

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



**Homeland
Security**

AUDITOR INFORMATION

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

PROGRAM MANAGER INFORMATION

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

AGENCY INFORMATION

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

Name of Field Office:	Miami Field Office
Field Office Director:	Garrett J. Ripa
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	865 SW 78 th Avenue, Plantation, FL 33324
Mailing address: (if different from above)	

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

Name of facility:	Baker County Sheriff's Office
Physical address:	1 Sheriff's Office Drive, Maccleny, FL 32063
Mailing address: (if different from above)	
Telephone number:	904-259-3311
Facility type:	IGSA

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Sheriff
Email address:	(b) (6), (b) (7)(C)	Telephone number:	904-259-(b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Administrative Lieutenant
Email address:	(b) (6), (b) (7)(C)	Telephone number:	904-653-(b) (6), (b) (7)(C)

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS:

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

During the audit, the Auditor found Baker County Sheriff's Office (BCSO), also known as the Baker County Detention Center (BCDC), met 34 standards, had 2 standards (115.31, 115.35) that exceeded, had 2 standards (115.14, 115.18) that were non-applicable, and 3 non-compliant standards (115.22, 115.73, and 115.86). As a result of the facility being out of compliance with 3 standards, the facility entered into a 180-day corrective action period which began on March 29, 2023 and ending on September 25, 2023. The purpose of the corrective action period is for the facility to develop and implement a Corrective Action Plan (CAP) to bring the non-compliant standards into compliance. The facility provided documentation sufficient to become fully compliant and completed the CAP on May 13, 2023.

The Auditor received notification of the first CAP via email on May 1, 2023 from ERAU. The initial CAP documentation and response was reviewed and the Auditor agreed with the CAP as submitted. The facility demonstrated compliance with the three standards found non-compliant at the time of the onsite audit.

Number of Standards Met: 3

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

§115.73 Reporting to detainees

§115.86 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 relied upon in making the compliance or non-compliance determination for each provision that was found non-compliant during the audit. Failure to comply with any part of a standard provision shall result in a finding of "Does not meet Standard" for that entire provision, unless that part is specifically designated as Not Applicable.

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

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

Notes:

(c)(d)(e)(f) Standard subpart (c) requires the facility and agency post their investigative protocols on their web site. The Auditor was unable to access the BCDC web site to verify their investigative protocols being posted. The agency protocols were available on their website at <https://www.ice.gov/detain/prea>. Subparts (d)(f) of this standard requires, "Each facility protocol shall ensure that all allegations are promptly reported to the agency as described in paragraphs (e) and (f) of this section, and, unless the allegation does not involve potentially criminal behavior, are promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations. A facility may separately, and in addition to the above reports and referrals, conduct its own investigation. When a detainee, prisoner, inmate, or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as the appropriate ICE Field Office Director, and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation. When a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as to the appropriate ICE Field Office Director, and to the local government entity or contractor that owns or operates the facility. If the incident is potentially criminal, the facility shall ensure that it is promptly referred to an appropriate law enforcement agency having jurisdiction for investigation." The DIO and the PSA Compliance Manager confirmed all allegations of sexual abuse are reported to the ICE SDDO. The SDDO confirmed that once she is notified of any incident of sexual abuse, she makes all ICE notifications required by the standard. However, the notification must be noted in policy as required by subparts (d)(e)(f). According to the auditor training received in November 2021, all allegations are to be reported to the JIC, where the allegation will be assessed to determine if it falls within the PREA purview. The PREA allegations are referred to OIG or OPR. OIG has the first right of refusal on all employee, volunteer, or contractor on detainee sexual abuse allegations. Once the allegation is reviewed and accepted by DHS OIG, the OPR would not investigate so there is no possible intervention. If refused by DHS OIG, the allegation is referred to OPR. All detainee-on-detainee allegations are referred to the OPR for assessing criminality. Once the allegation is reviewed and accepted by the OPR investigator, the investigation is conducted by OPR, who will decide on the investigative process. If OPR investigates the allegation, the investigation is conducted in accordance with OPR policies and procedures and coordination with law enforcement and facility staff. If allegations are not criminal in nature, the allegations are referred to the OPR field office or the ERO Administrative Investigative Inquiry Unit (AIU) for action, and the agency would assign an administrative investigation to be completed or conduct a review of the facility's administrative investigation. The BCDC Investigator conducts the administrative investigations. During her interview, she confirmed she would follow the investigative protocols outlined in the CO 328 policy. The facility had 11 allegations of sexual abuse reported during the audit period. The review of these cases noted ICE being notified on the day of each allegation CO 328 policy does not address the notification requirements as required by these (d)(e)(f) subparts.

Does Not Meet (c)(d)(e)(f): The facility must post the required investigative protocols on their web site. The facility must also update their CO 328 policy to address the notification requirements described in the (d)(e)(f) subparts and provide evidence that affected staff have been trained on the revised policy.

Corrective Action (c)(d)(e)(f): On May 4, 2023 the Auditor reviewed and accepted the facility's CAP. The Auditor was provided an updated CO 328 policy prior to leaving the onsite portion of the audit detailing the notification obligations noted in subparts (d)(e)(f). The Auditor verified the posting of the investigation protocols on the facility web site as required by subpart (c). The facility is now compliant with the standard.

§115. 73 - Reporting to detainees

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

Notes:

The CO 328 policy requires, "Following an investigation into a detainee's allegation that he or she suffered sexual abuse in the detention facility, BCDC shall inform the detainee as to whether the allegation has been determined to be substantiated unsubstantiated or unfounded and any responsive action taken." The interviews conducted with the DIO and the

Administrative Investigator confirmed the policy requirement of detainee notification in all instances at the conclusion of sexual abuse allegation investigations. The Auditor provided five randomly chosen names to the TL for the audit period who provided documentation these detainees were not all notified of the investigative outcome. Only one of the alleged victims was notified of the investigation outcome. The remaining four were present in the facility after the investigation was closed according to the documentation provided to the Auditor.

Does Not Meet: The Agency did not provide the investigation outcome as required by the standard. The Agency must provide 5 examples where the detainee has been notified of the investigation outcome.

Corrective Action: On May 4, 2023 the Auditor reviewed the CAP and documentation (5 examples of detainee notification) demonstrating that the agency provided sexual abuse outcomes of investigative findings to the detainees as requested. The supplied examples included personal notifications to the detainee or supplied to their last known address. The standard is compliant.

§115. 86 - 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 CO 328 policy requires, "Sexual abuse incident reviews will be conducted at the conclusion of every sexual abuse investigation, including those where the allegation has not been substantiated, unless the allegation has been determined to be unfounded." The DIO indicated that the facility had not been performing incident reviews on unfounded allegations as required by the standard until they were informed in the ICE pre-audit of the requirement. BCDC has been performing incident reviews on all allegations regardless of the outcome since being notified. The DIO also confirmed that the agency PSA Coordinator is provided a copy of the report and any response to the review.

Does Not Meet (a): The CO 328 policy is not consistent with the requirements of DHS PREA standard 115.86. The standard requires, "Each facility shall conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and, where the allegation was not determined to be unfounded, prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the agency PSA Coordinator." The facility must update this policy to include incident reviews in all allegations of sexual abuse. The Auditor will need to see the updated policy along with three examples of unfounded allegations receiving an incident review.

Corrective Action (a): On May 4, 2023 the Auditor reviewed and concurred with the facility's CAP. The Auditor was provided an updated CO 328 policy prior to leaving the onsite portion of the audit detailing the incident review requirements outlined in subpart (a). The Auditor notes from the Director of ICE Operations (DIO) interview, conducted during the site visit, indicated that incident reviews were not completed on unfounded allegations of sexual abuse. The DIO apparently was referring to written incident reviews. The DIO has stated that "Facility staff had previously conducted verbal reviews of unfounded allegations, but no documentation of the reviews was made." The standard does not require the facility prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse. The random selection of investigative files contained two unfounded allegations, which after the preaudit, contained written incident reviews. The standard is compliant.

§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:

AUDITOR CERTIFICATION:

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

Thomas Eisenschmidt _____

May 28, 2023

Auditor's Signature & Date

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

May 28, 2023

Assistant Program Manager's Signature & Date

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

May 29, 2023

Program Manager's Signature & Date

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



**Homeland
Security**

AUDIT DATES

From:	1/24/2023	To:	1/26/2023
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AUDITOR INFORMATION

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

PROGRAM MANAGER INFORMATION

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

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

Name of Field Office:	Miami Field Office
Field Office Director:	Garrett J. Ripa
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	865 SW 78th Avenue Plantation, FL 33324
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:	Baker County Sheriff's Office
Physical address:	1 Sheriff's Office Drive, Macclenny, FL 32063
Mailing address: (if different from above)	Click or tap here to enter text.
Telephone number:	904-259-3311
Facility type:	IGSA
PREA Incorporation Date:	2/19/2020

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Sheriff
Email address:	(b) (6), (b) (7)(C)	Telephone number:	904-259-(b) (6), (b) (7)(C)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Administrative Lieutenant
Email address:	(b) (6), (b) (7)(C)	Telephone number:	904-653-(b) (6), (b) (7)(C)

ICE HQ USE ONLY

Form Key:	29
Revision Date:	01/06/2023
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 Baker County Sheriff's Office (BCSO), also known as the Baker County Detention Center (BCDC) was conducted on January 24, 2023, through January 26, 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 the ICE PREA 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 February 28, 2020, through January 26, 2023. This was the facility's first DHS PREA audit. BCDC is a County operated facility, managed by the BCSO. The BCDC operates under contract with the DHS/ICE, Office of Enforcement and Removal Operations (ERO). It provides custody for County inmates, US Marshals inmates, Bureau of Prisons (BOP) inmates, and ICE male and female adult detainees, the latter while pending immigration review or deportation. According to the Pre-Audit Questionnaire (PAQ), the top three nationalities held at the BCDC are from Mexico, Honduras, and Guatemala. The number of ICE adult detainees booked into the facility in the last 12 months was 1571. The facility does not house juvenile or family detainees. The facility is located in Macclenny, Florida.

On January 24, 2023, an entrance briefing was held in the BCDC 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:

Baker County Staff

(b) (6), (b) (7)(C), Director of ICE Operations (DIO), PREA Coordinator
(b) (6), (b) (7)(C), PSA Compliance Manager
(b) (6), (b) (7)(C), Inspector
(b) (6), (b) (7)(C), Programs Coordinator
(b) (6), (b) (7)(C), Classification Sergeant
(b) (6), (b) (7)(C), Health Services Administrator (HSA), Armor Medical
(b) (6), (b) (7)(C), Director of Nursing (DON), Armor Medical
(b) (6), (b) (7)(C), Advanced Practice Registered Nurse (APRN), Armor Medical
(b) (6), (b) (7)(C), Medical Compliance Manager (MCM), Armor Medical
(b) (6), (b) (7)(C), Licensed Mental Health Counselor, Armor Medical

ICE

(b) (6), (b) (7)(C), Inspections and Compliance Specialist (ICS), OPR/ERAU
(b) (6), (b) (7)(C), Supervisory Detention and Deportation Officer (SDDO), ERO
(b) (6), (b) (7)(C), Detention Service Manager (DSM), ERO

Creative Corrections

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. Approximately three weeks prior to the audit, ERAU Team Lead, (b) (6), (b) (7)(C), provided the Auditor with the facility's Pre-Audit Questionnaire (PAQ), agency and facility policies, and other pertinent documents through ERAU's SharePoint site. The main policy that provides facility direction for PREA is the CO 328, Prison Rape Elimination Act ICE Standards policy. All documentation provided prior to the audit, policies, and the PAQ were reviewed by the Auditor. A tentative daily schedule was provided by the Auditor for the interviews with staff and detainees. 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. He further explained compliance with the PREA standards will be determined based on the review of policy and procedures, observations made during the facility tour, provided documentation review, and conducting both staff and detainee interviews.

On the first day of the audit and for the entire site visit, there were 165 detainees (155-male and 10-female) housed at the BCDC. The detainee in-processing area consists of nine multi-person cells. Each of these cells contain a phone, toilet, and sitting area with no showers. There is also a medical unit, interview room, and two showers in this area. The detainees remain in this area until the booking process, a vulnerability assessment by medical and an individualized classification by the intake Deputy is completed and then

the detainee is placed in one of the two facility housing units. One of these two housing units is dedicated to ICE detainees only. The ICE housing unit consists of eight multi-person celled dormitories. Four of these dormitories are four person cells and four of them are two person cells. The female dorm is one of the four person per cell units. Each cell has its own shower. The Auditor observed consulate contact information, the Woman's Center of Jacksonville (WCJ) advocate contact number, the DHS-prescribed ICE Sexual Abuse Awareness (SAA) information pamphlet and the DHS ICE Zero Tolerance for Sexual Abuse poster with phone and other contact information in each of the eight dormitories. There are 7 medical beds and 16 segregation cells at the BCDC. (b) (7)(E) at BCDC, and the Auditor reviewed each camera assigned to areas that monitored ICE detainees and found no privacy concerns. According to the PAQ and the interview with the PSA Compliance Manager, there are 59 Baker County staff, 36 Armor Medical staff, 2 Trinity Food Service staff, and 51 volunteers at BCDC.

At the conclusion of the tour, the Auditor was provided with staff rosters and randomly selected Deputies from each 12-hour shift to participate in the formal interviews. There were 10 random Deputies and 18 specialized staff performing 22 specialized functions interviewed. Those specialized interviews included DIO, PSA Compliance Manager, Training staff member, Human Resources staff member, Retaliation Monitor staff member, Incident Review Team member, Intake/Classification staff (3), non-security first responder (2), Criminal Investigator, Administrative Investigator, Grievance Coordinator, SDDOs (2), Deportation Officers (DO) (3), Mental Health Practitioner, WCJ Director, and the HSA. There were 20 randomly selected detainees interviewed, with 18 of them qualifying for targeted questionnaires (9- limited English proficient (LEP), 2 filed allegations, 4 prior victims, 2 Gay and 1 bi-sexual).. There were 11 allegations of sexual abuse reported at BCDC for the audit period. There were seven allegations involving staff and four allegations involving detainees. Each of the staff investigations were determined to be unfounded at the conclusion of the investigation. The investigations involving detainees, determined three were unfounded and one was substantiated at the conclusion of the investigation.

On January 26, 2023, an exit briefing was held in the BCDC 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:

Baker County Staff

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

(b) (6), (b) (7)(C), Director of Security

(b) (6), (b) (7)(C), DIO, PREA Coordinator

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

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

(b) (6), (b) (7)(C), Programs Coordinator

(b) (6), (b) (7)(C), Classification Sergeant

(b) (6), (b) (7)(C), Armor Regional Vice President

(b) (6), (b) (7)(C), HSA, Armor Medical

(b) (6), (b) (7)(C), DON, Armor Medical

(b) (6), (b) (7)(C), APRN, Armor Medical

(b) (6), (b) (7)(C), MCM, Armor Medical

(b) (6), (b) (7)(C), LMHC, Armor Medical

ICE

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

(b) (6), (b) (7)(C), DO, ERO

(b) (6), (b) (7)(C), DO, ERO

(b) (7)(C), (b) (6), DO, ERO

(b) (6), (b) (7)(C), DSM, ERO

Creative Corrections

Thomas Eisenschmidt, Certified PREA Auditor

The Auditor spoke briefly about the staff and detainee knowledge of the zero-tolerance of sexual abuse at BCDC. The Auditor informed those present that it was too early in the process to formalize an outcome of the audit and that he would need to review his findings and interviews conducted (staff and detainees) prior to making a final determination on compliance for the standards. The Auditor thanked ERAU, ERO, and the Baker County 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: 2

§115.31 Staff training

§115.35 Specialized training: Medical and Mental Health Care

Number of Standards Not Applicable: 2

§115.14 Juvenile and family detainees

§115.18 Upgrades to facilities and technologies

Number of Standards Met: 34

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

§115.13 Detainee supervision and monitoring

§115.15 Limits to cross-gender viewing and searches

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

§115.17 Hiring and promotion decisions

§115.21 Evidence protocols and forensic medical examinations

§115.32 Other training

§115.33 Detainee education

§115.34 Specialized training: Investigations

§115.41 Assessment for risk of victimization and abusiveness

§115.42 Use of assessment information

§115.43 Protective custody

§115.51 Detainee reporting

§115.52 Grievances

§115.53 Detainee access to outside confidential support services

§115.54 Third-party reporting

§115.61 Staff reporting duties

§115.62 Protection duties

§115.63 Reporting to other confinement facilities

§115.64 Responder duties

§115.65 Coordinated response

§115.66 Protection of detainees from contact with alleged abusers

§115.67 Agency protection against retaliation

§115.68 Post-allegation protective custody

§115.71 Criminal and Administrative Investigations

§115.72 Evidentiary standard for administrative investigations

§115.76 Disciplinary sanctions for staff

§115.77 Corrective action for contractors and volunteers

§115.78 Disciplinary sanctions for detainees

§115.81 Medical and mental health assessments; history of sexual abuse

§115.82 Access to emergency medical and mental health services

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

§115.87 Data collection

§115.201 Scope of audits

Number of Standards Not Met: 3

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

§115.73 Reporting to detainees

§115.86 Sexual abuse incident reviews

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.

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

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

Notes:

(c) The Auditor determined compliance with this standard subpart based on policy CO 328, that requires, "BCDC has a zero tolerance towards all forms of sexual abuse and sexual harassment to include but not limited to: incidents of detainee-on-detainee sexual assault/battery and staff sexual misconduct/harassment towards detainees." BCDC provided the Auditor documentation that the policy was reviewed and approved by the agency. This CO 328 outlines the facility approach to accomplish this zero-tolerance goal by defining responsibilities for line staff and specialized staff when responding to allegations of sexual abuse, training requirements for both detainees and staff, providing reporting sexual abuse allegations means, providing victim support information and conducting supervisory checks. The informal and formal interviews conducted with Baker County staff, contractors and ERO staff confirmed their awareness to the BCDC zero tolerance policy toward all forms of sexual abuse.

(d) The Auditor determined compliance with this subpart of the standard based on the interview with the PSA Compliance Manager who confirmed she is the point of contact for the agency's PREA Coordinator and has sufficient time and authority to perform her PREA duties. A review of the facility organizational chart confirmed her position as a direct report to the Undersheriff.

§115.13 - Detainee supervision and monitoring.

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

Notes:

(a)(c) The Auditor determined compliance with these subparts of the standard based on the interviews with the DIO and the PSA Compliance Manager who both confirmed that supervision staffing levels at BCDC are based on generally accepted detention and correctional practices; judicial findings of inadequacy; BCDC's physical plant; composition of the detainee population; (b) (7)(E); substantiated and unsubstantiated incidents of sexual abuse; any recommendations of sexual abuse incident review reports; and any other relevant factors, including but not limited to the length of time detainees spend in custody. During the three-day site visit, the Auditor observed detainee supervision appropriate for the facility on each shift.

(b) The Auditor determined compliance with this standard subpart based on the interview with the DIO and PSA Compliance Manager who confirmed each staff security post has specific post orders. The Auditor randomly reviewed supervision guidelines (post orders) while on site at the BCDC. Staff assuming these duty stations are required to review and sign these post orders. These post orders are reviewed annually. The Auditor observed the annual post orders review conducted in 2022.

(d) The Auditor determined compliance with this subpart of the standard based on the review of the CO 328 policy that requires, "Shift Commanders shall conduct unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Unannounced rounds will be conducted on both day shift and evening shift. Unannounced rounds will be logged in to the Guardian RFID Electronic Log, designated as a Housing Unit Supervisor Check." The auditor interviewed line supervisors and line staff from both shifts. Each shift supervisor stated that the rounds are conducted at random times and locations on each of the 12-hour shifts in all area detainees have access to. These supervisors also confirmed their unannounced rounds are entered into the Guardian Electronic Log. The Auditor chose random dates in this electronic record keeper and verified documentation for unannounced security rounds on each shift. The supervisors also confirmed that staff is prohibited from alerting others that these inspections are occurring unless such announcement is related to the legitimate operational functions of the facility. The random Deputies interviewed confirmed supervisors make rounds in their areas daily and they are prohibited from alerting other staff when supervisors are making rounds.

§115.14 - Juvenile and family detainees.

Outcome: Not Applicable (provide explanation in notes)

Notes:

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

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

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

Notes:

(b)(c)(d) The Auditor determined compliance with these standard subparts based on review of the CO 328 policy that requires, "Cross-gender pat-down searches of male detainees shall not be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances. Cross-gender pat-down searches of female detainees shall not be conducted unless in exigent circumstances." The BCDC training curriculum for searches requires, "All cross-gender pat searches be documented." The interviews conducted with the 10 random male and female Deputies confirmed their

understanding of the CO 328 policy and the training requirements for conducting cross gender pat searches. The Facility reported no cross-gender pat searches during the audit period. The review of the search log noted no cross gender pat searches during the audit period. Interview with the detainees confirmed none were ever searched by the opposite gender.

(e)(f) The Auditor determined compliance with these standard subparts based on review of the BCDC Search curriculum that states, "Cross-gender strip searches of detainees by staff of the opposite gender are not conducted except in exigent circumstances, or when performed by medical practitioners. All strip searches and visual body cavity searches shall be documented." As noted earlier in the report, BCDC accepts no juveniles. The 10 random Deputies interviewed were aware of the requirements for conducting and documenting any cross-gender strip searches if performed, and the prohibition against conducting body cavity searches. Each was also aware that medical must conduct all body cavity searches if required. The review of the search log noted no strip searches being conducted during the audit period.

(g) The Auditor determined compliance with this subpart of the standard based on review of the CO 328 policy that requires, "Staff members of the opposite gender will announce their presence when entering a detainee an area where detainees are likely to be showering, performing bodily functions, or changing clothing. Detainees will be allowed 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 cell checks or is otherwise appropriate in connection with a medical examination." The Auditor observed written notices above each of the eight dormitory entrances reminding opposite gender staff to announce themselves prior to entering the living area. The male and female detainees interviewed confirmed that opposite gendered staff announces themselves prior to entering their living areas. The male and female BCDC staff interviewed were aware of the acknowledgement requirement when entering an opposite gender living area. The Auditor also observed opposite gender announcements being made by staff during the site visit. The review of the camera system and observations during the site visit revealed no privacy concerns with the shower or toilet areas.

(h) This subsection is non-applicable. BCDC is not a Family Residential Facility.

(i) The Auditor determined compliance with this subpart of the standard based on the BCDC Search curriculum that states, "The facility shall not search or physically examine a detainee for the sole purpose of determining the detainee's genital characteristics. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a standard medical examination that all detainees must undergo as part of intake or other processing procedure conducted in private, by a medical practitioner." The Training staff person confirmed that search training, received by each staff member, includes the prohibition of physically examining a detainee for the sole purpose of determining their genital characteristics. The 10 random Deputies interviewed confirmed their awareness of this prohibition and that the search training they receive covers this restriction. They also stated that if it were necessary to determine a detainees' genital status, they follow the subpart (i) requirements for determination. A review of the eight security staff training files confirmed each received search training.

(j) The Auditor determined compliance with this subpart of the standard based on the CO 328 policy that requires, "Staff will be trained in how to conduct cross-gender pat-down searches, and searches of transgender and intersex detainees, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs." The review of the BCDC Search curriculum confirmed this policy requirement. The 10 random Deputies interviewed confirmed their awareness of their responsibility to be professional with all searches of detainees. A review of the eight training files confirmed each received search training. Each of the 20 detainees interviewed confirmed that they were searched by staff in a professional manner. There were no transgender or intersex detainees at the facility during the site visit.

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

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

Notes:

(a)(b) The Auditor determined compliance with these standard subparts based on review of the CO 328 policy that requires, "BCDC shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of BCDC's efforts to prevent, detect, and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In addition, BCDC shall ensure that any written materials related to sexual abuse are provided in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. BCDC is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activities, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans with Disabilities Act, 28 CFR 35.164. B. Upon intake of a new detainee, booking staff will make best effort in an attempt to identify those detainees considered to be limited English proficient. If a detainee is identified to be limited English proficient, the detainee's preferred language of choice will be notated in the Jail Booking system with a "Special Requirement" tab for LEP. A notation will be made stating the language of choice and documentation will be made on the PREA Orientation Form. Notification will be sent to the Classifications Deputy (Sergeant) and the PREA Coordinator prior to the end of shift. Upon notification from the booking supervisor and prior to being assigned to a unit, the Classifications Deputy along with the PREA Coordinator will conduct an interview using the interpreter service language line in order to complete their Sexual Assault Education. Notation will be made on the PREA Education Acknowledgement form. The requested language that was used for the interview will be documented in the form." During the site visit there were no detainee arrivals for the Auditor to observe the intake process. Two of the intake Deputies detailed the detainee arrival and intake process for the Auditor. Each confirmed every detainee arriving at the BCDC receives and signs for the BCDC handbook, available in Spanish and English, the DHS-prescribed SAA information pamphlet, and the ICE National Detainee Handbook. The DHS-prescribed SAA information pamphlet is available in 15 languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Turkish, Ukrainian, and Vietnamese). The ICE National Detainee Handbook is 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). The intake Deputies detailed the handling of detainees arriving at BCDC with disabilities. Both indicated that those detainees who may have limited sight or may be blind would have the information presented to them verbally by one of the booking/intake Deputies. If the facility encounters a detainee with limited hearing or deaf, they would be provided information in writing or by use of the TTY equipment located in Medical. Any detainee arriving at the facility with intellectual, or psychiatric disabilities, would be assessed by the intake Deputy to determine if he or she can effectively communicate with the detainee. If the staff member believed the detainee was unable to understand the information being presented, they would be referred to either medical or mental health for additional assistance. The Auditor was also informed by these intake Deputies that BCDC staff deals with LEP detainees routinely and in cases where a staff member is not available to interpret for the detainee, the facility has a contracted language service provider (to include sign language) to assist the intake staff. The intake Deputies further stated that detainees, arriving speaking a language not covered by either the SAA information pamphlet or ICE National Handbook languages, are provided sexual safety information utilizing the SAA pamphlet that is read to the detainee through the BCDC contracted interpreter. The Auditor reviewed the materials issued to detainees and their availability, during the site visit. The Auditor also reviewed 10 detainee detention files while on site. Each of these files contained a signed acknowledgement for receipt of these materials demonstrating compliance with the standard and policy requirement. The interview with the nine LEP (all Spanish speaking) detainees confirmed they received this information in a language that they understood.

(c) The Auditor determined compliance with this standard subpart based on review of the PREA training curriculum that states, "In matters relating to allegations of sexual abuse, the agency and each facility shall provide 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 the agency 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, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse." The interviews with the random Deputies confirmed their knowledge with this subpart requirements including who can and can't interpret for detainees alleging sexual assault. The facility has 11 allegations of sexual abuse investigated during the audit period with 2 allegations requiring the use of a translator. The cursory review of the 11 investigative files noted the use of interpreters in these 2 allegations.

§115.17 - 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)(e)(f) The Auditor determined compliance with these subparts of the standard based on review of policy CO 328, Executive Order 10450 (Security Requirements for Government Employment), Office of Personal Management Section Part 731, and ICE

Directives 6-7.0, ICE Personnel Security and Suitability Program Directive, and 6-8.0, ICE Suitability Screening Requirements for Contractor Personnel Directive that require the BCDC not hire or promote anyone who may have contact with detainees, and shall not enlist the services of any contractor who may have contact with detainees, who: has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); has been convicted of engaging or attempting to engage in sexual activity in the community 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; has been civilly or administratively adjudicated to have engaged in the activity described above. The CO 328 policy further requires, "BCDC considering hiring or promoting staff shall ask all applicants who may have contact with detainees directly about previous misconduct described in [subpart] (a) of [standard 115.17], in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. BCDC shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. BCDC, consistent with law, shall make its best efforts to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse. BCDC shall conduct an updated background investigation every five years for employees who may have contact with detainees. BCDC shall require an updated background investigation every five years for those facility staff who may have contact with detainees and who work in immigration-only detention facilities." The HR staff member and DIO stated that BCDC completes background checks for all staff and contractors before hiring and every five years through the National Crime Information Center (NCIC) and Florida Department of Law Enforcement (FDLE). The acting 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. The HR staff person at BCDC detailed the hiring practice for County staff and contractors. She indicated the facility would not hire or promote anyone who has engaged in any conduct outlined in subpart (a) and would terminate any employee or contractor and withdraw an employment offer based on material omissions regarding such misconduct, or materially providing false information. She also stated part of the hiring process includes prior employment records request and a thorough background check. She also confirmed that BCDC would provide information on substantiated allegations of sexual abuse involving former employees upon any request from an institutional employer for which the employee has sought new employment. She further stated that as a condition of employment and required by policy, BCDC employees have a continuing affirmative duty to disclose any behavior outlined in subpart (a). They are notified of this during the onboarding orientation. The Auditor interviewed 10 random Deputies, and each was aware of this duty to report. The Auditor also reviewed 10 employee files and found background checks, conducted through NCIC and FDLE, completed prior to hiring the staff member as well as a signed self-declaration that the employee has not engaged in behavior outlined in subpart (a) as required to comply with their duty to report. Two of the 10 files reviewed were current promotions. The Auditor noted a current disclosure form present in both of these individual's file.

(d) The Auditor determined compliance with this subpart of the standard based on review of policy CO 328 that requires, "BCDC shall also perform a background investigation before enlisting the services of any contractor who may have contact with detainees. Upon request by ICE, BCDC shall submit for ICE's approval written documentation showing the detailed written documentation showing the detailed elements of BCDC's background check for each contractor and BCDC's conclusions." The interview with the HR staff person confirmed that background checks are performed on every contractor having contact with ICE detainees. The review of two contractor files confirmed completed backgrounds.

§115.18 - Upgrades to facilities and technologies.

Outcome: Not Applicable (provide explanation in notes)

Notes:

This standard is not applicable as the interview and documentation provided the Auditor confirmed that BCDC did not expand the facility or add additional video equipment during the audit period.

§115.21 - Evidence protocols and forensic medical examinations.

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

Notes:

(a) The Auditor determined compliance with this subpart of the standard based on the review of the CO 328 policy that requires, "To the extent that ICE or facility is responsible for investigating allegations of sexual abuse involving detainees, it shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol shall be developed in coordination with DHS and shall be developmentally appropriate for juveniles, where applicable." As previously noted, BCDC does not house ICE juveniles and the CO 328 policy was approved by the agency. BCDC is responsible for conducting administrative investigations. The interview conducted with the Investigator responsible for the administrative investigations confirmed during his investigations he follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for his administrative investigations as provided in his training. The Undersheriff confirmed criminal investigations are conducted by the Baker County Sheriff Office (BCSO). The Auditor interviewed the Inspector who is responsible for these criminal investigations who also confirmed he follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for his investigations. The agency's Policy 11062.2, Sexual Abuse and Assault Prevention and Intervention, outlines the agency's evidence and investigation protocols. The Auditor training provided in November 2021 by ICE

indicated that 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 ERO Field Office Director (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 Inspector General (OIG), OPR, or the local law enforcement agency, the agency would assign an administrative investigation to be conducted. The Auditor performed a cursory review of all 11 investigative files and an in-depth review of 5 of them during the site visit. The reviews confirmed the investigator followed a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence.

(b)(c)(d) The Auditor determined compliance with these subparts of the standard based on the review of the CO 328 policy that requires, "BCDC developing an evidence protocol referred to in paragraph (a) of this section, shall consider how best to utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling to most appropriately address victims' needs. Each facility shall establish procedures to make available, to the full extent possible, outside victim services following incidents, of sexual abuse; BCDC shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, BCDC shall provide these services by making available a qualified staff member from a community-based organization, or a qualified agency staff member. A qualified agency staff member or a qualified community-based staff member means an individual who has received education concerning sexual assault and forensic examination issues in general. The outside or internal victim advocate shall provide emotional support, crisis intervention, information, and referrals." BCDC has a Memorandum of Understanding (MOU) with the WCJ, expiring on September 30, 2023, that provides access to 24-hour hotline services; access to rape crisis center advocates; providing crisis intervention services and referrals; providing acute and long-term medical and mental health care; and providing emotional support services throughout the process of forensic examination, investigation, and recovery from sexual abuse or sexual harassment. The CO 328 policy further requires, "BCDC shall offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFE's) or Sexual Assault Nurse Examiners (SANE's) where possible. If SAFE's or SANE's cannot be made available, the examination can be performed by other qualified medical practitioners." The Auditor interviewed the DOI and HSA who confirmed forensic examinations are provided through the same MOU with the WCJ at no cost to the detainee. The Auditor spoke with this advocate who confirmed her agency provides crisis intervention and counseling to victims of sexual assault. During the investigative file review, the Auditor observed notation of detainees being informed of victim advocacy. There were two detainees present at the facility, during the site visit, who made a sexual abuse allegation. Both indicated they were provided victim advocate information at the time each made their allegation and were never charged for any services. The HSA confirmed BCDC has had no forensic examinations performed during the audit period. The WCJ contact information was observed by the Auditor posted in the detainee living areas by the telephones.

(e) The Auditor determined compliance with this subpart of the standard based on the review of policy CO 328 that requires, "To the extent that BCDC is not responsible for investigating allegations of sexual abuse, ICE or BCDC shall request that the investigating agency follow the requirement of 115.21 (a) through (d)." The Inspector, having police powers and who performs the criminal investigation, confirmed the criminal investigation would follow subparts (a) through (d) of this standard during his criminal investigation. The Auditor was provided written documentation the criminal investigators would comply with (a) through (d) of the standard. There were no allegations of sexual abuse, deemed criminal, during the audit period.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) The Auditor determined compliance with these subparts of the standard based on review of the CO 328 policy that requires, "BCDC shall establish a protocol, and shall require each facility to establish a facility protocol, to ensure that each allegation of sexual abuse is investigated by ICE or facility or referred to an appropriate investigative authority. BCDC shall ensure that an administrative or criminal investigation is completed for allegations of sexual abuse. BCDC shall ensure that ICE and facility protocols required by paragraph (a) of this section, include a description of responsibilities of ICE, BCDC, and any other investigating entities; and require the documentation and maintenance for at least five years, of all reports and referrals of allegations of sexual abuse. BCDC shall ensure that ICE and facility protocols required by paragraph (a) of this section, include a description of responsibilities of ICE, BCDC, and any other investigating entities; and require the documentation and maintenance for at least five years, of all reports and referrals of allegations of sexual abuse." The interview with the DIO and Inspector confirmed the facility protocol for reporting allegations to determine any criminality and the completion of an administrative investigation for every allegation. Both indicated documentation and maintenance for these allegations is for five years.

(c)(d)(e)(f) Standard subpart (c) requires the facility and agency post their investigative protocols on their web site. The Auditor was unable to access the BCDC web site to verify their investigative protocols being posted. The agency protocols were available on their website at <https://www.ice.gov/detain/prea>. Subparts (d)((f) of this standard requires, "Each facility protocol shall ensure that all allegations are promptly reported to the agency as described in paragraphs (e) and (f) of this section, and, unless the allegation does not involve potentially criminal behavior, are promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations. A facility may separately, and in addition to the above reports and referrals, conduct its own investigation. When a detainee, prisoner, inmate, or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint

Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as the appropriate ICE Field Office Director, and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation. When a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as to the appropriate ICE Field Office Director, and to the local government entity or contractor that owns or operates the facility. If the incident is potentially criminal, the facility shall ensure that it is promptly referred to an appropriate law enforcement agency having jurisdiction for investigation." The DIO and the PSA Compliance Manager confirmed all allegations of sexual abuse are reported to the ICE SDDO. The SDDO confirmed that once she is notified of any incident of sexual abuse, she makes all ICE notifications required by the standard. However, the notification must be noted in policy as required by subparts (d)(e)(f). According to the auditor training received in November 2021, all allegations are to be reported to the JIC, where the allegation will be assessed to determine if it falls within the PREA purview. The PREA allegations are referred to OIG or OPR. OIG has the first right of refusal on all employee, volunteer, or contractor on detainee sexual abuse allegations. Once the allegation is reviewed and accepted by DHS OIG, the OPR would not investigate so there is no possible intervention. If refused by DHS OIG, the allegation is referred to OPR. All detainee-on-detainee allegations are referred to the OPR for assessing criminality. Once the allegation is reviewed and accepted by the OPR investigator, the investigation is conducted by OPR, who will decide on the investigative process. If OPR investigates the allegation, the investigation is conducted in accordance with OPR policies and procedures and coordination with law enforcement and facility staff. If allegations are not criminal in nature, the allegations are referred to the OPR field office or the ERO Administrative Investigative Inquiry Unit (AIU) for action, and the agency would assign an administrative investigation to be completed or conduct a review of the facility's administrative investigation. The BCDC Investigator conducts the administrative investigations. During her interview, she confirmed she would follow the investigative protocols outlined in the CO 328 policy. The facility had 11 allegations of sexual abuse reported during the audit period. The review of these cases noted ICE being notified on the day of each allegation CO 328 policy does not address the notification requirements as required by these (d)(e)(f) subparts.

Does Not Meet (c)(d)(e)(f): The facility must post the required investigative protocols on their web site. The facility must also update their CO 328 policy to address the notification requirements described in the (d)(e)(f) subparts and provide evidence that affected staff have been trained on the revised policy.

§115.31 - Staff training.

Outcome: Exceeds Standard (substantially exceeds requirement of standard)

Notes:

(a)(b)(c) The Auditor determined compliance with these subparts of the standard based on the review of the CO 328 policy that requires, "BCDC shall train, or require the training of, all employees who may have contact with immigration detainees, and all facility staff, to be able to fulfill their responsibilities under this part, including training on: 1. BCDC's and facility's zero tolerance policies for all forms of sexual abuse; 2. The right of detainees and staff to be free from sexual abuse, and from retaliation for reporting sexual abuse; 3. Definitions and examples of prohibited and illegal sexual behavior; 4. Recognition of situations where sexual abuse may occur; 5. Recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing and respond to such occurrences; 6. How to avoid inappropriate relationships with detainees; 7. How to communicate effectively and professionally with detainees including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; 8. Procedures for reporting knowledge or suspicion of sexual abuse; 9. The requirements to limit reporting of sexual abuse to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purpose." The Auditor reviewed the training curriculum for this training that is provided to the BCDC staff and found that it included all topics required of the policy and the standard. The Auditor interviewed 10 Deputies, who confirmed receiving initial PREA training upon hiring and annually. They also detailed for the Auditor an overview of what the training entailed to include the elements required by subpart (a). The Auditor reviewed 10 staff training files (to include two contractors) and found completed PREA training acknowledgement documents in each file. The Auditor also interviewed 5 ICE staff while on site and reviewed their training records confirming their training requirements have been met. The facility exceeds the standard, as the standard requires refresher training every two years and the facility documentation and interviews confirmed training refresher is annual.

§115.32 - Other training.

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

Notes:

(a)(b)(c) The Auditor determined compliance with these subparts of the standard based on the review of the CO 328 policy that requires, "BCDC shall ensure that all volunteers and contractors who have contact with detainees have been trained on their responsibilities under BCDC's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided to volunteers and contractors shall be based on the services that they provide and the level of contact they have with detainees, but all volunteers and contractors who have contact with detainees shall be notified of BCDC's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. BCDC shall maintain documentation confirming that volunteers and contractors understand the training that they have received." The facility recognizes Armor Health and Trinity Food Services staff as employees covered under standard 115.31 due to their presence at the facility and detainee contact. There are no contractors who meet the definition for training under this standard. The facility has 51 volunteers. The Auditor reviewed two volunteer training record and found a signed acknowledgement that each received PREA training. The DIO confirmed that if the BCDC ever had contractors meeting the subpart (d) definition, they would receive the required zero tolerance training as required by the CO 328 policy.

§115.33 - Detainee education.

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

Notes:

(a)(b)(c)(e)(f) The Auditor determined compliance with these standard subparts based on review of the CO 328 that requires, "During the intake process, BCDC shall ensure that the detainee orientation program notifies and informs detainees about ICE's and BCDC's zero-tolerance policies for all forms of sexual abuse and includes at a minimum, instructions on: 1. Prevention and intervention strategies; 2. Definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity; 3. Explanation of methods for reporting sexual abuse, including to any staff member, including a staff member other than an immediate point-of-contact line officer (e.g., the compliance manager or a mental health specialist), the DHS Office of Inspector General, and the Joint Intake Center; 4. Information about self-protection and indicators of sexual abuse; 5. Prohibition against retaliation, including an explanation that reporting sexual abuse shall not negatively impact the detainee's immigration proceedings; and 6. The right of a detainee who has been subjected to sexual abuse to receive treatment and counseling. BCDC shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of BCDC's efforts to prevent, detect, and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In addition, BCDC shall ensure that any written materials related to sexual abuse are provided in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. BCDC is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activities, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans with Disabilities Act, 28 CFR 35.164. B. Upon intake of a new detainee, booking staff will make best effort in an attempt to identify those detainees considered to be limited English proficient. If a detainee is identified to be limited English proficient, the detainee's preferred language of choice will be notated in the Jail Booking system with a "Special Requirement" tab for LEP. A notation will be made stating the language of choice and documentation will be made on the PREA Orientation Form. Notification will be sent to the Classifications Deputy and the PREA Coordinator prior to the end of shift. Upon notification from the booking supervisor, the Classifications Deputy along with the PREA Coordinator will conduct an interview using the interpreter service language line in order to complete their Sexual Assault Education. Notation will be made on the PREA Education Acknowledgement form. The requested language that was used for the interview will be document in the form."

During the site visit there were no detainee arrivals for the Auditor to observe the intake process. Two of the intake Deputies detailed the detainee arrival and intake process for the Auditor. Each confirmed every detainee arriving at the BCDC receives and signs for the BCDC handbook, available in Spanish and English, the DHS-prescribed SAA information pamphlet, and the ICE National Detainee Handbook. The DHS-prescribed SAA information pamphlet is available in 15 languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Turkish, Ukrainian, and Vietnamese). The ICE National Detainee Handbook is 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), and contains information about reporting sexual abuse. The intake Deputies detailed the handling of detainees arriving at BCDC with disabilities. Both indicated that those detainees who may have limited sight or may be blind would have the information presented to them verbally by one of the booking/intake Deputies. If the facility encounters a detainee with limited hearing or deaf, they would be provided information in writing or by use of the TTY equipment located in Medical. Any detainee arriving at the facility with intellectual, or psychiatric disabilities, would be assessed by the intake Deputy to determine if he or she can effectively communicate with the detainee. If the staff member believed the detainee was unable to understand the information being presented, they would be referred to either medical or mental health for additional assistance. The Auditor was also informed by these intake Deputies that BCDC staff deals with LEP detainees routinely and in cases where a staff member is not available to interpret for the detainee, the facility has a contracted language service provider (to include sign language) to assist the intake staff. The intake Deputies further stated that detainees, arriving speaking a language not covered by either the SAA information pamphlet or ICE National Handbook languages, are provided sexual safety information utilizing the SAA information pamphlet that is read to the detainee through the BCDC contracted interpreter. The Auditor reviewed the materials issued to detainees and their availability, during the site visit. The Auditor also reviewed 10 detainee detention files while on site. Each of these files contained signed acknowledgements for receipt of these materials demonstrating compliance with the standard and policy requirement. The interview with the 20 detainees (LEP) confirmed they received this information in a language that they understood. As noted earlier, 9 of these 20 detainees interviewed were LEP (Spanish). The Auditor reviewed 10 detainee detention files while on site. Each of these files contained signed acknowledgements for receipt of the orientation materials. The review of these detention files demonstrated compliance with the standard and policy requirement.

(d) The Auditor determined compliance with this subpart of the standard based on observing on each housing unit the DHS-prescribed sexual abuse and assault awareness notice with the name of the facility PSA Compliance Manager and information about WCJ that can assist detainees who have been victims of sexual abuse or assault, including the mailing address and telephone number.

§115.34 - 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 subparts of the standard based on the review of the CO 328 policy that requires, "In addition to the general training provided to all facility staff and employees pursuant to 115.31, ICE or facility shall provide specialized training on sexual abuse and effective cross-agency coordination to agency or facility investigators, respectively, who conduct investigations into allegations of sexual abuse at immigration detention facilities. All investigations into alleged sexual abuse must be conducted by qualified investigators." The Agency Policy 11062.2 states, "OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as, Office of Detention Oversight staff, and other OPR staff, as appropriate." The Auditor reviewed the ICE OPR Investigating Incidents of Sexual Abuse and Assault training curriculum and found the curriculum to cover in-depth investigative techniques, evidence collection, and all aspects to conduct an investigation of sexual abuse in a confinement setting. The agency also offers Fact Finders Training, which provides information needed to conduct the initial investigation at the facility to determine if a sexual abuse incident has taken place and whether to complete an administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP; LGBTI, and disabled detainees; and an overall view of the investigative process. The agency provides rosters of trained investigators and the specialized training curriculum on OPR's SharePoint site for Auditors' review; this documentation is in accordance with the standard's requirements. The Auditor interviewed the Inspector who conducts the administrative investigations at BCDC. She detailed her investigative training to include cross agency coordination. The Auditor reviewed her training record, that included completed investigative training with the cross-agency coordination. In each of the 11 allegations investigated during the audit period, the investigation was completed by a trained investigator.

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

Outcome: Exceeds Standard (substantially exceeds requirement of standard)

Notes:

(a) This subpart is not applicable as the BCDC medical unit is not staffed by DHS or agency employees.

(b)(c) The Auditor determined compliance with these standard subparts after review of the CO 328 policy that requires, "BCDC shall provide specialized training to DHS or agency employees who serve as full- and part-time medical practitioners or full- and part-time mental health practitioners in immigration detention facilities where medical and mental health care is provided. The training required by this section shall cover, at a minimum, the following topics: How to detect and assess signs of sexual abuse; How to respond effectively and professionally to victims of sexual abuse; How and whom to report allegations or suspicions of sexual abuse; How to preserve physical evidence of sexual abuse and if medical staff employed by BCDC conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations." The BCDC medical department is contracted through Armor Health. The interview with the HSA confirmed that she and her staff (full and part time) are required to take initial PREA training upon hiring and annual with the BCDC employees along with specialized training. The HSA provided the Auditor with the training curriculum for this specialized training as required for subpart (b) of the standard. The medical and mental health staff receives the identical PREA training provided to all staff in standard 115.31, addressing all PREA training requirements. The HSA also provided the Auditor with documentation for her staff completing this specialized training which is received annually. The Auditor reviewed the PREA curriculum for staff training. The curriculum covered all of the subpart (b) requirements. The Auditor feels the facility exceeds the standard, as the standard requires this training once in a career and it is taken annually by the Armor Health staff. The CO 328 policy was approved by the agency.

§115.41 - 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)(f) The Auditor determined compliance with these standard subparts based on review of the CO 328 policy that requires, "BCDC shall assess all detainees on intake to identify those likely to be sexual aggressors or sexual abuse victims and shall house detainees to prevent sexual abuse, taking necessary steps to mitigate any such danger. Each new arrival shall be kept separate from the general population until he/she is classified and may be housed accordingly. Each detainee will be screened utilizing BCDC PREA Risk Assessment Form by medical staff. The initial classification process and initial housing assignment should be completed within twelve hours of admissions to BCDC. BCDC shall reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization." The medical staff performs the risk assessment sharing the results with the Classification Deputy who makes an individualized program and bed assignment based on information available to them and the criteria within the risk assessment. This electronic document assesses detainees for risk of sexual victimization and abusiveness based on: 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 against an adult or child; whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming, whether the detainee has self-identified as having previously experienced sexual victimization; the detainee's own concerns about his or her physical safety and any prior acts of sexual abuse or assault, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse or assault, as known to the

facility, in assessing detainees for risk of being sexually abusive. The interview with the HSA and one of the nurses that perform the risk assessment confirmed BCDC reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of the initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization. They also stated that detainees are never punished for refusing to answer any questions asked during the intake process. Each also confirmed that vulnerability is based on the criteria outlined in subparts (c) and (d) to the extent known. BCDC time stamps when the detainee arrival and classification processes are conducted. The 10 random detainee files reviewed documented the classification process was completed two hours or less of arrival. One of these files contained documentation for the 60–90-day reassessment and one file reviewed contained a reassessment completed as a result of a sexual abuse allegation. The Auditor reviewed the risk assessment form and found it addressed the (c)(d) criteria. The Auditor questioned 20 detainees during the site visit, and each confirmed that their classification process, including the risk assessment questioning, was completed within their first couple hours of arrival and each remained in the booking area until it was completed.

(g) The Auditor determined compliance with this subpart of the standard based on the review of the CO 328 policy that requires, "Completed PREA Risk Assessment Forms will be housed in the detainee's medical file in the medical unit. Detainees found to be at risk of possible sexual victimization or at risk of being sexually aggressive will be communicated to the Booking Supervisor. Only staff that have a legitimate need to know shall have access to completed screening forms." The Auditor was informed by the HSA and PSA Compliance Manager that these forms are collected and retained electronically and access to these files is password protected.

§115.42 - Use of assessment information.

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

Notes:

(a) The Auditor determined compliance with this subpart of the standard after a review of the CO 328 policy that requires, "Information gathered from the Detainee Sexual Assault Risk Assessment completed at time of intake will be used to make an informed decision when dealing with a detainee's housing, bed, work, education, and program assignments with the goal of keeping separate those detainees at high risk of being sexually victimized from those at high risk of being sexually abusive. Staff shall make individualized determinations about how to ensure the safety of each detainee." The intake Deputy interviewed confirmed that the information from both the classification and vulnerability assessment is used to make individualized housing and activity assignments. BCDC has no work assignments available for detainees. During the site visit the Auditor reviewed 10 detainee detention files and 10 medical files (where the initial assessment files and any reassessments) would be kept. The medical staff person shares, by email and phone call to the classification Deputy and PSA Compliance Manager any concerns noted in the initial and subsequent vulnerability assessments. The files reviewed demonstrated individualized determinations being conducted on each detainee and consideration of the information from the vulnerability assessment for placement decisions to ensure the detainees' safety.

(b)(c) The Auditor determined compliance with these subparts of the standard after a review of the CO 328 that requires, "In deciding whether to assign a transgender or intersex detainee to a facility for male or female detainees, and in making other housing and programming assignments, BCDC shall consider on a case-by-case basis whether a placement would ensure the detainee's health and safety, and whether the placement would present management or security problems. Housing assignments along with programming assignments for transgender detainees shall be determined by a team to include the Chief of Security, the PREA Coordinator, the Classification Deputy, the Health Service Administrator, the Programs Coordinator, and a member of the medical mental health staff." The interviews with the DIO, HSA and Mental Health Counselor confirmed if a transgender or intersex detainee arrives at BCDC, the team, as noted in policy, would meet and discuss the initial placement of any transgender or intersex detainee. The team would again meet twice a year with the detainee to review and discuss placement and any concerns. The DIO, supervisors and security line staff confirmed transgender and intersex detainees would be allowed to shower separately from other detainees, if requested, at times convenient to facility operation. There were no transgender/intersex detainees housed at BCDC during the audit.

§115.43 - Protective custody.

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

Notes:

(a)(b)(c)(d)(e) The Auditor determined compliance with these subparts of the standard after a review of the CO 328 that requires, "Use of administrative segregation by facilities to protect detainees vulnerable to sexual abuse or sexual assault shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, as a last resort. BCDC should assign detainees vulnerable to sexual abuse or assault to administrative segregation for their protection until an alternative means of separation for likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days. Facilities that place vulnerable detainees in administrative segregation for protective custody shall provide those detainees access to programs, visitation, counsel, and other services available to the general population to the maximum extent practicable. The facilities shall implement written procedures for the regular review of all vulnerable detainees placed in administrative segregation for their protection, as follows: a supervisory staff member shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted; and a supervisory staff member shall conduct, at a minimum, an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days, and every 10 days thereafter. BCDC shall notify the appropriate ICE Field Office Director no later than 72 hours after the initial placement into segregation, whenever a detainee has been placed in administrative segregation on the basis of a vulnerability to sexual abuse or assault." The Auditor interviewed the DIO who stated that the use of segregation for any vulnerable detainee would not be the typical protocol at BCDC. He indicated his options to deal with protecting a vulnerable detainee would include moving the vulnerable detainee to another housing

unit, to one of the facility medical beds, or discuss the situation with the AFOD to expedite the transfer of the detainee to another facility more suitable for the detainee's safety. He also confirmed that BCDC has not utilized segregation for any vulnerable detainee at risk of sexual abuse during the audit period and if it were used staff would follow the CO 328 policy to include notification to the FOD within 72 hours if utilized. The supervisor, responsible for segregation, confirmed segregation has not been utilized for any vulnerable detainee during the audit period. He further stated if it was ever used for that purpose, he and the staff assigned would follow the policy requirements. The Auditor interviewed two detainees who noted prior victimization and two alleging sexual abuse at the BCDC. Each confirmed they were never placed in segregation. As noted earlier the CO 328 policy was approved by the Agency.

§115.51 - Detainee reporting.

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

Notes:

(a)(b)(c) The Auditor determined compliance with these subparts of the standard after a review of the CO 328 that requires, "The Baker County Detention Center shall provide multiple internal ways (request form, grievance form, verbal reporting to staff) for detainees to privately report sexual abuse and sexual harassment, retaliation by other detainees or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. Reports may be made verbally, in writing, anonymously, or from third parties. Staff shall promptly document any verbal reports. Detainees shall be provided information on how to contact relevant consular officials and relevant officials of the Department of Homeland Security. The Baker County Detention Center shall also provide detainees a way to report abuse or harassment to a public or private entity or office that is not part of ICE, and that is able to receive and immediately forward detainee reports of sexual abuse and sexual harassment to agency officials, allowing the detainee to remain anonymous upon request. Reports may be made through the WCJ pursuant with the signed Memorandum of Understanding." During the tour of the facility, the Auditor observed reporting information, including consular contact information, prominently displayed in each of the dormitories. ICE has also established the following external reporting methods: directly report to the DHS OIG anonymous complaint hotline toll-free telephone number at 1-800-323-8603; Contact the ICE DRIL toll-free telephone number 1-888-351-4024 or 9116#; Tell an ICE/ERO staff member who visits the facility; Write a letter reporting the sexual misconduct to the ICE [OIC], ICE AFOD, or ICE FOD; File a written formal request to ICE; Contact ICE OPR JIC toll-free hotline number 1-877-246-8253; By mail to DHS OIG, Office of Investigations Hotline; 245 Murray Drive, SW, Building 410/Mail Stop 0305, Washington, DC 20528. The Auditor tested the reporting lines to the DHS OIG and the WCJ during the site visit and found the telephone lines operational without the use of a PIN. The random Deputy interviews confirmed their responsibility to accept all allegations of sexual abuse, immediately report them to their supervisor and document in writing all allegations made verbally. A review of the investigative files noted six allegations were made to security staff verbally and were documented in writing in the files. Each of the 20 detainees interviewed were aware of how to report allegations of sexual abuse. Five of the 11 allegations were made through the BCDC reporting line.

§115.52 - Grievances.

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

Notes:

(a)(b)(c)(d)(e)(f) The Auditor determined compliance with these subparts of the standard after a review of the CO 328 policy that requires, "BCDC shall permit a detainee to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an information grievance or complaint. BCDC shall not impose a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse. Detainees will be able to file emergency grievances that involve an immediate threat to their safety or welfare. Facility staff shall bring medical emergencies to the immediate attention of proper medical personnel for further assessment. BCDC shall issue a decision on the grievance within five days of receipt and shall respond to an appeal of the grievance decision within 30 days. BCDC shall send all grievances related to sexual abuse and BCDC's decisions with respect to such grievances to the appropriate ICE Field Office Director at the end of the grievance process. Detainees may obtain assistance from another detainee, the housing officer or other facility staff, facility members, or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties." The DIO handles the grievance process at the facility and detailed the process to the Auditor. He stated that BCDC would accept all grievances alleging sexual assault, following the CO 328 policy, and handling the allegation as an emergency grievance. He also confirmed he would notify the AFOD of the grievance alleging sexual assault and the outcome when it became known. He stated sexual abuse grievances are responded to within 2 business days of receipt typically and appeal decisions are responded to within 30 days. The interviews with the 10 random Deputies confirmed their knowledge of the grievance process and CO 328 policy allowing another detainee, the housing Deputy or other facility staff, family members, or legal representatives to assist the detainee with the grievance. They were also aware that all medical emergencies are to be taken to the medical department. Three quarters of the 20 random detainees interviewed were aware of using the grievance procedure to file a sexual abuse allegation. The BCDC handbook informs detainees that a sexual abuse allegation can be handled by the grievance office and outlines the grievance/emergency grievance procedure. There were no grievances alleging sexual abuse during the audit period.

§115.53 - Detainee access to outside confidential support services.

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

Notes:

(a)(b)(c)(d) The Auditor determined compliance on these subparts of the standard after a review of the CO 328 policy that require, "BCDC shall provide detainees with access to outside victim advocate services for emotional support related to sexual abuse by giving detainees mailing addresses and telephone numbers for such services available. Advocacy and counseling services are available upon request through the signed Memorandum of Understanding between BCDC and the Women's Center of Jacksonville. BCDC shall inform detainees, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws." As noted earlier in this report WCJ

and BCDC have an MOU indicating the advocate shall provide detainees with access to outside victim advocate services for emotional support related to sexual abuse by giving detainees mailing addresses and telephone numbers for such services available. The interview with the WCJ Director confirmed her agency would provide these advocate services. She also indicated the WCJ accepts allegations of sexual abuse and they are mandated reporters. The Auditor observed on each of the posters for the WCJ in each dormitory, a notation that the WCJ is a mandated reporter for all allegations of sexual abuse made to them. Telephone contact to the WCJ is confidential and accessible without the use of a PIN. The Auditor's review of five investigative files noted the alleged victims were provided contact information for the WCJ. None of 11 allegations of sexual abuse were reported through the WCJ. The two detainees interviewed, alleging sexual assault, confirmed they were provided victim advocate information the day the allegation was made. The review of the investigative files noted advocate information being provided in each allegation.

§115.54 - 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 the standard after a review of the CO 328 policy that requires, "BCDC shall also receive reports of sexual abuse and sexual harassment from members of the community on behalf of detainee's held at the Baker County Detention Center. Members of the public may report verbally in person at BCDC, by calling the Detention Center Inspector, or in writing by completing the "Contact Us" form on ICE website." The CO 328 policy and its reporting information is made available to the public on its web page (<https://www.bakercountysheriffsoffice.com/>). A notice at the entrance of the BCDC also informs the public that concerns about the facility can be forwarded to the provided address. The 20 random detainees interviewed indicated that they were aware that family members and friends could report sexual abuse on their behalf if needed. As noted in 115.51, BCDC had five allegations of sexual abuse reported through the reporting telephone line during the audit period. The OIG line staff and DRIL telephone line staff reported the allegation back to BCDC who initiated an investigation

§115.61 - Staff reporting duties.

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

Notes:

(a)(b)(c) The Auditor determined compliance with these subparts of the standard after a review of the CO 328 policy that requires, "Staff shall immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of ICE; retaliation against detainees or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Apart from reporting to designated supervisors or investigators, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency guidelines, to make treatment, investigation, and other security and management decisions. Employees may report sexual abuse and assault of detainees, out of the chain of command, by forwarding a letter sealed, to the Inspector." The Auditor interviewed 10 random Deputies, and each confirmed their knowledge of the reporting requirements and their requirement to keep information confidential. They also informed the Auditor of their awareness of the ability to report allegations of sexual abuse outside of their chain of command to the Inspector if necessary. A review of the investigative files noted six allegations were made to security staff verbally and were documented in writing in the investigative files.

(d) The Auditor determined compliance on this subpart of the standard after a review of the CO 328 policy that requires, "If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person statute, BCDC shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws." As noted earlier in the report, BCDC does not accept juvenile detainees. The DOI confirmed if the facility encountered a sexual abuse allegation involving a vulnerable adult the BCSO and the Baker County Attorney would be notified to determine any reporting obligations under the reporting laws of the State of Florida. The DIO and PSA Compliance Manager confirmed there were no incidents or allegations of sexual abuse involving a vulnerable adult during the audit period.

§115.62 - 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 the standard based on the review of the CO 328 policy that requires, "If a facility staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, the staff member shall take immediate action to protect the detainee." The Auditor questioned the DIO and the Deputies specifically about how each would deal with a detainee at substantial risk of sexual abuse. Each of them confirmed that the well-being and safety of the detainee would be their original concern. They would take immediate action to mitigate the threat to the detainee, by removing them from the immediate area. There were no allegations of sexual assault made during the audit period or detainees at risk of imminent sexual abuse.

§115.63 - 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 Auditor determined compliance on these subparts of the standard after a review of the CO 328 policy that requires, "Upon receiving an allegation that a detainee was sexually abused while confined at another facility, Bureau Director or his designee shall notify the head of BCDC or appropriate office of ICE where the alleged abuse occurred. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. Documentation shall be made stating that such notification has been made. Upon notification from a different confinement facility to the Baker County Detention Center Bureau Director that a

sexual assault has occurred in the Baker County Detention Facility, the Bureau Director shall ensure that the allegation is investigated in accordance with PREA standards.” The DIO, PSA Compliance Manager, and the PAQ indicated BCDC received one report of sexual abuse from a detainee on arrival at BCDC, that occurred at another facility within the audit period. BCDC provided documentation that the facility where the allegation was to have happened, was contacted by phone then email within 72 hours of becoming aware of the allegation. The Auditor was also informed by the DIO and PSA Compliance Manger that BCDC was never contacted by another facility informing them a detainee made an allegation of sexual abuse while placed at the BCDC facility. They also confirmed if an allegation were reported from another facility occurring at BCDC, an investigation would be conducted as required by the CO 328 policy and the AFOD notified. The interview with the SDDO confirmed that she makes all required notifications to ICE personnel as required by the standard.

§115.64 - 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 this subpart of the standard after a review of the CO 328 policy that requires, “Upon learning of an allegation that a detainee was sexually abused, the first security staff member to respond to the report shall be required to: Separate the alleged victim and abuser; Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating; If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking or eating.” The Auditor interviewed 10 Deputies about their duty as first responders to any allegation sexual abuse. Each detailed their response at outlined in the CO 328 policy. As noted earlier in the report there were 11 allegations of sexual abuse, six were made to first line Deputies. The Auditor thoroughly reviewed five investigative files. Four of the five investigative files thoroughly reviewed included allegations made to Deputies. The review of these files documented first responders’ duties, as required by policy and the standard, were followed.

(b) The Auditor determined compliance with this subpart of the standard after a review of the CO 328 policy that requires, “If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.” During the site visit, the Auditor interviewed two non-security staff about their responsibilities when responding to allegations of sexual abuse. Both indicated that when responding to any allegation of sexual abuse, the immediate response would be ensuring the detainee did not destroy any potential evidence and then immediately notify a Deputy as soon as possible. There were no allegations of sexual abuse reported to non-security staff during the audit period.

§115.65 - Coordinated response.

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

Notes:

(a)(b) The Auditor determined compliance on these subparts of the standard after a review of the CO 328 policy and interview with the DIO who stated that this policy is the coordinated response when BCDC staff responds to any allegation of sexual abuse. He indicated it outlines the responsibilities for security staff, non-security staff, investigators, medical staff, and mental health practitioners for any sexual abuse allegation made at BCDC. The line staff and specialized staff interviews confirmed their knowledge of their responsibilities when responding to allegations of sexual abuse. Each detailed their specific roles for sexual abuse allegations aligning with the requirement as outlined in this policy. There were 11 allegations of sexual abuse at BCDC during the audit period. The cursory review of each investigative file demonstrated the facility adhered to the policy and standard responding requirements.

(c) The Auditor determined compliance on these subparts of the standard after a review of the CO 328 policy that requires, “If a victim of sexual abuse is transferred to another facility, BCDC shall, as permitted by law, inform the receiving facility of the incident and the victim’s potential need for medical or social services.” The interview with the DIO and PSA Compliance Manager confirmed any detainee transfer to any DHS subpart A or B facility, BCDC would follow the CO 328 policy. Both indicated the facility had no such transfers during the audit period.

(d) The Auditor determined compliance with the standard based on interviews with the HSA and DIO. This standard subpart requires, if a detainee is transferred from a DHS Immigration facility to a facility not covered by the DHS PREA Standards, the sending facility shall as permitted by law, inform the receiving facility of a sexual abuse incident and the victims potential need for medical or social services, unless the victim requests otherwise. The facility is aware of the subpart requirement based on interviews with the DIO and HSA. Both confirmed they became aware of the “unless the victim requires otherwise” as a result of the ICE preaudit and has since adjusted their practice. There were no transfers to any facility not covered by the DHS PREA standards during the audit period.

Recommendation (d): The Auditor recommends the facility update their CO 328 policy to reflect the subpart (d) requirement language.

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

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

Notes:

The Auditor determined compliance with this standard after review of the CO 328 policy that requires, "Staff, contractors, and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation." The DIO stated that any staff member, volunteer, or contractor suspected of perpetrating sexual abuse would be immediately removed from all detainee contact pending the results of the investigation. There were seven staff on detainee sexual abuse allegations made at BCDC during the audit period. The Auditor verified that in each instance the staff member was removed from detainee contact until the investigation was completed.

§115.67 - Agency protection against retaliation.

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

Notes:

(a)(b)(c) The Auditor determined compliance with these subparts of the standard after review of the CO 328 policy that requires, "Staff, contractors, and volunteers, and detainees, 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. Monitoring will last for a period of (90) days." The Classification Deputy is responsible for monitoring retaliation at the BCDC. She confirmed monitoring will last for a period of (90) days and for detainees would include face to face meetings with reviews of any detainee disciplinary reports, housing change requests or sick call requests. For employees the monitoring would also be face to face and include performance reviews, shift changes, time off requests or reassignment requests of staff. She also stated that monitoring may be continued if the initial monitoring indicates a continued need. During the investigative files the Auditor observed retaliation monitoring in each file. Two instances were still ongoing as the detainees were still at the facility and in the other cases monitoring continued until the detainee left the facility.

§115.68 - Post-allegation protective custody.

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

Notes:

(a)(b)(c)(d) The Auditor based compliance on these subparts of the standard after review of the CO 328 policy that requires, "BCDC shall take care to place detainee victims of sexual abuse in a supportive environment that represents the least restrictive housing option possible (e.g., protective custody), subject to the requirements of §115.43." As noted in standard 115.43 the DIO detailed the policy protocol for the use of administrative segregation for a vulnerable detainee as outlined in their policy and the standard. It is the same for any victim of sexual abuse. He confirmed that the placement of any detainee victim of sexual assault in segregation would be a last resort at BCDC. He indicated that he would evaluate movement to another housing unit or placement in a medical unit bed and that during the audit period, segregation was not used to house a detainee victim of sexual abuse. The DIO also stated that if there was ever an occasion where segregation was to be used, it would require a notification be made to the FOD within 72 hours. He also stated, prior to the detainee returning to general population, a vulnerability reassessment would be completed prior to their returning. The Auditor interviewed two detainees who alleged sexual abuse at BCDC during the site visit. The detainees confirmed no placement in segregation occurred as a result of them making the allegation.

§115.71 - 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) The Auditor based compliance with these subparts of the standard after review of the CO 328 policy that requires, "BCDC shall use investigators who have received special training in sexual abuse investigations. Investigations will be done so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. Upon conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, BCDC shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity." The Interview with the DIO confirmed that an administrative investigation and a referral for a criminal investigation, where appropriate, are completed for all allegations of sexual abuse at BCDC. The Investigator, who performs the administrative investigation, confirmed the facility is required to report all allegations of sexual abuse to the BCSO for criminal review and coordinate the administrative investigation with any criminal investigation entity including consultation with investigative offices within DHS. She detailed her investigative and policy protocols, to include her ensuring her investigations are thorough, prompt and objective. As noted earlier the facility had 11 allegations of sexual abuse during the audit period and a cursory review of each of these investigative files appeared to be thorough, prompt and objective and were performed by a trained investigator.

(c)(e)(f) The Auditor based compliance with these subparts of the standard after review of the CO 328 policy that requires, "Administrative investigations should include, at minimum: Preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring; 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 to submit to a polygraph; An effort to determine whether actions or failures to act at BCDC contributed to the abuse; and Documentation of each investigation by written report, which shall include a description of physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Attention should be taken to ensure that coordination

and sequencing between criminal and administrative investigations, to ensure that the criminal investigation is not compromised by an internal administrative investigation. BCDC shall retain all written reports for as long as the alleged abuser is incarcerated in BCDC or employed by BCDC, plus five years. The departure of the alleged abuser or victim from the employment or control of BCDC or agency shall not provide a basis for terminating an investigation. When an outside agency investigates a case of sexual abuse, BCDC shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation." The interview with the Inspector confirmed she follows the CO 328 investigative protocols about case file composition, records retention, cooperation with other investigative entities and continuing and completing investigations regardless of the detainee or employee departure from control or employment. The cursory review of the 11 investigative files and in-depth review of 5 of them demonstrated the policy and standard requirements for investigations.

§115.72 - Evidentiary standard for administrative investigations.

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

Notes:

The Auditor determined compliance with this standard after review of the CO 328 policy that requires, "When an administrative investigation is undertaken, BCDC shall impose no standard higher than the preponderance of the evidence in determining whether an allegation of sexual abuse or sexual harassment is substantiated." The Inspector confirmed that when determining the outcome of any administrative sexual abuse case, the preponderance of evidence is the standard she utilizes. The Auditor reviewed, in-depth, five investigative files for sexual abuse reported at BCDC for the audit period. Based on this review, the Auditor believes the preponderance standard was used in determining the investigative outcome.

§115.73 - Reporting to detainees.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

The CO 328 policy requires, "Following an investigation into a detainee's allegation that he or she suffered sexual abuse in the detention facility, BCDC shall inform the detainee as to whether the allegation has been determined to be substantiated unsubstantiated or unfounded and any responsive action taken." The interviews conducted with the DIO and the Administrative Investigator confirmed the policy requirement of detainee notification in all instances at the conclusion of sexual abuse allegation investigations. The Auditor provided five randomly chosen names to the TL for the audit period who provided documentation these detainees were not all notified of the investigative outcome. Only one of the alleged victims was notified of the investigation outcome. The remaining four were present in the facility after the investigation was closed according to the documentation provided to the Auditor.

Does Not Meet: The Agency did not provide the investigation outcome as required by the standard. The Agency must provide 5 examples where the detainee has been notified of the investigation outcome.

§115.76 - Disciplinary sanctions for staff.

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

Notes:

(a)(b)(c)(d) The Auditor determined compliance with these subparts of the standard based on the review of the CO 328 policy that requires, "All staff shall 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 for violating facility sexual abuse policies. Removal from their position and from the Federal service is the presumptive disciplinary sanction for staff who have engaged in or attempted or threatened to engage in sexual abuse as defined under the definition of sexual abuse of a detainee by a staff member, contactor, or volunteer. BCDC shall report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to appropriate law enforcement agencies unless the activity was clearly not criminal. BCDC shall make reasonable efforts to report removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to any relevant licensing bodies, to the extent known." The DIO and the HR staff person at the BCDC confirmed that removal from Baker County service and Federal Service would be the presumed discipline for any employee who engaged in or attempted or threatened to engage in sexual abuse or failed to follow the BCDC zero-tolerance policy. These two individuals also confirmed that all allegations of sexual abuse are immediately reported to the BCSO, and they would also notify any appropriate licensing bodies upon all substantiated allegations involving licensed staff. BCDC had no substantiated allegations of sexual abuse involving BCDC staff during the audit period. As noted earlier the CO 328 policy was approved by the Agency.

§115.77 - Corrective action for contractors and volunteers.

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

Notes:

(a)(b)(c) The Auditor determined compliance with these subparts of the standard based on the review of the CO 328 policy that requires, "Any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees. BCDC shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. Such incidents shall also be reported to law enforcement agencies unless the activity was clearly not criminal. Contactors and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation. BCDC shall take appropriate remedial measures and shall consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse but have violated other provisions within these standards." The DIO stated that contractors and volunteers are treated the same as employees and the presumptive discipline for anyone who engaged in or attempted or threatened to engage in sexual abuse or failed to follow the zero-tolerance policy would be

removed from Baker County service. He also stated that the BCSO and licensing bodies would be notified in cases involving substantiated allegations involving contractors and volunteers. The DIO also stated that consideration would be given to prohibit detainee contact for those contractors or volunteers who did not engage in sexual abuse but violated other provisions of the BCDC policies. BCDC had no substantiated allegations of sexual abuse involving any contractor or volunteer during the audit period.

§115.78 - Disciplinary sanctions for detainees.

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

Notes:

(a)(b)(c)(d)(e)(f) The Auditor determined compliance with these subparts of the standard based on the review of the CO 328 policy that requires, "BCDC shall subject detainees to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the detainee's disciplinary history, and the sanctions imposed for comparable offenses by other detainees with similar histories. The disciplinary system contains progressive levels or reviews, appeals, procedures, and documentation procedures. The disciplinary process shall consider whether a detainee's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction if any, should be imposed. Detainees may be disciplined for sexual contact with staff only upon a finding that the staff member did not consent to such contact. For the purpose of disciplinary actions, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely report an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation." The BCDC Hearing Officer detailed the facility detainee disciplinary process for the Auditor. He stated that all detainee discipline is intended to encourage detainee conformance to facility rules and regulations. He also stated that the disciplinary process includes a system allowing for progressive levels of reviews, appeals, procedures, and documented procedures. He also confirmed that prior to any disciplinary hearing the Hearing Officer would discuss the reported incident with Mental Health to determine the level of competency of the detainee and determine what impact his or her mental health may have had on the detainees' behavior. There was one substantiated allegation of sexual abuse at the facility during the audit period. The detainee was removed from the facility prior to any disciplinary process being started.

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

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 subparts of the standard based on the review of the CO 328 policy that requires, "If the assessment indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/or mental health follow-up as appropriate. When a referral for medical follow-up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of the assessment. When a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral." The Auditor interviewed the HSA who confirmed that upon arrival, detainees are questioned by the Nurse about any history of perpetrated sexual abuse or victimization of sexual abuse. If the detainee requires a medical referral as a result, they will be seen immediately, but no later than two days from the date of the assessment. If the detainee indicates any prior history the Nurse initiates a referral to mental health. She also confirmed the detainee would be seen typically by the mental health practitioner within 48 hours of any referral. The Auditor interviewed four detainees who alleged sexual abuse upon arrival at BCDC. Each of these detainees confirmed they were seen on their second day at the facility. A review of their medical record noted each was seen by mental health within 72 hours of the referral.

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

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

Notes:

(a)(b) The Auditor determined compliance with these subparts of the standard based on the review of the CO 328 policy that requires, "Detainee victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infectious prophylaxis, in accordance with professionally accepted standards of care as deemed necessary by the contract medical and mental health provider. Emergency medical treatment services provided to the victim shall be without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident." The HSA confirmed her medical staff only stabilizes the alleged victim and prepares them for transport to the WCJ for any forensic examination or the local hospital. As noted in 115.21 ADHR has an MOU with WCJ for forensic examinations of detainee sexual assault victims. These examinations are conducted in either the local hospital or examining room at the WCJ by a SANE. The HSA also stated that her staff and facility can provide emergency contraception services and sexually transmitted infectious prophylaxis if necessary and any medical and mental health services would be provided without cost and performed within professionally accepted standards of care. The facility PAQ and HSA confirmed there were no detainees sent out for a forensic examination during the audit period. The Auditor performed a cursory review of all 11 investigative files and found each detainee alleged victim was seen by medical staff on the day the facility became aware of the allegation. The Auditor interviewed two detainees who filed sexual abuse allegations. Each confirmed they were seen the day the allegation was made and were never charged for any services.

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

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

Notes:

(a)(b)(c)(d)(e)(f) The Auditor determined compliance with these subparts of the standard based on the review of the CO 328 policy that requires, "BCDC shall offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while in the detention facility. The evaluation and treatment of such victims shall include, as appropriate follow-up services, treatment plans and when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. BCDC shall provide such victims with medical and mental health services consistent with community level care. Detainee victims of sexually abusive vaginal penetration by a male abuser while incarcerated shall be offered pregnancy tests. If pregnancy results from an instance of sexual abuse, the victim shall receive timely and comprehensive information about lawful pregnancy-related medical services and timely access to all lawful pregnancy-related medical services. Detainee victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate. Treatment services shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident." The HSA detailed the treatment and services provided to victims of sexual abuse as outlined in the CO 328 policy and within the standard requirements. As noted in standard 115.82 the Auditor interviewed 2 detainees who filed sexual abuse allegations. Each confirmed they were seen the day the allegation was made and received follow up care.

(g) The Auditor determined compliance with this subpart of the standard based on the CO 328 policy that requires, "BCDC shall attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners." There was one substantiated allegation of sexual abuse during the audit period. The interview with the Mental Health Counselor confirmed that the perpetrator of that sexual abuse incident was transferred from BCDC prior to the attempt to conduct a mental health evaluation on him; otherwise, the facility would have offered treatment if the assessment indicated it was deemed appropriate.

§115.86 - Sexual abuse incident reviews.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) The CO 328 policy requires, "Sexual abuse incident reviews will be conducted at the conclusion of every sexual abuse investigation, including those where the allegation has not been substantiated, unless the allegation has been determined to be unfounded." The DIO indicated that the facility had not been performing incident reviews on unfounded allegations as required by the standard until they were informed in the ICE pre-audit of the requirement. BCDC has been performing incident reviews on all allegations regardless of the outcome since being notified. The DIO also confirmed that the agency PSA Coordinator is provided a copy of the report and any response to the review.

Does Not Meet (a): The CO 328 policy is not consistent with the requirements of DHS PREA standard 115.86. The standard requires, "Each facility shall conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and, where the allegation was not determined to be unfounded, prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the agency PSA Coordinator." The facility must update this policy to include incident reviews in all allegations of sexual abuse. The Auditor will need to see the updated policy along with three examples of unfounded allegations receiving an incident review.

(b) The Auditor determined compliance with this subpart of the standard based on the review of the CO 328 policy that requires, "Reviews will be conducted within 30 days of the conclusion of the investigation by a review team comprised of the Chief of Security, B.C.D.C. Administrative Investigator, a line supervisor, and the Health Service Administrator. Reviews shall: Consider whether the allegation or investigation indicated a need to change guideline or practice to better prevent, detect, or respond to sexual abuse; Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at BCDC; Examine the area in BCDC where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; Assess the adequacy of staffing levels in the area during different shifts; Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to this paragraph and any recommendations for improvement and submit such report to BCDC head and agency PREA Coordinator. BCDC shall implement the recommendations for improvement, or shall document its reasons for not doing so." The interview with the PSA Compliance Manager and a member of this review team, confirmed the makeup of the review committee and their responsibilities when conducting incident reviews. The Auditor conducted a cursory review of all investigative files and an in-depth review of five of those. The investigative outcomes for those five investigative files reviewed were: one substantiated; one unsubstantiated and three unfounded. The substantiated allegation case file and the unsubstantiated case file noted completed written incident reviews. The three unfounded cases were conducted prior the change in the facility's practice of conducting an incident review for unfounded allegations of sexual abuse, as addressed in subsection (a) above.

(c) The Auditor determined compliance with this subpart of the standard based on the review of the CO 328 policy that requires, "BCDC shall conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual

abuse intervention, prevention, and response efforts. If BCDC has not had any reports of sexual abuse during the annual reporting period, then BCDC shall prepare a negative report. The results and findings of the annual review shall be provided to BCDC administrator, Field Office Director or his or her designee, and ICE PSA Coordinator.” The Auditor was provided a copy of the April 28, 2022, annual review. The interview with the DIO confirmed this document was provided to the agency PSA Coordinator and FOD (or designee) as required by standard.

§115.87 - Data collection.

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

Notes:

(a) The Auditor determined compliance with this subpart of the standard based on the interview with the PSA Compliance Manager and DIO. Both indicated that BCDC maintains all case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary, and/or counseling in accordance with these standards and applicable agency policies, and in accordance with established schedules in a secure area. They took the Auditor to the area where these records are maintained under double lock and restricted key.

§115.201 - Scope of audits.

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

Notes:

(d) The Auditor was allowed access to BCDC and able to revisit areas of the facility as needed during the site visit.
 (e) The Auditor was provided with and allowed to view all relevant documentation as requested.
 (i) Formal interviews with staff and detainees were conducted in a private confidential setting.
 (j) The Auditor observed audit notices posted throughout the facility in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian, Creole, Bengali, Arabic, Russian, and Vietnamese. The Auditor received no staff, detainee, or other party correspondence.

AUDITOR CERTIFICATION

Update Audit Findings Outcome Counts by Clicking Button:

Update Outcome Summary

SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)	
Number of standards exceeded:	2
Number of standards met:	34
Number of standards not met:	3
Number of standards N/A:	2
Number of standard outcomes not selected (out of 41):	0

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

Thomas Eisenschmidt

3/16/2023

Auditor’s Signature & Date

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

3/24/2023

Assistant Program Manager’s Signature & Date

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

3/26/2023

Program Manager’s Signature & Date