

**PREA Audit: Subpart B
DHS Holding & Staging Facilities
Audit Report**



**Homeland
Security**

AUDIT DATES

From:	5/17/2022	To:	5/18/2022
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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)

PROGRAM MANAGER INFORMATION

Name of PM:	(b) (6), (b) (7)(C)	Organization:	Creative Corrections, LLC.
Email address:	(b) (6), (b) (7)(C)	Telephone number:	772-579-(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:	Phoenix Field Office
Field Office Director:	John E. Cantu
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	2035 N. Central Avenue, Phoenix, AZ 85004
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:	Phoenix District Office (PDO)
Physical address:	2035 N. Central Avenue, Phoenix, AZ 85004
Mailing address: (if different from above)	Click or tap here to enter text.
Telephone number:	602-379-3235
Facility type:	ICE Holding Facility

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Assistant Field Office Director (AFOD)
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(602) 257-(b) (6), (b) (7)(C) / (602) 766-(b) (6), (b) (7)(C)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Supervisory Detention and Deportation Officer (SDDO)
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(602) 257-(b) (6), (b) (7)(C)

ICE HQ USE ONLY

Form Key:	29
Revision Date:	12/14/2021
Notes:	Click or tap here to enter text.

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 U.S. Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of Phoenix District Office (PDO) was conducted on May 17-18, 2022. The audit was performed by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor Thomas Eisenschmidt, employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by U.S. Immigration and Customs Enforcement (ICE) Program Manager (PM), (b) (6), (b) (7)(C) and Assistant Program Manager (APM) (b) (6), (b) (7)(C) both DOJ and DHS certified PREA Auditors. The PM's role is 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 audit period is July 26, 2017 - May 18, 2022 and was extended because there were no allegations reported in the 12 months prior to the audit to review. PDO is a 12 hour hold facility operated by ICE, Office of Enforcement and Removal Operations (ERO). Security services for the facility are provided by G4S, a private contractor.

On May 17, 2022, an entrance briefing was held in the PDO AFOD's Office. The ICE ERAU alternate Team Lead, (b) (6), (b) (7)(C) opened the briefing, via telephone, and then turned it over to the Auditor. In attendance were:

(b) (6), (b) (7)(C) ICE/ERO, AFOD

(b) (6), (b) (7)(C) ICE/ERO, AFOD

(b) (6), (b) (7)(C) ICE/ERO, SDDO

(b) (6), (b) (7)(C) Inspections and Compliance Specialist (ICS), ICE/OPR/ERAU - via telephone
Thomas Eisenschmidt - Certified PREA Auditor, Creative Corrections, LLC.

The Auditor introduced himself and then provided an overview of the audit process and the methodology to be used to demonstrate PREA compliance with those present. The Auditor explained 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. He further explained compliance with the DHS PREA Standards will be determined based on the review of policy and procedures, observations made during the facility tour, documentation review, and conducting both staff and detainee interviews.

Approximately three weeks prior to the audit, ERAU Team Lead, (b) (6), (b) (7)(C) provided the Auditor with the facility's Pre-Audit Questionnaire (PAQ), agency policies, allegations spreadsheet and other pertinent documents through ERAU's SharePoint site. The main policies that provide facility direction for PREA at PDO are 11087.1, Operations of ERO Holding Facilities, and 11062.2, Sexual Abuse and Assault Prevention and Intervention (SAAPI). All documentation, policies, and the PAQ were reviewed by the Auditor prior to the site visit. A tentative daily schedule was provided by the Lead Auditor for the interviews with staff and detainees. The Auditor received no correspondence from any detainees or staff prior to the audit or prior to the submission of the report.

Facility Description

PDO, located in Phoenix, Arizona, is a 12 hour hold facility processing males, females, unaccompanied children, and family units. PDO is not a detention facility and has no cells or secure dormitories. (b) (7)(E)

Detainees arriving at the PDO remain at the facility for approximately 3.5 hours and are then either released from custody or remanded to the Florence Staging Facility located in Florence, Arizona, approximately 64 miles southeast of Phoenix. All detainees arriving at PDO enter through the facility sallyport and then are moved to the detainee processing area. The detainee in-processing area consists of two very large rooms where detainees are processed, identification photographs are taken, and property is handled. The detainees remain in this area until they are individually classified and receive a risk assessment, and then as noted above, are either released or remanded.

The PDO is operated by ERO staff and security is provided through a contract with G4S. G4S provides 40 security staff positions at the PDO for transportation, care, and custody, and supervisory security staff to augment the operations of the facility. A total of eight random G4S staff interviews, from all shifts, were conducted during the audit. ICE ERO staff included 45 positions with random interviews conducted with five employees. The Auditor also conducted specialized interviews with two AFODs, SDDO (PSA Compliance Manager), PREA Fact Finder, Contracting Officer Representative (COR), Classification Officer (2), G4S acting Project Manager, Chief of Security (Major), and Lieutenant. Interviews were conducted in the private offices located within the facility. No staff refused to be interviewed. All staff were aware of the agency's zero-tolerance policy, their responsibilities to protect detainees from sexual abuse, and their duties as first responders as part of a coordinated response. All staff were able to answer questions posed that would have been gained through attending the required PREA training. There are no other staff, contractors or volunteers having contact with detainees beyond the ERO and G4S staff.

There were no detainees available during the site visit for the Auditor to interview. The PDO has no medical staff or medical services available on site. Any detainee requiring medical attention is taken to one of the two local hospitals. The SDDO indicated that

University Hospital or Banner Hospital would be utilized for all emergency room treatment for detainees as well as for treatment by a Sexual Assault Nurse Examiner (SANE). There were two allegations of detainee-on-detainee sexual abuse during the audit period. One of the incidents involved two minors and a forensic examination was conducted on the alleged minor victim. Both of the cases were closed unsubstantiated.

During the site visit, the Auditor also reviewed five employee Human Resources (HR) files and five employee training files; the two investigative files were not available onsite and electronic files were viewed virtually. On May 18, 2022, an exit briefing was held in the PDO AFOD office. The ICE ERAU Alternate Team Lead, (b) (6), (b) (7)(C) opened the briefing, via phone, and then turned it over to the Auditor. In attendance were:

(b) (6), (b) (7)(C) ICE/ERO, AFOD

(b) (6), (b) (7)(C) ICE/ERO, AFOD

(b) (6), (b) (7)(C) ICE/ERO, SDDO

(b) (6), (b) (7)(C) ICS, ICE/OPR/ERAU - via telephone

Thomas Eisenschmidt, Certified PREA Auditor, Creative Corrections, LLC.

(b) (6), (b) (7)(C) APM, Certified PREA Auditor, Creative Corrections, LLC. – via telephone

The Auditor spoke briefly about the staff knowledge of the PDO PREA zero-tolerance policy. The Auditor informed those present that it was too early in the process to formalize an outcome of the audit, and that he would need to review his findings from the site visit, document review, and interviews conducted with staff. The Auditor explained the audit report process, timeframes, and thanked all present for their cooperation.

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: 0

Number of Standards Met: 25

- §115.111 Zero-tolerance of sexual abuse
- §115.113 Detainee supervision and monitoring
- §115.114 Juveniles and family detainees
- §115.115 Limits to cross-gender viewing and searches
- §115.116 Accommodating detainees with disabilities and detainees who are limited English proficient
- §115.122 Policies to ensure investigation of allegations and appropriate agency oversight
- §115.131 Employee, contractor, and volunteer training
- §115.132 Notification to detainees of the agency's zero-tolerance policy
- §115.134 Specialized training: Investigations
- §115.141 Assessment for risk of victimization and abusiveness
- §115.151 Detainee reporting
- §115.154 Third-party reporting
- §115.161 Staff reporting duties
- §115.162 Protection duties
- §115.163 Reporting to other confinement facilities
- §115.164 Responder duties
- §115.166 Protection of detainees from contact with alleged abusers
- §115.167 Agency protection against retaliation
- §115.171 Criminal and administrative investigations.
- §115.172 Evidentiary standard for administrative investigations
- §115.176 Disciplinary sanctions for staff
- §115.177 Corrective action for contractors and volunteers
- §115.182 Access to emergency medical services
- §115.187 Data collection
- §115.201 Scope of audits

Number of Standards Not Applicable: 1

- §115.118 Upgrades to facilities and technologies

Number of Standards Not Met: 4

- §115.117 Hiring and promotion decisions
- §115.121 Evidence protocols and forensic medical examinations
- §115.165 Coordinated response
- §115.186 Sexual abuse incident reviews

Hold Room Risk Rating

- §115.193 Audits of standards - **Not Low Risk**

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.

§115.111 - 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:

(a) The Auditor determined compliance with this standard based on Policy 11062.2, requires, "ICE has a zero-tolerance policy for all forms of sexual abuse or assault. It is ICE policy to provide effective safeguards against sexual abuse and assault of all individuals in ICE custody, including with respect to screening, staff training, detainee education, response and intervention, medical and mental health care, reporting, investigation, and monitoring and oversight, as outlined in this Directive, in the requirements of PBNDS 2011 Standard 2.11, and in other related detention standards and ICE policies." During the informal and formal interviews with ERO staff and G4S staff, it was apparent that staff was aware of the agency zero-tolerance policy. The interview with the AFOD, the PSA Compliance Manager, ERO staff, G4S staff, and observation of the posted sexual safety information throughout the nine hold rooms confirm that the zero-tolerance policy for sexual abuse has been implemented at the PDO facility.

§115.113 - Detainee supervision and monitoring.

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

Notes:

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11087.1 that requires, "The FOD shall ensure that each holding facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse and assault. In so doing, the FOD shall take into consideration: the physical layout of each holding facility; the composition of the detainee population; the prevalence of substantiated and unsubstantiated incidents of sexual abuse and assault; the findings and recommendations of sexual abuse and assault incident review reports; and any other relevant factors, including but not limited to, the length of time detainees spend in custody at the holding facility. FODs shall ensure that detainees placed into holding facilities are accounted for and continuously monitored and that holding facilities are emptied upon the conclusion of daily operations in those field office locations operating on a daily schedule. Absent exceptional circumstances, no detainee should be housed in a holding facility for longer than 12 hours and monitored for any apparent indications of a mental or physical condition or signs of hostility that may require closer supervision or emergency medical care. (b) (7)(E)

The Auditor reviewed PDO's supervision guidelines for each shift and the most recent annual detainee supervision review for 2021 assessing the subpart (c) requirements. There were no recommendations for changes to policy or operations in this review. The AFOD, SDDO and G4S acting Project Manager stated that when detainees are present, staff members are required to conduct rounds every 15 minutes and the review of the documented rounds and staff interviews confirmed the practice. There was no evidence that an incident review was conducted on either of the two incidents that occurred within the audit period, so it is unknown if consideration was given to policy or practice changes based on a review of these incidents. (b) (7)(E)

§115.114 - Juvenile and family detainees.

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

Notes:

(a)(b) The Auditor determined compliance with these standard subparts based on Policy 11087.1 that requires, "The FOD shall ensure that minors are detained in the least restrictive setting appropriate to his or her age and special needs, provided that such setting is consistent with the need to protect the minor's well-being and that of others, as well as with any other laws, regulations, or legal requirements. Unaccompanied minors will generally be held apart from adults. The unaccompanied minor may temporarily remain with a non-parental adult family member where the family relationship has been vetted to the extent feasible, and it has been determined that remaining with the non-parental adult family member is appropriate, given the totality of circumstances. To the extent practicable, unaccompanied minors who may be vulnerable due to their young age should be held separately from older minors. The FOD shall ensure that unaccompanied minors, elderly detainees, or family units are not placed in hold rooms, unless they have demonstrated or threatened violent behavior, have a history of criminal activity, or pose an escape risk. Detainees not placed in a hold room shall be seated in a designated area outside the hold rooms, under direct supervision and control. If the physical layout of the holding facility precludes holding such individuals outside the hold room, they may be held in a separate room." The AFOD, SDDO and G4S intake staff interviews confirmed the facility houses juveniles separately from adult detainees, and in the least restrictive manner possible. PDO staff also attempt to further separate the population by age and size of the juveniles. Parental determination is evaluated by intake staff in coordination with ICE ERO. The SDDO further stated parents are not separated from their children and families are housed separately from other adults and juveniles. The Auditor's review of the investigative case file involving minors indicated that both the alleged victim and alleged perpetrator were both minors and were held in the same hold room with their

respective mothers, consistent with the requirements of this standard. Due to the design of the holding room, juveniles are not allowed to stay outside of their hold rooms. Compliance was also determined based on the Auditor observations of these areas and interviews with intake staff.

§115.115 - 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)(c)(d)(e)(f) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, "The FOD shall ensure that all pat-down searches are conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and ICE policy, including consideration of officer safety. Where operationally feasible, an officer of the same gender as the detainee will perform the pat down search. Every detainee shall undergo a pat down search for weapons and contraband before being placed in a hold room. A pat down search shall be performed even if another agency or other ERO personnel report completing one prior to the detainee's arrival at the ERO facility or transfer of custody. The FOD shall ensure that when pat down searches indicate the need for a more thorough search, an extended search (i.e., strip search) is conducted in accordance with ICE policies and procedures, including that all strip searches and visual body cavity searches are documented; cross-gender strip searches or cross-gender visual body cavity searches are not conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners; and visual body cavity searches of minors are conducted by a medical practitioner and not by law enforcement personnel. The FOD shall ensure that detainees are permitted to shower (where showers are available), perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine hold room checks, or is otherwise appropriate in connection with a medical exam or monitored bowel movement under medical supervision. The FOD will also ensure that ERO personnel of the opposite gender announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing. The FOD shall ensure that ERO personnel do not search or physically examine a detainee for the sole purpose of determining the detainee's gender. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records (if available), or, if necessary, learning that information as part of a broader medical examination conducted in private, by a medical practitioner." The facility provided the Auditor documentation that PDO conducted no strip searches or body cavity searches during the audit period and this was further confirmed during interviews with G4S staff. During the interviews with the G4S security staff, each detailed their search training and the process followed performing all searches in a professional and respectful manner. Additionally, they indicated their training included the requirement that all cross-gender searches, strip searches, and body cavity searches only be conducted after reasonable diligence to find a staff of the same gender for a male detainee, and under exigent circumstances for a female detainee. These interviews further indicated that these searches are allowed under those circumstances, they are rarely conducted and would be documented, including the circumstances and conditions requiring the search. At the conclusion of the training, each was required to document by signature that they had received this training which the Auditor verified. They also indicated that if they entered into one of the holding rooms in which there were cross-gender detainees present, they would announce themselves prior to entering. (b) (7)(E)

Each of these rooms has a toilet, with a half wall around it providing privacy. The camera view is also pixelated in order to provide privacy to the occupant. Each of the eight G4S security staff members indicated strip searches and body cavity searches are not conducted at the PDO. Interviews with the AFOD, SDDO, COR and the intake staff confirmed all detainees are placed in the least restrictive housing as possible. If juveniles are accompanied by either parent they remain with that parent in a separate room. If they are unaccompanied, they are placed in a separate room or office with a staff member. These interviews further revealed that juveniles are required to empty their pockets and are subject to a metal detector search only, and that visual body cavity searches of juveniles would never be conducted.

§115.116 - 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) The Auditor determined compliance with these standard subparts based on policy 11087.1, that requires, "The FOD shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to participate in and benefit from processes and procedures in connection with placement in an ERO holding facility, consistent with established statutory, regulatory, DHS and ICE policy requirements. The FOD shall take reasonable steps to ensure meaningful access to detainees who are limited English proficient, consistent with established regulatory and DHS and ICE policy requirements." The AFOD, PSA Compliance Manager, ERO staff and G4S intake staff that were interviewed detailed the intake process at the PDO. All indicated that most detainees they encounter are LEP. Upon arrival, the detainee is placed in one of the nine hold rooms prior to being interviewed. In each of the hold rooms affixed to the walls is information about the facility and agency PREA policy relating to reporting and preventing sexual abuse in both English and Spanish. The ICE Deportation Officer (DO) is the individual who normally processes the detainee. If the DO is not fluent in the language spoken and understood by the detainee being processed, the staff utilizes the "I speak..." poster to have the detainee point out which language they speak. Once the detainee's languages is identified then the DO utilizes the ERO Language Services provider to access an interpreter to provide sexual safety and reporting information found in the SAA pamphlet. This service provides interpretive and translation services for PDO staff and detainees. Although the PREA documents located in each hold room are in Spanish and English only, the staff member performing the intake asks the detainee questions about his/her safety and PREA concerns while on the phone with the language services. According to the SDDO, although the facility has no TTY phone, deaf or hard of hearing detainees would be relocated to a secure office having video telephone conferencing (VTC) capabilities to assist him/her. The

Auditor was informed the facility did not have blind, deaf or illiterate detainees during the last 12 months, but if they did receive one, they would utilize local resources from the community to aid the facility in providing information to the detainee based on their specific needs. According to the PSA Compliance Manager, the community resources would include equipment and resources for blind and deaf individuals. They also stated that the use of detainees as interpreters is covered under section 5.6 from policy 11062.2, allowing use when the detainee requests a preference for another detainee and when ICE determines it appropriate and consistent with DHS policy. They also stated that the use of minors, those witnessing the alleged assault or those detainees with a relationship with the alleged abuser is not appropriate. The Auditor was also informed by the two G4S intake staff that when they are confronted with a detainee who may be hearing impaired or deaf, orientation information is provided to them through posters throughout PDO informing detainees in Spanish and English about the zero-tolerance policy and how to report allegations and the DHS prescribed Sexual Abuse Awareness Information (SAA) pamphlet, in English and Spanish. If staff is confronted with a detainee who is blind or has limited sight, the detainee would be provided individualized service by a staff member who would read the information to them. The Auditor was also informed by the two G4S intake staff that if they encounter any detainee with intellectual deficiencies, the staff will try to communicate with them to the best of their abilities. If there was any difficulty, then the detainee would be referred to a supervisor with outreach in the community based on the detainee's limitation.

§115.117 - Hiring and promotion decisions.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(d)(e)(f) The Auditor determined compliance with these standard subparts based on Federal Statute 731.202 (b), Executive Order 10450, ICE Personnel Security and Suitability Program Directive 6-7.0, and ICE Suitability Screening Requirements for Contractor Personnel Directive 6-8.0, which require anyone entering into or remaining in government service undergo a thorough background examination for suitability and reinvestigations every 5 years. The background investigation, depending on the type of work, is thorough to include education checks, criminal records check, neighbor and residence checks, financial checks and prior employment checks. The policy documents outline misconduct and criminal misconduct being grounds for unsuitability, including material omissions or making false or misleading statements in the application. The Unit Chief of OPR Personnel Security Operations (PSO) informed Auditors who attended virtual training in November 2021 that detailed candidate suitability for all applicants includes their obligation to disclose: any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity. Based on information provided in an email by the OPR PSO (A) Division Chief, information on substantiated allegations of sexual abuse involving a former employee would be provided to prospective employers upon request, unless prohibited by law. The COR at the Phoenix Field Office (PFO) confirmed that no one would be hired or promoted who has engaged in sexual abuse in a prison, jail, holding facility or any other institution. She stated that all perspective applicants are specifically questioned about this type of misconduct and a positive response disqualifies the applicant; any material omissions or false information disqualifies the candidate as well. The interview with the AFOD confirmed there were no promotions of ICE employees at the PDO within the audit period. Interviews with ICE staff also confirmed their awareness of the agency's obligation to disclose any misconduct outlined in subpart (a) of this standard. The G4S acting Project Manager confirmed PDO staff have an affirmative duty to report any such conduct. She also stated that her staff is required, during promotions, to acknowledge by signature that they have not been involved in any such misconduct; however, she stated that the employees have not been required to sign this self-declaration during their annual evaluations. Based on the memorandum dated November 8, 2021, issued by the ICE Acting Deputy Director, Employee Obligation to Report Corruption and Misconduct, ICE employees are obligated to report criminal and other allegations of employee and contractor misconduct, specifically including "[s]exual assaults, sexual harassment, or non-sexual harassment of [...] detainees."

Does Not Meet (b): The interview with the acting Project Manager confirmed G4S staff are not complying with the standard requirement that during written self-evaluations, conducted as part of reviews of current employees, each staff member must submit confirmation that he/she has not been involved in misconduct as outlined in subpart (a). To become compliant, the facility must implement a process to ensure that staff are asked the misconduct questions outlined in subpart (a) during reviews of current employees and demonstrate compliance by providing documentation for 10 random staff after implementation.

§115.118 - Upgrades to facilities and technologies.

Outcome: Not Applicable (provide explanation in notes)

Notes:

(a)(b) These subparts of the standard are not applicable at PDO. Interviews with the SDDO and review of the PDO PAQ confirmed the facility has not made any upgrades to the facility or to their technologies during the audit period. The facility upgraded the camera software in 2021, but no new hardware was added or replaced.

§115.121 - Evidence protocols and forensic medical examinations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(d) The Auditor determined compliance with these standard subparts based on policies 11087.1 and 11062.2, that requires, "The AFOD ensure that the facility complies with the investigation mandates established by PBNDS 2011 Standard 2.11, as well as other relevant detention standards and contractual requirements, including by, when feasible, securing and preserving the crime scene

and safeguarding information and evidence consistent with established evidence protocols; conducting a prompt, thorough, and objective investigation by qualified investigators; arranging for the victim to undergo a forensic medical examination, where appropriate; and ensuring that the presence of the victim's outside or internal victim advocate, as requested by the victim, is allowed for support during forensic exams and investigatory interviews. Where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the FOD shall arrange for or refer an alleged victim detainee to a medical facility to undergo a forensic medical examination [by] a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel. If, in connection with an allegation of sexual abuse or assault, the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available, consistent with security needs. If the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, [the facility] requests the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, [the facility] ensures that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating." PDO is a 12 hour hold facility and the typical stay is about 3.5 hours, after which the detainee is either released from custody or remanded to Florence Staging Facility. The interviews with the AFOD, SDDO and the trained PREA Fact Finder confirmed that upon notification of any sexual abuse/assault allegation at the PDO, notifications are made to the Phoenix Police Department (PPD) and a significant incident report is completed by the ICE staff to the FOD, OPR, and DHS Office of Inspector General (OIG). According to the AFOD and SDDO, if the alleged assault results in a forensic examination or the detainee requires any medical attention, the detainee is moved to Banner University where a forensic examination is performed by a SANE, SAFE, or other qualified health care personnel, and victim advocacy services will be provided. As noted above, if the detainee is not held, he/she is released from ICE custody with OPR continuing their investigation. If the detainee was required to be detained after returning from the offsite local hospital, he/she would be subsequently moved to the Florence Staging Facility where the detainee would be afforded victim advocate services and follow-up with medical and crisis intervention services through the medical and mental health unit at Florence Staging Facility. These interviews further explained that if OPR elects not to investigate the allegation and refers it back to the facility, an administrative investigation would be done by the PDO as the allegation originated at that facility, which would be conducted by any of the six specially trained SDDOs. At the conclusion of their collection of facts, they determine if the allegation is substantiated, unsubstantiated or unfounded based upon a preponderance of the evidence.

Neither 11087.1 or 11062.2 addresses whether the protocols were developmentally appropriate for juveniles, nor was this information confirmed by the Auditor during interviews; however, the investigative case file indicated that the minor child involved in the alleged incident was examined by a Forensic Nurse Practitioner from the Phoenix Children's Group, Child Protection Team. Based on documentation in the investigative case file, the protocols followed by the agency and facility met the procedural requirements for protocols that are developmentally appropriate for juveniles.

Recommendation (a): Neither Agency policy 11087.1 or 11062.2 explicitly address if the uniform evidence protocols are developmentally appropriate for juveniles. The Auditor recommends the facility's written uniform evidence protocols include language that requires following a protocol that is developmentally appropriate for juveniles and to outline personnel responsibilities when dealing with juveniles (if different from adults).

(e) The facility did not provide the Auditor with evidence that they requested in writing that the PPD follow the requirements of paragraphs (a) through (d) of this section. The Auditor discussed this provision with the SDDO during the site visit and was advised that a copy of the request would be provided; however, the documentation was not provided by the Auditor's departure from the facility.

Does Not Meet (e): PDO did not provide evidence of a request to PPD that they follow subparts (a) through (d) of this standard. To become compliant, PDO must request in writing to PPD that during a sexual abuse investigation involving a detainee at PDO, the PPD follow the requirements outlined in subparts (a) through (d) and provide the Auditor with documentation this request has been made.

§115.122 - 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:

(a)(b)(c)(d) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, "The facility ensure that the appropriate law enforcement agency having jurisdiction for the investigation has been notified by the facility administrator of the alleged sexual abuse or assault. Pursuing internal administrative investigations and disciplinary sanctions in coordination with the assigned criminal investigative entity to ensure non-interference with criminal investigations. The FOD shall notify the appropriate law enforcement agency directly if necessary and notify ERO's Assistant Director for Field Operations telephonically within two hours of the alleged sexual abuse or assault or as soon as practical. Notify the ICE Joint Intake Center (JIC) telephonically within two hours of the alleged sexual abuse or assault, and in writing within 24 hours via the ICE [Significant Event Notification] SEN Notification Database, according to procedures outlined in the Torres Memorandum. The JIC shall notify the DHS Office of Inspector General (OIG). All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise." According to the interview with

the AFOD and SDDO, the initial notifications of sexual assault or sexual abuse would be made to OPR and the PPD. The AFOD then would follow the SEN procedures which would include notifications to the DHS OIG, JIC, Assistant Director for Field Operations, and PSA Coordinator. A review of the ICE website (www.ice.gov/prea) confirms the investigation protocols are available to the public. The facility PREA Fact Finder was extremely knowledgeable regarding his duties and described in detail to the Auditor the procedures he would use while conducting the fact-finding investigation. The Auditor reviewed the two case files and found that both allegations were reported to the JIC and the PPD, and notification of both allegations were made to ICE and the PSA Compliance Manager.

(e) Policy 11062.2 states, "The OPR shall coordinate with appropriate ICE entities and federal, state, or local law enforcement to facilitate necessary immigration processes that ensure availability of victims, witnesses, and alleged abusers for investigative interviews and administrative or criminal procedures, and provide federal, state, or local law enforcement with information about U nonimmigrant visa certification." On July 1, 2022 the ICE PREA PM interviewed the Acting Section Chief of the OPR Directorate Oversight and he confirmed that OPR Special Agents would provide the detainee victim of sexual abuse, that is criminal in nature, with timely access to U nonimmigrant status information. The OPR Acting Section Chief further stated that if an OPR investigation determined that a detainee was a victim of sexual abuse while in ICE custody, the assigned Special Agent would provide an affidavit documenting such in support of the detainees U nonimmigration visa application.

§115.131 – Employee, contractor, and volunteer training.

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

Notes:

(a)(b) The Auditor determined compliance to these standard subparts based on Policy 11062.2, that requires, "All ICE personnel who may have contact with individuals in ICE custody, including all ERO officers and HSI special agents, shall receive training on, among other items: ICE's zero-tolerance policy for all forms of sexual abuse and assault; The right of detainees and staff to be free from sexual abuse or assault; Definitions and examples of prohibited and illegal behavior; Dynamics of sexual abuse and assault in confinement; Prohibitions on retaliation against individuals who report sexual abuse or assault; Recognition of physical, behavioral, and emotional signs of sexual abuse or assault, situations in which sexual abuse or assault may occur, and ways of preventing and responding to such occurrences, including: Common reactions of sexual abuse and assault victims; How to detect and respond to signs of threatened and actual sexual abuse or assault; Prevention, recognition, and appropriate response to allegations or suspicions of sexual abuse and assault involving detainees with mental or physical disabilities; How to communicate effectively and professionally with victims and individuals reporting sexual abuse or assault; How to avoid inappropriate relationships with detainees; Accommodating limited English proficient individuals and individuals with mental or physical disabilities; Communicating effectively and professionally with lesbian, gay, bisexual, transgender, intersex, or gender nonconforming individuals, and members of other vulnerable populations; Procedures for fulfilling notification and reporting requirements under this Directive; The investigation process; and the requirement to limit reporting of sexual abuse or assault to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes." The SDDO, DOs and G4S staff confirmed during interviews that they all received PREA training during their initial academy training and through annual DHS PALMS (Performance and Learning Management System) refresher training. Training records reviewed by the Auditor for five ICE staff and five G4S staff documented this training. The G4S contract staff receive the required training prior to being assigned to work with detainees. Both the ICE staff and G4S staff interviews confirmed the subject matter of the training; additionally, the Auditor reviewed the ICE PREA Employee Training provided on ERAU SharePoint and confirmed that all required topics are included. The facility does not employ other contractors, medical or mental health staff and there are no volunteers at the PDO.

(c) This standard subpart required the facility document and maintain for 5 years completed training for employees, contractors, and volunteers. The Auditor confirmed during interviews and review of the training records, noted in the (a)(b) discussion above, that both ICE and G4S staff complete their PREA training through DHS PALMS where records are historically maintained through the Agency's platform for at least 5 years.

§115.132 – Notification to detainees of the agency's zero-tolerance policy.

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

Notes:

The Auditor determined compliance with the standard based on Policy 11087.1, that requires, "The FOD shall ensure that key information regarding ICE's zero-tolerance policy for sexual abuse and assault is visible or continuously and readily available to detainees through posters, detainee handbooks, or other written formats." The Auditor observed posters throughout PDO informing detainees in Spanish and English about the zero-tolerance policy and how to report allegations and the DHS-prescribed Sexual Abuse Awareness Information (SAA) pamphlet, in English and Spanish, was available for distribution. The facility also has the SAA pamphlet available in PDF format in Arabic, Chinese, French, Haitian Creole, Hindi, Portuguese, and Punjabi for printing and distribution to detainees if needed. During interviews with both the ICE staff and G4S staff, each were keenly aware of ICE's zero-tolerance policy and that this information is to be made available to detainees through the display of posters and providing the SAA pamphlet. As previously noted, there were no detainees available during the site visit to interview. The AFOD, PSA Compliance Manager, ERO staff and G4S intake staff that were interviewed detailed the intake process at the PDO and indicated that most detainees they encounter are LEP. Upon arrival, the detainee is placed in one of the nine hold rooms prior to being interviewed. In each of the hold rooms affixed to the walls is information about the facility and agency PREA policy relating to reporting and preventing sexual abuse in both English and Spanish. The ICE Deportation Officer (DO) is the individual who normally processes the detainee. If the DO is not fluent in

the language spoken and understood by the detainee being processed, the staff utilizes the "I speak..." poster to have the detainee point out which language they speak. Once the detainee's languages is identified then the DO utilizes the ERO Language Services provider to access an interpreter to provide sexual safety and reporting information found in the SAA pamphlet. This service provides interpretive and translation services for PDO staff and detainees. Although the PREA documents located in each hold room are in Spanish and English only, the staff member performing the intake asks the detainee questions about his/her safety and PREA concerns while on the phone with the language services. According to the SDDO, although the facility has no TTY phone, deaf or hard of hearing detainees would be relocated to a secure office having video telephone conferencing (VTC) capabilities to assist him/her. The Auditor was informed the facility did not have blind, deaf or illiterate detainees during the last 12 months, but if they did receive one, they would utilize local resources from the community to aid the facility in providing information to the detainee based on their specific needs. According to the PSA Compliance Manager the community resources would include equipment and resources for blind and deaf individuals. They also stated that the use of detainees as interpreters is covered under section 5.6 from policy 11062.2, allowing use when the detainee requests a preference for another detainee and when ICE determines it appropriate and consistent with DHS policy. The Auditor was also informed by the two G4S intake staff that when they are confronted with a detainee who may be hearing impaired or deaf, orientation information is provided to them through posters throughout PDO informing detainees in Spanish and English about the zero-tolerance policy and how to report allegations and the DHS prescribed Sexual Abuse Awareness Information (SAA) pamphlet, in English and Spanish. If staff is confronted with a detainee who is blind or has limited sight, the detainee would be provided individualized service by a staff member who would read the information to them. The Auditor was also informed by the two G4S intake staff that if they encounter any detainee with intellectual deficiencies, the staff will try to communicate the SA-API information to them to the best of their abilities. If there was any difficulty, then the detainee would be referred to a supervisor with outreach in the community based on the detainee's limitation.

§115.134 - Specialized training: Investigations.

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

Notes:

(a)(b) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, "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 training should cover, at a minimum, interviewing sexual abuse and assault victims, sexual abuse and assault evidence collection in confinement settings, the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process." The lesson plan for this specialized training is the ICE OPR Investigations Incidents of Sexual Abuse and 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 PREA 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 detainees; best practices for interacting with Lesbian, Gay, Bi-sexual, Transgender, Intersex (LGBTI), and disabled detainees; and an overall view of the investigative process. The agency provides rosters of trained investigators on OPR's SharePoint site for Auditors' review; this documentation is in accordance with the standard's requirements. PDO had two allegations of sexual abuse during the audit period. The Auditor confirmed by review of the training roster that both investigations were completed by a trained OPR investigator.

§115.141 – Assessment for risk of victimization and abusiveness.

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

Notes:

(a)(b)(c)(d)(e) The Auditor determined compliance with these standard subparts based on Policy 11087.1 that requires, "The FOD should ensure that before placing detainees together in a hold room, there shall be consideration of whether a detainee may be at a high risk of being sexually abused or assaulted, and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee. The FOD shall ensure that detainees who may be held overnight with other detainees are assessed to determine their risk of being either sexually abused or assaulted or sexually abusive, to include being asked about their concerns for their physical safety. The FOD shall ensure that the following criteria are considered in assessing detainees for risk of sexual victimization, to the extent that the information is available: Whether the detainee has a mental, physical, or developmental disability; The age of the detainee; The physical build and appearance of the detainee; Whether the detainee has previously been incarcerated or detained; The nature of the detainee's criminal history; Whether the detainee has any convictions for sex offenses; Whether the detainee has self-identified as Lesbian, Gay, Bisexual, Transgender or Intersex (LGBTI) or gender nonconforming; Whether the detainee has self-identified as previously experiencing sexual victimization; and the detainee's own concerns about his or her physical safety. The FOD shall implement appropriate controls on the dissemination of any sensitive information regarding a detainee provided pursuant to screening procedures. For detainees identified as being at high risk for victimization, the FOD shall provide heightened protection, including continuous direct sight and sound supervision, single-housing, or placement in a hold room actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is feasible." As noted earlier, detainees are held for a short period of time at PDO. The typical amount of time is four hours or less and detainees are not held overnight. On a rare occasion, a detainee may be picked up after midnight, brought to PDO, and have to wait until early morning to be transferred. The Auditor interviewed two ICE DOs who perform the intake utilizing the Risk Classification Assessment (RCA) form on every detainee to be detained by ICE. They indicated no matter when the detainee arrived, an assessment is completed. This assessment is a computerized program that addresses specific vulnerabilities including whether the detainee has any concerns for his/her safety, concerns based on his/her sexual

orientation, any instances of prior persecution or torture, a victim of sexual abuse or a violent crime. (b) (7)(E)

The interviews with both the SDDOs and DOs confirmed that during the intake process at PDO, a DO and SDDO are present during processing and the shift SDDO must review each RCA document. In cases where the DO or SDDO believes the detainee is at risk of abusiveness or victimization, the receiving facility (Florence Staging Facility) receives the vulnerability assessment conducted by PDO, as well as a phone call from the DO. Interviews conducted with the ICE ERO staff and the G4S security staff confirmed information obtained during the intake process is not disseminated except on a need-to-know basis. Paper copies of the RCA form are kept secured under lock and key and the computer files are password protected and assessable by only those individuals with a need for this information.

§115.151 - Detainee reporting.

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

Notes:

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, "The FOD shall ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse or assault, retaliation for reporting sexual abuse or assault, or staff neglect or violations of responsibilities that may have contributed to such incidents to ERO personnel. The FOD shall implement procedures for personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports. The FOD shall ensure that detainees are provided with instructions on how they can contact the DHS Office of the Inspector General (OIG) (or, as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse or assault to agency officials) to confidentially and, if desired, anonymously, report these incidents." As noted in 115.116, the Auditor interviewed two ICE DOs, who confirmed during the detainee intake process that the sexual abuse reporting information is provided to the detainees in their native language through use of an interpreter. During the onsite tour of the intake area where detainees are held, the Auditor observed telephones and postings in English and Spanish providing telephone numbers for the DHS OIG, Detention Reporting and Information Line (DRIL), and consulate offices. The Auditor tested the DRIL telephone line in three of the nine hold rooms and found them operational without the use of a PIN.

§115.154 - Third-party reporting.

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

Notes:

The Auditor determined compliance with this standard based on Policy 11087.1, that requires, "The FOD shall implement procedures for personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports." The interviews conducted with the AFOD, ERO staff and eight G4S staff confirmed the facility policy and their requirement of receiving third party reports and documenting those received verbally in writing. As previously noted, the Auditor observed third party reporting information to the DRIL and to the DHS OIG posted in each of the hold rooms posted in Spanish and English. The Agency website, www.ice.gov/prea, has information on reporting allegations of sexual abuse and/or assault available for making third party reports by the public. As noted earlier in the report, there were no detainees available to interview.

§115.161 - 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) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, "All ICE employees shall immediately report to a supervisor or a designated official any knowledge, suspicion, or information regarding an incident of sexual abuse or assault of an individual in ICE custody, retaliation against detainees or staff who reported or participated in an investigation, about such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Apart from such reporting, ICE employees shall not reveal any information related to a sexual abuse or assault allegation to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff, or to make medical treatment, investigation, law enforcement, or other security and management decisions." Interviews with the AFOD, SDDOs, DOs and G4S security staff confirmed their obligation to immediately report any incidents of sexual assault, sexual abuse, retaliation and staff neglect in duties that may have contributed to the sexual abuse or sexual assault. These interviews also confirmed their responsibility to immediately report all allegations of sexual abuse to their supervisors and document the known facts to them in writing as soon as possible but prior to the end of their shift. The Auditor was also informed of their obligation not to disclose any information that they become aware of except on a need-to-know basis. Both the G4S staff and the PDO ERO staff was aware of their ability to report outside their chain of command if necessary.

(d) The Auditor determined compliance with this standard subpart based on Policy 11062.2, that requires, "If the alleged victim is under the age of 18 or determined, after consultation with the relevant [Office of the Principal Legal Advisor] (OPLA) Office of the Chief Counsel (OCC), to be a vulnerable adult under a State or local vulnerable persons statute, report the allegation to the designated State or local services agency as necessary under applicable mandatory reporting laws and document his or her efforts taken under this section." The AFOD confirmed this reporting obligation during his interview. He indicated he would be responsible to contact the relevant ICE OPLA OCC and report allegations of sexual assault of any juvenile detainee or vulnerable adult detainee. He also would be required to report the allegations to the designated State or local services agency as required by mandatory reporting laws and

policy. The AFOD confirmed the PDO had no incidents involving a juvenile or vulnerable adult during the audit period; however, when the Auditor reviewed the two investigative files, he found that one of the allegations involved two minors. The investigative file documented notifications to all appropriate parties, including child protective services.

§115.162 – Agency protection duties.

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

Notes:

The Auditor determined compliance with this standard based on Policy 11062.2, that requires, “If an employee has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse or assault, he or she shall take immediate action to protect the detainee.” The SDDO, DOs and G4S security staff interviews confirmed detainee safety would be their primary concern if presented with reasonable belief that substantial risk of victimization existed. They all indicated their first response would be to remove the detainee from the threat and then notify their supervisor.

§115.163 - Reporting 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) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, “If the alleged assault occurred at a different facility from the one where it was reported, ensure that the administrator at the facility where the assault is alleged to have occurred is notified as soon as possible, but no later than 72 hours after receiving the allegation, and document such notification.” The AFOD and SDDO confirmed during their interviews, that if PDO staff became aware of any incident of sexual assault while the detainee was confined at another facility, PDO staff would notify that facility, by phone and email, as well as make notifications to the SDDO and AFOD, who would make all other ICE notifications as required by policy. Both also indicated that the PDO has received no report of this type during the audit period but if they did, he would report it within 72 hours and document the notifications.

(d) The Auditor determined compliance with this standard subpart based on interviews with the AFOD and SDDO who confirmed if the PDO receives a sexual assault allegation report from another facility that took place at the PDO, the incident would be referred for investigation following the same protocols previously outlined for in 115.122. The PDO received no reports from another facility of an allegation occurring at this facility during the audit period.

§115.164 - Responder duties.

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

Notes:

(a) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, “The FOD shall ensure that upon learning of an allegation that a detainee was sexually abused or assaulted, the responder, or his or her supervisor: Separates the alleged victim and abuser; Preserves and protects, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence; If the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, requests the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, ensures that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.” The ICE DOs, SDDO and G4S staff interviewed explained in detail how each would respond to any allegation of sexual assault or sexual abuse. Each of their responses included the subpart (a) requirements. It was evident to the Auditor the staff was well trained and informed on ensuring the safety and well-being of detainee victims of sexual assault. One of the investigative case files reviewed indicated that the alleged victim was taken to the local hospital for a forensic medical examination.

(b) The Auditor determined this standard subpart is not applicable to the PDO as there are no non-law enforcement staff who have contact with detainees.

§115.165 - Coordinated response.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c) The Auditor reviewed Policy 11087.1, which states, “The FOD shall ensure a coordinated, multidisciplinary team approach to respond to allegations of sexual abuse and assault occurring in holding facilities, or in the course of transit to or from holding facilities, as well as to allegations made by a detainee at a holding facility of sexual abuse or assault that occurred elsewhere in ICE custody. If a victim is transferred between detention facilities or holding facilities, or to any non-ICE facility, ensure that, as permitted by law, the receiving facility is informed of the incident and the victim’s potential need for medical or mental health care or victim services.” And Policy 11062.2, which requires, “When the incident occurs in ERO Custody, the FOD shall [use] a coordinated, multidisciplinary team approach to respond to the allegation. If a victim is transferred between detention facilities or holding facilities, or to any non-ICE facility, ensure that, as permitted by law, the receiving facility is informed of the incident and the victim’s potential need for medical or mental health care or victim services (unless, in the case of transfer to a non-ICE facility, the victim requests otherwise).” The AFOD confirmed when any allegation of sexual abuse or sexual assault occurs, his response would be reporting via policy following the SEN

procedures which would include notifications to the OIG JIC, Assistant Director for Field Operations and PSA Coordinator. He also stated he would coordinate responses with the PPD if a criminal investigation was warranted. The notification to any receiving facility would include information on the medical or social needs of the victim as outlined by Policy 11087.1. While Policy 11062.2 directs procedures that align with 115.165 subpart (c), the PDO identified 11087.1 as the policy they will use as their Coordinated Response Plan, which is inconsistent with requirements of subpart (c), requiring that if a detainee is transferred to a non-DHS facility, the sending facility would inform the receiving facility of the victim's potential need for medical or mental health care or victim services unless the victim requests otherwise. As a result, the facility is non-compliant with subpart (c) of this standard.

Does Not Meet (c): The PDO identified Policy 11087.1, as their Coordinated Response Plan, which is inconsistent with requirement of subpart (c), which requires that if a detainee is transferred to a non-DHS facility, the sending facility would inform the receiving facility of the victim's potential need for medical or mental health care or victim services unless the victim requests otherwise. As a result, the facility is non-compliant with subpart (c) of this standard. For the Agency to become compliant, the Agency must update their written institutional plan to contain the required verbiage as written 115.165 subpart (c). For PDO to become compliant, the facility must develop or identify a coordinated response plan that includes procedures consistent with all provisions of 115.165, particularly with the language outlined in subpart (c) which is missing from the agency policy 11087.1. The facility must provide documented training of affected staff on the updated written institutional plan. In addition, the facility must provide the Auditor with any investigation, medical, and detainee files regarding any detainee victim of sexual abuse transferred during the Corrective Action Plan (CAP) period.

§115.166 - 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:

The Auditor determined compliance with the standard based on Policy 11062.2, that requires, "An ICE employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring detainee contact pending the outcome of an investigation." The interview with the AFOD and the acting G4S Project Manager confirmed that any of their staff alleged to have committed sexual abuse would be removed from all detainee contact until the conclusion of the investigation. There are no volunteers or contractors other than G4S employees allowed detainee access at the PDO. The PDO had no allegations of sexual abuse during the audit period involving a staff member or contractor.

§115.167 - Agency protection against retaliation.

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

Notes:

The Auditor determined compliance with the standard based on Policy 11062.2, that requires, "Employees shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse or assault, or for participating in sexual activity as a result of force, coercion, threats, or fear of force." The AFOD and a SDDO were interviewed, and both indicated that retaliation in any form against any one is not permitted. Interviews with ICE and G4S staff confirmed their awareness that retaliation against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegations of sexual abuse, or for participating in sexual activity as a result of force, coercion, threats, or fear of force is prohibited. Based on the Auditor's review of the two case files, no retaliation monitoring was conducted for either of the allegations reported because the alleged victim and alleged perpetrator in both cases were released on the same day the allegation was reported.

§115.171 - Criminal and administrative investigations.

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

Notes:

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11062.2, and the Performance-Based National Detention Standards (PBNDS) 2.11 that requires, "The FOD shall, [Conduct] a prompt, thorough, and objective investigation by qualified investigators. The FOD shall ensure that the facility complies with the investigation mandates established by the Performance-Based National Detention Standards (PBNDS) 2011 2.11, as well as other relevant detention standards. Upon conclusion of a criminal investigation where the allegation was substantiated, or in instances where no criminal investigation has been completed, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Substantiated allegation means an allegation that was investigated and determined to have occurred. Unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. The ICE Office of Professional Responsibility will typically be the appropriate investigative office within DHS, as well as the DHS OIG in cases where the DHS OIG is investigating. The facility shall develop written procedures for administrative investigations, including provisions requiring; preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data, interviewing alleged victims, suspected perpetrators, and witnesses, reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator, assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph, 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, and retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years." The policy also requires that the OPR coordinate with the FOD or SAC and facility staff to, "...ensure evidence is appropriately secured and preserved pending an investigation by federal, state, or local law enforcement, DHS, OIG, and/or OPR." The AFOD detailed the investigative process at the PDO for the Auditor and explained that the PDO is a 12 hour hold facility with the typical stay is about 3.5 hours and the detainee is either released from custody or remanded to Florence Staging Facility. Upon receiving any sexual abuse/assault allegation at the PDO, notifications are made to the PPD, and an incident notification is performed by the ICE staff to the FOD, OPR, and DHS OIG. According to the AFOD and SDDO, if the alleged assault results in a forensic examination or the detainee requires any medical attention, the detainee is moved to Banner University where a forensic examination is performed by a SANE, SAFE, or other qualified health care personnel, and victim advocacy services will be provided. As noted above if the detainee is not held, he/she is released from ICE custody with OPR continuing their investigation. If the detainee were required to be detained after returning from the offsite local hospital, he/she would be subsequently moved to the Florence Staging Facility where the detainee would be afforded victim advocate services and follow up with medical and crisis intervention services through the medical and mental health unit at Florence Staging Facility. These interviews further explained that if OPR elects not to investigate the allegation and refers it back to the facility, an administrative investigation would be completed by the PDO as the allegation originated at that facility which would be conducted by any of the six specially trained SDDOs. At the conclusion of their collection of facts, they determine if the allegation is substantiated, unsubstantiated or unfounded based upon a preponderance of the evidence. The PDO had two investigations completed by OPR during the audit period which were investigated according to the established protocols, and both were closed unsubstantiated.

(d) The Auditor determined compliance with the standard based on Policy 11062.2, that requires, "An investigation may not be terminated solely due to the departure of the alleged abuser or victim from the employment or control of ICE." The AFOD and facility trained PREA Fact Finder confirmed this policy requirement during their interviews. The Auditor's review of the two investigative case files determined that the alleged victims and alleged perpetrators in both cases were released on the same day as the allegations were reported, and a thorough and objective investigation continued beyond their release.

(e) The Auditor determined compliance with the standard based on Policy 11062.2, that requires, "When outside agencies investigate sexual abuse or assault, cooperate with law enforcement agencies, OPR, and other outside investigators and endeavor to remain informed about the progress of the investigation." The AFOD confirmed during his interview that the PDO would cooperate with all investigative agencies and remain informed to the extent possible and both case files reviewed revealed that the facility cooperated fully in the investigation.

§115.172 - Evidentiary standards for administrative investigations.

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

Notes:

The Auditor determined compliance with the standard based on Policy 11062.2, that requires, "Administrative Investigations impose no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse or assault, and may not be terminated solely due to the departure of the alleged abuser or victim from the employment or control of ICE." The PREA Fact Finder confirmed that he utilizes the preponderance of evidence as the standard when making a substantiated, unsubstantiated, or unfounded case finding. The review of the two case files demonstrated that a preponderance of evidence was the determining factor in the outcome.

§115.176 - Disciplinary sanctions for staff.

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

Notes:

(a) The Auditor determined compliance with the standard based on interviews with both the PDO AFOD and the acting G4S Project Manager who stated that any staff member would be subject to disciplinary or adverse action up to and including removal from their position and the Federal service for substantiated allegations of sexual abuse or violating agency sexual abuse policies. They both also stated that no staff member at the PDO has been disciplined for any violation of the zero-tolerance policy. The Auditor reviewed the two investigative files that were closed within the audit period and neither involved staff.

(c)(d) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, "Upon receiving notification from a FOD or SAC of the removal or resignation in lieu of removal of staff, for violating agency or facility sexual abuse and assault policies: Report that information to appropriate law enforcement agencies, unless the activity was clearly not criminal; and make reasonable efforts to report that information to any relevant licensing bodies, to the extent known." The interview with the AFOD and acting G4S Project Manager confirmed that all sexual abuse allegations are reported to law enforcement and every effort would be made to notify any licensing agencies as well.

§115.177 - 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) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, "An ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring

detainee contact pending the outcome of an investigation.” The interview with the AFOD confirmed this policy requirement and that should an allegation of sexual abuse involve a contractor or volunteer, the facility would remove that person from all duties involving detainee contact until the outcome on the investigation. The AFOD also confirmed that the facility would immediately contact the ICE OPR and the JIC and report the allegation to the PPD for investigation. The PDO, as noted earlier in the report, has no contractors other than G4S or volunteers who have any contact with detainees at PDO. The Auditor reviewed the two investigative files that were closed within the audit period and neither involved contractors or volunteers.

§115.182 - Access to emergency medical services.

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

Notes:

(a)(b) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, “The FOD shall ensure that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care.”; And Policy 11062.2, which states that “such treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation.” As noted earlier in the report, PDO has no medical or mental health staff on site. The AFOD confirmed detainees needing immediate medical attention would be taken to either University Hospital or Banner Hospital. If the detainee was to remain in ICE custody, he/she would receive continuing medical services at the Florence Staging Facility. The AFOD also verified that all medical treatment would be at no cost to the detainee. The review of the two case files noted medical was offered in both instances. In one case, the alleged victim was taken to the local hospital and received medical care as well as a forensic examination; the other file noted the detainee was offered but refused medical services.

Recommendation (a)(b): The Auditor recommends the facility obtain written refusal documented by the detainee’s signature when the detainee refuses medical services in connection with a sexual abuse allegation.

§115.186 – Sexual abuse incident reviews.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) Policy 11087.1, requires, “The FOD shall conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault occurring at a holding facility and, unless the allegation was determined to be unfounded, prepare a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse and assault. Such review shall ordinarily occur within 30 days of ERO’s receipt of the investigation results from the investigating authority.” The AFOD confirmed when the facility conducts an investigation of sexual abuse, an incident review would be completed in accordance with the policy. The facility had two allegations occur at PDO during the audit period. The Auditor reviewed investigative case files for the two allegations made at the PDO within the audit period. There was no evidence an incident review was conducted for either of these cases.

Does Not Meet (a): The facility did not conduct an incident review of the two investigations that were closed within the audit period. These incidents were determined unsubstantiated requiring a documented incident review. To become compliant, the facility must conduct an incident review of these two cases and establish a practice of conducting an incident review of all future cases within 30 days of the agency receiving the investigation results from the investigative authority. After the review, a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect or respond to sexual abuse shall be prepared. The agency shall implement the recommendations for improvement, if any are made, or shall document its reasons for not doing so in a written response. This written report and response shall be forwarded to the PSA Coordinator. Documentation of the incident review, the written report, and the notification to the agency PSA Coordinator must be provided to the Auditor for compliance review. The facility must provide to the Auditor evidence of incident reviews of any other closed investigations that occur within the CAP period. These reviews should be conducted within 30 days of the conclusion of the investigation.

§115.187 – Data collection.

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

Notes:

(a) The Auditor determined compliance with this standard subpart based on Policy 11062.2, that requires, “Data collected pursuant to this Directive shall be securely retained in accordance with agency record retention policies and the agency protocol regarding investigation of allegations. All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise.” The SDDO confirmed all case records, when maintained at the facility, are secured in a locked filing cabinet, within an administrative office with a restricted key. The Auditor confirmed the secure location of the files during the onsite audit during his interview with the SDDO.

§115.193 – Audits of standards.

Outcome: Not Low Risk

Notes:

This is the second audit of PDO. (b) (7)(E) [redacted] The length of stay for detainees at this facility is approximately 3.5 hours, and no detainee is held at the facility overnight; however, the facility is non-compliant with four standards which disqualifies a Low Risk determination.

§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)(e)(i)(j) The Auditor was provided full access to the entire facility without restriction. Necessary documentation, including while onsite, was provided in a timely manner. The Auditor was able to conduct all interviews in a private setting, without interruption. Although no detainee interviews were conducted, space had been identified which would have allowed for private interviews and access to a phone for interpretive services, if necessary. Audit notices were observed by the Auditor posted in the Hold Room advising detainees they were permitted to send confidential information or correspondence to the Auditor; however, the Auditor did not receive any correspondence from any detainee.

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:	0
Number of standards met:	25
Number of standards not met:	4
Number of standards N/A:	1
Number of standard outcomes not selected (out of 31):	0
Facility Risk Level:	Not Low Risk

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

7/5/2022

Auditor’s Signature & Date

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

7/7/2022

Assistant Program Manager’s Signature & Date

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

7/7/2022

Program Manager’s Signature & Date

**PREA Audit: Subpart B
DHS Holding 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:	409-866- (b) (6), (b) (7)(C)
PROGRAM MANAGER INFORMATION			
Name of PM:	(b) (6), (b) (7)(C)	Organization:	Creative Corrections, LLC.
Email address:	(b) (6), (b) (7)(C)	Telephone number:	409-866- (b) (6), (b) (7)(C)
AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		
FIELD OFFICE INFORMATION			
Name of Field Office:	Phoenix Field Office		
ICE Field Office Director:	John E. Cantu		
PREA Field Coordinator:	(b) (6), (b) (7)(C)		
Field Office HQ physical address:	2035 N. Central Avenue, Phoenix, AZ 85004		
Mailing address: (if different from above)			
INFORMATION ABOUT FACILITY BEING AUDITED			
Basic Information About the Facility			
Name of facility:	Phoenix District Office (PDO)		
Physical address:	2035 N. Central Avenue, Phoenix, AZ 85004		
Mailing address: (if different from above)			
Telephone number:	602-379-3235		
Facility type:	ICE Holding Facility		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Assistant Field Office Director (AFOD)
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(602) 257- (b) (6), (b) (7)(C) / (602) 766- (b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Supervisory Detention and Deportation Officer (SDDO)
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(602) 257- (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 U.S. Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of Phoenix District Office (PDO) was conducted on May 17-18, 2022. The audit was performed by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor Thomas Eisenschmidt, employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by U.S. Immigration and Customs Enforcement (ICE) Program Manager (PM), [REDACTED] and Assistant Program Manager (APM) (b) (6), (b) (7)(C) both DOJ and DHS certified PREA Auditors. The PM's role is 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 audit period is July 26, 2017 - May 18, 2022 and was extended because there were no allegations reported in the 12 months prior to the audit to review. PDO is a 12 hour hold facility processing males, females, unaccompanied children, and family units, operated by ICE, Office of Enforcement and Removal Operations (ERO). PDO is located in Phoenix, Arizona. Security services for the facility are provided by G4S, a private contractor.

During the audit, the Auditor found PDO met 25 standards, had 1 standard (115.118) that was non-applicable, and 4 non-compliant standards (115.117, 115.121, 115.165 and 115.186). As a result of the facility being out of compliance with 4 standards, the facility entered into a 180-day corrective action period, which began on July 8, 2022, and ending on January 4, 2023. The purpose of the corrective action period is for the facility to develop and implement a Corrective Action Plan (CAP) to bring the four standards into compliance.

Number of Standards Met: 4

§115.117 Hiring and promotion decisions

§115.121 Evidence protocols and forensic medical examinations

§115.165 Coordinated response

§115.186 Sexual abuse incident reviews

The Auditor received the first CAP materials on August 9, 2022.. The CAP was reviewed and approved, pending clarifications for each standard that did not meet compliance during the PREA audit site visit and documentation review. The Auditor received the final CAP documents provided by the facility for review on October 4, 2022. The documentation was reviewed, and the Auditor determined that the facility demonstrated compliance with each of the standards found non-compliant at the time of the site visit. Furthermore, as PDO is fully compliant with the DHS PREA Standards, the risk rating, pursuant to 115.193, is now Low Risk.

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.

§115. 117 - Hiring and promotion decisions

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

Notes:

(a)(b)(c)(d)(e)(f) The Auditor determined compliance with these standard subparts based on Federal Statute 731.202 (b), Executive Order 10450, ICE Personnel Security and Suitability Program Directive 6-7.0, and ICE Suitability Screening Requirements for Contractor Personnel Directive 6-8.0, which require anyone entering into or remaining in government service undergo a thorough background examination for suitability and reinvestigations every 5 years. The background investigation, depending on the type of work, is thorough to include education checks, criminal records check, neighbor and residence checks, financial checks, and prior employment checks. The policy documents outline misconduct and criminal misconduct being grounds for unsuitability, including material omissions or making false or misleading statements in the application. The Unit Chief of OPR Personnel Security Operations (PSO) informed Auditors who attended virtual training in November 2021 that detailed candidate suitability for all applicants includes their obligation to disclose: any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity. Based on information provided in an email by the OPR PSO (A) Division Chief, information on substantiated allegations of sexual abuse involving a former employee would be provided to prospective employers upon request, unless prohibited by law. The COR at the Phoenix Field Office (PFO) confirmed that no one would be hired or promoted who has engaged in sexual abuse in a prison, jail, holding facility or any other institution. She stated that all perspective applicants are specifically questioned about this type of misconduct and a positive response disqualifies the applicant; any material omissions or false information disqualifies the candidate as well. The interview with the AFOD confirmed there were no promotions of ICE employees at the PDO within the audit period. Interviews with ICE staff also confirmed their awareness of the agency's obligation to disclose any misconduct outlined in subpart (a) of this standard. The G4S acting Project Manager confirmed PDO staff have an affirmative duty to report any such conduct. She also stated that her staff is required, during promotions, to acknowledge by signature that they have not been involved in any such misconduct; however, she stated that the employees haven't been required to sign this self-declaration during their annual evaluations. Based on the memorandum dated November 8, 2021, issued by the ICE Acting Deputy Director, Employee Obligation to Report Corruption and Misconduct, ICE employees are obligated to report criminal and other allegations of employee and contractor misconduct, specifically including "[s]exual assaults, sexual harassment, or non-sexual harassment of [...] detainees."

Does Not Meet (b): The interview with the acting Project Manager confirmed G4S staff are not complying with the standard requirement that during written self-evaluations, conducted as part of reviews of current employees, each staff member must submit confirmation that he/she has not been involved in misconduct as outlined in subpart (a). To become compliant, the facility must implement a process to ensure that staff are asked the misconduct questions outlined in subpart (a) during reviews of current employees and demonstrate compliance by providing documentation for 10 random staff after implementation.

Corrective Action Taken (b): In the initial CAP response on August 9, 2022, the PDO agreed to submit examples of the facility utilizing the DHS 6 Code of Federal Regulations Part 115 form to document the subpart (b) requirements for 10 G4S staff. The Auditor accepted the CAP with the condition that the facility demonstrates the process has been implemented. The facility provided an update to the CAP response dated August 17, 2022, that supplied the process PDO would follow annually to secure this DHS 6 Code of Federal Regulations Part 115 form from staff. PDO also provided examples of completed forms for 11 staff. As a result, PDO is now compliant with the standard.

§115. 121 - 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) The facility did not provide the Auditor with evidence that they requested in writing that the Phoenix Police Department (PPD) follow the requirements of paragraphs (a) through (d) of this section. The Auditor discussed this provision with the SDDO during the site visit and was advised that a copy of the request would be provided; however, the documentation was not provided by the Auditor's departure from the facility.

Does Not Meet (e): PDO did not provide evidence of a request to PPD that they follow subparts (a) through (d) of this standard. To become compliant, PDO must request in writing to PPD that during a sexual abuse investigation involving a

detainee at PDO, the PPD follow the requirements outlined in subparts (a) through (d) and provide the Auditor with documentation this request has been made.

Corrective Action Taken (e): On August 28, 2022, the facility provided documentation from the PDO to the PPD requesting they comply with the (a) through (d) subparts when conducting investigations at the facility. PDO is now compliant with the requirements of this standard.

§115.165 - Coordinated response

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

Notes:

(a)(b)(c) The Auditor reviewed Policy 11087.1, which states, "The FOD shall ensure a coordinated, multidisciplinary team approach to respond to allegations of sexual abuse and assault occurring in holding facilities, or in the course of transit to or from holding facilities, as well as to allegations made by a detainee at a holding facility of sexual abuse or assault that occurred elsewhere in ICE custody. If a victim is transferred between detention facilities or holding facilities, or to any non-ICE facility, ensure that, as permitted by law, the receiving facility is informed of the incident and the victim's potential need for medical or mental health care or victim services." And Policy 11062.2, which requires, "When the incident occurs in ERO Custody, the FOD shall [use] a coordinated, multidisciplinary team approach to respond to the allegation. If a victim is transferred between detention facilities or holding facilities, or to any non-ICE facility, ensure that, as permitted by law, the receiving facility is informed of the incident and the victim's potential need for medical or mental health care or victim services (unless, in the case of transfer to a non-ICE facility, the victim requests otherwise)." The AFOD confirmed when any allegation of sexual abuse or sexual assault occurs, his response would be reporting via policy following the SEN procedures which would include notifications to the OIG JIC, Assistant Director for Field Operations and PSA Coordinator. He also stated he would coordinate responses with the PPD if a criminal investigation was warranted. The notification to any receiving facility would include information on the medical or social needs of the victim as outlined by Policy 11087.1. While Policy 11062.2 directs procedures that align with 115.165 subpart (c), the PDO identified 11087.1 as the policy they will use as their Coordinated Response Plan, which is inconsistent with requirements of subpart (c), requiring that if a detainee is transferred to a non-DHS facility, the sending facility would inform the receiving facility of the victim's potential need for medical or mental health care or victim services unless the victim requests otherwise. As a result, the facility is non-compliant with subpart (c) of this standard.

Does Not Meet (c): The PDO identified Policy 11087.1, as their Coordinated Response Plan, which is inconsistent with requirement of subpart (c), which requires that if a detainee is transferred to a non-DHS facility, the sending facility would inform the receiving facility of the victim's potential need for medical or mental health care or victim services unless the victim requests otherwise. As a result, the facility is non-compliant with subpart (c) of this standard. For the Agency to become compliant, the Agency must update their written institutional plan to contain the required verbiage as written 115.165 subpart (c). For PDO to become compliant, the facility must develop or identify a coordinated response plan that includes procedures consistent with all provisions of 115.165, particularly with the language outlined in subpart (c) which is missing from the agency policy 11087.1. The facility must provide documented training of affected staff on the updated written institutional plan. In addition, the facility must provide the Auditor with any investigation, medical, and detainee files regarding any detainee victim of sexual abuse transferred during the Corrective Action Plan (CAP) period.

Corrective Action Taken (c): The Auditor received an ERO Assistant Director's broadcast notifying ERO field offices that when sexual abuse victims are transferred to a facility not covered by subpart A or B from a DHS holding facility, the agency shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise. On October 5, 2022, the Auditor received training documentation of staff affected by the ERO Assistant Director's broadcast. PDO is now compliant with the standard.

§115. 186 - Sexual abuse incident reviews

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

Notes:

(a) Policy 11087.1, requires, "The FOD shall conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault occurring at a holding facility and, unless the allegation was determined to be unfounded, prepare a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse and assault. Such review shall ordinarily occur within 30 days of ERO's receipt of the investigation results from the investigating authority." The AFOD confirmed when the facility conducts an investigation of sexual abuse, an incident review would be completed in accordance with the policy. The facility had two allegations occur at PDO during the audit period. The Auditor reviewed investigative case files for the two allegations made at the PDO within the audit period. There was no evidence an incident review was conducted for either of these cases.

Does Not Meet (a): The facility did not conduct an incident review of the two investigations that were closed within the audit period. These incidents were determined unsubstantiated requiring a documented incident review. To become compliant, the facility must conduct an incident review of these two cases and establish a practice of conducting an incident review of all future cases within 30 days of the agency receiving the investigation results from the investigative authority. After the review, a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse shall be prepared. The agency shall implement the recommendations for improvement, if any are made, or shall document its reasons for not doing so in a written response. This written report and response shall be forwarded to the PSA Coordinator. Documentation of the incident review, the written report, and the notification to the agency PSA Coordinator must be provided to the Auditor for compliance review. The facility must provide to the Auditor evidence of incident reviews of any other closed investigations that occur within the CAP period. These reviews should be conducted within 30 days of the conclusion of the investigation.

Corrective Action Taken (b): The Auditor was provided documentation on August 24, 2022, that an incident review was done on the two unfounded allegations made during the audit period. PDO is now compliant with the standard.

§115. Choose an item.

Outcome: Choose an item.

Notes:

[Empty text box]

§115. Choose an item.

Outcome: Choose an item.

Notes:

[Empty text box]

§115.193

Outcome: Low Risk

Notes:

This is the second audit of PDO. (b) (7)(E) [Redacted] The length of stay for detainees at this facility is approximately 3.5 hours, and no detainee is held at the facility overnight; however, the facility was non-compliant with four standards which originally disqualified a Low Risk determination. After a careful review of corrective action, it is determined that the facility is now in compliance with all four deficient standards, and now in compliance with the DHS PREA Standards. Therefore, the Auditor has determined that the facility is now low risk.

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
Auditor's Signature & Date

October 25, 2022

(b) (6), (b) (7)(C)
Program Manager's Signature & Date

November 7, 2022

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

Assistant Program Manager's Signature & Date

November 8, 2022