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

Homeland Security

AUDIT DATES			
From:	4/26/2022	**To:**	4/27/2022
AUDITOR INFORMATION			
Name of auditor:	James T. McClelland	**Organization:**	Creative Corrections
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	772-579-(b) (6), (b)
PROGRAM MANAGER INFORMATION			
Name of PM:	(b) (6), (b) (7)(C)	**Organization:**	Creative Corrections
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	772-579-(b) (6), (b)
AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		

FIELD OFFICE INFORMATION	
Name of Field Office:	ERO Los Angeles Field Office
Field Office Director:	Ernesto Santacruz Jr., Acting Field Office Director
ERO PREA Field Coordinator:	Click or tap here to enter text.
Field Office HQ physical address:	300 N. Los Angeles St., Los Angeles, CA 90012
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:	San Bernardino Hold Room		
Physical address:	655 West Rialto Ave., San Bernardino CA 92410		
Mailing address: (if different from above)	Click or tap here to enter text.		
Telephone number:	909-386-3238		
Facility type:	ICE Holding Facility		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	**Title:**	Assistant Field Office Director
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	602-723-(b) (6), (b)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	**Title:**	Prevention of Sexual Assault Coordinator (PSAC)
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	213-830-(b) (6), (b)

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 the San Bernardino Hold Room (SBHR) was conducted from April 26, 2022 - April 27, 2022. The audit was performed by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor James McClelland, employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by Immigration & Customs Enforcement (ICE) Assistant Program Manager (APM) [redacted], a DOJ and DHS certified PREA Auditor. The APM'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 initial audit period is April 27, 2021, through April 27, 2022. As there were zero allegations of sexual abuse reported at SBHR for the prior 12-months period, the audit period was extended five years to capture closed investigations that occurred since the facility's last PREA audit. SBHR is a Hold Room operated by ICE, Office of Enforcement and Removal Operations (ERO). Security services for the facility are provided by G4S, Spectrum Security Services (SSS), and Paragon, each a private contractor. G4S contract DOs have the primary security and detainee supervision responsibility and SSS contracted staff have minimal detainee contact. Paragon contract officers are assigned to external perimeter video monitoring details only, with no detainee video monitoring responsibilities, nor do they have contact with detainees.

The facility is in San Bernardino, California (CA), approximately 59 miles west of Los Angeles, CA. SBHR is situated on the bottom two floors of the U.S. Citizenship and Immigration Services building.

This is the second DHS PREA audit for the facility. The last PREA audit conducted at the staging facility occurred in June 2017. Team Lead (TL) [redacted] ICE OPR ERAU Inspections and Compliance Specialist (ICS), provided the completed Pre-Audit Questionnaire (PAQ), along with supporting documents and policies for SBHR on the secure ERAU SharePoint website approximately four weeks prior to the onsite phase of the audit. The information provided included Agency policies, memorandums of understanding (MOUs), training records and curricula, facility schematics, exhibits and other documentation needed for the Auditor to determine compliance with the DHS PREA standards. The main policies that provide facility direction for PREA is Agency policy 11062.2, Sexual Abuse and Assault Prevention and Intervention (SAAPI) and 11087.1, Operations of ERO Holding Facilities.

The Auditor completed the review of the documentation provided by SBHR, and the TL, in the FY22 Facility Document folder found on the SharePoint platform. The intent of the documentation is to support how a facility establishes a baseline for its actual practice for zero tolerance for sexual abuse and sexual harassment. The Auditor also reviewed the facility's website, www.ice.gov.

During the pre-audit review of documentation, the Auditor identified questions and requested clarification from the TL and facility prior to the site visit. All questions were answered to the satisfaction of the Auditor prior to the onsite portion of the audit.

On April 26, 2022, at approximately 7:45 a.m., the Auditor, and TL, arrived at the facility and established their work area in a secure conference room on the second floor of the facility. At approximately 8:15 a.m., the Auditor, and TL, met with facility administration and staff where the entry briefing was moderated by the TL. In attendance at the briefing, either in person or via teleconference, were the following:

[redacted] Assistant Field Office Director (AFOD), ICE/ERO
[redacted] Supervisory Detention & Deportation Officer (SDDO), ICE/ERO
[redacted] Deportation Officer (DO), ICE/ERO
[redacted] DO, ICE/ERO
[redacted], ICE/OPR/ERAU, ICS
James McClelland, Auditor, Creative Corrections, LLC

The entry briefing provided an opportunity for all parties to establish a positive working relationship and outlined the proposed schedule for the two onsite days. At the completion of the entry briefing, the audit team conducted a tour of the hold room.

Accompanied by the SDDO, ERAU TL, and two ICE DOs, the Auditor's tour covered the entire Hold Room over the next two hours. The Auditor observed seven holding cells with a total design capacity of 88, a booking area consisting of 6 workstations, property room, storage room, control room, kitchen/lunch break room, two interview rooms, secure sallyport, and a G4S assigned supervisor office. During the tour, the Auditor looked at camera placements for possible blind spots, and the detainee to officer ratio in accordance with the holding room capacity occupancy. In addition, the Auditor looked at privacy issues, how the toilet and a single shower area were configured and if detainees have adequate privacy. The Auditor observed Zero-Tolerance PREA posters in both English and Spanish displayed throughout the facility to include within each detainee hold room. The auditor also observed that PREA Audit Notices were displayed in each of the holding rooms and in public areas as well. PREA Audit Notices in English and 11 other languages were posted by SBHR prior to the on-site visit. The PREA notice communicates to staff and detainees that the facility will be undergoing an audit for compliance with the DHS/ICE Standards to Prevent, Detect, and Respond to Sexual Abuse in a Confinement Setting. The notice also spells out how confidential information is to be handled and where that confidential information

can be reported. No correspondence was received from detainees, staff, or other individuals during this audit phase. The Auditor observed one phone in each holding room and that the Partners Against Violence, San Bernardino (PAVSB) advocacy hotline number along with the outside reporting entity contact information was readily available in the holding rooms. The Auditor also conducted two test calls to the DHS Office of the Inspector General (OIG) and the Detention and Reporting Information Line (DRIL), to confirm the effectiveness of the facility's practice. In each case the Auditor informed the representative on the purpose of the call. All representatives stated their understanding of accepting PREA allegations and/or complaints and each said that all can be made anonymously if requested by the detainee. As a result of a building plumbing issue, no detainees were received during the two days the Auditor was onsite. On the second day of the audit, the Auditor requested permission for assigned intake staff to simulate the detainee intake process and observed a step-by-step intake to departure process.

Each holding cell area includes at least one toilet, one telephone, no showers and stainless-steel benches that surround the perimeter of the cells. The toilet areas are surrounded by half walls that are approximately four feet tall for privacy. There was one room that contained a shower; however, at the time of the onsite audit, it was being used as a storage area and according to the SDDO, this shower has not been utilized during the 12-month audit review period. All holding cells contained posters on the walls in English and Spanish informing detainees of how to report sexual abuse in writing, anonymously, and via third party, to the DHS OIG. When the Hold Room is occupied, the supervision is provided by G4S Officers and ICE DOs. There are zero volunteers who enter the facility. The SBHR can receive males, females, and juveniles pending processing and relocation by ICE ERO staff or through contracted transportation services. During the audit period, the SDDO reported receiving two juveniles for fingerprinting and processing only. The SDDO reported that both juveniles were accompanied by adult guardians and that neither were placed within a hold cell during their time at the facility.

According to both ICE DO staff and the SDDO during the interview process, detainees are normally brought to the SBHR by two means, either during an initial apprehension or during a transport to or from other detention facilities. The detainee population at SBHR is always fluid, as detainees are arriving and departing throughout various times of the day. Due to the limited 12 hours holding, there are no housing units, education, library, on-site medical clinic, food service or recreation areas. During the tour, it should be noted that there was sufficient staff to ensure a safe environment for detainees and staff. Informal conversations with staff regarding duties, responsibilities and PREA standards were conducted during the tour. The SBHR's typical hours of operation are 5:00 am to 9:00 pm. No detainee is ever kept overnight and is never kept longer than 12 hours. The average length of time a detainee is held is approximately six hours. The detainees are separated based on which facility they will be assigned to long-term, gender, and if necessary, juveniles. If an ICE DO recognizes, or is informed, that a detainee is possibly at risk of sexual abuse, then that detainee is immediately separated and placed in a holding cell by themselves. The SBHR has magnetic placards identifying these categories that are placed on the holding room cell doors. If a detainee is brought to the SBHR by means of a DO apprehension, that detainee is processed, printed, and receives a risk classification assessment that will follow them to their next destination if necessary. During the last 12 months, there were 670 detainees; 643 males and 27 females, and 2 juveniles processed through the SBHR.

SBHR has 11 video cameras that are continuously monitored by security personnel in the control room. Each holding cell had video surveillance capabilities that capture camera footage inside the rooms except for holding cell F, whose camera was inoperable. During the onsite tour, the auditor observed a notice posted on the entry door of holding cell F that advises staff that this room is not to be utilized. The SDDO confirmed that no detainees have been housed in hold cell F nor will they house a detainee until the camera is functioning properly. It was observed during the tour that detainees can dress and use the toilet facilities without exposing themselves to staff of the opposite gender. The Auditor viewed the video feed and observed that the restroom (toilet) areas had been pixelated (distorted) to provide a level of privacy.

Immediately following the facility tour, the Auditor interviewed staff as there were no detainees at the facility available for interview during the two-day site visit. Staff interviews were conducted in a private office located on the second floor of the facility. During the interview process, a total of 19 staff were interviewed. Specific facility designee staff interviewed included: the AFOD, the SDDO and the PSAC. These interviews also included random ICE, G4S, and SSS staff that were selected by the Auditor using the daily duty roster, which was provided by the SDDO. The Auditor chose staff from all shifts, working different assignments, and with different levels of experience. The Auditor also made sure interviews were conducted with the appropriate number of female staff that corresponded with the daily duty roster. The Auditor relied on the SDDO, and PSAC, for most of the staff designee interviews. In addition, the Auditor also contacted the Arrowhead Regional Medical Center (ARMC), which is responsible for detainee emergency medical services and advocacy referrals.

There was one sexual abuse allegation reported during the extended audit period. While being processed at the Adelanto ICE Processing Center (AIPC), the detainee, during the risk screening, alleged that he had been sexually abused by an unknown detainee while detained at SBHR. The case was closed and determined to be unfounded. The case was referred to ICE OPR and investigated by an AIPC investigator, who shared their investigative results with the Agency.

On Wednesday, April 27, 2022, an exit briefing was held at approximately 1:00 pm in the Conference Room to discuss the audit findings. ERAU TL (b) (6), (b) (7)(C) opened the meeting and then turned it over to the Auditor for an overview of the findings. The following individuals were in attendance, either in person or via teleconference, were the following:

(b) (6), (b) (7)(C) AFOD, ICE/ERO
(b) (6), (b) (7)(C) SDDO, ICE/ERO
(b) (6), (b) (7)(C) Deputy FOD
(b) (6), (b) (7)(C) PSAC, ICE/ERO (via telephone)
(b) (6), (b) (7)(C) AFOD, ICE/ERO (via telephone)
(b) (6), (b) (7)(C), ICE/OPR/ERAU, ICS
James McClelland, Auditor, Creative Corrections, LLC

The Auditor thanked everyone present, and the entire staff at the SBHR, for their cooperation, professionalism, and hospitality during the audit. 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 all submitted documentation and interview notes conducted with staff. The Auditor further explained the audit report process, and timeframes, needed to prepare a final report.

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: 27
§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
§115.117 Hiring and promotion decisions
§115.121 Evidence protocol and forensic medical examinations
§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 Met: 2
§115.165 Coordinated response
§115.186 Sexual abuse incident reviews

Number of Standards Not Applicable: 1
§115.118 Upgrades to facilities and technologies

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 SBHR provided a written directive, Policy 11062.2, which states in part that; "ICE has a zero-tolerance policy for all forms of sexual abuse or assault." It is the 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, monitoring, and oversight as outlined in this directive.

During the interview with the SDDO, he discussed the policy and stressed the importance of sexual safety for detainees. Each staff member that was interviewed was also aware of the zero-tolerance policy.

§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 SBHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard. Policy 11087.1 states, "The Field Office Director (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 a) The physical layout of each holding facility; b) The composition of the detainee population; c) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; d) The findings and recommendations of the sexual abuse review reports; e) Any other relevant factors, including the length of time detainees spend in custody." During an interview with the SDDO, he confirmed each of these listed factors are considered and reviewed annually to ensure adequate supervision and monitoring. A review of the facility PAQ indicated SBHR has a total of 52 ICE staff, consisting of 50 males and 2 females, and 30 contract security staff, consisting of 22 males and 8 females, who may have recurring contact with detainees. The remaining 13 staff consists of facility management, supervisory, and civilian personnel. The roster showed adequate staffing to ensure proper supervision of detainees to ensure their safety and security. Staff members conduct regular and scheduled detainee hold room checks which are recorded in logbooks and were viewed by the auditor while onsite. During the tour, the Auditor observed that the holding rooms are checked every 15 minutes, when occupied, to ensure all areas are safe and secure. Holding room doors remain secured when not occupied by a detainee. The holding rooms are constantly monitored by video cameras as well as through direct supervision. This practice was confirmed during interviews with the SDDO, ICE DOs, and the G4S contract supervisory staff. Post orders are maintained in the staff control room area of the holding room for easy review and the Auditor confirmed they are reviewed annually. The Auditor observed staff signatures on post orders which indicated they have read and understood the documents. The SBHR provided an email confirming the final assessment results from the SDDO of the ERO Los Angeles Field Office dated March 28, 2022, showing compliance with their self-assessment. This process is completed annually to review the supervision guidelines and is identified as the "Hold Room Facility Self-Assessment Tool (HFSAT). The auditor was provided a copy of the March 28, 2022 HFSAT, and found it compliant with Policy 11087.1 and with the provisions of this standard.

The Auditor observed staff rosters and observed staffing levels during the on-site audit and determined they were adequate. (b) (7)(E) [redacted] Video cameras operate 24-hours a day, 7 days a week. Cameras are continuously monitored in the Control Room. The camera system allows for footage to be downloaded onto a thumb drive (USB device). The system saves footage for 28 days.

§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 SBHR provided a written directive, Policy 11087.1, states in part that; "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. The FOD shall ensure minors are detained in the least restrictive setting appropriate to his or her age and special needs, provide that such settings are consistent with the need to protect the minor's well-being and that of others, as well as with any laws, regulations, or legal requirements. Unaccompanied minors will generally be held separate from adults. The unaccompanied minor may temporarily remain with a non-parental adult family member where a) The family relationship has been vetted to the extent feasible, b) The agency determines that remaining with the non-parental adult family member is appropriate, under the totality of the circumstances."

The SBHR presented a memorandum dated October 20, 2021, authored by the AFOD stating that the SBHR does not generally hold juveniles. However, during Operation Horizon in November 2021, two juveniles were booked into the facility solely for the purpose of

obtaining biometrics and serving charging documents. In an interview with the SDDO, he stated that the two juveniles were under the supervision of two legal guardians during the entire process, and at no time was either placed in a secured hold room. While onsite, the auditor reviewed the SBHR intake log for November 2021 and observed the two juveniles spent approximately three hours in the SBHR. As there were zero allegations of sexual abuse reported at SBHR for the prior 12-months period, the audit period was extended five years to capture the one closed investigation that occurred since the facility's last PREA audit; this allegation did not involve a juvenile.

During the interview, the SDDO further stated that if a need arose to place a juvenile in a hold room, they would ensure the juvenile was placed out of sight and sound of any adults. Each random staff member interviewed stated that if they were to come into contact with unaccompanied minors, they would ensure the juvenile was placed out of sight and sound from all adult detainees who are not vetted family members.

§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)(e)(f) The SBHR provided a written directive, Policy 11087.1, which states in part that; "The FOD shall ensure that when pat down searches indicate the need for a more thorough search, and extended search (i.e., strip search) is conducted in accordance with ICE policies, including that a) All strip searches and visual body cavity searches are documented; b) 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 c) Visual body cavity searches of minors are conducted by a medical practitioner and not by law enforcement personnel."

Policy 11087.1 further states, "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 conversation, reviewing medical records, or learning that information as part of a broader medical examination conducted in private by a medical practitioner."

During the interview with the SDDO, he stated that cross-gender strip searches are only permitted to be performed by medical staff, if needed. However, it should be noted that there are no medical staff working at the SBHR. Therefore, the SDDO advised if the need for such a search was deemed necessary, then the detainee would have to be transported to another ICE facility with medical staff for the search. The SDDO further stated that searches are not conducted for the sole purpose of identifying a detainee's gender and that the detainee would be asked what gender the detainee identifies with. When interviewing random staff, all five ICE DOs, and all five G4S Detention Officers (DOs), stated that they were trained on how to conduct pat searches during their initial academy training and that they rely on utilizing sworn staff of the same gender as the detainee when conducting pat down searches. In addition, all ten DOs stated that they had not conducted or witnessed any strip searches or visual body cavity searches of any detainees of the opposite gender or juveniles. The SBHR presented a memorandum dated March 29, 2022, authored by the AFOD, stating that the SBHR has not conducted any strip searches or visual body cavity searches of non-citizens during the audit period. The Auditor reviewed staff training records and confirmed staff are trained in the proper procedures for conducting searches and that the training is consistent with regulation requirement.

(d): Policy 11087.1 further states, "The FOD shall ensure that detainees are permitted to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine hold room checks, 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."

When the G4S Contract DOs were asked how a detainee can privately shower, use the bathroom, and change clothes, the DOs identified the use of pixelated camera footage around the restroom, the surrounding half walls around the toilet area for privacy, and making announcements of their presence when entering the hold room. Although a single shower area was observed during the onsite inspection, according to the interviews with the SDDO and DOs, no one has ever taken a shower in that shower area. At the time of the on-site, the Auditor observed the area where the one facility shower is located and found it was being used for storage. Due to the mission and short-term temporary presence of detainees at the hold room, no detainees change clothes at the hold room. They are either brought in upon the initial arrest and then transferred to a long-term facility or they arrive from a long-term facility for release. In either situation there is no need for the detainee to change clothes. During the on-site facility inspection, (b) (7)(E) (b) (7)(E) , and confirmed SBHR provides adequate privacy for detainees to use the restroom. As noted above, there are no showers within any of the individual hold rooms.

§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 SBHR has provided a written directive, Policy 11087.1, which state in part that; "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/ICE policy requirements." In addition, the SBHR provided Policy 11062.2, which state in part that; "appropriate steps in accordance with applicable law to ensure that detainees with disabilities (including detainees who are deaf or hard of hearing, those who are blind, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of agency and facility efforts to prevent, detect, and respond to sexual abuse. In matters related to allegations of sexual abuse or assault, ensure the provision of in-person or telephonic interpretation that enable effective, accurate, and impartial interpretation by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that such interpretation is appropriate and consistent with DHS Policy."

During the interview with the SDDO, he stated that there are ICE PREA Zero Tolerance posters throughout the facility in both English and Spanish. The SDDO also explained that many staff members are bilingual, and staff have access to the ERO Language Access Resource Center. A copy of the flyer for the ERO Language Services was provided to the Auditor for review and staff interviewed were aware of how to access this flyer when needed. These ERO Language Services are available 24/7 for staff to utilize when providing detainees PREA information. This resource flyer provides information on how to access the ERO Language Resource Center; the 24-Hour Language Line to request translation or transcription; and the U.S. Citizenship and Immigration Services (USCIS) Language Line to request translations. Finally, the SDDO informed the Auditor that his staff do not utilize other detainees for interpretation responsibilities. Random staff were interviewed and asked about communicating with detainees that have disabilities or are limited English proficient. The staff identified the posters in both English and Spanish languages, utilizing the Language Line services, reading the information to the detainee, or communicating with the detainee in writing. Of the 10 random staff members the Auditor interviewed, the Auditor is aware of 5 DOs that were fluent in the Spanish Language. The Auditor interviewed two ICE Intake DOs who advised that although they have no had contact with a deaf or hard of hearing detainee during the audit period, they would ensure a deaf or hard of hearing detainee received information related to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse by issuing the detainee the available DHS-prescribed Sexual Abuse and Assault Awareness pamphlet.

The Auditor observed these PREA Posters in both English and Spanish languages, and the Consulate contact information, posted throughout the facility during the on-site facility tour. No detainees were interviewed during the on-site audit phase due to no detainees being present during the onsite 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): 5 CFR 731, Executive Order 10450, ICE Directive Personnel Security and Suitability Program 6-7.0, and ICE Directive Suitability Screening Requirements for Contract Personnel 6-8.0 require, "Anyone entering into or remaining in government service undergo a thorough background examination for suitability and retention. The background investigation, depending on the clearance level, will include education checks, criminal records check, financial check, residence and neighbor checks, and prior employment checks." The directives also outlined misconduct and criminal misconduct as 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 Personnel Security (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 Auditor created a random list of four ICE staff and four contracted G4S staff employees working at the SBHR and submitted them to the ICE PSO. The Auditor received a response regarding up-to-date background checks on all eight employees on April 20, 2022. According to the SDDO, no staff received a promotion during the audit period; therefore, there were no records to review regarding the misconduct questions that are required to be asked during interviews for promotions. During staff interviews at the facility, the Auditor confirmed that all contractors and employees were asked these questions prior to being hired. The facility imposes a continuing affirmative duty to disclose any misconduct, whether it is related to sexual misconduct or not.

§115.118 - Upgrades to facilities and technologies.
Outcome: Not Applicable (provide explanation in notes)
Notes:

(a)(b): A memorandum dated March 29, 2022, authored by the AFOD, confirmed SBHR has not designed, modified, acquired, or expanded upon new or existing space, or installed or updated electronic monitoring systems to the detainee areas since March 2018.

§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:

(a) The SBHR provided a written directive, Policy 11062.2, which states in part that; "when feasible, secure and preserve the crime scene and safeguard information and evidence, consistent with ICE uniform evidence protocols and local evidence protocols in order to maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions." Per policy 11062.2, "when a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility's incident review personnel in accordance with OPR policies and procedures. OPR does not perform sex assault crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or local law enforcement agency. The OPR will coordinate with the ICE Enforcement and Removal Operations ERO FOD and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred or accepted by DHS Office of the Inspector General (OIG), OPR, or the local law enforcement agency, the ICE AFOD would assign an administrative investigation to be conducted." The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC, who completed the investigation.

(b)(c)(d): The SBHR provided Policy 11087.1, which states in part that; "The FOD shall coordinate with the ERO HQ and the ICE PSA Coordinator in utilizing, to the extent available and appropriate, community resources and services that provide expertise and support in areas of crisis intervention and counseling to address victims' needs." The policy also states that; "where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the FOD shall arrange or refer an alleged victim detainee to a medical facility to undergo a forensic medical examination, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFE's or SANE's cannot be made available, the examination can be performed by other qualified health care personnel. If in connection with an allegation of sexual abuse, 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."

During the interview with the SDDO, he informed the Auditor that if an allegation of sexual abuse were made and where evidentiarily appropriate, his staff would transport the detainee to the ARMC for a forensic medical examination with the detainee's consent. The Auditor reached out to the hospital and confirmed that they offer and employ SANE's that are on call and available to provide this service. In a memorandum authored by the AFOD, dated April 12, 2022, the Auditor confirmed that the facility attempted to enter into a MOU with ARMC, but the medical center declined.

The Auditor was also told by the SDDO that the facility has an agreement with PAVSB and requested that they provide crisis responses and victim advocacy services to the SBHR if needed. The Auditor contacted PAVSB and asked about this verbal agreement. PAVSB confirmed the agreement and stated that they would offer their services as a rape crisis advocate if called upon by the SBHR. In a memorandum authored by the AFOD, dated April 12, 2022, the Auditor confirmed that the facility attempted to enter into a MOU with PAVSB, but the center declined.

At the Auditor's request, the SDDO provided the auditor email correspondence which noted SBHR's efforts to enter into an MOU with both the hospital and PAVSB.

(e) SBHR is staffed and operated by ICE certified law enforcement DOs and G4S DOs and would rely on the DHS OIG or ICE OPR to conduct all criminal and administrative investigations regarding alleged sexual abuse while in the custody of ICE on-site at SBHR, and as both entities are within DHS, they are bound to the DHS PREA Standards. Criminal investigations involving a detainee PREA allegations would be conducted in coordination with the local law enforcement agency, San Bernardino Police Department (SBPD). Interviews with the SDDO, and PSAC, confirmed that the SBPD investigators are trained to follow the Uniform Evidence Collection protocols in compliance with PREA mandates and ICE evidence protocols for conducting criminal investigations. In a memorandum authored by the AFOD, dated April 12, 2022, the Auditor confirmed that the facility attempted to enter into a MOU with SBPD, but SBPD declined. At the Auditor's request, the SDDO provided the Auditor with email correspondence which noted SBHR's effort to enter into an MOU with the SBPD and this correspondence also included a request for SBPD to utilize the evidence protocols related to provisions (a-d) of this standard when conducting criminal PREA investigations at the SBHR.

§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 SBHR provided written directive, Policy 11062.2, which states in part that; "When an alleged sexual abuse incident occurs in ERO custody, the FOD shall a) Ensure that the appropriate law enforcement agency having jurisdiction for the investigation

has been notified by the facility administrator of the alleged sexual abuse. The FOD shall notify the appropriate law enforcement agency directly if necessary; b) Notify ERO's Assistant Director for Field Operations telephonically within two hours of the alleged sexual abuse or as soon as practical thereafter, according to procedures outlined in the June 8, 2006, Memorandum from [redacted] Acting Director, Office of Detention and Removal Operations, regarding "Protocol on Reporting and Tracking of Assaults" (Torres Memorandum); and c) Notify the ICE Joint Intake Center (JIC) telephonically within two hours of the alleged sexual abuse and in writing within 24 hours via the ICE SEN Notification Database, according to procedures outlined in the Torres Memorandum." Policy 11062.2 further dictates, that "The JIC shall notify the DHS Office of Inspector General (OIG)." Furthermore, the SBHR provided written directive, Policy 11062.2, which states in part that "The OPR shall 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, or referral to OPR." The AFOD provided a memorandum dated March 29, 2022, which outlined SBPD declining to enter into a MOU with SBHR. The AFOD also provided a memorandum dated March 29, 2022, that detailed how allegations are reported to the JIC and the appropriate law enforcement agency. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC, who completed the investigation.

(e): SBHR provided written directive Policy 11062.2, which states in part that; "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."

Interviews with the SDDO, and PSAC, confirmed Policy 11062.2 would be followed should an allegation of sexual abuse that is criminal in nature be reported by a detainee.

§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)(c): The SBHR provided written directive, Policy 11062.2, which states in part that; "All current employees required to take the training, as listed below, shall provide each employee with biennial refresher training to ensure that all employees know ICE's current sexual abuse policies and procedures. All newly hired employees who may have contact with individuals in ICE custody shall also take the training within one year of their entrance on duty."

The policy further states, "The agency shall document all ICE personnel, who may have contact with individuals in ICE custody, have completed the training. All ICE personnel who may have contact with individuals in ICE custody shall receive training on the ICE's zero-tolerance policy for all forms of sexual abuse, the right of detainees and staff to be free from sexual abuse, 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, recognition of physical, behavioral, and emotional signs of sexual abuse that may occur, and ways of preventing and responding to such occurrences. These ways include common reactions of sexual abuse victims, how to detect and respond to signs of threatened and actual sexual abuse, prevention, recognition, and appropriate response to allegations or suspicions of sexual abuse involving detainees with mental or physical disabilities, and how to communicate effectively and professionally with victims reporting sexual abuse."

A review of the provided training curriculum, including PowerPoint slides though PALMS e-learning, training documents, training logs, and random staff interviews, confirmed all ICE employees and contractors have received both their initial and refresher PREA training as required by the standard. The AFOD provided a class roster, dated March 29, 2022, of all ICE and contract DOs as evidence of course completion of ICE PREA Employee Training. The Auditor randomly selected three G4S and two ICE staff and reviewed their Palms e-learning certificates. The certificates confirmed completion of the PREA initial, and refresher training, as required by the standard. During an interview with the SDDO he advised that training records are maintained for a minimum of five years for all staff and contractors that have contact with detainees. A review of the PAQ, and interview with the SDDO, confirmed that SBHR does not have volunteers that come into the facility.

§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 SBHR provided a written directive, Policy 11087.1, which states in part that; "The FOD shall ensure that key information regarding ICE's zero-tolerance policy for sexual abuse is visible or continuously and readily available to detainees (e.g., through posters, detainee handbooks, or other written formats)."

During the interviews with the SDDO, and both ICE and contracted DOs, the Auditor was informed that zero-tolerance and reporting information for detainees is available in each of the holding rooms through posters affixed to the walls. These posters are available in both English and Spanish, alerting the detainee to the zero-tolerance of sexual abuse and how to report it. In addition, the poster provides directions about contacting the toll-free number to make a PREA report in six additional languages. Two contracted G4S DOs stated that they had personally provided the PREA information and ways to report verbally in Spanish to detainees. During the facility on-site inspection, the Auditor observed the zero-tolerance and reporting posters affixed to the walls in each of the holding rooms and

in the common areas. As noted, there were no detainees present at the time of the site visit; and therefore, no detainee interviews were conducted.

§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 SBHR provided written directive, Policy 11062.2, which establishes that "OPR will provide specialized training to those staff assigned to conduct administrative investigations within the SBHR. The training shall cover at a minimum: interviewing sexual abuse victims, sexual abuse evidence collections in a confinement setting, the criteria and evidence required for administrative action or prosecutorial referral, and information regarding effective cross-agency coordination in the investigative process." The facility provided the Specialized Training in a Confinement Setting Curriculum that was established and created by the Moss Group and included sexual abuse and cross-agency coordination. In addition, the Agency provided a list of all OPR trained agents that may investigate allegations of sexual abuse of detainees in the custody of ICE, while being held at the SBHR. The PSAC is currently the only investigator trained on-site and may investigate administrative allegations of sexual abuse of detainees in the custody of ICE while being held at the SBHR. A copy of his specialized investigative training certificate was observed on-site. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC, who completed the investigation.

§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): The SBHR provided written directive, Policy 11062.2, and Policy 11087.1, which address the requirements of the standard and state in part that; "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 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 sexually abusive, to include being asked about their concerns for their physical safety."

(c): Agency Policy 11087.1 states that; "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 LGBTQI 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 SBHR provided a blank copy of an ICE Custody Classification Worksheet that partially identifies the criteria listed above and is utilized during the risk screening process.

During the facility site visit, the Auditor was provided a comprehensive step by step review of the detainee intake screening process simulated by the ICE DO intake and G4S staff. Staff interviews confirm that all detainees are assessed by ICE officers during the intake process. Prior to their arrival to SBHR, detainees arriving from other ICE facilities are screened for their risk of being sexually assaulted or having a history of sexual abusiveness. Intake Screening DOs consider whether the detainee has a mental, physical, or developmental disability and 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 to the extent of information available at the time of intake. The Auditor also observed that Intake Screening DOs have access to detainee criminal history information to include whether the detainee has ever been convicted of a sex offense against an adult or child.

Due to most of the detainees arriving at the SBHR from other facilities, the ICE Custody Classification Work Sheet is completed prior to their arrival. The accompanying screening work sheet is reviewed by the processing DO and updated or expanded upon during the admissions process from information obtained directly from the detainee. Per interviews with DOs, detainees that are brought into the facility from the street for processing shall be fully screened using the ICE Custody Classification Worksheet upon admission. Holding at SBHR is less than 12 hours thus allowing for detainee's intake and out processing to be completed in a timely fashion to maintain the detainee's safety. Interviews with ICE DOs confirmed the use of the required criteria for screening. As a result of no detainees arriving at the facility during the on-site audit, the auditor observed a detailed mock assessment for risk of victimization and abusiveness with ICE DO intake staff.

(d): Per ICE Policy 11087.1, "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."

Interviews with ICE DOs confirmed SBHR staff also ask new detainees about any prior sexual abuse victimization. If there are any affirmative identification of a detainee potentially being a sexual abuse victim or abuser, they are placed in a hold cell by themselves. Due to the short term stay of detainees, holding rooms at the SBHR are generally only occupied by one detainee at a time. If a single holding room is not be available, the information obtained from the ICE Custody Classification Worksheet and risk of victimization assessment would determine which occupied holding room the detainee would be placed in to ensure the safest environment for the detainee. Additionally, the SDDO advised that a security staff member would be assigned direct observation responsibilities for the entire time the detainee was held within SBHR.

(e): ICE Policy 11087.1 requires, "all holding facilities to place strict controls on the dissemination of sensitive information detainees provided during the screening procedures." Interviews with ICE DOs and the SDDO confirmed the policy and the facility's practice of strict confidentiality on a "need to know basis" which is in alignment with the standard provisions.

§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 SBHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part that; "The FOD shall ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse, retaliation for reporting sexual abuse, or violations of responsibilities that may have contributed to such incidents to ERO personnel." The FOD shall also implement procedures for ERO personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports," and, "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 to agency officials. Also, to confidentially, and if desired, anonymously, report these incidents."

The policy review and random staff interviews confirmed that there are multiple methods in which detainees can report an allegation of sexual abuse. These random staff interviews also confirmed the facility policy requirement that they are to accept and report allegations of sexual abuse regardless of how the report was made and that all verbal reports from detainees or third parties must be documented in writing to their supervisors. Holding rooms contain posters with information in which detainees can report to any SBHR staff member either verbally, or in writing, the DHS OIG or Consulate via telephone; or by telephone to a crisis hotline (The Rape, Abuse & Incest National Network (RAINN)). The Auditor's telephone test call to the DHS OIG reporting line confirmed that the detainee may report anonymously via telephone. Third party reporting for detainees is also available through the websites https://www.ice.gov/contact and http://www.ice.gov/PREA, in which a detainee's family or friends may report on behalf of the detainee. The RAINN, written disclosure and website reporting methods allow for anonymity if desired, should they choose not to report verbally to staff. An interview with the SDDO confirmed the facility received no detainee PREA allegations of this nature during the audit period.

§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 SBHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part that; "The FOD shall also implement procedures for ERO personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports."

Through direct observation of holding room postings, ICE and contracted staff interviews, and by directly visiting the provided websites, it was confirmed that SBHR has established methods to receive third party reports of sexual abuse. The Auditor's telephone test call to the OIG reporting line confirmed that the detainee, their family, or friends may report anonymously through the website or via telephone. Third parties may also report via telephone, or email, using the information located on the website at https://www.ice.gov/contact and http://www.ice.gov/PREA. Detainees are also made aware of the availability of third-party reporting via the information provided by ICE DOs during the intake process and via the posted information in each holding room. An interview with the SDDO confirmed the facility received no detainee PREA allegations of this nature during the audit period.

§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 SBHR provided a written directive, Policy 11062.2, which addresses the requirements of the standard and states in part that; "All ICE employees shall immediately report to a supervisor or a designated official any knowledge, suspicion, or information regarding an incident of sexual abuse 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." "The supervisor, or designated official, shall report the allegation to the FOD or [Special Agent in Charge] SAC, as appropriate. Apart from such reporting, ICE employees shall not reveal any information related to a sexual abuse allegation to anyone other than 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." The Agency has also

provided a memorandum titled, "Directing Complaints Appropriately" dated November 10, 2010, authored by the then former Deputy Director. This memo reiterates the types of misconduct allegations that employees must report to the JIC, OPR, or the DHS OIG and those types of allegations that should be referred to local management. "Employees should report allegations of substantive misconduct or serious mismanagement to the JIC, OPR, or DHS OIG. Listed in this memo as a substantive misconduct is "Physical or sexual abuse of a detainee or anyone else." The Auditor's review of the "ICE Prison Rape Elimination Act Training for Contractors and Volunteers" training lesson plan confirmed this same duty to report for contracted staff employed at SBHR. A review of policy, training curriculums, and staff interviews with the SDDO, ICE DOs, and contract DOs confirm that the Agency requires all staff to immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse that may have occurred to a detainee. Further, the interviews confirmed that staff are aware they may report any misconduct outside of their chain of command by calling or writing the JIC, the DHS OIG, or the third-party methods for reporting located on the ICE website.

When interviewing the SDDO, he was asked if a staff member learns about a sexual abuse allegation when, and to whom, would staff report the allegation. The SDDO responded that staff would report the allegation immediately to their immediate supervisor. The SDDO stated that staff can also contact the JIC and make a report outside of their chain of command. When asked how the SBHR would ensure only staff with a need-to-know is informed about the allegation, the SDDO stated that this practice is policy driven and staff are aware of the policy that they must keep information regarding the allegation to themselves and only divulge the information to those who have a need-to-know. When interviewing random staff, the Auditor asked if detainees had multiple ways to report sexual abuse allegations or other concerns such as retaliation for reporting sexual abuse allegations; the ICE DOs and G4S contract DOs indicated that there were multiple ways to report and provided examples such as verbally, in writing, and through the hotline. The auditor also asked these staff members how and when they would report if a detainee came to them with a sexual abuse allegation and they informed the Auditor they would immediately report the allegation to their supervisor and generate a written statement about the incident. When asked what steps would be taken, staff indicated they would immediately protect the safety of the detainee and arrange for Emergency Medical Services (EMS) to respond if necessary. All ICE DOs and G4S contract DOs indicated that they are aware that information regarding a sexual abuse allegation must be limited to those individuals with a need to know to maintain the integrity of the case and safety of the detainee.

(d): Policy 11062.2, states in part; "If alleged victim under the age of 18 or determined, after consultation with the relevant OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section."

During the 12-month audit period, the SDDO reported receiving two juveniles for fingerprinting and processing only. The SDDO reported that both juveniles were accompanied by adult guardians and that neither was placed within a hold room. During interviews with ICE DOs, and G4s contract officers, all expressed their knowledge and understanding of this provision regarding juveniles and vulnerable adults and reporting allegations of sexual abuse. However, as previously noted, as a result of no allegations being reported during the 12-month audit period, the Auditor extended the review in an attempt to capture closed allegations; this allegation did not involve a juvenile or vulnerable adult.

§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 SBHR provided a written directive, Policy 11062.2, that addresses the requirements of the standard and states in part that; "If an ICE employee has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee." Interviews with ICE DOs, and contract officers, confirmed their knowledge and understanding of the requirement to report, separate the detainee from the threat, and place them under direct supervision.

§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)(d): The SBHR provided a written directive, Policy 11062.2, which addresses the requirements of the standard and states in part that; "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 interview with the PSAC, confirmed the awareness of the requirement to notify the appropriate office of the Agency or the administrator of the facility where the alleged abuse occurred within the 72-hour requirement.

The PSAC confirmed during his interview that all notifications regarding an allegation of sexual abuse are noted in the case record of the detainee. The interview with the PSAC confirmed that the facility that held the detainee where the abuse occurred, must make all mandatory notifications upon receiving the notice of the allegation, per the mandatory requirements of the standard. A review of a memorandum dated March 29, 2022, from the AFOD, and an interview with the PSAC, confirmed there have been no notifications to the SBHR from other facilities, or made from SBHR to another facility, during the 12-month audit period.

However, as previously noted, as a result of no allegations being reported during the 12-month audit period, the Auditor extended the review in an attempt to capture closed allegations for review. The Auditor reviewed the one sexual abuse allegation investigation that occurred in March 2019 during the extended audit period and confirmed the allegation was made during the risk assessment process at AIPC, who completed the administrative investigation and reported the allegation to the SBHR.

§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 SBHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part that; "The FOD shall ensure that upon learning of an allegation that a detainee was sexually abused, the first responder, or his or her supervisor shall; separate the alleged victim and abuser, preserve and protect to the greatest extent possible any crime scene until appropriate steps can be taken to collect any evidence, and if the sexual abuse 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. These actions would include washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating."

It was confirmed through interviews with both ICE employees, and G4S contract staff, that they are aware of, and knowledgeable, regarding their responsibilities to respond when learning of an allegation of sexual abuse toward a detainee. DOs and contract DOs were able to explain the steps necessary as a first responder to ensure the safety of a detainee after an allegation of sexual abuse. A review of training records confirmed all staff have received the required training informing them of their first responder duties and their responsibility to ensure detainees do not destroy any physical evidence.

(b): Agency Policy 11087.1, page 12, and PBNDS 2011, 2.11 page 160 states in part that; "If the first responder is not a security staff member, the responder shall request the alleged victim not to take any actions that could destroy physical evidence, and then notify security staff." In an interview with the SDDO he confirmed all staff assigned to the SBHR are considered security first responders.

The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC, who completed the administrative investigation.

§115.165 - Coordinated response.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a): The SBHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part that; "The FOD shall ensure a coordinated, multidisciplinary team approach to responding to allegations of sexual abuse 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 that occurred elsewhere in ICE custody."

It was confirmed through interviews with the PSAC and both ICE DOs and G4S contract DOs that they are aware of their responsibilities to respond in conjunction with the facility coordinated, multidisciplinary team approach response to sexual abuse toward a detainee. When conducting the interviews with the PSAC, G4S contract DOs, and ICE DOs, they indicated that they would separate the victim from the abuser, preserve the scene, EMS secures the area, and notify a supervisor. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC, who completed the investigation.

(b)(c): Policy 11087.1, requires "notification to a receiving ICE, or non-ICE facility, where a detainee may be transferred, of the incident and the detainee's need for any on-going medical and/or mental health treatment services." The PSAC indicated during his interview that if a detainee is transferred to a non-ICE facility was a victim of sexual abuse, SBHR staff would provide the receiving facility any information regarding the sexual abuse allegation, including the victim's need for any medical or social services follow-up. The PSAC further indicated that if a detainee was transferred to a ICE Facility or another ICE Hold Room, that the SBHR would also notify the receiving facility of the need for medical or social services as permitted by law of any sexual assault victim transferred. Interviews with the AFOD, and SDDO, confirmed that should the detainee be transferred to a facility not covered by paragraph (b) of the standard, that the facility will take into consideration the detainee's request not to have his/her potential need for medical or social services shared with the receiving facility; however, Policy 11087.1 does not reflect that if a victim is transferred from a DHS holding facility to a facility not covered by paragraph (b) of the sections, the Agency shall, as permitted by law, inform the receiving facility of the incident and the potential need for medical or social services, unless the victim requests otherwise as required by subsection (c) of the standard.

Does Not Meet (c): Policy 11087.1 – ERO Holding Facilities Directive as it relates to standard 115.165 is not consistent with the standard. DHS PREA Standard 115.165(c) states, "If a victim is transferred from a DHS holding facility to a facility not covered by paragraph (b) of this section, 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." This policy as it relates to the coordinated response protocol does not include "unless the victim requests otherwise." To become compliant, the Agency must update their written

institutional plan to contain the required verbiage noted above. The facility must provide documented training of applicable staff of the updated written institutional plan.

§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 SBHR provided a written directive, Policy 11062.2, which addresses the requirements of the standard and states in part that; "ICE employees and contractor employees suspected of sexual abuse toward a detainee shall be removed from their duties pending the outcome of an investigation." The interview with the SDDO confirmed staff would be removed from any duties in which detainee contact was involved pending the outcome of an investigation. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC and did not include an allegation against a SBHR staff member or a 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 SBHR provided a written directive, Policy 11062.2, which states in part that; "ICE 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 for participating in sexual activity as a result of force, coercion, threats, or fear of force." Furthermore, ICE prohibits deliberately making false sexual abuse allegations as well as deliberately providing false information.

The SDDO was interviewed and indicated that the SBHR ensures that staff do not retaliate against other staff or detainees. The SDDO stated that the Agency policy dictates retaliation is prohibited; and therefore, employees that engage in such activity are held accountable. The SDDO also reported that the SBHR has not had any incidents regarding retaliation in the last 12 months.

The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC, which would require this facility to handle retaliation monitoring responsibilities.

§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): The SBHR provided written directive, Policy 11062.2, which addresses the requirements of the standard. The policy states in part that; "The FOD shall 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 conducting a prompt, thorough, and objective investigation by qualified investigators."

The interview with the AFOD confirmed that all administrative investigations are referred to ICE ERO and ICE OPR. All detainee-on-detainee sexual assault allegations and ICE employee or contractor employee allegations of detainee sexual abuse are referred to the SBPD when criminal in nature. An interview with the SDDO confirmed that the procedures in policy 11062.2 would be adhered to should they need to conduct any investigation or make any referral for investigations. At the Auditor's request, the SDDO provided the Auditor with email correspondence which noted SBHR's effort to enter into an MOU with the SBPD and this correspondence also included a request for SBPD to utilize the protocols related to provisions (a) of this standard when conducting criminal PREA investigations at the SBHR.

(b)(c)(d): In accordance with policy 11062.2, "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." PBNDS 2011 2.1, pages 143-144, states in part that; "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 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" Policy 11062.2 further states, "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." "Such procedures shall govern the coordination and sequencing of administrative and criminal investigations, in accordance with the first paragraph of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation."

(e) Policy 11062.2 dictates that "The facility fully cooperates with any outside agency investigating and endeavor to remain informed about the progress of the investigation." The interviews with the PSAC and SDDO, confirmed that the facility would fully cooperate with any outside agency as required by this policy. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC, who completed the investigation.

§115.172 - Evidentiary standard for administrative investigations.

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

Notes:

The SBHR provided a written directive, Policy 11062.2, which states in part that; "The OPR shall conduct either an OPR review or investigation, in accordance with OPR policies and procedures. Administrative investigations impose no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse and may not be terminated solely due to the departure of the alleged abuser or victim from employment or control of ICE." The interview with the SDDO and PSAC, confirmed that the PSAC is responsible for administrative investigations at SBHR and that a preponderance of the evidence is the standard utilized when substantiating allegations of sexual abuse. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC, who completed the investigation.

§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)(c)(d): The SBHR provided a written directive, Policy 11062.2, which addresses the requirements of the standard and states in part; "Upon receiving a notification from a FOD, or Special Agent in Charge (SAC), of the removal or resignation in lieu of removal of staff violating agency or facility sexual abuse and assault policies, the OPR will report that information to the 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 SDDO confirmed the disciplinary outcome of removal from service for violations of the sexual abuse policies and making attempts to inform all licensing agencies as a result of substantiated allegations. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC and confirmed it did not include an allegation against a SBHR staff person.

§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 SBHR provided a written directive, Policy 11062.2, which addresses the requirements of the standard and states in part; "The FOD shall ensure that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring contact with detainees pending the outcome of an investigation."

The SDDO confirmed during his interview, that the facility is responsible for promptly reporting sexual abuse allegations and incidents involving a volunteer or contractor against a detainee to the SBPD and JIC, and/or all other appropriate DHS investigative offices in accordance with all policies and procedures. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC and confirmed it did not include an allegation against a SBHR contract staff person. There are zero volunteers that provide services to the detainees at SBHR.

§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 SBHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part; "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. The FOD shall coordinate with ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available, any community resources and services that provide expertise and support in the areas of crisis intervention and counseling to address the victims' needs." Further, this policy provides that "victims of sexual abuse shall be provided emergency medical and mental health services and any ongoing care necessary. All treatment services, both emergency and ongoing, shall be provided to the victim without financial cost regardless of whether the victim names the abuse or cooperates with any investigation arising out of the incident."

The interview with the SDDO confirmed that a detainee alleging sexual abuse and in need of emergency care would be taken to the ARMC, which provides a full range of inpatient, outpatient, and diagnostic service in the San Bernardino area and at no cost to the detainee victim. The SDDO further confirmed that the ARMC would coordinate detainee victim advocacy services through the PAVSB. Per a memorandum dated March 29, 2022, signed by the AFOD, the ARMC and PAVSB have not entered into an MOU with SBHR at this time and the SDDO provided the auditor email correspondence detailing the facility's efforts to enter into a MOU with both entities. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was made during the risk assessment process at AIPC and did not result in the detainee needing emergency medical care.

§115.186 – Sexual abuse incident reviews.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a): The SBHR has provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part; "A sexual abuse and assault incident review shall be conducted 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, 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 the EROs receipt of the investigation results from the investigating authority. The FOD shall implement the recommendations for improvement, or shall document its reasons for not doing so, in written justification. Both the report and justification shall be forwarded to the Agency PSA Coordinator."

During the interview with the PSAC, it was confirmed that the incident review report and recommendations, if any, would be conducted and documented. The report and/or recommendations would subsequently be sent to the FOD for implementation, improvement, or written justification for not implementing the recommendations. In addition, the PSAC confirmed both the report and response is forwarded to the Agency PSA Coordinator. SBHR also presented a memorandum dated March 29, 2022, authored by the AFOD, stating the facility is required to report an allegation of sexual abuse to the FOD and the FOD is responsible to report to the JIC.

The Auditor reviewed the one sexual abuse allegation investigation that occurred during the extended audit period and confirmed the allegation was made during the risk assessment process at AIPC, who conducted the administrative investigation. Further review of this May 8, 2019 closed investigation found no documentation supporting a sexual abuse incident review was conducted within 30 days of the conclusion of the investigation. The SDDO explained that he had no information regarding whether or not the sexual abuse incident review occurred but that efforts would be made to locate the review if available. The Auditor asked the facility to check to determine if an incident review was conducted and if applicable, provide this documentation to the Auditor. The Auditor did not receive any documentation supporting a sexual abuse incident review was conducted for this one closed investigation.

Does Not Meet (a): The facility could not provide documentation that the sexual abuse incident review was completed within 30 days from the conclusion of the investigation. The facility must develop a process to conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse. Staff must be trained on the incident review requirement and conduct an after-the-fact sexual abuse incident review for the May 8, 2019 closed investigation. Additionally, the facility must document staff training, along with two examples of incident reviews completed in a timely manner for compliance review.

§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 SBHR has provided a written directive, Policy 11062.2, which states in part that; "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, (see PBNDS 2011, section 2.11 page 142). 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." Investigative files are not retained at the SBHR, but through the Agency's online case management system (JICMS).

§115.193 – Audits of standards.

Outcome: Not Low Risk

Notes:

The PREA Audit at the SBHR was the second audit for this facility. The physical layout of the facility provides clear direct sight of detainees while being processed and while in the holding rooms. Detainee supervision consists of direct contact and observation of detainees enhanced by video monitoring and staff interviewed were knowledgeable about their duties and responsibilities. After a careful review, it was determined that the facility is not in compliance with one standard; and therefore, not in compliance with the DHS PREA Standards. Even though the SBHR only holds detainees up to 12 hours, and there have not been any allegations of sexual abuse between March 26, 2021, and March 25, 2022, the Auditor must take into consideration the areas of non-compliance which include both policy and procedural issues. Therefore, the Auditor has determined that the facility is not low risk.

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

Homeland Security

§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.

Auditor Notifications in each of the dayrooms provided detainees the opportunity to correspond with the Auditor if needed. The Auditor received no correspondence from detainees or staff regarding this audit.

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:	28
Number of standards not met:	2
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.

James T. McClelland 6/15/2022
Auditor's Signature & Date

(b) (6), (b) (7)(C) 6/15/2022
Program Manager's Signature & Date

(b) (6), (b) (7)(C) 6/15/2022
Assistant Program Manager's Signature & Date

PREA Audit: Subpart B
DHS Holding Facilities
Corrective Action Plan Final Determination

Homeland Security

AUDITOR INFORMATION			
Name of auditor:	James McClelland	**Organization:**	Creative Corrections, LLC
Email address:	[redacted]	**Telephone number:**	409-866-[redacted]
PROGRAM MANAGER INFORMATION			
Name of PM:	(b) (6), (b) (7)(C)	**Organization:**	Creative Corrections, LLC
Email address:	[redacted]	**Telephone number:**	409-866-[redacted]
AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		
FIELD OFFICE INFORMATION			
Name of Field Office:	Los Angeles		
ICE Field Office Director:	Ernesto Santacruz Jr., Acting		
PREA Field Coordinator:	(b) (6), (b) (7)(C)		
Field Office HQ physical address:	300 N. Los Angeles St., Los Angeles, CA 90012		
Mailing address: *(if different from above)*			
INFORMATION ABOUT FACILITY BEING AUDITED			
Basic Information About the Facility			
Name of facility:	San Bernardino Hold Room		
Physical address:	655 West Rialto Ave., San Bernardino CA 92410		
Mailing address: *(if different from above)*			
Telephone number:	909-386-3238		
Facility type:	ICE Holding Facility		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	**Title:**	Assistant Field Office Director
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	602-723-[redacted]
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	**Title:**	Prevention of Sexual Assault Coordinator
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	213-830-[redacted]

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.

During the audit, the Auditor found SBHR met 28 standards, had one standard, (115.118) that was non-applicable, and 2 non-compliant standards (115.165 and 115.186). As a result, the facility was placed under a 180-day Corrective Action Plan (CAP) period that began June 16, 2022, and ended December 13, 2022, to address the non-compliant standards. The Auditor reviewed documentation provided by the facility on July 18, 2022, September 2, 2022, October 13, 2022, and December 11, 2022, to assess CAP compliance. Over the entirety of the CAP period, the SBHR came into compliance with both outstanding DHS PREA standards. Furthermore, as SBHR is fully compliant with the DHS PREA Standards, the risk rating, pursuant to 115.193, is now Low Risk.

Number of Standards Met: 2

§115.165 Coordinated response
§115.186 Sexual abuse incident reviews

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 replied upon in making the compliance or non-compliance determination for each provision that was found non-compliant during the audit.

§115. 165 - Coordinated response

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

Notes:

(b)(c): Policy 11087.1, requires "notification to a receiving ICE, or non-ICE facility, where a detainee may be transferred, of the incident and the detainee's need for any on-going medical and/or mental health treatment services." The PSAC indicated during his interview that if a detainee is transferred to a non-ICE facility was a victim of sexual abuse, SBHR staff would provide the receiving facility any information regarding the sexual abuse allegation, including the victim's need for any medical or social services follow-up. The PSAC further indicated that if a detainee was transferred to an ICE Facility or another ICE Hold Room, that the SBHR would also notify the receiving facility of the need for medical or social services as permitted by law of any sexual assault victim transferred. Interviews with the AFOD, and SDDO, confirmed that should the detainee be transferred to a facility not covered by paragraph (b) of the standard, that the facility will take into consideration the detainee's request not to have his/her potential need for medical or social services shared with the receiving facility; however, Policy 11087.1 does not reflect that if a victim is transferred from a DHS holding facility to a facility not covered by paragraph (b) of the sections, the Agency shall, as permitted by law, inform the receiving facility of the incident and the potential need for medical or social services, unless the victim requests otherwise as required by subsection (c) of the standard.

Does Not Meet (c): Policy 11087.1 – ERO Holding Facilities Directive as it relates to standard 115.165 is not consistent with the standard. DHS PREA Standard 115.165(c) states, "If a victim is transferred from a DHS holding facility to a facility not covered by paragraph (b) of this section, 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." This policy as it relates to the coordinated response protocol does not include "unless the victim requests otherwise." To become compliant, the Agency must update their written institutional plan to contain the required verbiage noted above. The facility must provide documented training of applicable staff of the updated written institutional plan.

Corrective Action (c): On July 18, 2022, the Auditor accepted the projected/corrective action plan presented by the facility pending documentation to confirm implementation of the CAP. Per the Projected/Corrective Action Plan, the Los Angeles Field Office (LAFO) reached out to the ERO Custody Programs Division (CPD), who is responsible for creating and coordinating policies and programs that promote the safety and welfare of those encountering the agency's immigration enforcement activities. On September 2, 2022, the Auditor reviewed the established Local Operating Procedure (LOP) for Directive 11087.1, which now documents the required language of this component to include "unless the victim requests otherwise." The Auditor partially accepted the submitted corrective action as the facility had yet to provide the Auditor with evidence that applicable staff have been trained in reference to this added LOP language. On October 13, 2022, the Auditor reviewed electronic training records confirming 30 applicable staff were trained on the components of this standard. The Auditor accepted the corrective action made. The facility is now in compliance with standard 115.165.

§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): The SBHR has provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part; "A sexual abuse and assault incident review shall be conducted 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, 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 the EROs receipt of the investigation results from the investigating authority. The FOD shall implement the recommendations for improvement, or shall document its reasons for not doing so, in written justification. Both the report and justification shall be forwarded to the Agency PSA Coordinator."

During the interview with the PSAC, it was confirmed that the incident review report and recommendations, if any, would be conducted and documented. The report and/or recommendations would subsequently be sent to the FOD for implementation, improvement, or written justification for not implementing the recommendations. In addition, the PSAC confirmed both the report and response is forwarded to the Agency PSA Coordinator. SBHR also presented a memorandum dated March 29, 2022, authored by the AFOD, stating the facility is required to report an allegation of sexual abuse to the FOD and the FOD is responsible to report to the JIC.

The Auditor reviewed the one sexual abuse allegation investigation that occurred during the extended audit period and confirmed the allegation was made during the risk assessment process at AIPC, who conducted the administrative investigation. Further review of this May 8, 2019 closed investigation found no documentation supporting a sexual abuse incident review was

conducted within 30 days of the conclusion of the investigation. The SDDO explained that he had no information regarding whether or not the sexual abuse incident review occurred but that efforts would be made to locate the review if available. The Auditor asked the facility to check to determine if an incident review was conducted and if applicable, provide this documentation to the Auditor. The Auditor did not receive any documentation supporting a sexual abuse incident review was conducted for this one closed investigation.

Does Not Meet (a): The facility could not provide documentation that the sexual abuse incident review was completed within 30 days from the conclusion of the investigation. The facility must develop a process to conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse. Staff must be trained on the incident review requirement and conduct an after-the- fact sexual abuse incident review for the May 8, 2019 closed investigation. Additionally, the facility must document staff training, along with two examples of incident reviews completed in a timely manner for compliance review.

Corrective Action (a): On July 18, 2022, the Auditor accepted the projected/corrective action presented by the facility pending implementation of the CAP to include developing a process to conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse. Additionally, the facility was required to submit documentation of staff training, along with two examples of incident reviews completed during the corrective action period, if applicable. On September 2, 2022, the Auditor viewed the Assault Incident Flow Chart, Sexual Abuse or Assault Review Form and completed Sexual Abuse Incident Review training certificates for staff; however, there were no new sexual abuse incident reviews to provide during the six-month CAP period up to that point. On December 11, 2022, the Auditor reviewed a memo, dated December 6, 2022, that states, "The San Bernardino Hold Room has not had any new sexual abuse allegations/incident reviews during the CAP period as of December 6, 2022." Upon review of the submitted documentation, the Auditor now finds the facility in compliance with this standard.

§115. Choose an item.

Outcome: Choose an item.

Notes:

§115. Choose an item.

Outcome: Choose an item.

Notes:

§115. Choose an item.

Outcome: Choose an item.

Notes:

§115. Choose an item.

Outcome: Choose an item.

Notes:

§115.193

Outcome: Low Risk

Notes:

The PREA Audit at the SBHR was the second audit for this facility. The physical layout of the facility provides clear direct sight of detainees while being processed and while in the holding rooms. Detainee supervision consists of direct contact and observation of detainees enhanced by video monitoring and staff interviewed were knowledgeable about their duties and responsibilities. After a careful review of corrective action, it is determined that the facility is now in compliance with both previously 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.

James T. McClelland January 5, 2023
Auditor's Signature & Date

(b) (6), (b) (7)(C) December 29, 2022
Assistant Program Manager's Signature & Date

(b) (6), (b) (7)(C) January 5, 2023
Program Manager's Signature & Date