual abuse. The disciplinary process provides for progressive levels of reviews, appeals, procedures, and documentation procedures. Detainees will be afforded staff representative assistance, upon request, or automatically if the detainee is considered cognitively impaired, is limited English proficient, or otherwise needs special assistance. The disciplinary process considers whether a detainee's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. Any sanctions imposed would be commensurate with the severity of the committed act and intended to encourage the detainee to conform to the rules and regulations in the future. The interview with the acting Jail Administrator confirmed the facility's formal disciplinary process meets the standard in all material ways.

(e)(f) The facility PAQ inaccurately indicated there were six reported PREA incidents alleged for the previous 12 months. Two cases were still open with three being completed. All of the allegations were against other detainees. None of the completed investigations resulted in a finding of substantiated. Interviews with the acting Jail Administrator and PSA Compliance Manager indicate a detainee would not be disciplined for sexual contact with staff unless there is a finding the staff member did not consent. Reports of sexual abuse made by a detainee in good faith and cannot be verified will not be disciplined for falsely reporting or lying. According to facility staff there were no detainees present who alleged sexual abuse present for the auditor to interview.

§115.81 - Medical and mental health assessment; history of sexual abuse.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c) MCADC Policy P-3-11-0101 requires if the risk assessment pursuant to standard 115.41 indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/or mental health follow-up as appropriate. When a referral for medical follow up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of assessment. When a referral for mental health follow up is made, the detainee shall receive a mental health assessment no later than 72 hours after the referral. The interviews with the intake staff and the medical staff indicated referrals as required by the standard and policy are not being performed.

Does not Meet: The Facility must demonstrate, when detainees disclose prior victimization during the risk assessment, all referrals to and follow up by medical or mental health staff, as required by policy are conducted.

§115.82 - Access to emergency medical and mental health services.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b) MCADC Policy P-3-11-01 indicates detainee victims of sexual abuse shall have timely, unimpeded access to emergency medical treatment and crisis intervention services and shall be provided without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation. The MCADC PAQ indicated the facility had five allegations of sexual abuse during the last 12 months. Two of these cases are still under investigation. Only one of these five allegations, a closed case, required a forensic examination at Lake Regional Hospital. The medical staff interviewed confirmed detainee victims receive timely emergency access to medical and mental treatment without financial cost and have unimpeded access to emergency medical and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. Medical staff also confirmed that victims of sexual abuse would undergo a forensic medical exam at no cost to the detainee and only with consent of the detainee. Forensic exams are performed by SAFE/SANES at the Lake Regional Hospital where a SAFE or SANE will examine the victim and the County Victim Advocate would provide crisis service if needed.

§115.83 - Ongoing medical and mental health care for sexual abuse victims and abusers.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b)(c)(e)(f)(g) MCADC Policy P-3-11-01 requires the facility offer medical and mental health evaluations and treatment where appropriate to all victims of sexual abuse. The evaluation and treatment will include follow-up services and treatment plans and when necessary, a referral for continued care, following a transfer or release. Services will be provided in a manner that is consistent with the community level of care. Victims will be offered test for sexually transmitted infections, as medically appropriate. All services will be provided without cost to the detainee, regardless of whether the

victim names the abuser or cooperates with any investigation. There were no identified sexual abusers while onsite. Medical staff interviews confirmed the facility would attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 calendar days or sooner of learning of such abuse history and offer treatment deemed as appropriate by mental health services. Furthermore, all refusals for medical and mental health services will be documented. The above mentioned was corroborated through a formal interview with the medical staff. All three investigative files the Auditor had access to indicated detainees were referred to medical. Review of medical records and interviews with the medical staff also confirmed the alleged victims were seen by medical after the allegation was made.

(d) MCADC does not house female detainees, therefore 115.83(d) is not applicable.

§115.86 - Sexual abuse incident reviews.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(c) MCADC Policy P-3-11-01 requires a sexual abuse and assault incident review be conducted at the conclusion of every sexual abuse investigation and where the allegation was not determined to be unfounded prepare a written report within 30 days of the investigation conclusion recommending whether a change in policy or practice could better prevent, detect, or respond to sexual abuse. MCADC is also required under subpart (c) of this policy to conduct an annual review of all sexual abuse investigations and completed incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. The facility was unable to provide both an incident review under the requirement of subpart (a) or an annual review as required under subpart (c).

(b) The interview with the acting Jail Administrator and the PSA Compliance Manager indicated the facility has a review team as required by MCADC Policy P-3-11-01. This team is comprised of the PSA Compliance Manager, and Jail Administrator, supervisory staff and line staff when needed. The review is required to determine whether the incident 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 facility.

Does Not Meet: The facility must conduct a sexual abuse review as required by subpart (a) of the policy and conduct an annual review of all investigations and incident reviews as required by subpart (c) of the standard.

§115.87 - Data collection.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a) MCADC Policy P-3-11-01 requires data be collected by the facility PSA Compliance Manager for every allegation of sexual abuse under the direct control of MCADC and shall be aggregated annually. The PSA Compliance Manager confirmed data collected is securely maintained in his office, under lock and key, with access to only staff requiring a need to review. This information is retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise. He also confirmed he is responsible for the data collection and will utilize the data as required to assist in policy reviews in order to better prevent, detect and respond to allegations of sexual misconduct.

§115.201 - Scope of audits.

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(d) The Auditor was allowed access to the entire facility and able to question staff and detainees about sexual safety during the site visit.

(e) The Auditor was able to revisit areas of the facility and to view all relevant documentation as requested.

(i) Formal interviews with staff, contractors, and detainees were conducted in a private confidential setting.

(j) Audit notices were posted and observed throughout the facility in English and Spanish. The Auditor received no detainee correspondences.

AUDITOR CERTIFICATION

Update Audit Findings Outcome Counts by Clicking Button:

Update Outcome Summary

SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)	
Number of standards exceeded:	2
Number of standards met:	27
Number of standards not met:	11
Number of standards N/A:	1
Number of standard outcomes not selected (out of 41):	0

I certify that the contents of the report are accurate to the best of my knowledge and no conflict of interest exists with respect to my ability to conduct an audit of the agency under review. I have not included any personally identified information (PII) about any detainee or staff member, except where the names of administrative personnel are specifically requested in the report template.

Thomas Eisenschmidt

12/15/2019

Auditor's Signature & Date

(b) (6), (b) (7)(C)

11/27/2019

PREA Assistant Program Manager's Signature & Date

(b) (6), (b) (7)(C)

12/16/2019

PREA Program Manager's Signature & Date

**PREA Audit: Subpart A
DHS Immigration Detention Facilities
Corrective Action Plan Final Determination**



**Homeland
Security**

AUDITOR INFORMATION

Name of auditor:	Thomas Eisenschmidt	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	315-730 (b) (6), (b) (7)(C)

AGENCY INFORMATION

Name of agency:	U.S. Immigration and Customs Enforcement (ICE)
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FIELD OFFICE INFORMATION

Name of Field Office:	Chicago Field Office-Kansas City Sub-Office
Field Office Director:	(A)FOD Louie Zamora
ERO PREA Field Coordinator:	AFDO (b) (6), (b) (7)(C)
Field Office HQ physical address:	11125 N. Ambassador Drive, Kansas City, MO, 64153
Mailing address: (if different from above)	

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

Name of facility:	Morgan County Adult Detention Center (MCADC)
Physical address:	211 East Newton Street, Versailles, MO, 65084
Mailing address: (if different from above)	
Telephone number:	(573) 378-6860
Facility type:	IGSAIGSA

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Captain
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(573) 378-(b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Sergeant
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(573) 378-(b) (6), (b) (7)(C)

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS:

Directions: Please provide summary of audit findings to include the number of provisions with which the facility has achieved compliance at each level after implementation of corrective actions: Exceeds Standard, Meets Standard, and Does Not Meet Standard.

The Prison Rape Elimination Act (PREA) on-site audit of the Morgan County Adult Detention Center (MCADC) in Versailles, Missouri was conducted on August 20-22, 2019 by Thomas C. Eisenschmidt, certified Department of Justice (DOJ) and Department of Homeland Security (DHS) PREA Auditor, contracted through Creative Corrections, LLC of Beaumont, Texas. This was the first DHS PREA audit for MCADC under the DHS PREA Standards. The MCADC is operated by the Morgan County Sheriff's Office and contracted by Immigration and Customs Enforcement (ICE) for the housing of adult male detainees. MCADC has a designed capacity for 154 detainees. The purpose of the audit was to determine compliance with the DHS PREA standards. The audit period was from 8/20/2018 through 8/22/2019. The Auditor was provided guidance and review during the audit report writing and review process by the ICE PREA Program Manager, (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C) Assistant Program Manager (APM), both DOJ and DHS certified PREA Auditors. The Program Manager's roles are to provide oversight to the ICE PREA audit process and liaison with the ICE Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU) during the audit report review process.

The Auditor found MCADC met 28 standards, 1 standard (115.17) exceeded, 1 standard (115.14) non-applicable, and 11 non-compliant standards (115.13, 115.21, 115.22, 115.34, 115.41, 115.54, 115.67, 115.71, 115.73, 115.81 and 115.86).

On January 27, 2020, the Auditor received the ICE PREA Corrective Action Plan (CAP) with limited standard documentation from ERAU Team Lead, (b) (6), (b) (7)(C) for MCADC. The Enforcement and Removal Operations (ERO) developed the CAP with the facility. The Auditor reviewed the CAP and limited documentation and concurred with five standards corrective action taken for achieving compliance and provided recommendations for coming into compliance with the six standards still found to be deficient with the CAP plan of action. The Auditor reviewed additional documentation provided on 6-13-2020 and found 6 of the 11 standards (115.21, 115.22, 115.41, 115.54, 115.67, and 115.73) to be compliant in all material ways. The remaining 5 standards (115.13, 115.34, 115.71, 115.81 and 115.86) did not demonstrate compliance with the standard as recommended in the CAP submissions.

The facility was unable to achieve full compliance on the CAP before the 180-regulatory period ended due to 2 outstanding ICE agency-level deficiencies and 3 facility-level deficiencies.

PROVISIONS

Directions: After the corrective action period, or sooner if compliance is achieved before the corrective action period expires, the auditor shall complete the Corrective Action Plan Final Determination. The auditor shall select the provision that required corrective action and state if the facility's implementation of the provision now "Exceeds Standard," "Meets Standard," or "Does not meet Standard." The auditor shall include the evidence relied upon in making the compliance or non-compliance determination for each provision that was found non-compliant during the audit. Failure to comply with any part of a standard provision shall result in a finding of "Does not meet Standard" for that entire provision, unless that part is specifically designated as Not Applicable.

§115. 13 - Detainee supervision and monitoring

Outcome: Does not Meet Standard

Notes:

(b) The facility was unable to provide the Auditor with a comprehensive detainee supervision guideline to meet detainee supervision needs as required by this subpart. The facility was also unable to provide the annual review as required by this subpart. The facility needs to provide a comprehensive guideline and complete an annual review as required.

Does Not Meet: The facility does not have written comprehensive supervision guidelines and an annual review as required. The facility needs to develop comprehensive supervision guideline and complete an annual review as required.

(c) MCADC did not provide documentation that they took into account generally accepted detention/correctional practices, judicial findings of inadequacy, physical plant, detainee population, prevalence of substantiated or unsubstantiated incidents, recommendations of sexual abuse incident reviews or other relevant factors when determining adequate levels.

Does Not Meet: The facility could not provide documentation that the standard elements were considered in determining adequate levels of detainee supervision and the need for video monitoring. The facility must when developing the comprehensive supervision guidelines take into consideration the elements listed in this standard provision.

Corrective Action Taken: The Auditor determined MCADC meets this subpart requirement on supervision guidelines based on their submitted policies 202 (Supervision Guidelines) and 223 (Staff Guidelines) that addressed supervision guidelines to meet MCADC detainee supervision needs. Subpart (b) was also addressed in the revision to policy 606.

Corrective Action Not Met: The annual review requirement was addressed in the revision to policy 606 (Prison Rape Elimination Act); however, no annual review was provided for compliance review.

§115. 21 - Evidence protocols and forensic medical examinations

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(e) This subpart is not compliant as MCADC did not provide documentation requesting the Missouri State Highway Patrol requesting their criminal investigators follow the requirements of subparts (a) through (d) of the standard if they are called in to conduct criminal investigations regarding incidents of sexual abuse involving employees. MCADC is a fully functioning law enforcement agency with the authority to conduct criminal investigations and they would complete it for detainee-on-detainee allegations; however, if the allegation was staff-on-detainee it would be referred to the Missouri State Highway Patrol for investigation.

Does Not Meet: Facility must provide documentation it has requested the Missouri State Highway Patrol follow the requirements of subparts (a) through (d) as required by Subpart (e) of the standard.

Corrective Action Taken: The Auditor determined MCADC meets the requirement of subpart (e) of the standard requiring the agency conducting criminal investigations at the facility comply with subparts (a) through (d) of the standard. It should be noted the law enforcement agency has changed since the audit, from the Missouri State Highway Patrol to the Moniteau County Sheriff's Office. MCADC provided documentation they requested the criminal investigating authority (Moniteau County) comply with subparts (a)(b)(c)(d) of the standard.

§115. 22 - Policies to ensure investigation of allegations and appropriate agency oversight

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(c) A review of the ICE website (www.ice.gov) confirms the protocols are available to the public. A review of MCADC website (<http://www.morgancountymoso.org>) confirmed the protocols are not available to the public as indicated in policy. Facility must update the web site to include the posting of their investigative protocols.

Does Not Meet: A review of MCADC website (<http://www.morgancountymoso.org>) confirmed the protocols are not available to the public as indicated in policy.

Corrective Action Taken: The Auditor determined that MCADC is now compliant with this standard. MCADC has placed the investigative protocols on the facility's website.

§115. 34 - Specialized training: Investigations

Outcome: Does not Meet Standard

Notes:

(a)(b) MCADC Policy P-3-11-01 requires staff responsible for conducting sexual abuse investigations receive specialized training in techniques for interviewing sexual abuse victims, sexual abuse evidence collection in confinement settings and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The facility administrative Investigator indicated he received specialized training for conducting sexual abuse investigations in accordance with the standard including effective cross-agency coordination to agency investigators. Review of training curriculum NIC Training: Investigating Sexual Abuse in Correctional Settings, confirmed the standard requirements needed to conduct sexual abuse investigations within a confinement setting. Also, the review of his training records demonstrated completion of the required course. The agency policy 11062.2 states OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as, Office of Detention Oversight staff, and other OPR staff, as appropriate. The lesson plan is the ICE OPR Investigations Incidents of Sexual Abuse and Assault, that Assault, which covers in depth investigative techniques, evidence collections, and covers all aspects to conducting an investigation of sexual abuse in a confinement setting. The agency offers another level of training, the Fact Finders Training, which provides information needed to conduct the initial investigation at the facility to determine if an incident has taken place or to complete the administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP; LGBTI, and disabled detainees; and an overall view of the investigative process. The agency has provided training records for agency investigators on the ICE SharePoint to document compliance with the standard. During review of the 3 investigative case files, it was noted the ICE employees conducting the investigations were not trained.

Does Not Meet: The Auditor found three investigations conducted by ICE employees that had not completed the specialized training after the facility site visit. The agency must provide a process of assigning trained investigators to a PREA investigation and conduct specialized training on sexual abuse and effective cross-agency coordination to ICE employees who conduct investigations into allegations of sexual abuse at immigration detention facilities.

Corrective Action Not Met: The agency has not addressed the non-compliance. The agency did not provide a process of assigning trained investigators to a PREA investigation. The agency also failed to provide training to all employees responsible for conducting a PREA investigation. Documentation of training for ICE employees assigned to the NEOCC region was not provided.

§115. 41 - Assessment or risk of victimization and abusiveness

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(e) MCADC Policy P-3-11-01 requires all detainee PREA reassessments be completed within 60-90 days or after their initial assessment if an incident occurs that would affect their classification. Case file reviews found four cases out of ten where there were no reassessments completed.

Does not Meet: The facility must conduct and document reassessments as required by the policy and standard.

Correction Action Taken: The Auditor determined MCADC meets the requirements of this subpart after the facility provided documentation of seven random samples of initial assessments and seven examples of reassessments within the time frame requirements of the standard and updated 606 policy. Policy 606 Custody Policy stated the same language as the previous policy, the policy number was updated to 606.

§115. 54 - Third-party reporting

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

A review of ICE's website (<https://www.ice.gov>) provides means for the public to report incidents of sexual abuse/harassment on behalf of detainees. MCADC policy P-3-11-01 indicates the public can make reports of sexual abuse on their web page. The website was not up and operational during the site visit. The facility needs to have their website operational with reporting information as stated in the policy. Random staff confirmed they would accept and report any allegation regardless of how it was received including from third party sources. According to documentation in one of the investigative files, a third-party report was made by another detainee at MCADC to a staff person.

Does Not Meet: The facility must have their website operational with reporting information as stated in the policy.

Corrective Action Taken: The Auditor determined MCADC meets the requirements of this standard after review of the MCADC website. Reporting information, including third party, is noted on the website. Furthermore, reporting information and telephone numbers for the Sheriff, Rape Crisis Center and ICE are listed on the website for reporting allegations on behalf of a detainee.

§115. 67 - Agency protection against retaliation

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

(a)(b) MCADC Policy P-3-11-01 prohibits staff, volunteers, detainees, and contract staff from retaliating against anyone who reports sexual abuse. Interviews with MCADC staff confirm they are aware of the prohibition against retaliation. Policy states the facility PSA Compliance Manager would monitor detainee retaliation and HR would monitor staff for a period of 90 days or as long as monitoring for retaliation is required. Interviews with the Acting Jail Administrator and PSA Compliance Manager confirm, if detainees experience any form of retaliation, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, then housing changes and or a facility transfer would be considered, alleged staff or detainee abusers would be removed from contact with the victim, and emotional support services would be utilized if needed.

(c) Interview with the PSA Compliance Manager indicated if an incident of sexual abuse were to occur, he would be responsible for coordinating the monitoring of retaliation. Monitoring for retaliation would include the review of detainee disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff for possible indicators of retaliation. MCADC had five allegations of sexual abuse requiring retaliation monitoring according to policy. The facility could not demonstrate it had performed retaliation monitoring in any of these cases.

Does not Meet: The facility must demonstrate retaliation monitoring being performed as required by the standard and their own policy.

Corrective Action Taken: The Auditor determined the facility meets these subpart requirements to monitor retaliation based on the revised 606 policy and the updated tracking retaliation form. MCADC did not have any incidents of sexual abuse reported during the CAP to provide examples of the monitoring required by their policy and the standard.

§115. 71 - Criminal and administrative investigations

Outcome: Does not Meet Standard

Notes:

(a)(b) MCADC Policy P-3-11-01 outlines the responsibility for investigating allegations of sexual abuse. Policy indicates all investigations regarding alleged sexual abuse will be conducted promptly, thoroughly, objectively, and conducted by a specially trained, qualified investigators. The Auditor reviewed the investigation files available and found them to be compliant with the PREA standards in all material ways. An interview with the MCADC Investigator indicated he would handle all investigations regarding reports of detainee sexual abuse. Interviews with the Acting Jail Administrator and Investigator confirmed if a criminal investigation was determined to be unsubstantiated, the facility would review the completed investigation and determine if there is a need to conduct an administrative investigation. If an administrative investigation is considered necessary, the facility would consult with the appropriate investigative office within DHS before doing so. As noted, earlier MCADC is a fully functioning law enforcement department and conducts all criminal and administrative investigations, to include sexual misconduct/abuse investigations. Interview with the PSA Compliance Manager, who is also the facility Investigator, confirmed he is responsible for conducting sexual abuse allegations and has received Investigator training through the National Institute of Corrections on how to conduct such investigations. The Auditor verified the current Investigator training and certificate of completion he received from NIC. The Auditor reviewed the investigation files available at the time of the audit and subsequent documentation provided three months after the site visit and found the documentation to be non-compliant with the PREA standards in all material ways. Three investigations conducted by ICE were completed by untrained investigators contrary to ICE policy.

Does Not Meet: Investigations were not conducted by specialized trained agency investigators. The agency must provide a process of assigning trained investigators to a PREA investigation and conduct specialized training with ICE employees responsible for investigations.

Corrective Action Not Met: The agency did not address the non-compliance. The agency did not provide a process of assigning trained investigators to a PREA investigation. The agency also failed to provide training to all employees responsible for conducting a PREA investigation. Documentation of training for ICE employees assigned to the MCADC region was not provided. .

§115. 73 - Reporting to detainees

Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Notes:

MCADC Policy P-3-11-01 states victims are to be notified of the results of the investigation and any action taken. The notification is to be documented within the case file. Interviews with the Acting Jail Administrator and Investigator indicated at the conclusion of an investigation, and if the detainee is still in immigration detention, he will be notified of the investigation results in writing according to policy. The facility PAQ inaccurately indicated there were 5 reported PREA incidents alleged for the previous 12 months, 3 investigations were completed and 2 were still open. The facility was unable to demonstrate the detainees were provided outcome notifications as required by the standard and policy.

Does Not Meet: The facility must provide a means to provide proof of the delivery of the investigative outcome to the detainee.

Corrective Action Taken: The Auditor determined MCADC meets the requirements of this standard based on the updated policy 606. MCADC did not have any incidents of sexual abuse reported during the CAP to provide examples of the outcome notifications required by the policy and the standard. Policy 606 Custody Policy stated the same language in the previous policy, the policy number was updated to 606.

§115. 81 - Medical and mental health assessments; history of sexual abuse

Outcome: Does not Meet Standard

Notes:

(a)(b)(c) MCADC Policy P-3-11-01 requires if the risk assessment pursuant to standard 115.41 indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/or mental health follow-up as appropriate. When a referral for medical follow up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of assessment. When a referral for mental health follow up is made, the detainee shall receive a mental health assessment no later than 72 hours after the referral. The interviews with the intake staff and the medical staff indicated referrals as required by the standard and policy are not being performed.

Does Not Meet: The facility must demonstrate referrals and follow up, as required by policy, are conducted.

Corrective Action Not Meet: The standard requires if the risk assessment pursuant to standard 115.41 indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/or mental health follow-up as appropriate. When a referral for medical follow up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of assessment. When a referral for mental health follow up is made, the detainee shall receive a mental health assessment no later than 72 hours after the referral. MCADC Policy P-3-11-01 meets the standard requirements, but intake staff were not informing or referring the detainee to medical when the vulnerability assessment was conducted and prior victimization was confirmed. Medical documentation reviewed by the Auditor does not address the standard requirements nor does the facility provided Policy 606 – Custody Manual. The interviews with intake staff during the audit indicated that when intake staff were told of prior victimization by a detainee, they were not referring the detainee to medical as required by standard and policy. Medical staff confirmed they were never notified by intake staff of prior victimization. The documentation provided by the facility dealt with medical procedures and not with the failure of intake staff making the referral as required. The standard remains non-compliant.

§115. 86 - Sexual abuse incident reviews

Outcome: Does not Meet Standard

Notes:

(a)(c) MCADC Policy P-3-11-01 requires a sexual abuse and assault incident review be conducted at the conclusion of every sexual abuse investigation and where the allegation was not determined to be unfounded prepare a written report within 30 days of the investigation conclusion recommending whether a change in policy or practice could better prevent, detect, or respond to sexual abuse. MCADC is also required under subpart (c) of this policy to conduct an annual review of all sexual abuse investigations and complete incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. The facility was unable to provide both an incident review under the requirement of subpart (a) and an annual review as required under subpart (c). Sexual abuse incident reviews were not completed in the three closed investigations.

(b) The interview with the acting Jail Administrator and the PSA Compliance Manager indicated the facility has a review team as required by MCADC Policy P-3-11-01. This team is comprised of the PSA Compliance Manager, and Jail Administrator, supervisory staff and line staff when needed. The review is required to determine whether the incident 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 facility.

Does Not Meet: The facility must conduct a sexual abuse review as required by subpart (a) of the policy and conduct an annual review of all investigations and incident reviews as required by subpart (c) of the standard.

Corrective Action Not Met: The Auditor determined the standard remains non-compliant. MCADC updated policy 606. The MCADC policy 606 requires a sexual abuse and assault incident review be conducted at the conclusion of every sexual abuse investigation and where the allegation was not determined to be unfounded prepare a written report within 30 days of the investigation conclusion recommending whether a change in policy or practice could better prevent, detect, or respond to sexual abuse. The review, according to the new policy, must consider each of the subpart (b) requirements. This new policy further requires MCADC to conduct an annual review of all sexual abuse investigations and completed incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. MCADC did not have any incidents of sexual abuse reported during the CAP to provide the Auditor with any incident reviews. The annual review as required under subpart (c) is not completed until the end of each calendar year according to the interview with the facility compliance Lieutenant. The 2019 Annual Report provided to the Auditor to demonstrate the facility's annual review was not completed at the end of the year as stated was the facility's practice and was not completed within the 180-day CAP timeframe. The 180-day CAP period ended June 16, 2020. The report was completed by the facility on July 14, 2020 by the Detention Sergeant. The standard remains non-compliant for not completing the 2019 review at the end of the year and not completing it within the CAP process time frame.

AUDITOR CERTIFICATION:

I certify that the contents of the report are accurate to the best of my knowledge and no conflict of interest exists with respect to my ability to conduct an audit of the agency under review. I have not included any personally identified information (PII) about any detainee or staff member, except where the names of administrative personnel are specifically requested in the report template.

Thomas Eisenschmidt

August 20, 2020

Auditor's Signature & Date

(b) (6), (b) (7)(C)

August 20, 2020

Assistant Program Manager's Signature & Date

(b) (6), (b) (7)(C)

August 20, 2020

Program Manager's Signature & Date