

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



Homeland Security

AUDITOR INFORMATION			
Name of auditor:	Jodi L. Upshaw		Organization:
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:
Email address:	(b) (6), (b) (7)(C)		Telephone number:
409-866-(b) (6), (b) (7)(C)			
AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		
FIELD OFFICE INFORMATION			
Name of Field Office:	San Francisco		
ICE Field Office Director:	Moises Becerra		
PREA Field Coordinator:	(b) (6), (b) (7)(C)		
Field Office HQ physical address:	630 Sansome St San Francisco, CA 94111		
Mailing address: <i>(if different from above)</i>			
INFORMATION ABOUT FACILITY BEING AUDITED			
Basic Information About the Facility			
Name of facility:	Bakersfield Hold Room (BHR)		
Physical address:	800 Truxtun Avenue Bakerfield, CA 93301		
Mailing address: <i>(if different from above)</i>			
Telephone number:	661-281-6515		
Facility type:	ICE Holding Facility		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Assistant Field Officer Director
Email address:	(b) (6), (b) (7)(C)	Telephone number:	661-281-(b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Supervisory Detention & Deportation Officer (SDDO)
Email address:	(b) (6), (b) (7)(C)	Telephone number:	661-281-(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 Bakersfield Hold Rom (BHR) met 15 standards, had 0 standards that exceeded, had 1 standard that was non-applicable, and had 14 non-compliant standards. As a result of the facility being out of compliance with 14 standards, the facility entered a 180-day corrective action period which began on April 6, 2023, and ended on October 3, 2023. The purpose of the corrective action plan is for the facility to develop and implement a Corrective Action Plan (CAP) to bring these standards into compliance.

Number of Standards Initially Not Met: 14

§115.113 Detainee supervision and monitoring
§115.115 Limits to cross-gender viewing and searches
§115.116 Accommodating detainees with disabilities and detainees who are limited English proficient
§115.118 Upgrades to facilities and technologies
§115.121 Evidence protocols and forensic medical examinations
§115.131 Employee, contractor, and volunteer training
§115.132 Notification to detainees of the agency's zero tolerance policy
§115.134 Specialized training: Investigations
§115.151 Detainee reporting
§115.161 Staff reporting duties
§115.165 Coordinated response
§115.171 Criminal and administrative investigations
§115.182 Access to emergency medical services
§115.201 Scope of audits

Facility Risk Rating

§115.193 – Low Risk

The facility submitted documentation, through the Agency, for the CAP on May 4, 2023, through September 29, 2023. The Auditor reviewed the CAP and provided responses to the proposed corrective actions. The Auditor reviewed the final documentation submitted on October 3, 2023. In a review of the submitted documentation, to demonstrate compliance with the deficient standards, the Auditor determined compliance with 100% of the standards.

PROVISIONS

Directions: After the corrective action period, or sooner if compliance is achieved before the corrective action period expires, the auditor shall complete the Corrective Action Plan Final Determination. The auditor shall select the provision that required corrective action and state if the facility's implementation of the provision now "Exceeds Standard," "Meets Standard," or "Does not meet Standard." The auditor shall include the evidence relied upon in making the compliance or non-compliance determination for each provision that was found non-compliant during the audit.

§115. 113 - Detainee supervision and monitoring

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

Notes:

(a)(b)(c): ICE Directive 11087.1 mandates, "The FOD shall ensure that each holding facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse and assault. In so doing, the FOD shall take into consideration: The physical layout of each holding facility, The composition of the detainee population, The prevalence of substantiated and unsubstantiated incidents of sexual abuse and assault, The findings and recommendations of sexual abuse and assault incident review reports; and any other relevant factors, including but not limited to, the length of time detainees spend in custody at the holding facility. The FOD shall ensure detainees placed in holding cells are subject to direct supervision, which shall include regular visual monitoring (b) (7)(E) (b) (7)(E), as well as physical hold room checks at least every 15 minutes." The facility reported in the PAQ shifts are from 0600-1400, 0700-1500 and 1600-0000; however, BHR provided a shift schedule for G4S showing 24-hour coverage, 5 days a week showing staggered shifts and one shift on Saturday from 0000 – 0800. There is a white board on all holding cell doors. When detainees are brought into a holding cell, the number of detainees is written on this board. Staff numbers fluctuates during a transport from approximately four to seven staff depending on the number of detainees received. During the on-site audit, the Auditor observed staff conducting rounds, walking up to the door, and visually observing detainees in the holding cells. The facility provided a copy of the Hold Room Facility Self-Assessment Tool (HFSAT). The document's purpose states it is used to determine if the facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse; however, a review of the provided HFSAT did not include when determining adequate staffing levels, and the need for video monitoring, the physical layout of each holding facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, or any other relevant factors, including but not limited to the length of time detainees spend in Agency Custody or that the supervision guidelines were reviewed during 2022 to confirm they continue to apply to BHR. The Auditor interviewed the Field PREA Coordinator but could not confirm compliance with either the subsections (b) or (c) of the standard.

Does Not Meet (b)(c): The facility is not in compliance with subsections (b) or (c) of the standard. The facility provided a copy of the Hold Room Facility Self-Assessment Tool (HFSAT). The document's purpose states it is used to determine if the facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, (b) (7)(E) to protect detainees against sexual abuse; however, a review of the provided HFSAT did not include when determining adequate staffing levels, and (b) (7)(E), the physical layout of each holding facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, or any other relevant factors, including but not limited to the length of time detainees spend in Agency Custody. The Auditor reviewed a HFSAT with a start date of February 1, 2022, and a due date of April 30, 2022, but could not confirm that the supervision guidelines had been reviewed during 2022 or if they continue to apply to BHR. The Auditor interviewed the Field PREA Coordinator but could not confirm compliance with either the subsections (b) or (c) of the standard. To become compliant, the facility must provide the Auditor with documentation to confirm when determining adequate staffing levels, and (b) (7)(E) at BHR, the Agency took into consideration the physical layout of each holding facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, or any other relevant factors, including but not limited to the length of time detainees spend in Agency Custody. In addition, the Agency must provide documentation that confirms the supervision guidelines were reviewed in the year 2022 to confirm they continue to apply to BHR.

Corrective Action (b)(c): The facility submitted a memorandum from the AFOD which confirms the Agency took into consideration all elements of the subsection (c) of the standard when determining adequate staffing levels and (b) (7)(E). In addition, the facility submitted a memo from the AFOD which confirms the AFOD reviewed the comprehensive supervision guidelines, ICE Directive 11087.1, for the year 2022. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsections (b) and (c) of the standard.

§115. 115 - Limits to cross-gender viewing and searches

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

Notes:

(b)(c)(d)(e)(f): ICE Directive 11087.1 mandates, "Strip and Visual Body Cavity Searches-The FOD shall ensure that when pat down searches indicate the need for a more thorough search, an extended search (i.e., strip search) is conducted in accordance

with ICE policies and procedures, including that: All strip searches and visual body cavity searches are documented: Cross-gender strip searches or cross-gender visual body cavity searches are not conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners; and Visual body cavity searches of minors are conducted by a medical practitioner and not by law enforcement personnel. The FOD shall ensure that detainees are permitted to shower (where showers are available), perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine hold room checks, or is otherwise appropriate in connection with a medical exam or monitored bowel movement under medical supervision. The FOD will also ensure that ERO personnel of the opposite gender announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing. The FOD shall ensure that ERO personnel do not search or physically examine a detainee for the sole purpose of determining the detainee's gender. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records (if available), or, if necessary, learning that information as part of a broader medical examination conducted in private, by a medical practitioner." Interviews with the AFOD, G4S Lt., and four G4S contract staff confirmed cross-gender strip searches or visual body cavity searches are not conducted except under exigent circumstances. Should any cross-gender strip search or visual body cavity search be conducted it will be documented. In addition, in interviews with four G4S contract staff it was indicated searching or physically examining a detainee for the sole purpose of determining the detainee's gender is not allowed. In interviews with four G4S contract and an ICE DDO it was indicated they have been trained in cross-gender pat-down searches but do not conduct them at BHR. The Auditor reviewed the facility training curriculum "Cross-Gender, Transgender, and Intersex Searches" and confirmed it was compliant with subsection (f) of the standard. In addition, the Auditor reviewed training certificates for G4S contract staff and transportation officers and confirmed they had received the required training; however, the Auditor could not confirm the training of ICE staff as no ICE training records were provided. During the on-site audit, the Auditor noted sight lines, potential blind spots, and camera locations. The Auditor additionally observed (b) (7)(E) contained gray areas over the toilets that provided privacy for the detainee during use. In addition, the Auditor observed pat-down searches of five detainees being processed into the facility and confirmed all detainees were searched by a staff member of the same gender. Detainees do not have access to showers at BHR.

Does Not Meet (f): The facility is not in compliance with subsection (f) of the standard. The Auditor reviewed the facility training curriculum "Cross-Gender, Transgender, and Intersex Searches" and confirmed it was compliant with subsection (f) of the standard; however, the Auditor could not confirm the training of ICE DDOs as no ICE training records were provided. To become compliant, the facility must provide the Auditor with documentation to confirm all ICE DDOs assigned to the facility have received training in conducting pat-down searches and searches of transgender and intersex detainees.

Corrective Action (f): The facility submitted an attendance log and training certificates which confirm ICE DDOs assigned to the facility have received refresher training on conducting pat-down searches and searches of transgender and intersex detainees. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsection (f) of the standard.

§115. 116 - Accommodating detainees with disabilities and detainees who are limited English proficient

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

Notes:

(a)(b)(c): ICE Directive 11087.1 mandates, "The FOD shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to participate in and benefit from processes and procedures in connection with placement in an ERO holding facility, consistent with established statutory, regulatory, DHS and ICE policy requirements. The FOD shall take reasonable steps to ensure meaningful access to detainees who are limited English proficient, consistent with established regulatory and DHS and ICE policy requirements." The facility also provided policy 11062.2 which states, "Appropriate steps in accordance with applicable law to ensure that detainees with disabilities (including detainees who are deaf or hard of hearing, those who are blind, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in, and benefit from, all aspects of agency and facility efforts to prevent, detect, and respond to sexual abuse. In matters related to allegations of sexual abuse or assault, ensure the provision of in-person or telephonic interpretation that enable effective, accurate, and impartial interpretation by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that such interpretation is appropriate and consistent with DHS Policy." During the on-site review the Auditor observed the DRIL posters in English and Spanish. Interviews with the Acting SDDO, DDO, and four G4S contract staff confirmed that the ICE National Detainee Handbook and DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet, in English and Spanish, is available on-site which was confirmed by the Auditor; however, if a detainee's preferred language was in one of the other most prevalent languages encountered by ICE: French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese or the DHS-prescribed SAA Information Pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi, Bengali, Romanian, Russian, Turkish, Ukrainian, and Vietnamese the written material was not available. In an interview with the Acting SDDO it was indicated that the detainee received the information from the sending facility; however, the Auditor observed the intake of five detainees and confirmed the detainees did not have any PREA information on their person, nor were they asked by Intake staff if they had received the information. In an interview with the Acting SDDO it was indicated if a detainee spoke a language other than one of the most

prevalent languages encountered by ICE, the facility would use the Lion Bridge Language Line to interpret the material; however, there was no documentation to confirm the language line had been used during the audit period. The Acting SDDO further indicated that the facility did not accept detainees who had a disability; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. In interviews with four G4S contract staff it was indicated that the facility would not use another detainee to interpret in matters relating to allegations of sexual abuse in any circumstance.

Does Not Meet (a)(b)(c): The facility is not in compliance with subsections (a) and (b) of the standard. During the onsite Audit, the Auditor observed that the ICE National Detainee Handbook and the DHS-prescribed sexual assault awareness notice posted outside the holding areas in both English and Spanish. In addition, the Auditor observed the intake processing of five detainees and confirmed the facility does not provide the detainee with PREA information in languages other than English or Spanish. In an interview with the Acting SDDO it was indicated that Bakersfield does not accept detainees who had a disability; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. In interviews with four G4S contract staff it was indicated that the facility would not use another detainee to interpret in matters relating to allegations of sexual abuse in any circumstance. To become compliant, the facility must institute a practice of providing the detainee, who speaks a language other than English or Spanish, PREA information in their preferred language. In addition, the facility must institute a practice of providing a detainee who is blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities access to the PREA information. The practice must also include the requirement to allow the use of another detainee, should the detainee request another detainee, to provide interpretation if ICE determines that such interpretation is appropriate and consistent with DHS Policy. The facility must train all staff on the new practice and provide documentation of the training received. In addition, the facility must provide the Auditor with documentation that confirms that all detainees have access to PREA information in a manner they understand including detainees whose preferred language is other than English or Spanish, who are blind, or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities are provided access to the PREA information.

Corrective Action (a)(b)(c): The facility submitted pictures of the ICE National Detainee Handbook which confirm the handbook is available at the facility for distribution in the 14 most prevalent languages encountered by ICE. The facility submitted PREA training procedures and staff training rosters that confirm staff have been trained on the facility procedures for disseminating PREA information to all detainees in a manner they could understand including detainees whose preferred language is other than English or Spanish, are blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsections (a), (b), and (c) of the standard.

§115. 118 - Upgrades to facilities and technologies

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

Notes:

(b): ICE Directive 11087.1 mandates, "When designing or developing any new ERO holding facility and in planning any substantial expansion or modification of existing holding facilities, the FOD, in coordination with the Office of Facilities Administration, Office of the Chief Financial Officer, shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect detainees from sexual abuse and assault. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology (b) (7)(E), the FOD, in coordination with the Office of Facilities Administration, Office of the Chief Financial Officer, shall consider how such technology may enhance the agency's ability to protect detainees from sexual abuse and assault". According to the PAQ, BHR updated (b) (7)(E) (b) (7)(E) The Auditor was provided with a memorandum that states, (b) (7)(E) were replaced with (b) (7)(E) to provide a much clearer view (b) (7)(E). One new (b) (7)(E) was installed in the (b) (7)(E) to provide an oversight of this area." The Auditor reviewed the HFSAT provided by the facility and confirmed it does not include when determining the need to update the (b) (7)(E) or to (b) (7)(E) the facility took into consideration how the added technology may enhance the Agency's ability to protect detainees from sexual abuse.

Does Not Meet (b): The facility updated (b) (7)(E) and (b) (7)(E) providing overview of the (b) (7)(E). The Auditor reviewed the HFSAT provided by the facility and confirmed it does not include that when determining the need to update the (b) (7)(E) or to add a (b) (7)(E) the facility took into consideration how the added technology may enhance the Agency's ability to protect detainees from sexual abuse. To become compliant, the facility must provide documentation that the facility took into consideration how adding the (b) (7)(E) and updating the (b) (7)(E) would enhance the Agency's ability to protect detainees from sexual abuse.

Corrective Action (b): The facility submitted a memorandum from the AFOD which confirms when determining the need for video monitoring the Agency took into consideration how adding (b) (7)(E) and (b) (7)(E) (b) (7)(E) would enhance the Agency's ability to protect detainees from sexual abuse. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsection (b) of the standard.

§115.121 - Evidence protocols and forensic medical examinations

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

Notes:

(b)(c)(d): ICE Directive 11087.1, states in part that; "The FOD shall coordinate with the ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available and appropriate, community resources and services that provide expertise and support in areas of crisis intervention and counseling to address victims' needs." The policy also states that; "where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the FOD shall arrange or refer an alleged victim detainee to a medical facility to undergo a forensic medical examination, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFE's or SANE's cannot be made available, the examination can be performed by other qualified health care personnel. If in connection with an allegation of sexual abuse, the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available consistent with security needs." The facility provided a memo from the AFOD which states, "if a detainee needs medical services the detainee would be taken to Dignity Health/Mercy Hospital for treatment" and "should the detainee require a forensic examination by either a SAFE or SANE at Mercy Hospital that service would be provided through arrangement between the city of Bakersfield and a forensic company for forensic exams at the hospital. The city of Bakersfield has an "Independent Contract Agreement" with Kern County Forensic Services, LLC. BHR benefits from the services provided through this agreement." In addition, the facility provided a memo from the AFOD that states, "If a rape crisis center was needed the PREA Field Coordinator would contact the California Coalition Against Sexual Assault (CALCASA)." CALCASA provides forensic examinations and support services free of charge; however, the Auditor was not provided with documentation to confirm that the support services provided by CALCASA include providing victim advocacy services during a forensic exam or crisis intervention and counseling.

e): In an interview with the PREA Field Coordinator it was confirmed that the facility has not made a request to the BPD to follow the requirements of paragraphs (a-d) of the standard.

Does Not Meet (b)(d): The facility is not compliant with sections (b) and (d) of the standard. The facility provided a memo from the AFOD that states, "If a rape crisis center was needed the PREA Field Coordinator would contact the California Coalition Against Sexual Assault (CALCASA)." CALCASA provides forensic examinations and support services free of charge; however, the Auditor was not provided with documentation to confirm that the support services provided by CALCASA include providing victim advocacy services during a forensic exam or crisis intervention and counseling. The facility is not in compliance with subsection (e) of the standard. In an interview with the PREA Field Coordinator it was confirmed that the facility has not made a request to the BPD to follow the requirements of paragraphs (a-d) of the standard. To become compliant, the facility must request the BPD to follow the requirements of paragraphs (a-d) of the standard.

Corrective Action (b)(d): The facility submitted an email from the Program Manager for the ERO Custody and Resource Coordinator program which confirms the CRC will assist the BHR in locating a community resource to provide victim advocacy services during a forensic exam, expertise, and support to include crisis intervention and counseling. The facility submitted an email to all staff and read receipts to confirm all applicable staff have been trained on their responsibility to provide the detainee victim with all requirements of the standard. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsections (b) and (d) of the standard.

e): In an interview with the PREA Field Coordinator it was confirmed that the facility has not made a request to the BPD to follow the requirements of paragraphs (a-d) of the standard.

Does Not Meet (e): The facility is not in compliance with subsection (e) of the standard. In an interview with the PREA Field Coordinator it was confirmed that the facility has not made a request to the BPD to follow the requirements of paragraphs (a-d) of the standard. To become compliant, the facility must request the BPD to follow the requirements of paragraphs (a-d) of the standard.

Corrective Action Taken (e): The facility submitted an email that confirms the facility has requested the BPD follow the requirements of paragraphs (a-d) of the standard when investigating an incident of sexual abuse. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsection (e) of the standard.

§115.131 Employee, contractor, and volunteer training

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

Notes:

(a)(b)(c): ICE Directive 11062.2 mandates, "All current employees required to take the training, as listed below, shall provide each employee with biennial refresher training to ensure that all employees know ICE's current sexual abuse policies and procedures, and all newly hired employees who may have contact with individuals in ICE custody shall also take the training within one year of their entrance on duty." Policy 11062.2 further states, "All ICE personnel who may have contact with individuals in ICE custody, including all ERO officers and HSI special agents, shall receive training on, among other items: a)

ICE's zero-tolerance policy for all forms of sexual abuse and assault; b) The right of detainees and staff to be free from sexual abuse or assault; c) Definitions and examples of prohibited and illegal behavior; d) Dynamics of sexual abuse and assault in confinement; e) Prohibitions on retaliation against individuals who report sexual abuse or assault; f) Recognition of physical, behavioral, and emotional signs of sexual abuse or assault, situations in which sexual abuse or assault may occur, and ways of preventing and responding to such occurrences, including: i) Common reactions of sexual abuse and assault victims; ii) How to detect and respond to signs of threatened and actual sexual abuse or assault; iii) Prevention, recognition, and appropriate response to allegations or suspicions of sexual abuse and assault involving detainees with mental or physical disabilities; and iv) How to communicate effectively and professionally with victims and individuals reporting sexual abuse or assault; g) How to avoid inappropriate relationships with detainees; h) Accommodating limited English proficient individuals and individuals with mental or physical disabilities; i) communicating effectively and professionally with lesbian, gay, bisexual, transgender, intersex, or gender nonconforming individuals, and members of other vulnerable populations; j) Procedures for fulfilling notification and reporting requirements under this Directive; k) The investigation process; and l) The requirement to limit reporting of sexual abuse or assault to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes." The Auditor requested and was not provided with written documentation verifying ICE and G4S contract staff, including transportation staff, who may have reoccurring contact with detainees were trained in accordance with subsection (a) of the standard. There are no volunteers that enter the facility.

Does Not Meet (a)(b)(c): The facility is not in compliance with subsections (a), (b), and (c) of the standard. The Auditor requested and was not provided with written documentation verifying ICE and G4S contract staff were trained in accordance with subsection (a) of the standard. As no training records were provided the Auditor could not confirm subsection (c) of the standard. To become compliant the facility must provide the Auditor with documentation that confirms all ICE and G4S contract staff, including transportation staff, received the training required in subsection (a) of the standard.

Corrective Action (a)(b)(c): The facility submitted an attendance log which confirms all G4S staff, including transportation staff, and all ICE DDOs assigned to the facility have received PREA refresher training in accordance with subsection (a) of the standard. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsections (a), (b), and (c) of the standard.

§115. 132 - Notification to detainees of the agency's zero-tolerance policy

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

Notes:

ICE Directive 11062.2, mandates, "The FOD shall ensure that key information regarding ICE's zero-tolerance policy for sexual abuse and assault is visible or continuously and readily available to detainees (e.g., through posters, detainee handbooks, or other written formats)." During the on-site audit, the Auditor observed the DHS-prescribed sexual assault awareness notice and the DRIL signage posted outside each holding cell in English and Spanish only. Interviews with the Acting SDDO, an ICE DDO, and four G4S contract staff indicated the ICE National Detainee Handbook and DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet, in English and Spanish, is available on-site which was confirmed by the Auditor; however, if a detainee's preferred language was in one of the other most prevalent languages encountered by ICE: French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese or the DHS-prescribed SAA Information Pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi, Bengali, Romanian, Russian, Turkish, Ukrainian, and Vietnamese the written material was not available. In an interview with the Acting SDDO it was indicated that the detainee received the information from the sending facility; however, during the observation of the intake of five detainees the Auditor confirmed that the detainees did not have any PREA information on their person, nor were they asked by the intake staff if they had received the information. The Acting SDDO confirmed that if a detainee spoke a language other than one of the most prevalent languages encountered by ICE, the facility would use the Lion Bridge Language Line to interpret the material; however, there was no documentation to confirm the language line had been used during the audit period. The Acting SDDO further indicated that the facility did not accept detainees who had a disability; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. The Auditor reviewed the ICE National Detainee Handbook and confirmed it contains the Agency's Zero-Tolerance policy; however, the facility does not provide the detainee who speaks a language other than English or Spanish a copy of the handbook in their preferred language.

Does Not Meet: The facility is not in compliance with standard 115.132. During the onsite Audit, the Auditor observed that the DRIL signage and the DHS-prescribed sexual assault awareness notice posted outside the holding areas in English and Spanish only. In addition, the Auditor observed the intake processing of five detainees and confirmed the facility does not provide the detainee who speaks a language other than English and Spanish with PREA information in their preferred language. In an interview with the Acting SDDO it was indicated that Bakersfield does not accept detainees who had a disability; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. The Auditor reviewed the ICE National Detainee Handbook and confirmed it contains the Agency's Zero-Tolerance policy; however, the facility does not provide the detainee who speaks a language other than English or Spanish a copy of the handbook in their preferred language. To become compliant, the facility must institute a practice of providing the detainee who speaks a language other than English or Spanish the Zero-Tolerance policy in their preferred language. In addition, the

facility must institute a practice of providing a detainee who is blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities access to the Agency's Zero-Tolerance policy. The facility must train all staff on the new practice and provide documentation of the training received. In addition, the facility must provide the Auditor with documentation that confirms that detainees who are LEP, do not speak Spanish, blind, or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities are provided access to the Agency's Zero-Tolerance policy.

Corrective Action: The facility submitted updated procedures which confirm the facility has implemented a practice that includes providing detainees who speak a language other than English or Spanish, who are blind or have low vision, deaf or hard of hearing, or have intellectual, psychiatric, or speech disabilities access to the Agency's Zero-Tolerance policy. The facility submitted pictures of the ICE National Detainee Handbook which confirm the handbook is available at the facility for distribution in the 14 most prevalent languages encountered by ICE. The facility submitted training topics and staff training rosters confirming staff have been trained on the standards requirement to provide detainees who speak a language other than English or Spanish, who are blind or have low vision, deaf or hard of hearing, or have intellectual, psychiatric, or speech disabilities access to the Agency's Zero-Tolerance policy. Upon review of all submitted documentation the Auditor now finds the facility in compliance with standard 115.132.

§115. 134 - Specialized training: Investigations

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

Notes:

(a): ICE Directive 11062.2 mandates, "OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as Office of Detention Oversight staff, and other OPR staff, as appropriate. The training should cover, at a minimum, interviewing sexual abuse and assault victims, sexual abuse and assault evidence collection in confinement settings, the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process." The 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 investigate an allegation of sexual abuse in a confinement setting. The Agency also offers Fact Finders Training, this training includes information to conduct an initial investigation and determine if a sexual abuse incident has taken place or whether to complete an administrative investigation. During an interview with the PREA Field Coordinator it was confirmed that either the PREA Field Coordinator or the Acting SDDO would complete administrative investigations for the facility.

Does Not Meet (a): The facility is not in compliance with subsection (a) of the standard. In an interview with the PREA Field Coordinator it was confirmed that either the PREA Field Coordinator or the Acting SDDO would complete administrative investigations for the facility; however, the Auditor was not provided with training certificates to confirm what training facility investigators were provided or if it was received. To become compliant, the facility must provide the Auditor with documentation as to what training was received by the facility investigators and documentation that the facility investigators received the training. If the training provided was not the ICE OPR Investigating Incidents of Sexual Abuse and Assault training curriculum, the facility must provide the Auditor with the curriculum of the training provided to confirm it is compliant with all elements of the standard.

Corrective Action (a): The facility submitted a class agenda that includes the OPR Investigative Process. The facility submitted an email which confirms the facility investigator completed the required specialized training. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsection (a) of the standard.

§115. 151 - Detainee reporting

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

Notes:

(a)(b)(c): ICE Directive 11087.1 mandates, "The FOD shall ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse or assault, retaliation for reporting sexual abuse or assault, or staff neglect or violations of responsibilities that may have contributed to such incidents to ERO personnel. The FOD shall ensure that detainees are provided with instructions on how they can contact the DHS/Office of the Inspector General (OIG) (or, as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse or assault to agency officials) to confidentially and, if desired, anonymously, report these incidents. The FOD shall implement procedures for ERO personnel to accept reports made verbally, in anonymously, and from third parties and promptly document any verbal reports." During the on-site audit, the Auditor observed the DHS-prescribed sexual assault awareness notice and DRIL signage posted outside each holding cell in English and Spanish only. Interviews with the Acting SDDO, DDO, and four G4S contract staff indicated that the ICE National Detainee Handbook and DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet, in English and Spanish, is available on-site which was confirmed by the Auditor; however, if a detainee's preferred language was in one of the other most prevalent languages encountered by ICE: French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese or the DHS-prescribed SAA Information Pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi, Bengali, Romanian, Russian, Turkish, Ukrainian, and Vietnamese the written material was not available. In an

interview with the Acting SDDO it was indicated that the detainee received the information from the sending facility; however, the Auditor observed the intake processing of five detainees and confirmed the detainees did not have any PREA information on their person, nor were they asked by the intake staff if they had received the information. The Acting SDDO confirmed that if a detainee spoke a language other than one of the most prevalent languages encountered by ICE, the facility would use the Lion Bridge Language Line to interpret the material; however, there was no documentation to confirm the language line had been used during the audit period. In addition, during the on-site audit, the Auditor tested the telephones located in all holding cells and confirmed they were inoperable due to the contract with the phone company expiring and not being renewed. Through observation the Auditor further confirmed detainees would have no way of reporting anonymously if they were in a holding cell with other detainees. In interviews with G4S contract staff it was indicated should a detainee elect to use a telephone they would be brought to the desk area of the processing room; however, this area has multiple computer stations utilized by staff during the time detainees are at BHR. All interviewed G4S contract staff further indicated they would immediately report any allegation of sexual abuse reported by a detainee in writing or verbally while in their custody. During the on-site audit, the Auditor placed a call to the DHS OIG from the processing room and confirmed the timeframe to connect was lengthy.

Does Not Meet (a)(b): The facility is not in compliance with subsections (a) and (b) of the standard. During the on-site audit, the Auditor observed the DHS-prescribed sexual assault awareness notice and DRIL signage posted outside each holding cell in English and Spanish only. Interviews with the Acting SDDO, DDO, and four G4S contract staff indicated that the ICE National Detainee Handbook and DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet, in English and Spanish, is available on-site which was confirmed by the Auditor; however, if a detainee's preferred language was in one of the other most prevalent languages encountered by ICE: French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese or the DHS-prescribed SAA Information Pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi, Bengali, Romanian, Russian, Turkish, Ukrainian, and Vietnamese the written material was not available. In an interview with the Acting SDDO it was indicated that the detainee received the information from the sending facility; however, the Auditor observed the intake processing of five detainees and confirmed the detainees did not have any PREA information on their person, nor were they asked by the intake staff if they had received the information. The Acting SDDO confirmed that if a detainee spoke a language other than one of the most prevalent languages encountered by ICE, the facility would use the Lion Bridge Language Line to interpret the material; however, there was no documentation to confirm the language line had been used during the audit period. In addition, during the on-site audit the Auditor tested the telephones in the holding rooms and confirmed they were inoperable. In an interview with G4S contract staff it was confirmed that the telephones were inoperable due to the telephone contract expiring and not being renewed. In addition, G4S contract staff confirmed should a detainee request to make a telephone call, they would be brought to the desk area of the processing room. The Auditor observed the area and confirmed it includes multiple computer stations that are utilized by staff during times detainees are held at BHR. The Auditor called the DHS OIG hotline and confirmed the time to connect was lengthy. To become compliant, the facility must provide detainees with information on how to privately report sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents. In addition, the facility must provide the detainee with instructions on how to contact the DHS OIG or another designated office in a manner that all detainees can understand, to confidentially and, if desired, anonymously, report these incidents. Once implemented the facility must provide the Auditor with documentation that confirms the new practice has been implemented and all applicable staff have been trained on the new procedures. The facility must provide telephone access that allows the detainee to make a report of sexual abuse confidentially and, if desired, anonymously. In addition, the facility must provide documentation that the contract with the telephone company has been renewed and the telephones in the holding cells are in working order.

Corrective Action (a)(b): The facility submitted pictures of the ICE National Detainee Handbook which confirm the handbook is available at the facility for distribution in the 14 most prevalent languages encountered by ICE. The facility submitted their response to the Corrective/Projective Action Made that confirms BHR has provided a private room with a telephone to provide the detainee the ability to contact the DHS OIG or another designated office confidentially and, if desired, anonymously, to report an incident of sexual abuse. The facility submitted a training agenda and a staff training roster which confirm staff have been trained on the standards requirement to allow detainees to contact the DHS OIG or another designated office in a manner that all detainees can understand, to confidentially and, if desired, anonymously, report these incidents by not questioning the reason for the call or which section of the DHS OIG the detainee intends to contact. Upon review of all submitted documentation the Auditor now finds the facility in substantial compliance with subsections (a) and (b) of the standard.

§115. 161 - Staff reporting duties

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

Notes:

(d): ICE Directive 11062.2 states, "If alleged victim under the age of 18 or determined, after consultation with the relevant [Office of Principal Legal Advisor] OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state or local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section." In an interview with the Acting SDDO it was indicated that the facility did not accept detainees who were vulnerable adults; and therefore,

subsection (d) of the standard did not apply; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. BHR does not accept juveniles.

Does Not Meet (d): The facility is not in compliance with subsection (d) of the standard. In an interview with the Acting SDDO it was indicated that the facility did not accept detainees who were vulnerable adults; and therefore, subsection (d) of the standard did not apply; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. To become compliant, the facility must train all applicable staff on the requirements of ICE Directive 11062.2 which state they implement a practice that "If alleged victim under the age of 18 or determined, after consultation with the relevant OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section" and document said training. In addition, the facility must provide the Auditor, if applicable, all allegations of sexual abuse investigative files involving a vulnerable adult that occur during the CAP period.

Corrective Action (d): The facility submitted a training agenda and a staff training roster which confirm staff have been trained on the standards requirement, "If alleged victim under the age of 18 or determined, after consultation with the relevant OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section." The facility submitted a memorandum which confirmed there has not been an allegation of sexual abuse involving a vulnerable adult during the CAP period. Upon review of all submitted documentation the Auditor now finds the facility in substantial compliance with subsection (d) of the standard.

§115. 165 - Coordinated response

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

Notes:

(a)(b)(c): ICE Directive 11087.1 mandates, "The FOD shall ensure a coordinated, multidisciplinary team approach to responding to allegations of sexual abuse and assault occurring in holding facilities, or in the course of transit to or from holding facilities, as well as to allegations made by a detainee at a holding facility of sexual abuse or assault that occurred elsewhere in ICE custody." ICE Directive 11087.1 further states, "If a victim is transferred from a holding facility to a detention facility or to a non-ICE facility, the FOD shall inform the receiving facility of the incident and the victim's potential need for medical or mental health care of victim services." The PSA Compliance Manager indicated during interviews that if a detainee being transferred was a victim of sexual abuse, BHR staff would provide the receiving facility any information regarding the sexual abuse allegation, including the victim's need for any medical or social services follow-up." An interview with the PREA Field Coordinator confirmed that notifications would be made to a facility, via telephone, and include services that may be needed for the victim; however the interview could not confirm that should the detainee be transferred to a facility not covered by paragraph (b) of the standard that the facility will take into consideration the detainee's request not to have his/her potential need for medical or social services shared with the receiving facility. There were no allegations of sexual abuse reported at BHR during the audit period.

Does Not Meet (c): ICE Directive 11087.1, as it relates to standard 115.165 is not consistent with the standard. The directive as it relates to the coordinated response protocol does not include "unless the victim requests otherwise." Although Agency Directive, 11062.2, is compliant with the DHS PREA Standards, if hold rooms are using 11087.1 as their coordinated response protocol, or even a combination of both, then they would be deficient. To become compliant, the Agency must update their written institutional plan to contain the required verbiage as written in 115.165 subpart (c). The facility must provide documented training of applicable staff on the updated written institutional plan. If applicable, the facility must provide the Auditor with any investigation, medical, and detainee files regarding any detainee victim of sexual abuse transferred from BHR during the CAP period.

Corrective Action (c): The facility submitted the Application of DHS PREA 115.165: Coordinated Response broadcast. The facility submitted a training agenda and a staff roster which confirm staff have received training on the updated coordinated response plan. The facility submitted a memo which confirms BHR has not transferred any detainee due to an incident of sexual abuse during the CAP Period. Upon review of all submitted documentation the Auditor now finds the facility in substantial compliance with subsection (c) of the standard.

§115. 171 - Criminal and administrative investigations

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

Notes:

(a)(b)(c)(d)(e): ICE Directive 11062.2 mandates "The FOD shall ensure that the facility complies with the investigation mandates established by PBNDS 2011, Standard 2.11, as well as other relevant detention standards and contractual requirements including by conducting a prompt, thorough, and objective investigation by qualified investigators." ICE Directive 11062.2 further mandates, "the FOD shall ensure that the facility complies with the investigation mandates established by the Performance-Based National Detention Standards (PBNDS) 2011, Standard 2.11, as well as other relevant detention standards." PBNDS 2011 states in part that; "Upon conclusion of a criminal investigation where the allegation was substantiated, or in

instances where no criminal investigation has been completed, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Substantiated allegation means an allegation that was investigated and determined to have occurred. Unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether the event occurred. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. The ICE Office of Professional Responsibility will typically be the appropriate investigative office within DHS, as well as the DHS OIG in cases where the DHS OIG is investigating." PBNDS 2011, Standard 2.11 further states, "The facility shall develop written procedures for administrative investigations, including provisions requiring; preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data, interviewing alleged victims, suspected perpetrators, and witnesses, reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator, assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph, an effort to determine whether actions or failures to act at the facility contributed to the abuse, documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings, and retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years" and "such procedures shall govern the coordination and sequencing of administrative and criminal investigations, in accordance with the first paragraph of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation." In addition, ICE Directive 11062.2 states, "The facility fully cooperates with any outside agency investigating and endeavor to remain informed about the progress of the investigation." In an interview with the PREA Field Coordinator it was indicated should an allegation of sexual abuse be reported notification would be made immediately to the Acting SDDO and within two hours notification would be made to the JIC and BPD. The PREA Field Coordinator further indicated should the BPD determine the allegation is not criminal in nature an administrative investigation would be completed by the facility. Interviews with the Acting SDDO and PREA Field Coordinator confirmed the facility would cooperate fully with outside investigators to include providing video footage if needed and should an administrative investigation be conducted, it would be conducted in a prompt, thorough and objective manner with determination based on preponderance of the evidence. There were no allegations of sexual abuse reported at BHR during the audit period.

Does Not Meet (a): The facility is not in compliance with subsection (a) of the standard. In an interview with the PREA Field Coordinator it was confirmed that either the PREA Field Coordinator or the Acting SDDO would complete administrative investigations for the facility; however, the Auditor was not provided with training certificates to confirm facility investigators received specialized training as required by subsection (a) of the standard. To become compliant, the facility must provide the Auditor with documentation to confirm the PREA Field Coordinator and Acting SDDO have received specialized training for investigators as required by subsection (a) of the standard. If the training curriculum was not the ICE OPR Investigating Incidents of Sexual Abuse and Assault training curriculum, the facility must provide the Auditor with the curriculum of the training provided to confirm it is compliant with all elements of the standard.

Corrective Action (a): The facility submitted a class agenda that includes the OPR Investigative Process and an email which confirms the facility investigator has received the required specialized training. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsection (a) of the standard.

§115. 182 - Access to emergency medical services

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

Notes:

(a)(b): ICE Directive 11062.2 mandates "The FOD shall ensure that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. The FOD shall coordinate with ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available, any community resources and services that provide expertise and support in the areas of crisis intervention and counseling to address the victims' needs." Further, Policy 11087.1 provides that "victims of sexual abuse shall be provided emergency medical and mental health services and any ongoing care necessary. All treatment services, both emergency and ongoing, shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident." The facility provided a memo from the AFOD which states, "If a detainee needs medical services the detainee would be taken to Dignity Health/Mercy Hospital for treatment." However, the Auditor was not provided documentation that confirms Dignity Health/Mercy Hospital would provide detainee victims of sexual abuse with emergency contraception and sexually transmitted infection prophylaxis, in accordance with professionally accepted standards of care. The Auditor also was not provided documentation that medical treatment services would be provided to the victim without financial cost and regardless of whether the victim names the accuser or cooperates with any investigation arising out of an incident of sexual abuse. In addition, the facility provided a memo from the AFOD that states, "If a rape crisis center was needed the PREA Field Coordinator would contact the California Coalition Against Sexual Assault (CALCASA)." CALCASA provides support services free

of charge; however, the Auditor was not provided with documentation to confirm that the support services provided by CALCASA include crisis intervention and counseling. There were no allegations of sexual abuse reported at BHR during the audit period.

Does Not Meet (a)(b): The facility is not in compliance with subsections (a) and (b) of the standard. The facility provided a memo from the AFOD which states, "if a detainee needs medical services the detainee would be taken to Dignity Health/Mercy Hospital for treatment." However, the Auditor was not provided documentation that confirms DHMH would provide detainee victims of sexual abuse with emergency contraception and sexually transmitted infection prophylaxis, in accordance with professionally accepted standards of care. The Auditor also was not provided documentation that medical treatment services would be provided to the victim without financial cost and regardless of whether the victim names the accuser or cooperates with any investigation arising out of an incident of sexual abuse. In addition, the facility provided a memo from the AFOD that states, "If a rape crisis center was needed the PREA Field Coordinator would contact the California Coalition Against Sexual Assault (CALCASA)." CALCASA provides support services free of charge; however, the Auditor was not provided with documentation to confirm that the support services provided by CALCASA include crisis intervention and counseling. To become compliant, the facility must coordinate with a community resource to provide expertise and support to include crisis intervention and counseling. In addition, the facility must provide documentation that confirms that Dignity Health/Mercy Hospital would provide detainee victims of sexual abuse with emergency contraception and sexually transmitted infection prophylaxis, in accordance with professionally accepted standards of care. The Auditor was also not provided documentation that medical treatment services would be provided to the victim without financial cost and regardless of whether the victim names the accuser or cooperates with any investigation arising out of an incident of sexual abuse. The facility must provide documented training to all applicable staff regarding their responsibility to provide the detainee victim with all requirements of the standard. If applicable, the facility must provide the Auditor with any investigative files where the detainee victim was transported to an outside hospital following an incident of sexual abuse to confirm compliance with subparts (a) and (b) of the standard.

Corrective Action (a)(b): The facility submitted an email from the Program Manager for the ERO Custody and Resource Coordinator program which states the CRC will assist the BHR in locating a community resource to provide expertise and support to include crisis intervention and counseling. The facility submitted an email to the AFOD which confirms the facility has made multiple attempts through conversation with the Nurse Administrator (NA) at Dignity Health Hospital; however, although the NA has given her assurance verbally stating the hospital would provide detainee victims of sexual abuse at no cost to the victim regardless of whether the victim names the accuser or cooperates with any investigation arising out of an incident of sexual abuse with emergency contraception and sexually transmitted infection prophylaxis, in accordance with professionally accepted standards of care the hospital would not agree to submit their assurance in writing. The Auditor reviewed the email from the facility and accepts the email as confirmation for compliance. The facility submitted an email to all staff with read receipts to confirm all applicable staff have been trained on their responsibility to provide detainee victims of sexual abuse with all requirements of the standard. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsections (a) and (b) of the standard.

§115.193

Outcome: Low Risk

Notes:

This is the second PREA audit for BHR. BHR only holds detainees up to 12 hours, and there has not been an allegation of sexual abuse between March 1, 2018, through February 8, 2023. During the on-site audit, the Auditor observed staff conducting rounds, walking up to the door, and visually observing detainees in the holding cells. After a careful review of the corrective action taken, it is determined the facility is in compliance with all previously deficient standards; and now in 100% compliance with the DHS PREA Standards. Therefore, the Auditor has determined the facility is now low risk.

§115. 201 - Scope of audits

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

Notes:

(d)(e)(i)(j): The Auditor was able to observe all areas of the audited facility. All policies, memorandums, staff employee files, and other relevant documentation, except for staff training records, were provided for review. Due to considerable time impacts to transportation operations the Auditor was unable to interview detainees. Audit notice signs were posted throughout the facility in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese. The Auditor did not receive correspondence from any detainee, staff or outside entity prior to the on-site review.

Does Not Meet (e): The facility is not in compliance with subsection (e) of the standard. The Auditor requested and was not provided with either ICE or G4S contract staff, to include transportation staff, training records. To become compliant, the facility must provide the Auditor with 10 training records to include ICE staff, G4S contract staff, and transportation staff.

Corrective Action (e): The facility submitted an attendance log that confirms all G4S staff, including transportation staff, and all ICE DDOs assigned to the facility have received PREA refresher training in accordance with subsection (a) of standard 115.131. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsection (e) of the standard.

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.

Jodi Upshaw

October 18, 2023

Auditor's Signature & Date

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

October 18, 2023

Assistant Program Manager's Signature & Date

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

October 19, 2023

Program Manager's Signature & Date

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



Homeland Security

AUDIT DATES

From:	2/7/2023	To:	2/8/2023
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AUDITOR INFORMATION

Name of auditor:	Jodi Upshaw	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:	San Francisco (SFR)
Field Office Director:	Moises Becerra
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	630 Sansome St San Francisco, CA 94111
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:	Bakersfield Hold Room (BHR)
Physical address:	800 Truxtun Avenue Bakersfield, CA 93301
Mailing address: (if different from above)	Click or tap here to enter text.
Telephone number:	661-281-6515
Facility type:	ICE Holding Facility

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Assistant Field Officer Director
Email address:	(b) (6), (b) (7)(C)	Telephone number:	661-281- (b) (6), (b) (7)(C)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	(A) Assistant Field Office Director
Email address:	(b) (6), (b) (7)(C)	Telephone number:	661-281- (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 Bakersfield Hold Room (BHR) was conducted on February 7-8, 2023, by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor, Jodi Upshaw employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by the U.S. Immigration and Customs Enforcement (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 auditing process and liaison with the ICE Office of Professional Responsibility (OPR), External Reviews Analysis Unit (ERAU) during the audit report review process. The purpose of the audit was to determine compliance with the DHS PREA standards during the audit period of March 1, 2018, through February 8, 2023. As there were zero allegations of sexual abuse reported at BHR for the prior 12-month period, the audit period was extended to capture closed investigations that occurred since the facility's last audit; however, there were none. This is the second PREA audit for BHR. BHR is operated by DHS ICE, Enforcement and Removal Operations (ERO). The facility holds male and female detainees who are street arrests, northern office prison releases, and removal transfers. The facility does not house juveniles or family unit detainees. The facility is located in Bakersfield, California.

The entry briefing was held in the BHR conference room on February 7, 2023. The ICE ERAU Team Lead (TL), (b) (6), (b) (7)(C), opened the briefing. In attendance were:

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

(b) (6), (b) (7)(C) Detention and Deportation Officer (DDO)/Acting Supervisory Deportation and Detention Officer (SDDO), ICE ERO
Jodi Upshaw, Certified Auditor, Creative Corrections, LLC

The Auditor introduced herself and then provided an overview of the audit process and the methodology to be used to demonstrate PREA Compliance with those present. Approximately two weeks prior to the audit, the ERAU TL, provided the Auditor with the facility's PAQ, Agency Policies, and other pertinent documents through the ICE SharePoint. The PAQ and supporting documentation was organized with the PREA Pre-Audit Policy and the Document Request DHS Immigration Detentions Facilities form and placed within folders for ease of auditing. The main policies that provide facility direction for BHR is ICE Directive 11062.2 Sexual Abuse and Assault Prevention and Intervention (SAAPI) and ICE Directive 11087.1 Operation of ERO Holding Facilities. All documentation, policies and the PAQ were reviewed by the Auditor. A tentative daily schedule was provided to the Auditor for the on-site and binder review and interviews with staff and detainees. The Auditor also reviewed the facility's website, www.ice.gov. 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. She further explained compliance with the PREA standards will be determined based on review of policy and procedures, observations made during the on-site tour, provided documentation review, and conducting both staff and detainee interviews. No correspondence was received from any detainee, outside individual, or staff member. The facility provided the requested information to be used for the auditor's random selection of detainees and staff to be interviewed (random and specific categories) including lists of staff by duty position and shifts. According to the PAQ shifts are 0600-1400, 0700-1500, and 1400-0000. There are zero volunteers who enter the facility.

According to the PAQ, 536 male and 5 female detainees were processed into BHR during the last year with an average stay of 12 hours. On the first day of the audit there were five detainees being processed into the facility. The Auditor observed the intake process and confirmed that the detainees received a pat-down search, were placed into a holding cell until transportation was scheduled, approximately one hour, and did not receive any information pertaining to PREA. During the on-site audit several transports did arrive, but no detainees were housed at the facility for longer than two hours. In interviews with an ICE DDO it was indicated that prior to scheduling a detainee for transport to BHR an ICE DDO meets with the detainee and conducts an extensive interview consisting of background, charges, current medical issues, prison discipline history, known security risks and the facility PREA risk assessment. This meeting is held in person or over a zoom call. Once the detainee arrives, he is housed in one of eight cells within the processing area. The rated capacity of the processing room is 196. (b) (7)(E) and a telephone; however, the telephones were not in working order. Outside the holding cell the Auditor observed signage that included the ICE, Detention Reporting and Information Line (DRIL) and the DHS ICE audit notice. The processing area is a square room with a "U-shaped" desk in the middle. Officers are able to see all areas of the processing room. There are no showers in the processing room. The Auditor viewed (b) (7)(E) for direct viewing of (b) (7)(E) (b) (7)(E) that did have direct (b) (7)(E) had a pre-filled gray box obstructing the viewer from seeing the detainee while using the toilet. Other than the holding cells, the processing room is the only area detainees have access to. Food Service staff do not have contact with any detainees. Meals, in the form of "sack lunches" are distributed to the detainee by an Officer.

BHR employs 25 staff to include eight ICE employees and 17 G4S contract staff. According to the provided staff roster, there are (12 male and 5 female G4S staff) who have continuing contact with detainees. There are no contracted medical, mental health or food service staff. The Auditor interviewed four staff, including one ICE DDO, the PREA Field Coordinator, the Acting SDDO, and the Acting

Field Officer Director (AFOD). In addition, the Auditor interviewed six G4S contract staff including one Supervisory Lieutenant (Lt.) and five custody line staff. There were no allegations of sexual abuse reported during the audit period. There were no detainees interviewed during the on-site audit due to the short amount of time spent at BHR. If the Auditor had attempted to interview any detainee, transportation operations would have been severely impacted to include detainees missing deportation flights.

On February 8, 2023, an exit briefing was held in the BHR conference room. The ICE ERAU TL, opened the briefing. In attendance were:

(b) (6), (b) (7)(C) TL, ICE/OPR/ERAU

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

Jodi Upshaw, Certified Auditor, Creative Corrections, LLC

The Auditor spoke briefly about non-compliance in the areas of orientation and training. The Auditor informed those in attendance that final compliance determinations could not be made until a review of documentation, the site review notes and interviews were compiled. The Auditor thanked those in attendance and for cooperation during the audit.

SUMMARY OF AUDIT FINDINGS

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

Number of Standards Exceeded: 0

Number of Standards Not Applicable: 1

§115.114 Juvenile and family detainees

Number of Standards Met: 15

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

§115.117 Hiring and promotion decisions

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

§115.141 Assessment for risk of victimization and abusiveness

§115.154 Third-party reporting

§115.162 Agency protection duties

§115.163 Reporting to other confinement facilities

§115.164 Responder duties

§115.166 Protection of detainees from contact with alleged abusers

§115.167 Agency protection against retaliation

§115.172 Evidentiary standard for administrative investigations

§115.176 Disciplinary sanctions for staff

§115.177 Corrective action for contractors and volunteers

§115.186 Sexual abuse incident reviews

§115.187 Data collection

Number of Standards Not Met: 14

§115.113 Detainee supervision and monitoring

§115.115 Limits to cross-gender viewing and searches

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

§115.118 Upgrades to facilities and technologies

§115.121 Evidence protocols and forensic medical examinations

§115.131 Employee, contractor, and volunteer training

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

§115.134 Specialized training: Investigations

§115.151 Detainee reporting

§115.161 Staff reporting duties

§115.165 Coordinated response

§115.171 Criminal and administrative investigations

§115.182 Access to emergency medical services

§115.201 Scope of audits

Hold Room Risk Rating

§115.193 Audits of standards – Not Low Risk

PROVISIONS

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

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

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

Notes:

(a): ICE Directive 11062.2 states, "ICE has a zero-tolerance policy for all forms of sexual abuse or assault. It is ICE policy to provide effective safeguards against sexual abuse and assault of all individuals in ICE custody, including with respect to screening, staff training, detainee education, response and intervention, medical and mental health care, reporting, investigation, and monitoring and oversight, as outlined in this Directive, in the requirements of PBNDS 2011 Standard 2.11, and in other related detention standards and ICE policies." During the on-site review the Auditor observed the DHS-prescribed sexual assault awareness notice in English and Spanish in the processing area and outside the holding cells. All 10 staff interviewed confirmed they were knowledgeable regarding the Agency's zero-tolerance policy.

§115.113 - Detainee supervision and monitoring.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c): ICE Directive 11087.1 mandates, "The FOD shall ensure that each holding facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse and assault. In so doing, the FOD shall take into consideration: The physical layout of each holding facility, The composition of the detainee population, The prevalence of substantiated and unsubstantiated incidents of sexual abuse and assault, The findings and recommendations of sexual abuse and assault incident review reports; and any other relevant factors, including but not limited to, the length of time detainees spend in custody at the holding facility. The FOD shall ensure detainees placed in holding cells are subject to direct supervision, which shall include regular visual monitoring (b) (7)(E), as well as (b) (7)(E) checks at least every 15 minutes." The facility reported in the PAQ shifts are from 0600-1400, 0700-1500 and 1600-0000; however, BHR provided a shift schedule for G4S showing 24-hour coverage, 5 days a week showing staggered shifts and one shift on Saturday from 0000 – 0800. There is a white board on all holding cell doors. When detainees are brought into a holding cell, the number of detainees is written on this board. Staff numbers fluctuates during a transport from approximately four to seven staff depending on the number of detainees received. During the on-site audit, the Auditor observed staff conducting rounds, walking up to the door, and visually observing detainees in the holding cells. The facility provided a copy of the Hold Room Facility Self-Assessment Tool (HFSAT). The document's purpose states it is used to determine if the facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse; however, a review of the provided HFSAT did not include when determining adequate staffing levels, and the need for video monitoring, the physical layout of each holding facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, or any other relevant factors, including but not limited to the length of time detainees spend in Agency Custody or that the supervision guidelines were reviewed during 2022 to confirm they continue to apply to BHR. The Auditor did interview the Field PREA Coordinator but could not confirm compliance with either the subsections (b) or (c) of the standard.

Does Not Meet (b)(c): The facility is not in compliance with subsections (b) or (c) of the standard. The facility provided a copy of the Hold Room Facility Self-Assessment Tool (HFSAT). The document's purpose states it is used to determine if the facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, (b) (7)(E), to protect detainees against sexual abuse; however, a review of the provided HFSAT did not include when determining adequate staffing levels, and (b) (7)(E), the physical layout of each holding facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, or any other relevant factors, including but not limited to the length of time detainees spend in Agency Custody. The Auditor did review a HFSAT with a start date of February 1, 2022 and a due date of April 30, 2022, but could not confirm that the supervision guidelines had been reviewed during 2022 or if they continue to apply to BHR. The Auditor did interview the Field PREA Coordinator but could not confirm compliance with either the subsections (b) or (c) of the standard. To become compliant, the facility must provide the Auditor with documentation to confirm when determining adequate staffing levels, and (b) (7)(E) at BHR, the Agency took into consideration the physical layout of each holding facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, or any other relevant factors, including but not limited to the length of time detainees spend in Agency Custody. In addition, the Agency must provide documentation that confirms the supervision guidelines were reviewed in the year 2022 to confirm they continue to apply to BHR.

§115.114 - Juvenile and family detainees.

Outcome: Not Applicable (provide explanation in notes)

Notes:

(a)(b): BHR does not accept juvenile or family unit detainees. The facility reported in the PAQ they only house adults which was confirmed through interviews with the PREA Field Coordinator and G4S contract staff.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(b)(c)(d)(e)(f): ICE Directive 11087.1 mandates, "Strip and Visual Body Cavity Searches-The FOD shall ensure that when pat down searches indicate the need for a more thorough search, an extended search (i.e., strip search) is conducted in accordance with ICE policies and procedures, including that: All strip searches and visual body cavity searches are documented: Cross-gender strip searches or cross-gender visual body cavity searches are not conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners; and Visual body cavity searches of minors are conducted by a medical practitioner and not by law enforcement personnel. The FOD shall ensure that detainees are permitted to shower (where showers are available), perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine hold room checks, or is otherwise appropriate in connection with a medical exam or monitored bowel movement under medical supervision. The FOD will also ensure that ERO personnel of the opposite gender announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing. The FOD shall ensure that ERO personnel do not search or physically examine a detainee for the sole purpose of determining the detainee's gender. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records (if available), or, if necessary, learning that information as part of a broader medical examination conducted in private, by a medical practitioner." Interviews with the AFOD, G4S Lt., and four G4S contract staff confirmed cross-gender strip searches or visual body cavity searches are not conducted except under exigent circumstances. Should any cross-gender strip search or visual body cavity search be conducted it will be documented. In addition, in interviews with four G4S contract staff it was indicated searching or physically examining a detainee for the sole purpose of determining the detainee's gender is not allowed. In interviews with four G4S contract and an ICE DDO it was indicated they have been trained in cross-gender pat-down searches but do not conduct them at BHR. The Auditor reviewed the facility training curriculum "Cross-Gender, Transgender, and Intersex Searches" and confirmed it was compliant with subsection (f) of the standard. In addition, the Auditor reviewed training certificates for G4S contract staff and transportation officers and confirmed they had received the required training; however, the Auditor could not confirm the training of ICE staff as no ICE training records were provided. During the on-site audit, the Auditor noted sight lines, potential blind spots, and (b) (7)(E). The Auditor additionally observed (b) (7)(E) contained gray areas over the toilets that provided privacy for the detainee during use. In addition, the Auditor observed pat-down searches of five detainees being processed into the facility and confirmed all detainees were searched by a staff member of the same gender. Detainees do not have access to showers at BHR.

Does Not Meet (f): The facility is not in compliance with subsection (f) of the standard. The Auditor reviewed the facility training curriculum "Cross-Gender, Transgender, and Intersex Searches" and confirmed it was compliant with subsection (f) of the standard; however, the Auditor could not confirm the training of ICE DDOs as no ICE training records were provided. To become compliant, the facility must provide the Auditor with documentation to confirm all ICE DDOs assigned to the facility have received training in conducting pat-down searches and searches of transgender and intersex detainees.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c): ICE Directive 11087.1 mandates, "The FOD shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to participate in and benefit from processes and procedures in connection with placement in an ERO holding facility, consistent with established statutory, regulatory, DHS and ICE policy requirements. The FOD shall take reasonable steps to ensure meaningful access to detainees who are limited English proficient, consistent with established regulatory and DHS and ICE policy requirements." The facility also provided policy 11062.2 which states, "Appropriate steps in accordance with applicable law to ensure that detainees with disabilities (including detainees who are deaf or hard of hearing, those who are blind, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in, and benefit from, all aspects of agency and facility efforts to prevent, detect, and respond to sexual abuse. In matters related to allegations of sexual abuse or assault, ensure the provision of in-person or telephonic interpretation that enable effective, accurate, and impartial interpretation by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that such interpretation is appropriate and consistent with DHS Policy." During the on-site review the Auditor observed the DRIL posters in English and Spanish. Interviews with the Acting SDDO, DDO, and four G4S contract staff confirmed that the ICE National Detainee Handbook and DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet, in English and Spanish, is available on-site which was confirmed by the Auditor; however, if a detainee's preferred language was in one of the other most prevalent languages encountered by ICE: French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese or the DHS-prescribed SAA Information Pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi, Bengali, Romanian, Russian, Turkish, Ukrainian, and Vietnamese the

written material was not available. In an interview with the Acting SDDO it was indicated that the detainee received the information from the sending facility; however, the Auditor observed the intake of five detainees and confirmed the detainees did not have any PREA information on their person, nor were they asked by Intake staff if they had received the information. In an interview with the Acting SDDO it was indicated if a detainee spoke a language other than one of the most prevalent languages encountered by ICE, the facility would use the Lion Bridge Language Line to interpret the material; however, there was no documentation to confirm the language line had been used during the audit period. The Acting SDDO further indicated that the facility did not accept detainees who had a disability; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. In interviews with four G4S contract staff it was indicated that the facility would not use another detainee to interpret in matters relating to allegations of sexual abuse in any circumstance.

Does Not Meet (a)(b)(c): The facility is not in compliance with subsections (a) and (b) of the standard. During the onsite Audit, the Auditor observed that the ICE National Detainee Handbook and the DHS-prescribed sexual assault awareness notice posted outside the holding areas in both English and Spanish. In addition, the Auditor observed the intake processing of five detainees and confirmed the facility does not provide the detainee with PREA information in languages other than English or Spanish. In an interview with the Acting SDDO it was indicated that Bakersfield does not accept detainees who had a disability; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. In interviews with four G4S contract staff it was indicated that the facility would not use another detainee to interpret in matters relating to allegations of sexual abuse in any circumstance. To become compliant, the facility must institute a practice of providing the detainee, who speaks a language other than English or Spanish, PREA information in their preferred language. In addition, the facility must institute a practice of providing a detainee who is blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities access to the PREA information. The practice must also include the requirement to allow the use of another detainee, should the detainee request another detainee, to provide interpretation if ICE determines that such interpretation is appropriate and consistent with DHS Policy. The facility must train all staff on the new practice and provide documentation of the training received. In addition, the facility must provide the Auditor with documentation that confirms that all detainees have access to PREA information in a manner they understand including detainees whose preferred language is other than English or Spanish, who are blind, or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities are provided access to the PREA information.

§115.117 - Hiring and promotion decisions.

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

Notes:

(a)(b)(c)(d)(e)(f): 5 CFR 731, E.O. 10450, ICE Directive 6-7.0 and ICE Directive 6-8.0 mandates, The agency shall not hire or promote anyone including a contractor or volunteer that has contact with detainees who has engaged in or attempted to engage in, been convicted of in sexual abuse in a prison, jail, holding facility community confinement facility, juvenile facility or other institution or who has been civilly or administratively adjudicated to have engaged 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. When the agency is considering hiring or promotion staff, it shall ask all applicants about previous misconduct described above in written applications or interviews. The agency shall also impose a continuing affirmative duty to disclose any misconduct. Before hiring any new employee, who may have contact with detainees, a background investigation for suitability of employment shall be conducted and an updated background investigation shall be completed for employees every five years. The background investigations are also applicable to contractors. The directives also mandate that any material omissions of misconduct or false information will be grounds for immediate termination or a withdrawal of any offer of employment. The agency shall also provide information pertaining to substantiated allegations of sexual abuse involving former employees from any institutional employer who requests such information relating to applications for work. The Auditor reviewed four G4S personnel files and was able to confirm background checks were completed prior to hiring, five-year background checks were up to date, and acknowledgements of the continuing duty to report were signed and documented. In addition, the Auditor submitted three ICE DDOs working at the BHR to the ICE PSO. The Auditor received a written response regarding up-to-date background checks on all three ICE DDOs. An interview with the Acting SDDO confirmed no agency promotions within the audit period.

§115.118 - Upgrades to facilities and technologies.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a): This subsection of the standard is not applicable. BHR has not designed or acquired a new holding facility or planned a substantial expansion or modification of the existing holding facility.

(b): ICE Directive 11087.1 mandates, "When designing or developing any new ERO holding facility and in planning any substantial expansion or modification of existing holding facilities, the FOD, in coordination with the Office of Facilities Administration, Office of the Chief Financial Officer, shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect detainees from sexual abuse and assault. When installing or updating (b) (7)(E) [REDACTED], the FOD, in coordination with the Office of Facilities Administration, Office of the Chief Financial Officer, shall consider how such technology may enhance the agency's ability to protect detainees from sexual abuse and assault". According to the PAQ, BHR updated (b) (7)(E) [REDACTED]

(b) (7)(E) The Auditor was provided with a memorandum that states, "(b) (7)(E) were replaced (b) (7)(E) to provide a much clearer view (b) (7)(E). (b) (7)(E) was installed in the (b) (7)(E) to provide an oversight of this area." The Auditor reviewed the HFSAT provided by the facility and confirmed it does not include when determining the need to update the (b) (7)(E) the facility took into consideration how the added (b) (7)(E) may enhance the Agency's ability to protect detainees from sexual abuse.

Does Not Meet (b): The facility updated (b) (7)(E) and (b) (7)(E) providing overview of the (b) (7)(E). The Auditor reviewed the HFSAT provided by the facility and confirmed it does not include that when determining the need to update the (b) (7)(E) or to (b) (7)(E) the facility took into consideration how the added technology may enhance the Agency's ability to protect detainees from sexual abuse. To become compliant, the facility must provide documentation that the facility took into consideration how adding (b) (7)(E) and updating the (b) (7)(E) would enhance the Agency's ability to protect detainees from sexual abuse.

§115.121 - Evidence protocols and forensic medical examinations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a): ICE Directive 11062.2, states, "When feasible, secure and preserve the crime scene and safeguard information and evidence, consistent with ICE uniform evidence protocols and local evidence protocols in order to maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions." ICE Directive 11062.2 further states, "When a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility's incident review personnel in accordance with OPR policies and procedures. OPR does not perform sex assault crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or local law enforcement agency. The OPR will coordinate with the ICE Enforcement and Removal Operations ERO FOD and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred or accepted by DHS Office of the Inspector General (OIG), OPR, or the local law enforcement agency, the ICE AFOD would assign an administrative investigation to be conducted." In an interview with the PREA Field Coordinator it was confirmed Bakersfield Police Department (BPD) will assist with investigations of sexual assault and sexual abuse allegations occurring at the BHR. There were no allegations of sexual abuse reported at BHR during the audit period.

(b)(c)(d): ICE Directive 11087.1, states in part that; "The FOD shall coordinate with the ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available and appropriate, community resources and services that provide expertise and support in areas of crisis intervention and counseling to address victims' needs." The policy also states that; "where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the FOD shall arrange or refer an alleged victim detainee to a medical facility to undergo a forensic medical examination, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFE's or SANE's cannot be made available, the examination can be performed by other qualified health care personnel. If in connection with an allegation of sexual abuse, the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available consistent with security needs." The facility provided a memo from the AFOD which states, "if a detainee needs medical services the detainee would be taken to Dignity Health/Mercy Hospital for treatment" and "should the detainee require a forensic examination by either a SAFE or SANE at Mercy Hospital that service would be provided through arrangement between the city of Bakersfield and a forensic company for forensic exams at the hospital. The city of Bakersfield has an "Independent Contract Agreement" with Kern County Forensic Services, LLC. BHR benefits from the services provided through this agreement." In addition, the facility provided a memo from the AFOD that states, "If a rape crisis center was needed the PREA Field Coordinator would contact the California Coalition Against Sexual Assault (CALCASA)." CALCASA provides forensic examinations and support services free of charge; however, the Auditor was not provided with documentation to confirm that the support services provided by CALCASA include providing victim advocacy services during a forensic exam or crisis intervention and counseling.

Does Not Meet (b)(d): The facility is not compliant with sections (b) and (d) of the standard. The facility provided a memo from the AFOD that states, "If a rape crisis center was needed the PREA Field Coordinator would contact the California Coalition Against Sexual Assault (CALCASA)." CALCASA provides forensic examinations and support services free of charge; however, the Auditor was not provided with documentation to confirm that the support services provided by CALCASA include providing victim advocacy services during a forensic exam or crisis intervention and counseling. To become compliant, the facility must coordinate with a community resource to provide expertise and support in the areas of crisis intervention and counseling and to provide advocacy services to detainee victim during a forensic exam. The facility must provide documented training to all applicable staff regarding protocols developed and their responsibility to provide the detainee victim with all requirements of the standard. If applicable, the facility must also provide the Auditor with any investigative files where the detainee victim was transported to an outside hospital following an incident of sexual abuse to confirm compliance with subparts (b) and (d) of the standard.

e): In an interview with the PREA Field Coordinator it was confirmed that the facility has not made a request to the BPD to follow the requirements of paragraphs (a-d) of the standard.

Does Not Meet (e): The facility is not in compliance with subsection (e) of the standard. In an interview with the PREA Field Coordinator it was confirmed that the facility has not made a request to the BPD to follow the requirements of paragraphs (a-d) of the standard. To become compliant, the facility must request the BPD to follow the requirements of paragraphs (a-d) of the standard.

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

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

Notes:

(a)(b)(c)(d): ICE Directive 11062.2, states, "When an alleged sexual abuse incident occurs in ERO custody, the FOD shall a) Ensure that the appropriate law enforcement agency having jurisdiction for the investigation has been notified by the facility administrator of the alleged sexual abuse. The FOD shall notify the appropriate law enforcement agency directly if necessary; b) Notify ERO's Assistant Director for Field Operations telephonically within two hours of the alleged sexual abuse or as soon as practical thereafter, according to procedures outlined in the June 8, 2006, Memorandum from John P. Torres, Acting Director, Office of Detention and Removal Operations, regarding "Protocol on Reporting and Tracking of Assaults" (Torres Memorandum); and c) Notify the ICE Joint Intake Center (JIC) telephonically within two hours of the alleged sexual abuse and in writing within 24 hours via the ICE SEN Notification Database, according to procedures outlined in the Torres Memorandum." ICE Directive 11062.2 further dictates, that "The JIC shall notify the DHS Office of Inspector General (OIG)," and "the OPR shall coordinate with the FOD or SAC and facility staff to ensure evidence is appropriately secured and preserved pending an investigation by federal, state, or local law enforcement, DHS OIG, or referral to OPR." ICE Directive 11062.2 further states, "All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise." In an interview with the PREA Field Coordinator it was confirmed that Agency protocols would be followed to ensure all allegations of sexual abuse are reported to the PSA Coordinator, the JIC, the DHS OIG, and the BPD and would be thoroughly investigated. The PREA Field Coordinator further indicated, if the BPD determines the case not to be criminal in nature an administrative investigation would be completed by the Acting SDDO. A review of the ICE website (www.ice.gov) confirms the protocols are available to the public. There were no allegations of sexual abuse reported at BHR during the audit period.

(e): ICE Directive 11062.2, states in part that; "The OPR shall coordinate with appropriate ICE entities and federal, state, or local law enforcement to facilitate necessary immigration processes that ensure availability of victims, witnesses, and alleged abusers for investigative interviews and administrative or criminal procedures, and provide federal, state, or local law enforcement with information about U nonimmigrant visa certification." On July 1, 2022, the Creative Corrections, LLC PM interviewed the Acting Section Chief of the OPR Directorate Oversight, and he confirmed that OPR Special Agents would provide the detainee victim of sexual abuse, that is criminal in nature, with timely access to U nonimmigrant status information. The OPR Acting Section Chief further stated that if an OPR investigation determined that a detainee was a victim of sexual abuse while in ICE custody, the assigned Special Agent would provide an affidavit documenting such in support of the detainees U nonimmigration visa application. There were no allegations of sexual abuse reported at BHR during the audit period.

§115.131 – Employee, contractor, and volunteer training.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c): ICE Directive 11062.2 mandates, "All current employees required to take the training, as listed below, shall provide each employee with biennial refresher training to ensure that all employees know ICE's current sexual abuse policies and procedures, and all newly hired employees who may have contact with individuals in ICE custody shall also take the training within one year of their entrance on duty." Policy 11062.2 further states, "All ICE personnel who may have contact with individuals in ICE custody, including all ERO officers and HSI special agents, shall receive training on, among other items: a) ICE's zero-tolerance policy for all forms of sexual abuse and assault; b) The right of detainees and staff to be free from sexual abuse or assault; c) Definitions and examples of prohibited and illegal behavior; d) Dynamics of sexual abuse and assault in confinement; e) Prohibitions on retaliation against individuals who report sexual abuse or assault; f) Recognition of physical, behavioral, and emotional signs of sexual abuse or assault, situations in which sexual abuse or assault may occur, and ways of preventing and responding to such occurrences, including: i) Common reactions of sexual abuse and assault victims; ii) How to detect and respond to signs of threatened and actual sexual abuse or assault; iii) Prevention, recognition, and appropriate response to allegations or suspicions of sexual abuse and assault involving detainees with mental or physical disabilities; and iv) How to communicate effectively and professionally with victims and individuals reporting sexual abuse or assault; g) How to avoid inappropriate relationships with detainees; h) Accommodating limited English proficient individuals and individuals with mental or physical disabilities; i) communicating effectively and professionally with lesbian, gay, bisexual, transgender, intersex, or gender nonconforming individuals, and members of other vulnerable populations; j) Procedures for fulfilling notification and reporting requirements under this Directive; k) The investigation process; and l) The requirement to limit reporting of sexual abuse or assault to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes." The Auditor requested and was not provided with written documentation verifying ICE and G4S contract staff, including transportation staff, who may have reoccurring contact with detainees were trained in accordance with subsection (a) of the standard. There are no volunteers that enter the facility.

Does Not Meet (a)(b)(c): The facility is not in compliance with subsections (a), (b), and (c) of the standard. The Auditor requested and was not provided with written documentation verifying ICE and G4S contract staff were trained in accordance with subsection (a) of the standard. As no training records were provided the Auditor could not confirm subsection (c) of the standard. To become

compliant, the facility must provide the Auditor with documentation that confirms all ICE and G4S contract staff, including transportation staff, received the training required in subsection (a) of the standard.

Recommendation (c): The Auditor recommends that ICE Directive 11062.2 is updated to include the language requiring the maintenance of training records for contractors and volunteers for at least five years.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

ICE Directive 11062.2, mandates, “The FOD shall ensure that key information regarding ICE’s zero-tolerance policy for sexual abuse and assault is visible or continuously and readily available to detainees (e.g., through posters, detainee handbooks, or other written formats).” During the on-site audit, the Auditor observed the DHS-prescribed sexual assault awareness notice and the DRIL signage posted outside each holding cell in English and Spanish only. Interviews with the Acting SDDO, an ICE DDO, and four G4S contract staff indicated the ICE National Detainee Handbook and DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet, in English and Spanish, is available on-site which was confirmed by the Auditor; however, if a detainee’s preferred language was in one of the other most prevalent languages encountered by ICE: French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese or the DHS-prescribed SAA Information Pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi, Bengali, Romanian, Russian, Turkish, Ukrainian, and Vietnamese the written material was not available. In an interview with the Acting SDDO it was indicated that the detainee received the information from the sending facility; however, during the observation of the intake of five detainees the Auditor confirmed that the detainees did not have any PREA information on their person, nor were they asked by the intake staff if they had received the information. The Acting SDDO confirmed that if a detainee spoke a language other than one of the most prevalent languages encountered by ICE, the facility would use the Lion Bridge Language Line to interpret the material; however, there was no documentation to confirm the language line had been used during the audit period. The Acting SDDO further indicated that the facility did not accept detainees who had a disability; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. The Auditor reviewed the ICE National Detainee Handbook and confirmed it contains the Agency’s Zero-Tolerance policy; however, the facility does not provide the detainee who speaks a language other than English or Spanish a copy of the handbook in their preferred language.

Does Not Meet: The facility is not in compliance with standard 115.132. During the onsite Audit, the Auditor observed that the DRIL signage and the DHS-prescribed sexual assault awareness notice posted outside the holding areas in English and Spanish only. In addition, the Auditor observed the intake processing of five detainees and confirmed the facility does not provide the detainee who speaks a language other than English and Spanish with PREA information in their preferred language. In an interview with the Acting SDDO it was indicated that Bakersfield does not accept detainees who had a disability; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. The Auditor reviewed the ICE National Detainee Handbook and confirmed it contains the Agency’s Zero-Tolerance policy; however, the facility does not provide the detainee who speaks a language other than English or Spanish a copy of the handbook in their preferred language. To become compliant, the facility must institute a practice of providing the detainee who speaks a language other than English or Spanish the Zero-Tolerance policy in their preferred language. In addition, the facility must institute a practice of providing a detainee who is blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities access to the Agency’s Zero-Tolerance policy. The facility must train all staff on the new practice and provide documentation of the training received. In addition, the facility must provide the Auditor with documentation that confirms that detainees who are LEP, do not speak Spanish, blind, or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities are provided access to the Agency’s Zero-Tolerance policy.

§115.134 - Specialized training: Investigations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a): ICE Directive 11062.2 mandates, “OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as Office of Detention Oversight staff, and other OPR staff, as appropriate. The training should cover, at a minimum, interviewing sexual abuse and assault victims, sexual abuse and assault evidence collection in confinement settings, the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process.” The 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 investigate an allegation of sexual abuse in a confinement setting. The Agency also offers Fact Finders Training, this training includes information to conduct an initial investigation and determine if a sexual abuse incident has taken place or whether to complete an administrative investigation. During an interview with the PREA Field Coordinator it was confirmed that either the PREA Field Coordinator or the Acting SDDO would complete administrative investigations for the facility.

Does Not Meet (b): The facility is not in compliance with subsection (b) of the standard. In an interview with the PREA Field Coordinator it was confirmed that either the PREA Field Coordinator or the Acting SDDO would complete administrative investigations for the facility; however, the Auditor was not provided with training certificates to confirm what training facility investigators were

provided or if it was received. To become compliant, the facility must provide the Auditor with documentation as to what training was received by the facility investigators and documentation that the facility investigators received the training. If the training provided was not the ICE OPR Investigating Incidents of Sexual Abuse and Assault training curriculum, the facility must provide the Auditor with the curriculum of the training provided to confirm it is compliant with all elements of the standard.

§115.141 - Assessment for risk of victimization and abusiveness.

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

Notes:

(a)(c)(d)(e): ICE Directive 11087.1 mandates, "The FOD should ensure that before placing detainees together in a hold room, there shall be consideration of whether a detainee may be at a high risk of being sexually abused or assaulted, and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee. The FOD shall ensure that the following criteria are considered in assessing detainees for risk of sexual victimization, to the extent that the information is available: Whether the detainee has a mental, physical, or developmental disability; The age of the detainee; The physical build and appearance of the detainee; Whether the detainee has previously been incarcerated or detained; The nature of the detainee's criminal history; Whether the detainee has any convictions for sex offenses; Whether the detainee has self-identified as Lesbian, Gay, Bisexual, Transgender or Intersex (LGBTI) or gender nonconforming; Whether the detainee has self-identified as previously experiencing sexual victimization; and The detainee's own concerns about his or her physical safety. For detainees identified as being at high risk for victimization, the FOD shall provide heightened protection, including continuous direct sight and sound supervision, single-housing, or placement in a hold room actively monitored (b) (7)(E) by a staff member sufficiently proximate to intervene, unless no such option is feasible. The FOD shall implement appropriate controls on the dissemination of any sensitive information regarding a detainee provided pursuant to screening procedures." According to interviews with an ICE DDO, ICE screens detainees for special vulnerabilities prior to being transferred to BHR, which is reflected on a Risk Classification Assessment (RCA) screening form. The ICE DDO further indicated the RCA screening takes into consideration whether the detainee has a mental, physical, or developmental disability, the age of the detainee, whether the detainee has been previously incarcerated or detained, the nature of the detainee's criminal history, whether the detainee has self-identified as LGBTI or gender nonconforming, whether the detainee has self-identified as having previously experienced sexual victimization, and the detainee's own concerns about his or her physical safety. Per interviews with ICE DOs, no detainees are brought into the facility from the street for processing. In addition, the ICE DDO indicated all detainees arrive at BHR with background information compiled before arrival which is incorporated into the intake screening process. Interviews with four G4S contract staff confirmed they review the RCA of all detainees upon arrival and if a review of the completed RCA indicates the detainee may be at high risk of sexual abuse placement would be single cell. The Auditor observed the intake processing of five detainees and confirmed G4S staff at BHR did not supplement the information available in the RCA with questioning of the detainee upon arrival, including but not limited to, whether the detainee has any convictions for sex offenses against an adult or child and any previous sexual victimization. The Auditor was able to review the facility computer systems utilized by G4S staff, EID Arrest GUI for Law Enforcement (EAGLE) and Enforce Alien Removal Module (EADM), during the screening process and confirmed the information available on the RCA is accessible. In addition, the Auditor was able to confirm the dissemination of the information is controlled properly using user ids and passwords.

Recommendation (c): The Auditor recommends that staff at BHR supplement the information available in the RCA by asking all detainees during intake processing whether the detainee has any convictions for sex offenses against an adult or child and any previous sexual victimization.

(b): ICE Directive 11062.2 states, "The FOD shall ensure that detainees who may be held overnight with other detainees are assessed to determine their risk of being either sexually abused or sexually abusive, to include being asked about their concerns for their physical safety." According to the PAQ, BHR does not house detainees overnight.

§115.151 - Detainee reporting.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c): ICE Directive 11087.1 mandates, "The FOD shall ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse or assault, retaliation for reporting sexual abuse or assault, or staff neglect or violations of responsibilities that may have contributed to such incidents to ERO personnel. The FOD shall ensure that detainees are provided with instructions on how they can contact the DHS/Office of the Inspector General (OIG) (or, as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse or assault to agency officials) to confidentially and, if desired, anonymously, report these incidents. The FOD shall implement procedures for ERO personnel to accept reports made verbally, in anonymously, and from third parties and promptly document any verbal reports." During the on-site audit, the Auditor observed the DHS-prescribed sexual assault awareness notice and DRIL signage posted outside each holding cell in English and Spanish only. Interviews with the Acting SDDO, DDO, and four G4S contract staff indicated that the ICE National Detainee Handbook and DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet, in English and Spanish, is available on-site which was confirmed by the Auditor; however, if a detainee's preferred language was in one of the other most prevalent languages encountered by ICE: French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese or the DHS-prescribed SAA Information Pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi, Bengali, Romanian, Russian, Turkish, Ukrainian, and Vietnamese the written material

was not available. In an interview with the Acting SDDO it was indicated that the detainee received the information from the sending facility; however, the Auditor observed the intake processing of five detainees and confirmed the detainees did not have any PREA information on their person, nor were they asked by the intake staff if they had received the information. The Acting SDDO confirmed that if a detainee spoke a language other than one of the most prevalent languages encountered by ICE, the facility would use the Lion Bridge Language Line to interpret the material; however, there was no documentation to confirm the language line had been used during the audit period. In addition, during the on-site audit, the Auditor tested the telephones located in all holding cells and confirmed they were inoperable due to the contract with the phone company expiring and not being renewed. Through observation the Auditor further confirmed detainees would have no way of reporting anonymously if they were in a holding cell with other detainees. In interviews with G4S contract staff it was indicated should a detainee elect to use a telephone they would be brought to the desk area of the processing room; however, this area has multiple computer stations utilized by staff during the time detainees are at BHR. All interviewed G4S contract staff further indicated they would immediately report any allegation of sexual abuse reported by a detainee in writing or verbally while in their custody. During the on-site audit, the Auditor placed a call to the DHS OIG from the processing room and confirmed the timeframe to connect was lengthy.

Does Not Meet (a)(b): The facility is not in compliance with subsections (a) and (b) of the standard. During the on-site audit, the Auditor observed the DHS-prescribed sexual assault awareness notice and DRIL signage posted outside each holding cell in English and Spanish only. Interviews with the Acting SDDO, DDO, and four G4S contract staff indicated that the ICE National Detainee Handbook and DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet, in English and Spanish, is available on-site which was confirmed by the Auditor; however, if a detainee's preferred language was in one of the other most prevalent languages encountered by ICE: French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese or the DHS-prescribed SAA Information Pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi, Bengali, Romanian, Russian, Turkish, Ukrainian, and Vietnamese the written material was not available. In an interview with the Acting SDDO it was indicated that the detainee received the information from the sending facility; however, the Auditor observed the intake processing of five detainees and confirmed the detainees did not have any PREA information on their person, nor were they asked by the intake staff if they had received the information. The Acting SDDO confirmed that if a detainee spoke a language other than one of the most prevalent languages encountered by ICE, the facility would use the Lion Bridge Language Line to interpret the material; however, there was no documentation to confirm the language line had been used during the audit period. In addition, during the on-site audit the Auditor tested the telephones in the holding rooms and confirmed they were inoperable. In an interview with G4S contract staff it was confirmed that the telephones were inoperable due to the telephone contract expiring and not being renewed. In addition, G4S contract staff confirmed should a detainee request to make a telephone call, they would be brought to the desk area of the processing room. The Auditor observed the area and confirmed it includes multiple computer stations that are utilized by staff during times detainees are held at BHR. The Auditor called the DHS OIG hotline and confirmed the time to connect was lengthy. To become compliant, the facility must provide detainees with information on how to privately report sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents. In addition, the facility must provide the detainee with instructions on how to contact the DHS OIG or another designated office in a manner that all detainees can understand, to confidentially and, if desired, anonymously, report these incidents. Once implemented the facility must provide the Auditor with documentation that confirms the new practice has been implemented and all applicable staff have been trained on the new procedures. The facility must provide telephone access that allows the detainee to make a report of sexual abuse confidentially and, if desired, anonymously. In addition, the facility must provide documentation that the contract with the telephone company has been renewed and the telephones in the holding cells are in working order.

§115.154 - Third-party reporting.

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

Notes:

ICE Directive 11087.1 mandates, "The FOD shall implement procedures for ERO personnel to accept reports made verbally, anonymously, and from third parties and promptly document any verbal reports. The FOD shall ensure that detainees are provided with instructions on how they can contact the DHS/Office of the Inspector General (OIG) (or, as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse or assault to agency officials) to confidentially and, if desired, anonymously, report these incidents." Through direct observation of holding cell postings, ICE DDO and G4S contract staff interviews, and by directly visiting the ICE website www.ice.gov, it was confirmed that BHR has established methods to receive third party reports of sexual abuse. The Auditor called the DHS OIG hotline, via her personal telephone, and was advised by a representative that the DHS OIG would accept a report of sexual abuse made by a third party.

§115.161 - Staff reporting duties.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c): ICE Directive 11062.2 mandates, "All ICE employees shall immediately report to a supervisor or a designated official any knowledge, suspicion, or information regarding an incident of sexual abuse or assault of an individual in ICE custody, retaliation against detainees or staff who reported or participated in an investigation about such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation." Generalize training for all ICE staff include, "The requirement to limit reporting of sexual abuse or assault to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes." In addition, the facility also provided a memorandum from Acting Deputy

Director Lechleiter dated November 8, 2021. This memo reiterates the types of misconduct allegations that employees must report to the JIC, OPR, or the DHS OIG and those types of allegations that should be referred to local management. Interviews with a G4S Lt., four G4S contract staff, and an ICE DDO, confirmed they were knowledgeable regarding their responsibility to report any knowledge, suspicion, or information regarding an incident of sexual abuse, retaliation, or staff failure to perform their duties he/she becomes aware of to their immediate supervisor. The G4S Lt., four G4S custody staff, and an ICE DDO, further indicated they could report misconduct outside the chain of command to the DHS OIG.

(d): ICE Directive 11062.2 states, "If alleged victim under the age of 18 or determined, after consultation with the relevant [Office of Principal Legal Advisor] OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section." In an interview with the Acting SDDO it was indicated that the facility did not accept detainees who were vulnerable adults; and therefore, subsection (d) of the standard did not apply; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. BHR does not accept juveniles.

Does Not Meet (d): The facility is not in compliance with subsection (d) of the standard. In an interview with the Acting SDDO it was indicated that the facility did not accept detainees who were vulnerable adults; and therefore, subsection (d) of the standard did not apply; however, a review of the submitted HFSAT confirmed the facility accepts all detainees except pregnant females, juveniles, and family units. To become compliant, the facility must train all applicable staff on the requirements of ICE Directive 11062.2 which state they implement a practice that "If alleged victim under the age of 18 or determined, after consultation with the relevant OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section" and document said training. In addition, the facility must provide the Auditor, if applicable, all allegations of sexual abuse investigative files involving a vulnerable adult that occur during the CAP period.

§115.162 – Agency protection duties.

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

Notes:

ICE Directive 11062.2 mandates, "If an ICE employee has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse or assault, he or she shall take immediate action to protect the detainee." Interviews with a G4S Lt., four G4S contract staff, and an ICE DDO confirmed their knowledge and understanding of the requirement to report to their immediate supervisor, separate the detainee from the threat, and place them under direct supervision.

§115.163 - Reporting to other confinement facilities.

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

Notes:

(a)(b)(c)(d): ICE Directive 11062.2 mandates, "If the alleged assault occurred at a different facility from the one where it was reported, ensure that the administrator at the facility where the assault is alleged to have occurred is notified as soon as possible, but no later than 72 hours after receiving the allegation, and document such notification." The facility did submit a memorandum stating that should notification be required the AFOD would submit a Significant Event Notification (SEN). In an interview with the PREA Field Coordinator it was indicated if a detainee at BHR reported an allegation of sexual abuse at had occurred at another facility, BHR would notify the facility, via telephone or email, of the allegation. The PREA Field Coordinator further confirmed the notification would take place immediately upon learning of the allegation and such notification would be documented. In addition, the PREA Field Coordinator indicated that if BHR had received a notification from another facility that an incident of sexual abuse had occurred at BHR they would immediately start an investigation into the incident. There were no allegations of sexual abuse reported at BHR that occurred at another facility, or from another facility that an incident of sexual abuse had occurred at BHR, during the audit period.

§115.164 - Responder duties.

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

Notes:

(a)(b): ICE Directive 11087.1 mandates, "The FOD shall ensure that upon learning of an allegation that a detainee was sexually abused or assaulted, the responder, or his or her supervisor: Separates the alleged victim and abuser; Preserves and protects, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence; If the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, requests the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and If the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, ensures that the alleged abuser does not take any actions that could demy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. If the first responder is not an officer or agent, the responder shall request the alleged victim not to take any actions that could destroy physical evidence, and then notify an officer or agent." Interviews with the Field PREA Coordinator and four G4S contract staff confirmed that upon learning of an allegation the alleged victim and abuser would be separated, and the scene would be contained. All staff did articulate the need to keep the victim safe and preserve potential evidence in accordance with subsection (a) (3,4). There were no allegations of sexual abuse reported at BHR during the audit period.

§115.165 - Coordinated response.**Outcome:** Does not Meet Standard (requires corrective action)**Notes:**

(a)(b)(c): ICE Directive 11087.1 mandates, "The FOD shall ensure a coordinated, multidisciplinary team approach to responding to allegations of sexual abuse and assault occurring in holding facilities, or in the course of transit to or from holding facilities, as well as to allegations made by a detainee at a holding facility of sexual abuse or assault that occurred elsewhere in ICE custody." ICE Directive 11087.1 further states, "If a victim is transferred from a holding facility to a detention facility or to a non-ICE facility, the FOD shall inform the receiving facility of the incident and the victim's potential need for medical or mental health care of victim services." The PSA Compliance Manager indicated during interviews that if a detainee being transferred was a victim of sexual abuse, BHR staff would provide the receiving facility any information regarding the sexual abuse allegation, including the victim's need for any medical or social services follow-up." An interview with the PREA Field Coordinator confirmed that notifications would be made to a facility, via telephone, and include services that may be needed for the victim; however the interview could not confirm that should the detainee be transferred to a facility not covered by paragraph (b) of the standard that the facility will take into consideration the detainee's request not to have his/her potential need for medical or social services shared with the receiving facility. There were no allegations of sexual abuse reported at BHR during the audit period.

Does Not Meet (c): ICE Directive 11087.1, as it relates to standard 115.165 is not consistent with the standard. The directive as it relates to the coordinated response protocol does not include "unless the victim requests otherwise." Although Agency Directive, 11062.2, is compliant with the DHS PREA Standards, if hold rooms are using 11087.1 as their coordinated response protocol, or even a combination of both, then they would be deficient. To become compliant, the Agency must update their written institutional plan to contain the required verbiage as written in 115.165 subpart (c). The facility must provide documented training of applicable staff on the updated written institutional plan. If applicable, the facility must provide the Auditor with any investigation, medical, and detainee files regarding any detainee victim of sexual abuse transferred from BHR during the CAP period.

§115.166 - Protection of detainees from contact with alleged abusers.**Outcome:** Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)**Notes:**

ICE Directive 11062.2 mandates the FOD shall, "Ensure that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring detainee contact pending the outcome of an investigation." An interview with the PREA Field Coordinator confirmed that should an allegation be reported, the alleged perpetrator would be removed from all detainee contact pending the outcome of the investigation. In addition, in an interview with a G4S Lt. it was indicated G4S contract staff involved in an allegation of sexual abuse would be removed from all detainee contact pending the outcome of the investigation.

§115.167 - Agency protection against retaliation.**Outcome:** Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)**Notes:**

ICE Directive 11062.2 mandates, "ICE employees shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse or assault, or for participating in sexual activity as a result of force, coercion, threats, or fear of force." An interview with the PREA Field Coordinator confirmed that retaliation is not tolerated at BHR, and any incident is taken seriously. The PREA Field Coordinator further indicated should staff retaliation occur the SDDO would be notified, and it would be referred for disciplinary action. There were no allegations of sexual abuse reported at BHR during the audit period; and therefore, no retaliation to monitor.

§115.171 - Criminal and administrative investigations.**Outcome:** Does not Meet Standard (requires corrective action)**Notes:**

(a)(b)(c)(d)(e): ICE Directive 11062.2 mandates "The FOD shall ensure that the facility complies with the investigation mandates established by PBNDS 2011, Standard 2.11, as well as other relevant detention standards and contractual requirements including by conducting a prompt, thorough, and objective investigation by qualified investigators." ICE Directive 11062.2 further mandates, "the FOD shall ensure that the facility complies with the investigation mandates established by the Performance-Based National Detention Standards (PBNDS) 2011, Standard 2.11, as well as other relevant detention standards." PBNDS 2011 states in part that; "Upon conclusion of a criminal investigation where the allegation was substantiated, or in instances where no criminal investigation has been completed, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Substantiated allegation means an allegation that was investigated and determined to have occurred. Unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether the event occurred. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. The ICE Office of Professional Responsibility will typically be the appropriate investigative office within DHS, as well as the DHS OIG in cases where the DHS OIG is investigating." PBNDS 2011, Standard 2.11 further states, "The facility shall develop written procedures for administrative investigations, including provisions requiring; preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data, interviewing alleged victims, suspected perpetrators, and witnesses,

reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator, assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph, an effort to determine whether actions or failures to act at the facility contributed to the abuse, documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings, and retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years" and "such procedures shall govern the coordination and sequencing of administrative and criminal investigations, in accordance with the first paragraph of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation." In addition, ICE Directive 11062.2 states, "The facility fully cooperates with any outside agency investigating and endeavor to remain informed about the progress of the investigation." In an interview with the PREA Field Coordinator it was indicated should an allegation of sexual abuse be reported notification would be made immediately to the Acting SDDO and within two hours notification would be made to the JIC and BPD. The PREA Field Coordinator further indicated should the BPD determine the allegation is not criminal in nature an administrative investigation would be completed by the facility. Interviews with the Acting SDDO and PREA Field Coordinator confirmed the facility would cooperate fully with outside investigators to include providing video footage if needed and should an administrative investigation be conducted, it would be conducted in a prompt, thorough and objective manner with determination based on preponderance of the evidence. There were no allegations of sexual abuse reported at BHR during the audit period.

Does Not Meet (a): The facility is not in compliance with subsection (a) of the standard. In an interview with the PREA Field Coordinator it was confirmed that either the PREA Field Coordinator or the Acting SDDO would complete administrative investigations for the facility; however, the Auditor was not provided with training certificates to confirm facility investigators received specialized training as required by subsection (a) of the standard. To become compliant, the facility must provide the Auditor with documentation to confirm the PREA Field Coordinator and Acting SDDO have received specialized training for investigators as required by subsection (a) of the standard. If the training curriculum was not the ICE OPR Investigating Incidents of Sexual Abuse and Assault training curriculum, the facility must provide the Auditor with the curriculum of the training provided to confirm it is compliant with all elements of the standard.

§115.172 - Evidentiary standard for administrative investigations.

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

Notes:

ICE Directive 11062.2 states, "the OPR shall conduct either an OPR review or investigation, in accordance with OPR policies and procedures. Administrative investigations impose no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse and may not be terminated solely due to the departure of the alleged abuser or victim from employment or control of ICE." In an interview with the Acting SDDO it was indicated that when determining the outcome of an administrative investigation he would impose no standard higher than a preponderance of the evidence. There were no allegations of sexual abuse reported at BHR during the audit period.

§115.176 - Disciplinary sanctions for staff.

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

Notes:

(a)(c)(d): ICE Directive 11062.2 mandates, "Upon receiving notification from a FOD or Special Agent in Charge (SAC) of the removal or resignation in lieu of removal of staff for violating agency or facility sexual abuse and assault policies; Report that information to appropriate law enforcement agencies, unless the activity was clearly not criminal; and Make reasonable efforts to report that information to any relevant licensing bodies, to the extent known." In interviews with the Acting SDDO and PREA Field Coordinator it was indicated staff shall be subject to disciplinary up to and including removal from service for violations of the sexual abuse policies. In addition, interviews with the Acting SDDO and PREA Field Coordinator further indicated the facility would report all removals of resignations in lieu of removal for violations of Agency or facility sexual abuse policies to the appropriate law enforcement agencies unless the activity was clearly not criminal and that the facility would make a reasonable effort to inform all licensing bodies to the extent known. agencies because of substantiated allegations. There were no allegations of sexual abuse reported at BHR during the audit period.

§115.177 - Corrective action for contractors and volunteers.

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

Notes:

(a)(b): ICE Directive 11062.2 mandates "The FOD shall ensure that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring contact with detainees pending the outcome of an investigation." In an interview with the PREA Field Coordinator it was indicated that any volunteer or contractor who may have violated other provisions within the standards would be removed from all duties requiring contact with detainees pending the outcome of an investigation. The PREA Field Coordinator further indicated that all allegations of sexual abuse would be immediately reported to the SDDO on duty and further reported to the BPD and the JIC for further review and investigation. According to the PAQ there were no volunteers that may have continued contact with detainees who entered the facility during the audit period.

§115.182 - Access to emergency medical services.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b): ICE Directive 11062.2 mandates "The FOD shall ensure that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. The FOD shall coordinate with ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available, any community resources and services that provide expertise and support in the areas of crisis intervention and counseling to address the victims' needs." Further, Policy 11087.1 provides that "victims of sexual abuse shall be provided emergency medical and mental health services and any ongoing care necessary. All treatment services, both emergency and ongoing, shall be provided to the victim without financial cost regardless of whether the victim names the abuse or cooperates with any investigation arising out of the incident." The facility provided a memo from the AFOD which states, "If a detainee needs medical services the detainee would be taken to Dignity Health/Mercy Hospital for treatment." However, the Auditor was not provided documentation that confirms Dignity Health/Mercy Hospital would provide detainee victims of sexual abuse with emergency contraception and sexually transmitted infection prophylaxis, in accordance with professionally accepted standards of care. The Auditor also was not provided documentation that medical treatment services would be provided to the victim without financial cost and regardless of whether the victim names the accuser or cooperates with any investigation arising out of an incident of sexual abuse. In addition, the facility provided a memo from the AFOD that states, "If a rape crisis center was needed the PREA Field Coordinator would contact the California Coalition Against Sexual Assault (CALCASA)." CALCASA provides support services free of charge; however, the Auditor was not provided with documentation to confirm that the support services provided by CALCASA include crisis intervention and counseling. There were no allegations of sexual abuse reported at BHR during the audit period.

Does Not Meet (a)(b): The facility is not in compliance with subsections (a) and (b) of the standard. The facility provided a memo from the AFOD which states, "if a detainee needs medical services the detainee would be taken to Dignity Health/Mercy Hospital for treatment." However, the Auditor was not provided documentation that confirms DHMH would provide detainee victims of sexual abuse with emergency contraception and sexually transmitted infection prophylaxis, in accordance with professionally accepted standards of care. The Auditor also was not provided documentation that medical treatment services would be provided to the victim without financial cost and regardless of whether the victim names the accuser or cooperates with any investigation arising out of an incident of sexual abuse. In addition, the facility provided a memo from the AFOD that states, "If a rape crisis center was needed the PREA Field Coordinator would contact the California Coalition Against Sexual Assault (CALCASA)." CALCASA provides support services free of charge; however, the Auditor was not provided with documentation to confirm that the support services provided by CALCASA include crisis intervention and counseling. To become compliant, the facility must coordinate with a community resource to provide expertise and support to include crisis intervention and counseling. In addition, the facility must provide documentation that confirms that Dignity Health/Mercy Hospital would provide detainee victims of sexual abuse with emergency contraception and sexually transmitted infection prophylaxis, in accordance with professionally accepted standards of care. The Auditor was also not provided documentation that medical treatment services would be provided to the victim without financial cost and regardless of whether the victim names the accuser or cooperates with any investigation arising out of an incident of sexual abuse. The facility must provide documented training to all applicable staff regarding their responsibility to provide the detainee victim with all requirements of the standard. If applicable, the facility must provide the Auditor with any investigative files where the detainee victim was transported to an outside hospital following an incident of sexual abuse to confirm compliance with subparts (a) and (b) of the standard.

§115.186 – Sexual abuse incident reviews.

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

Notes:

(a): ICE Directive 11087.1 states, "A sexual abuse and assault incident review shall be conducted at the conclusion of every investigation of sexual abuse or assault occurring at a holding facility and unless the allegation was determined to be unfounded, a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse and assault. Such review shall ordinarily occur within 30 days of the EROs receipt of the investigation results from the investigating authority. The FOD shall implement the recommendations for improvement, or shall document its reasons for not doing so, in written justification. Both the report and justification shall be forwarded to the Agency PSA Coordinator." The facility provided a blank Sexual Abuse or Assault Incident Review form to be utilized during an incident review. The Auditor reviewed the form and confirmed the routing requires the form to be forwarded to the respective Field Office Prevention of Sexual Assault Coordinator. In an interview with the PREA Field Coordinator it was indicated that an incident review would be conducted within 30 days of the Agency receiving the investigation results and that unless the allegation was determined to be unfounded a written report would be prepared recommending whether the allegation or investigation indicates a change in policy or practice could better prevent, detect, or respond to sexual abuse. The Field PREA Coordinator further indicated the completed incident review, and the response would be forwarded to the Agency PSA Coordinator and that recommendations for improvements will be followed, or if not followed, the facility would provide its reasons for not doing so.

§115.187 – Data collection.**Outcome:** Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)**Notes:**

(a): ICE Directive 11062.2 mandates, "Data collected pursuant to this Directive shall be securely retained in accordance with agency record retention policies and the agency protocol regarding investigation of allegations, (see PBNDS 2011, section 2.11 page 142). All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise," and, "investigative files would be retained at the OPR Headquarters in the Agency's online case management system (JICMS)." The Auditor interviewed the PREA Field Coordinator who was able to articulate the process for data collection. There were no allegations of sexual abuse reported at BHR during the audit period.

§115.193 – Audits of standards.**Outcome:** Not Low Risk**Notes:**

The PREA Audit at the BHR was the second audit for this facility. After a careful review, it was determined that the facility is not in compliance with 14 of the standards, and therefore not in compliance with the DHS PREA Standards. BHR only holds detainees up to 12 hours, and there has not been an allegation of sexual abuse between March 1, 2018, through February 8, 2023; however, the Auditor must take into consideration the areas of non-compliance which include both policy and procedural issues. Therefore, the Auditor has determined that the facility is not low risk.

§115.201 - Scope of audits.**Outcome:** Does not Meet Standard (requires corrective action)**Notes:**

(d)(e)(i)(j): The Auditor was able to observe all areas of the audited facility. All policies, memorandums, staff employee files, and other relevant documentation, except for staff training records, were provided for review. Due to considerable time impacts to transportation operations the Auditor was unable to interview detainees. Audit notice signs were posted throughout the facility in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese. The Auditor did not receive correspondence from any detainee, staff or outside entity prior to the on-site review.

Does Not Meet (e): The facility is not in compliance with subsection (e) of the standard. The Auditor requested and was not provided with either ICE or G4S contract staff, to include transportation staff, training records. To become compliant, the facility must provide the Auditor with 10 training records to include ICE staff, G4S contract staff, and transportation staff.

AUDITOR CERTIFICATION

Update Audit Findings Outcome Counts by Clicking Button:

Update Outcome Summary

SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)	
Number of standards exceeded:	0
Number of standards met:	15
Number of standards not met:	14
Number of standards N/A:	1
Number of standard outcomes not selected (out of 31):	0
Facility Risk Level:	Not Low Risk

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

Jodi Upshaw

3/30/2023

Auditor's Signature & Date**(b) (6), (b) (7)(C)**

3/9/2023

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

3/31/2023

Program Manager's Signature & Date