

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



# Homeland Security

## AUDIT DATES

<b>From:</b>	3/7/2023	<b>To:</b>	3/8/2023
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## AUDITOR INFORMATION

<b>Name of auditor:</b>	Thomas Eisenschmidt	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	409-866- (b) (6), (b) (7)(C)

## PROGRAM MANAGER INFORMATION

<b>Name of PM:</b>	(b) (6), (b) (7)(C)	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	409-866- (b) (6), (b) (7)(C)

## AGENCY INFORMATION

<b>Name of agency:</b>	U.S. Immigration and Customs Enforcement (ICE)
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## FIELD OFFICE INFORMATION

<b>Name of Field Office:</b>	Atlanta Field Office
<b>Field Office Director:</b>	Sean Ervin
<b>ERO PREA Field Coordinator:</b>	(b) (6), (b) (7)(C)
<b>Field Office HQ physical address:</b>	180 Ted Turner Dr. SW Atlanta, GA 30303
<b>Mailing address: (if different from above)</b>	Click or tap here to enter text.

## INFORMATION ABOUT THE FACILITY BEING AUDITED

### Basic Information About the Facility

<b>Name of facility:</b>	Atlanta District Hold Room
<b>Physical address:</b>	180 Ted Turner Dr. SW Atlanta, GA 30303
<b>Mailing address: (if different from above)</b>	Click or tap here to enter text.
<b>Telephone number:</b>	(404) 893-1317
<b>Facility type:</b>	ICE Holding Facility

### Facility Leadership

<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Assistant Facility Office Director (AFOD)
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	(305) 218- (b) (6), (b) (7)(C)
<b>Name of PSA Compliance Manager:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Supervisory Detention and Deportation Officer (SDDO)
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	(404) 893- (b) (6), (b) (7)(C)

## ICE HQ USE ONLY

<b>Form Key:</b>	29
<b>Revision Date:</b>	01/06/2023
<b>Notes:</b>	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 Atlanta District Hold Room (ADHR) was conducted on March 7-8, 2023, by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor Thomas Eisenschmidt, employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by U.S. Immigration and Customs Enforcement (ICE) Program Manager (PM), (b) (6), (b) (7)(C) and Assistant Program Manager (APM) (b) (6), (b) (7)(C) both DOJ and DHS certified PREA Auditors. The PM's role is to provide oversight to the ICE PREA audit process and liaison with the ICE, Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU) during the audit report review process. The purpose of the audit was to determine compliance with the DHS PREA Standards for the audit period of April 5, 2018, through March 8, 2023. This was the facility's second DHS PREA audit. The ADHR is an ICE Hold Room operated by ICE providing custody for ICE adult male and female detainees, while pending immigration review or deportation. The design capacity for this facility is 125 detainees; 876 detainees were booked into the ADHR in the last 12 months. The facility is located in Atlanta, Georgia.

On March 7, 2023 an entrance briefing was held in the ADHR Conference Room. The ICE ERAU Team Lead, (b) (6), (b) (7)(C) opened the briefing and then turned it over to the Auditor. In attendance were:

### ICE Staff

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

(b) (6), (b) (7)(C) SDDO, Prevention of Sexual Assault (PSA) Compliance Manager

(b) (6), (b) (7)(C) Inspections and Compliance Specialist (ICS), OPR/ERAU

### Creative Corrections, LLC

Thomas Eisenschmidt, Certified PREA Auditor

The Auditor introduced himself and then provided an overview of the audit process and the methodology to be used to demonstrate PREA compliance with those present. The Auditor explained the audit process is designed to not only assess compliance through written policies and procedures but also to determine whether such policies and procedures are reflected in the knowledge of staff at all levels and in daily practice. Approximately four weeks prior to the audit, ERAU Team Lead, (b) (6), (b) (7)(C) provided the Auditor with the facility's Pre-Audit Questionnaire (PAQ), agency policies, allegations spreadsheet and other pertinent documents through ERAU's SharePoint site. The main policies that provide facility direction for PREA at the ADHR are Policy 11087.1, Operations of ERO Holding Facilities, and Policy 11062.2, Sexual Abuse and Assault Prevention and Intervention (SAAPI). All documentation, policies, and the PAQ were reviewed by the Auditor prior to the site visit. A tentative daily schedule was provided by the Team Lead for the interviews with staff and detainees if available on site. The Auditor received no correspondence from any detainees or staff or other interested parties prior to the audit or prior to the submission of the report.

The Auditor was able to interview three detainees being processed and available for interview during the site visit. The detainee in-processing/booking area is located in the basement of the Atlanta Field Office at 180 Ted Turner Dr SW Atlanta, GA. Detainees are brought to the ADHR by ICE personnel from the Criminal Alien Program and Secure Communities (CAPSC). Part of the detainee processing is completed by CAPSC personnel and then turned over to the ADHR ICE staff (4-Deportation Officers (DO) and 1-SDDO). The processing/booking area contains: four multiple occupancies holding cells, two single person cells and an interview room. (b) (7)(E)

Detainees arriving at the ADHR remain at the facility for approximately three hours and are then either released from custody or remanded to an ICE Detention Facility. Detainees remain in this area until they are individually classified and receive a risk assessment by the DO, and then as noted above, are either released or remanded. Detainees placed in any of the holding cells are supervised in accordance with the 11087.1 requirement by the assigned ICE staff. The ADHR has no medical unit or medical staff nor any food facilities or food staff. The ADHR is staffed Monday through Friday, from 6 a.m. to 2 p.m., but has on call staff coverage outside those hours if needed. A total of three random DO staff interviews, were conducted during the audit. According to interviews with the AFOD and SDDO, only law enforcement staff have contact with detainees. There are no contractors or volunteers at the ADHR. The Auditor conducted specialized interviews with the AFOD, SDDO/PSA Compliance Manager, and three DOs. Interviews were conducted in the interview room located within the facility intake area. No staff refused to be interviewed. All staff interviewed were aware of the agency's zero-tolerance policy, their responsibilities to protect detainees from sexual abuse, and their duties as first responders as part of a coordinated response.

On March 8, 2023, an exit briefing was held in the ADHR Conference Room. The ICE ERAU Team Lead, (b) (6), (b) (7)(C) opened the briefing and then turned it over to the Auditor. In attendance were:

ICE Staff

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

(b) (6), (b) (7)(C) SDDO, PSA Compliance Manager

(b) (6), (b) (7)(C) ICS, OPR/ERAU

(b) (6), (b) (7)(C) DHS ERO, Deputy Field Office Director, via TEAMS

(b) (6), (b) (7)(C) DHS ERO, Chief of Staff, via TEAMS

(b) (6), (b) (7)(C) DHS ERO, Acting Deputy Field Office Director, via TEAMS

Creative Corrections, LLC

Thomas Eisenschmidt, Certified PREA Auditor

The Auditor spoke briefly about the ICE staff and their knowledge of the Agency's zero-tolerance policy. The Auditor informed those present that he was impressed with the staff and overall operation of the ADHR, but it was too early in the process to formalize an outcome of the audit and that he would need to review his findings and results of the interviews conducted prior to making a final determination on compliance for the standards. The Auditor thanked the ERAU and ERO staff for their cooperation during the site visit.

## 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: 1**

§115.131 Employee, contractor, and volunteer training

**Number of Standards Met: 27**

§115.111 Zero-tolerance of sexual abuse

§115.113 Detainee supervision and monitoring

§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 and forensic medical examinations

§115.122 Policies to ensure investigation of allegations and appropriate agency oversight

§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

§115.165 Coordinated response

§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

§115.186 Sexual abuse incident reviews

§115.187 Data collection

§115.201 Scope of audits

**Number of Standards Not Applicable: 2**

§115.114 Juveniles and family detainees

§115.118 Upgrades to facilities and technologies

**Number of Standards Not Met: 0**

**Hold Room Risk Rating**

§115.193 Audits of standards - 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. Failures to comply with any part of a standard provision shall result in a finding of "Does not meet Standard" for that entire provision, unless that part is specifically designated as Not Applicable. For any provision identified as Not Applicable, provide an explanation for the reasoning.

### **§115.111 - Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator.**

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

**Notes:**

(a) The Auditor determined compliance with this standard based on Policy 11062.2 that requires, "ICE has a zero-tolerance policy for all forms of sexual abuse or assault. It is ICE policy to provide effective safeguards against sexual abuse and assault of all individuals in ICE custody, including with respect to screening, staff training, detainee education, response and intervention, medical and mental health care, reporting, investigation, and monitoring and oversight, as outlined in this Directive, in the requirements of PBND2011 Standard 2.11, and in other related detention standards and ICE policies." The Auditor conducted formal interviews with ERO staff (five) assigned to ADHR. Each was aware of the agency policy against sexual abuse. The interviews conducted with three detainees present during the site visit confirmed their awareness to the agency zero tolerance policy as well. The Auditor observed the agency zero tolerance information posted in each of the six holding rooms during the tour and feels that the zero-tolerance policy for sexual abuse has been implemented at the facility.

### **§115.113 - Detainee supervision and monitoring.**

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

**Notes:**

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

All physical hold room checks shall be logged, including the time of each check and any important observations. When detainees in a holding facility are placed in rooms not originally designed for holding detainees (e.g., interview rooms or offices), the FOD shall ensure that the detainees remain under constant direct supervision." The Auditor was provided the staffing levels for the only shift, 6:00 a.m. to 2:00 p.m., at the ADHR. The Auditor also was provided and reviewed the facility Holding Facility Self-Assessment Tool (HFSAT) dated January 2023. This self-assessment tool is used annually to determine hold rooms conform to the 11087.1 policy and standard requirements and assigned staff supervision guidelines.

### **§115.114 - Juvenile and family detainees.**

**Outcome:** Not Applicable (provide explanation in notes)

**Notes:**

ADHR does not accept juveniles or family detainees. This was confirmed in the PAQ and in interviews conducted with the AFOD and the PSA Compliance Manager. The standard, therefore, is not applicable.

### **§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 Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, "The FOD shall ensure that all pat-down searches are conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and ICE policy, including consideration of officer safety. Where operationally feasible, an officer of the same gender as the detainee will perform the pat down search. The FOD shall ensure that when pat down searches indicate the need for a more thorough search, an extended search (i.e., strip search) is conducted in accordance with ICE policies and procedures, including that: All strip searches and visual body cavity searches are documented; Cross-gender strip searches or cross-gender visual body cavity searches are not conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners; and visual body cavity searches of minors are conducted by a medical practitioner and not by law enforcement personnel. The FOD shall ensure that ERO personnel do not search or physically examine a detainee for the sole purpose of determining the detainee's gender. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records (if available), or, if necessary, learning that information as part of a broader medical



examination conducted in private, by a medical practitioner.” The search training policy was discussed with three DOs and one SDDO assigned at the ADHR during their interviews. They informed the Auditor that all searches are performed in a professional manner and never to determine a detainee’s gender. They stated if a detainee’s gender is unknown each would follow the procedures outlined in the 11087.1 policy. They also indicated their search training included the requirement that all cross-gender pat searches only be conducted after reasonable diligence to find a staff of the same gender for a male detainee, and under exigent circumstances for a female detainee. In both these cases the pat search would be documented. They also confirmed that detainees arriving at ADHR are pat searched on arrival. If a detainee needed a more thorough search, it would be a strip search which would be documented, including the reason for the search. They also indicated that there is typically a male and female ICE staff member available during shift. They stated that in cases where there wasn’t the same gender staff member available for the pat search the wand metal detector would be used. The DOs and SDDO also indicated body cavity searches are not performed at ADHR and that any detainee requiring this type of examination would be transported to the Grady Memorial Hospital (GMH) to be conducted by medical staff. The Auditor was provided written documentation that no cross gender pat searches or strip searches were conducted during the audit period. The Auditor reviewed the Search training on the ERAU SharePoint, for ICE staff, and was provided search training documentation for each ICE staff member assigned at ADHR. The training curriculum cover all requirements within the standard.

(d) The Auditor determined compliance with this standard subpart based on Policy 11087.1, that requires, “The FOD shall ensure that detainees are permitted to shower (where showers are available), perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine hold room checks, or is otherwise appropriate in connection with a medical exam or monitored bowel movement under medical supervision. The FOD will also ensure that ERO personnel of the opposite gender announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing.” The interview with the DOs and SDDO confirmed that if they were to enter into one of the holding rooms in which there were cross-gender detainees present, they would announce themselves prior to entering. (b) (7)(E)

#### **§115.116 - Accommodating detainees with disabilities and detainees who are limited English proficient.**

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

#### **Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on policy 11087.1 that requires, “The FOD shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to participate in and benefit from processes and procedures in connection with placement in an ERO holding facility, consistent with established statutory, regulatory, DHS and ICE policy requirements. The FOD shall take reasonable steps to ensure meaningful access to detainees who are limited English proficient, consistent with established regulatory and DHS and ICE policy requirements. In matters relating to allegations of sexual abuse or assault, ensure the provision of in-person or telephonic interpretation services 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. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse or assault, and detainees who have a significant relationship with the alleged abuser, is not appropriate in matters relating to allegations of sexual abuse or assault.” During the site visit at ADHR the Auditor did not observe the intake process. Two of the DOs, however, detailed the intake process for the Auditor. They indicated that the majority of detainees encountered at ADHR are limited English proficient (LEP). The male and female detainees are separated and placed in one of the six hold rooms. In each of the hold rooms the Auditor observed the ICE Sexual Abuse Awareness Information (SAA) pamphlet in both English and Spanish. These DOs further explained that this SAA document is available in 15 languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Turkish, Ukrainian, and Vietnamese) and is provided to all detainees upon arrival. ADHR staff interviewed indicated it maintains and provides detainees with the ICE National Detainee Handbook available in 14 of the most prevalent languages encountered by ICE (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Turkish, Bengali, Romanian, Portuguese, and Vietnamese). If the DO performing the intake is not fluent in the language spoken and understood by the detainee being processed, they would utilize the DHS “I speak...” Language Identification Guide to have the detainee point out which language they speak and the utilize the ERO Language Service, that provides interpretive and translation services, to provide interpreter assistance. The DOs also informed the Auditor that if the detainee speaks a language not covered by either of these documents, they utilize this same services provider to access an interpreter to provide sexual safety and reporting information found in the SAA pamphlet. The DOs also detailed to the Auditor the handling of any detainee arriving at the ADHR with a disability. They indicated that any detainee arriving at ADHR who may have limited sight or who are blind would have the information presented to them verbally by the DO. A detainee arriving with limited hearing or who is deaf would be provided information in writing utilizing the ERO Language Service, that provides translation services. A detainee arriving with intellectual, or psychiatric disabilities would be referred to the SDDO who would obtain the necessary communication resources, determined on a case-by-case basis, if the DO was unable to effectively communicate with the detainee. The Auditor was also informed by these DOs that the use of other detainees as interpreters is covered in policy 11062.2 and is allowed if requested by the detainee victim and approved by the agency. They also confirmed that the use of minors, those witnessing the alleged assault or those detainees with a relationship with the alleged abuser is not appropriate.

**§115.117 - Hiring and promotion decisions.****Outcome:** Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)**Notes:**

(a)(b)(c)(d)(e)(f) The Auditor determined compliance with these standard subparts based on Federal Statute 731.202 (b), Executive Order 10450, ICE Personnel Security and Suitability Program Directive 6-7.0, and ICE Suitability Screening Requirements for Contractor Personnel Directive 6-8.0, which require, "the facility and agency, to the extent permitted by law, to refuse to hire or promote anyone who may have contact with detainees, and decline to enlist the services of any contractor or volunteer who may have contact with detainees, who has been found to have engaged, been convicted of engaging, or civilly or administratively adjudicated to have engaged in sexual abuse as defined in the standard." These documents collectively require anyone entering into or remaining in government service undergo a thorough background examination for suitability and reinvestigations every 5 years. The background investigation, depending on the type of work, is thorough to include education checks, criminal records check, neighbor, and residence checks, financial checks, and prior employment checks. The policy documents outline misconduct and criminal misconduct being grounds for unsuitability, including material omissions or making false or misleading statements in the application. The Unit Chief of OPR Personnel Security Operations (PSO) informed Auditors, who attended virtual training in November 2021, that detailed candidate suitability for all applicants includes their obligation to disclose any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity. Based on information provided in an email by the OPR PSO (A) Division Chief, information on substantiated allegations of sexual abuse involving a former employee would be provided to prospective employers upon request, unless prohibited by law. The random interviews conducted with the SDDO and DO stated that during their hiring process and the SDDO promotion they were specifically questioned about this type of misconduct. The Auditor did not review records since the facility retains no personnel files on site. Based on the memorandum dated November 8, 2021, issued by the ICE Acting Deputy Director, Employee Obligation to Report Corruption and Misconduct, ICE employees are obligated to report criminal and other allegations of employee and contractor misconduct, specifically including "sexual assaults, sexual harassment, or non-sexual harassment of [...] detainees." Interviews with the ADHR ICE staff confirmed their awareness of the agency's requirement to disclose any misconduct outlined in subpart (a) of this standard. Review of documentation provided by ICE's PSO Unit Chief confirmed that the five selected ADHR employee background investigations were performed prior to them reporting to work. Documentation also confirmed the due dates for the updated five-year background checks were in compliance with the standard requirements.

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

This standard is not applicable as the AFOD and PAQ confirmed that ADHR did not expand the facility or add additional video equipment during the audit period.

**§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)(b)(c)(d)(e) The Auditor determined compliance with these standard subparts based on policies 11087.1 and 11062.2, that require "The FOD ensures that the facility complies with the investigation mandates established by PBNDS 2011 Standard 2.11, as well as other relevant detention standards and contractual requirements, including by, when feasible, securing and preserving the crime scene and safeguarding information and evidence consistent with established evidence protocols; conducting a prompt, thorough, and objective investigation by qualified investigators; arranging for the victim to undergo a forensic medical examination, where appropriate; and ensuring that the presence of the victim's outside or internal victim advocate, as requested by the victim, is allowed for support during forensic exams and investigatory interviews. Where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the FOD shall arrange for or refer an alleged victim detainee to a medical facility to undergo a forensic medical examination by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel. If, in connection with an allegation of sexual abuse or assault, the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available, consistent with security needs. If the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, the facility requests the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, the facility ensures that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating." ADHR is a 12-hour hold facility with the typical stay approximately 3 hours. The detainee is either released from custody or remanded to an ICE detention facility. The AFOD and PSA Compliance Manager stated that if an allegation of sexual assault is made at the facility, a criminal referral would be made to the Atlanta Police Department (APD) with a significant incident report completed by the ICE staff and submitted to the FOD, OPR, and DHS Office of Inspector General (OIG). As noted earlier in the report there are no medical services provided at ADHR. The detainee would be sent to the GMH where a forensic

examination, if required, would be performed by a SANE, SAFE, or other qualified health care personnel. The Auditor verified through conversation with a representative of GMH that victim advocacy services would be provided by an onsite advocate at the GMH. The AFOD indicated the alleged detainee victim would be subsequently moved to an ICE detention facility where the detainee would be afforded victim advocate services, and medical and crisis intervention services, if detained after returning from the offsite local hospital. The AFOD interview confirmed that if OPR elects not to investigate the allegation and the APD does not conduct a criminal investigation, ADHR would ensure an administrative investigation is completed by a trained investigator. If the detainee is released from ICE custody the investigation would continue. ADHR provided the Auditor with documentation indicating they requested, in writing, that the APD follow the requirements of paragraphs (a) through (d) of this standard section. The APD did not respond to the request. The facility had no allegations reported during the audit period.

#### **§115.122 - Policies to ensure investigation of allegations and appropriate agency oversight.**

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

#### **Notes:**

(a)(b)(c)(d) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, "the FOD shall: ensure that the appropriate law enforcement agency having jurisdiction for the investigation has been notified by the facility administrator of the alleged sexual abuse or assault. The FOD shall notify the appropriate law enforcement agency directly if necessary; Notify ERO's Assistant Director for Field Operations telephonically within two hours of the alleged sexual abuse or assault or as soon as practical thereafter, according to procedures outlined in the June 8, 2006 Memorandum from (b) (6), (b) (7)(C) Acting Director, Office of Detention and Removal Operations, regarding "Protocol on Reporting and Tracking of Assaults" (b) (6), (b) (7)(C) Memorandum); Notify the ICE Joint Intake Center (JIC) telephonically within two hours of the alleged sexual abuse or assault, and in writing within 24 hours via the ICE [Significant Event Notification] SEN Notification Database, according to procedures outlined in the (b) (6), (b) (7)(C) Memorandum. The JIC shall notify the DHS Office of Inspector General (OIG). All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise." As noted in standard 115.121 the notification process was explained by the AFOD and SDDO. It was explained that the initial reports would be to the APD with a SEN notification completed by the ADHR ERO staff to the DHS OIG, JIC, Assistant Director for Field Operations, and PSA Coordinator all within the time frames required and outlined in the 11062.2 policy. A review of the ICE website (<http://www.ice.gov/PREA>) confirms the investigation protocols are available to the public. There were no sexual abuse allegations during the audit period.

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

#### **§115.131 – Employee, contractor, and volunteer training.**

**Outcome:** Exceeds Standard (substantially exceeds requirement of standard)

#### **Notes:**

(a)(b) The Auditor determined compliance to these standard subparts based on Policy 11062.2, that requires, "ICE personnel who may have contact with individuals in ICE custody, including all ERO officers and HSI special agents, shall receive training on, among other items ICE's zero-tolerance policy for all forms of sexual abuse and assault; The right of detainees and staff to be free from sexual abuse or assault; Definitions and examples of prohibited and illegal behavior; Dynamics of sexual abuse and assault in confinement; Prohibitions on retaliation against individuals who report sexual abuse or assault; Recognition of physical, behavioral, and emotional signs of sexual abuse or assault, situations in which sexual abuse or assault may occur, and ways of preventing and responding to such occurrences, including Common reactions of sexual abuse and assault victims; How to detect and respond to signs of threatened and actual sexual abuse or assault; Prevention, recognition, and appropriate response to allegations or suspicions of sexual abuse and assault involving detainees with mental or physical disabilities; How to communicate effectively and professionally with victims and individuals reporting sexual abuse or assault; How to avoid inappropriate relationships with detainees; Accommodating LEP individuals and individuals with mental or physical disabilities; Communicating effectively and professionally with lesbian, gay, bisexual, transgender, intersex, or gender nonconforming individuals, and members of other vulnerable populations; Procedures for fulfilling notification and reporting requirements under this Directive; The investigation process and the requirement to limit reporting of sexual abuse or assault to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes." According to the AFOD and SDDO all ADHR staff received PREA training during their initial employment training and annually. The Auditor was provided current documentation that all five ADHR staff received PREA training. During the interviews with the ICE DOs, and the SDDO staff, each confirmed the subject matter of the training as required by the standard. The Auditor also reviewed the ICE PREA Employee Training provided on the ERAU SharePoint and confirmed that all required topics are included. The ADHR does not employ other contractors or have volunteers at the facility.



(c) This standard subpart requires the facility document and maintain for 5 years completed training for employees, contractors, and volunteers. The interviews conducted with the AFOD and SDDO confirmed that training records, noted in the (a)(b) discussion above, are maintained by the Agency for at least 5 years.

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

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

**Notes:**

The Auditor determined compliance with the standard based on Policy 11087.1 that requires, “The FOD shall ensure that key information regarding ICE’s zero-tolerance policy for sexual abuse and assault is visible or continuously and readily available to detainees (e.g., through posters, detainee handbooks, or other written formats).” During the site visit at ADHR the Auditor did not observe the intake process. Two of the DOs detailed the intake process for the Auditor. The male and females are separated and placed in one of the six hold room. In each of these hold rooms the Auditor observed the ICE Sexual Abuse Awareness Information (SAA) pamphlet in both English and Spanish. The DOs further explained that this SAA document is available in 15 languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Turkish, Ukrainian, and Vietnamese) and is provided to all detainee upon arrival processing. ADHR indicated it maintains and provides detainees with the ICE National Handbook available in 14 of the most prevalent languages encountered by ICE (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Turkish, Bengali, Romanian, Portuguese, and Vietnamese). If the DO performing the intake is not fluent in the language spoken and understood by the detainee being processed, the DHS “I speak...” Language Identification Guide would be utilized to have the detainee point out which language they speak and then contact the ERO Language Service, that provides interpretive and translation services, to provide interpreter assistance. These DOs also informed the Auditor that if the detainee speaks a language not covered by either of these documents, they utilize this same services provider to access an interpreter to provide sexual safety and reporting information found in the SAA pamphlet. These intake DOs also detailed to the Auditor the handling of any detainee arriving at the ADHR with a disability. They indicated that any detainee arriving at ADHR who may have limited sight or who may be blind would have the information presented to them verbally by the ICE intake DO. A detainee arriving with limited hearing or who is deaf would be provided information in writing. A detainee arriving with intellectual, or psychiatric disabilities would be referred to the SDDO who would obtain the necessary communication resources if the DO was unable to effectively communicate with the detainee. As noted earlier zero tolerance posters with reporting information are located in each of the hold rooms. The Auditor interviewed three detainees who indicated that they received information on the zero-tolerance policy and were aware of methods to report any incidents.

**§115.134 - Specialized training: Investigations.**

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

**Notes:**

(a)(b) The Auditor determined compliance with these standard subparts based on Policy 11062.2 that requires, “OPR provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as Office of Detention Oversight staff, and other OPR staff, as appropriate. The training should cover, at a minimum, interviewing sexual abuse and assault victims, sexual abuse and assault evidence collection in confinement settings, the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process.” The lesson plan for this specialized training is the ICE OPR Investigations Incidents of Sexual Abuse and Assault, which covers in depth investigative techniques, evidence collections, and covers all aspects to conducting an investigation of sexual abuse in a confinement setting. The agency also offers another level of training, the PREA Fact Finders Training, which provides information needed to conduct the initial investigation at the facility to determine if an incident has taken place or to complete the administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP detainees; best practices for interacting with Lesbian, Gay, Bi-sexual, Transgender, Intersex (LGBTI), and disabled detainees; and an overall view of the investigative process. Both these trainings and documented evidence of training for ICE staff were available on the ERAU SharePoint for review by the Auditor. The facility does not currently employ a trained investigator; however, the Auditor was informed by the AFOD that any investigation conducted at the ADHR would be performed by a trained investigator. There were no allegations of sexual abuse at the ADHR for the audit period.

**§115.141 - Assessment for risk of victimization and abusiveness.**

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

**Notes:**

(a)(b)(c)(d)(e) The Auditor determined compliance with these standard subparts based on Policy 11087.1 that requires, “The FOD, ensure that before placing detainees together in a hold room, there shall be consideration of whether a detainee may be at a high risk of being sexually abused or assaulted, and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee. The FOD shall ensure that detainees who may be held overnight with other detainees are assessed to determine their risk of being either sexually abused or assaulted or sexually abusive, to include being asked about their concerns for their physical safety. The FOD shall ensure that the following criteria are considered in assessing detainees for risk of sexual victimization, to the extent that the information is available: Whether the detainee has a mental, physical, or developmental disability; The age of the detainee; The physical build and appearance of the detainee; Whether the detainee has previously been incarcerated or detained; The nature of the detainee’s criminal history; Whether the detainee has any convictions for sex offenses; Whether the detainee has self-identified as Lesbian, Gay, Bisexual, Transgender, or intersex (LGBTI) or gender nonconforming; Whether the detainee has self-identified as

previously experiencing sexual victimization; and the detainee's own concerns about his or her physical safety. The FOD shall implement appropriate controls on the dissemination of any sensitive information regarding a detainee provided pursuant to screening procedures. For detainees identified as being at high risk for victimization, the FOD shall provide heightened protection, including continuous direct sight and sound supervision, single-housing, or placement in a hold room actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is feasible." As noted earlier, ADHR detainees are held for three hours or less and typically never overnight. The DO interviewed outlining the intake process indicated all detainees arriving at ADHR are screened utilizing the Risk Classification Assessment (RCA) form. The assessment is a computerized program that addresses specific vulnerabilities including whether the detainee has any concerns for their safety, concerns based on their sexual orientation, any instances of prior persecution or torture, a victim of sexual abuse or a violent crime. The processing DO utilizes information received through this document and any other information they may have available, including interviewing the detainee about their own safety concerns, to determine their potential for victimization or abusiveness. If that DO believes the individual may be at high risk of being victimized or has an abuse history, they are placed on direct supervision in a separate hold room. (b) (7)(E)

The interviews with the intake DOs confirmed that during the intake process, a DO and SDDO are present during processing and the shift SDDO must review each RCA document. This process was also confirmed by the PSA Compliance Manager who is also an SDDO. Interviews conducted with the ICE ERO staff confirmed information obtained during the intake process is not shared with anyone except on a need-to-know basis. Paper copies of the RCA form are kept secured under lock and key and the computer files are password protected and assessable by only those individuals with a need for this information.

#### **§115.151 - Detainee reporting.**

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

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires "the FOD ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse or assault, retaliation for reporting sexual abuse or assault, or staff neglect or violations of responsibilities that may have contributed to such incidents to ERO personnel. The FOD shall implement procedures for personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports. The FOD shall ensure that detainees are provided with instructions on how they can contact the DHS Office of the Inspector General (OIG) or, as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse or assault to agency officials to confidentially and, if desired, anonymously, report these incidents." Detainees processed during intake at the ADHR are informed through the SAA pamphlet specifically about reporting allegations of sexual assault. During the onsite tour of the intake area and six hold rooms, the Auditor observed telephones and postings in English and Spanish providing telephone numbers for the DHS OIG, Detention Reporting and Information Line (DRIL), and consulate offices. The Auditor tested the DHS OIG telephone line on two telephones and found them inoperable on the first day of the site visit. The telephones were repaired allowing detainee use without a PIN. The interviews with the ADHR staff confirmed that each would accept any allegation of sexual assault no matter how it was received and that all verbal allegations would be put in writing. There were no allegations reported at the ADHR during the audit period. The detainee interviews confirmed their knowledge of how to report allegations of sexual abuse if needed.

#### **§115.154 - Third-party reporting.**

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

**Notes:**

The Auditor determined compliance with this standard based on Policy 11087.1, that requires, "the FOD implement procedures for personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports." During the site visit tour, the Auditor observed third party reporting information to the DRIL and to the DHS OIG posted in each of the six hold rooms in Spanish and English. The interviews conducted with the ICE staff confirmed this policy requirement to accept all third-party reports of sexual abuse and document those received verbally in writing. The Agency website, <http://www.ice.gov/PREA>, provides information on reporting allegations of sexual abuse and assault reports by the public. As noted earlier in the report, the three detainees interviewed were aware of how to report allegations of sexual abuse including third party reporting. There were no allegations of sexual abuse reported 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 Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, "All ICE employees immediately report to a supervisor or a designated official any knowledge, suspicion, or information regarding an incident of sexual abuse or assault of an individual in ICE custody, retaliation against detainees or staff who reported or participated in an investigation, about such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. ICE employees shall not reveal any information related to a sexual abuse or assault allegation to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff, or to make medical treatment, investigation, law enforcement, or other security and management decisions." The interview conducted with the ICE staff at ADHR confirmed their responsibility to immediately report all incidents of sexual assault, sexual abuse, retaliation, and staff neglect in duties that may have contributed to any sexual abuse or sexual assault. These staff also informed the Auditor about their responsibility to immediately report all allegations of sexual abuse to their supervisors and document the known facts to them in

writing as soon as possible but prior to the end of their shift as well as their obligation not to disclose any information that they become aware of except on a need-to-know basis. The ADHR staff were also knowledgeable of their ability to report outside their chain of command, as provided in their training if necessary. There were no allegations reported at the facility during the audit period. (d) The Auditor determined compliance with this standard subpart based on Policy 11062.2, that requires, "If the alleged victim is under the age of 18 or determined, after consultation with the relevant OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under a State or local vulnerable persons statute, report the allegation to the designated State or local services agency as necessary under applicable mandatory reporting laws; and document his or her efforts taken under this section." As noted earlier in this report ADHR does not accept juvenile detainees. The interview with the AFOD acknowledged her reporting obligations under this subpart. She indicated if a vulnerable adult was ever the victim of sexual abuse at the ADHR, she would contact the relevant ICE OPLA OCC office and report the allegation. She also confirmed her requirement to report the allegations to the designated State or local services agency as required by mandatory reporting laws and policy of the State of Georgia. ADHR had no incidents involving a vulnerable adult, as there were no allegations reported at the facility during the audit period.

#### **§115.162 – Agency protection duties.**

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

**Notes:**

The Auditor determined compliance with this standard based on Policy 11062.2 that requires, "If an ICE employee has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse or assault, he or she shall take immediate action to protect the detainee." The interviews conducted with the ADHR ICE staff confirmed that in every instance where it was believed a detainee may be subject to substantial risk of sexual abuse their first response would be to locate and secure the detainee in a safe location and notify their supervisor. They also confirmed ADHR had no instances where a detainee was at substantial risk of sexual abuse during the audit period.

#### **§115.163 - Reporting to other confinement facilities.**

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

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, "If the alleged assault occurred at a different facility from the one where it was reported, ensure that the administrator at the facility where the assault is alleged to have occurred is notified as soon as possible, but no later than 72 hours after receiving the allegation, and document such notification." The interviews with both the PSA Compliance Manager and AFOD confirmed that anytime the ADHR received information on any allegation occurring at another facility, the SDDO would be notified and would make notification to the appropriate agency office or facility administrator, within 72 hours by phone call and email, of the alleged incident. The AFOD and PSA Compliance Manager also confirmed that ADHR had no such reported incidents during the audit period, but the facility would follow the policy notification if they were ever notified of any such incident.

(d) The Auditor determined compliance with this standard subpart based on the interview with the AFOD who confirmed that if the ADHR received an allegation of sexual abuse, that occurred at ADHR, from another facility, the incident would be referred for investigation under the procedural guidelines outlined in policy 11062.2. The ADHR received no reports from another facility of an allegation occurring at this facility during the audit period.

#### **§115.164 - Responder duties.**

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

**Notes:**

(a) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, "The FOD shall ensure that upon learning of an allegation that a detainee was sexually abused or assaulted, the responder, or his or her supervisor: separates the alleged victim and abuser; preserves and protects, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence; if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, requests the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, ensures that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating." The Auditor interviewed the available ERO staff at ADHR who confirmed their response to any allegation of sexual abuse. Their responses coincided with the subpart (a) requirements of separating the alleged victim and abuser; preserving and protecting, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence; if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, requesting the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, ensuring that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. These ERO staff were well trained and informed on ensuring the safety and well-being of detainee victims of sexual assault.

(b) ADHR only has law enforcement staff working at the facility, therefore this subpart is not applicable.

#### **§115.165 - Coordinated response.**

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

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, "The FOD ensure a coordinated, multidisciplinary team approach to respond to allegations of sexual abuse and assault occurring in holding facilities, or in the course of transit to or from holding facilities, as well as to allegations made by a detainee at a holding facility of sexual abuse or assault that occurred elsewhere in ICE custody. If a victim is transferred between detention facilities or holding facilities, or to any non-ICE facility, ensure that, as permitted by law, the receiving facility is informed of the incident and the victim's potential need for medical or mental health care or victim services." The Auditor was provided and reviewed an ERO Assistant Director's broadcast notifying ERO Field Offices that when sexual abuse victims are transferred to a facility not covered by DHS PREA Standards Subpart A or B from a DHS holding facility, the agency shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise. The AFOD confirmed that her notification of all sexual abuse allegations would be through the SEN procedures to include notifications to the OIG, JIC, Assistant Director for Field Operations, PSA Coordinator, and the APD about a possible criminal investigation. She also stated that any transfer of a detainee sexual assault victim would be in compliance with policy and the ERO Assistant Director's broadcast. The facility had no allegations of sexual abuse during the audit period.

#### **§115.166 - Protection of detainees from contact with alleged abusers.**

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

**Notes:**

The Auditor determined compliance with the standard based on Policy 11062.2 that requires, "that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring detainee contact pending the outcome of an investigation." The AFOD confirmed that currently there are no contractors or volunteers at the ADHR. She also stated that any ERO staff member alleged to have committed sexual abuse would be removed from all detainee contact until the conclusion of the investigation. The ADHR had no allegations of sexual abuse during the audit period.

#### **§115.167 - Agency protection against retaliation.**

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

**Notes:**

The Auditor determined compliance with the standard based on Policy 11062.2 that requires, "employees not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse or assault, or for participating in sexual activity as a result of force, coercion, threats, or fear of force." The AFOD informed the Auditor that any form of retaliation against staff or 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 would not be tolerated. The three DOs and SDDO interviews confirmed their knowledge with this policy prohibition of retaliation against any person, including a detainee. There were no allegations of sexual abuse reported during the audit period.

#### **§115.171 - Criminal and administrative investigations.**

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

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, the "FOD shall, conduct a prompt, thorough, and objective investigation by qualified investigators. The FOD is also required to ensure that the facility complies with the investigation mandates established by the PBNDS 2.11, as well as other relevant detention standards. Upon conclusion of a criminal investigation where the allegation was substantiated, or in instances where no criminal investigation has been completed, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Substantiated allegation means an allegation that was investigated and determined to have occurred. Unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. The ICE OPR will typically be the appropriate investigative office within DHS, as well as the DHS OIG in cases where the DHS OIG is investigating. The facility shall develop written procedures for administrative investigations, including provisions requiring; preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data, interviewing alleged victims, suspected perpetrators, and witnesses, reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator, assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph, an effort to determine whether actions or failures to act at the facility contributed to the abuse, documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings, and retention of such reports for as long as the alleged abuser is detained or employed by the agency



or facility, plus five years.” The policy also requires that the OPR coordinate with the FOD or SAC and facility staff to, “...ensure evidence is appropriately secured and preserved pending an investigation by federal, state, or local law enforcement, DHS, OIG, and/or OPR.” The AFOD detailed the investigative process at the ADHR for the Auditor. She stated that upon the facility receiving any allegation of sexual abuse the detainee would be separated and secured pending movement to the GMH. Notifications would be made to the APD, FOD, OPR, and DHS OIG of the significant incident at the facility. As noted earlier in the report detainees remain at ADHR in ICE custody for about three hours and are either released or transferred to an ICE detention facility. The AFOD further stated that ICE OPR would have first refusal for conducting the sexual abuse investigation. If OPR elects not to investigate the allegation and refers it back to the facility, the facility would ensure that an administrative investigation would be completed by a specially trained SDDO. There were no allegations of sexual abuse during the audit period.

(d) The Auditor determined compliance with the standard based on Policy 11062.2, that requires, “An investigation may not be terminated solely due to the departure of the alleged abuser or victim from the employment or control of ICE.” The AFOD informed the Auditor that an investigation of sexual abuse is completed regardless of whether the detainee or staff member has left the control of the Agency. The facility had no allegations of sexual abuse during the audit period.

(e) The Auditor determined compliance with the standard based on Policy 11062.2, that requires, “When outside agencies investigate sexual abuse or assault, cooperate with law enforcement agencies, OPR, and other outside investigators and endeavor to remain informed about the progress of the investigation, and ensure that detention facilities do the same.” The AFOD and SDDO confirmed that ADHR would cooperate with all investigative agencies and remain informed and cooperate to the extent possible with all investigative entities. The facility had no allegations of sexual abuse during the audit period.

#### **§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 Auditor determined compliance with the standard based on Policy 11062.2, that requires, “Administrative Investigations impose no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse or assault, and may not be terminated solely due to the departure of the alleged abuser or victim from the employment or control of ICE.” The AFOD confirmed that the trained SDDO utilizes, the policy requirement, of preponderance of evidence as the standard when making a substantiated, unsubstantiated, or unfounded case finding in the investigations of sexual abuse. The facility had no trained SDDO, on site, during the audit to interview.

#### **§115.176 - Disciplinary sanctions for staff.**

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

##### **Notes:**

(a) The Auditor determined compliance with the standard based on interviews with the AFOD who stated that any staff member would be subject to disciplinary or adverse action up to and including removal from their position and the Federal service for substantiated allegations of sexual abuse or violating agency sexual abuse policies. She also stated that no staff member at the ADHR has been disciplined for any violation of the zero-tolerance policy and that there were no allegations of sexual abuse reported during the audit period.

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

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

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

##### **Notes:**

(a)(b) The Auditor determined compliance with these standard subparts based on Policy 11062.2 that requires, “an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring detainee contact pending the outcome of an investigation.” The AFOD confirmed ADHR currently has no contract staff or volunteers. She further stated that if they do have any in the future, that any contractor or volunteer, who is the subject of an allegation of sexual abuse, would be removed from all duties involving detainee contact until the outcome on the investigation. She also stated that all sexual abuse allegations are reported to the APD, and every effort would be made to notify any licensing agencies in all cases of substantiated allegations.

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

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

##### **Notes:**

(a)(b) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, “The FOD shall ensure that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment

and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care." Policy 11062.2 requires, "that such treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation." As noted earlier in the report, ADHR has no medical staff assigned to the facility. Detainees requiring any such services would be sent to GMH. The interview with a Hospital representative confirmed detainee victims of sexual assault would be accepted at their facility. The AFOD confirmed that all medical treatment would be at no cost to the detainee. There were no allegations at the facility during the audit period.

#### **§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 Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, "The FOD shall conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault occurring at a holding facility and, unless the allegation was determined to be unfounded, prepare a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse and assault. Such review shall ordinarily occur within 30 days of ERO's receipt of the investigation results from the investigating authority. The FOD shall implement the recommendations for improvement, or shall document its reasons for not doing so, in a written justification. Both the report and justification shall be forwarded to the ICE PSA Coordinator." The AFOD and PSA Compliance Manager both stated that at the conclusion of every allegation of sexual abuse an incident review would be completed in accordance with the agency 11087.1 policy. There were no allegations at the facility during the audit period.

#### **§115.187 – Data collection.**

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

#### **Notes:**

(a) The Auditor determined compliance with this standard subpart based on Policy 11062.2, that requires, "Data collected pursuant to this Directive shall be securely retained in accordance with agency record retention policies and the agency protocol regarding investigation of allegations. All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise." The AFOD and the PSA Compliance Manager confirmed that all case records, supporting documentation and confidential information that is maintained by ADHR under double lock with restricted access to keys. The Auditor was shown the area where these records and documents are maintained. The facility had no allegations of sexual abuse during the audit period.

#### **§115.193 – Audits of standards.**

**Outcome:** Low Risk

#### **Notes:**

This is the second audit for the ADHR. (b) (7)(E) [REDACTED] The length of stay for detainees at this facility is approximately three hours, and no detainee is held at the facility overnight. The facility had no allegations of sexual abuse reported within the audit period. The Auditor determined this facility qualifies for low risk.

#### **§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 ADHR 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. Space for interviews was provided allowing for private interviews and access to a phone for interpretive services. Audit notices in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese were observed by the Auditor posted in the Hold Room advising detainees they were permitted to send confidential information or correspondence to the Auditor; however, the Auditor did not receive any correspondence from any detainee or staff.

### **AUDITOR CERTIFICATION**

Update Audit Findings Outcome Counts by Clicking Button:

**Update Outcome Summary**

<b>SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)</b>	
<b>Number of standards exceeded:</b>	1
<b>Number of standards met:</b>	27
<b>Number of standards not met:</b>	0
<b>Number of standards N/A:</b>	2
<b>Number of standard outcomes not selected (out of 31):</b>	0
<b>Facility Risk Level:</b>	Low Risk

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

*Thomas Eisenschmidt*

4/4/2023

**Auditor's Signature & Date**

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

4/21/2023

**Assistant Program Manager's Signature & Date**

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

4/21/2023

**Program Manager's Signature & Date**