

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



# Homeland Security

## AUDITOR INFORMATION

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

## PROGRAM MANAGER INFORMATION

<b>Name of PM:</b>	(b) (6), (b) (7)(C)	<b>Organization:</b>	Creative corrections, LLC
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## AGENCY INFORMATION

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

<b>Name of Field Office:</b>	Atlanta Field Office
<b>Field Office Director:</b>	Sean Ervin
<b>ERO PREA Field Coordinator:</b>	(b) (6), (b) (7)(C)
<b>Field Office HQ physical address:</b>	180 Ted Turner Drive SW, Atlanta, GA 30303
<b>Mailing address: (if different from above)</b>	

## INFORMATION ABOUT THE FACILITY BEING AUDITED

### Basic Information About the Facility

<b>Name of facility:</b>	Cabarrus County Jail
<b>Physical address:</b>	40 Corban Ave, SE Concord, NC 28026
<b>Mailing address: (if different from above)</b>	PO Box 790, Concord, NC 28025
<b>Telephone number:</b>	704-920-3132
<b>Facility type:</b>	IGSA

### Facility Leadership

<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Captain
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	704-920-(b) (6), (b) (7)(C)

### Facility PSA Compliance Manager

<b>Name of PSA Compliance Manager:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	PREA Coordinator
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	704-920-(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 the Cabarrus County Jail, also known as Cabarrus County Detention Center (CCDC) met 32 standards, had 0 standards that exceeded, had 2 standards (115.14, 115.18) that were non-applicable, and 7 non-compliant standards (115.13, 115.15, 115.17, 115.51, 115.53, 115.61, 115.86). As a result of the facility being out of compliance with 7 standards, the facility entered into a 180-day corrective action period which began on March 8, 2023, and ending on September 4, 2023. The purpose of the corrective action period is for the facility to develop and implement a Corrective Action Plan (CAP) to bring these standards into compliance.

On March 23, 2023, the Auditor received notification of the facility's first CAP via email from the Office of Professional Responsibility's (OPR), External Reviews and Analysis Unit (ERAU) and reviewed the submission over the course of several days. Additional documentation and response were provided by the facility and reviewed by the Auditor on May 5, 2023, June 14, 2023, June 23, 2023, and July 3, 2023. The Auditor determined that the facility demonstrated compliance with all 7 standards found non-compliant at the time of the site visit, subsequently ending the CAP period early.

Number of Standards Met: 7

§115.13 Detainee supervision and monitoring

§115.15 Limits to cross-gender viewing and searches

§115.17 Hiring and promotion decisions

§115.51 Detainee reporting

§115.53 Detainee access to outside confidential support services

§115.61 Staff reporting duties

§115.86 Sexual abuse incident reviews

## PROVISIONS

**Directions:** After the corrective action period, or sooner if compliance is achieved before the corrective action period expires, the auditor shall complete the Corrective Action Plan Final Determination. The auditor shall select the provision that required corrective action and state if the facility's implementation of the provision now "Exceeds Standard," "Meets Standard," or "Does not meet Standard." The auditor shall include the evidence relied upon in making the compliance or non-compliance determination for each provision that was found non-compliant during the audit. Failure to comply with any part of a standard provision shall result in a finding of "Does not meet Standard" for that entire provision, unless that part is specifically designated as Not Applicable.

### §115. 13 - Detainee supervision and monitoring

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

**Notes:**

(b) The CCDC provided post orders for each post that outlines the ICE detainee supervision responsibilities as the documented comprehensive detainee supervisions guidelines. The post orders direct security staff under general duties to conduct "security rounds in the pods twice an hour on an irregular basis or four times an hour for inmates/detainees that have been identified to have special circumstances (suicide watch, special watch, etc.). No security round should exceed 40-minute intervals (20 minutes for special circumstances)." Language in each of the Post Orders states, "the post orders are reviewed annually across the facility." However, the facility did not provide the Auditor with documented evidence of these annual reviews. The AJA was asked how the facility determines and maintains appropriate staffing levels. The AJA explained that the staffing plan is based on the capacity inmate/detainee population plan that has been pre-determined as to the detainee to officer ratio. The AJA also indicated that the post orders are reviewed on an annual basis. The PSA Manager was asked how the facility maintains sufficient supervision of detainees to protect against sexual abuse. The PSA Compliance Manager responded by stating conducting security checks, video monitoring, and staff to detainee ratios.

**Does Not Meet (b):** The facility has not provided evidence that the facility reviews the post-orders on an annual basis. The facility must provide documentation that acknowledges the review of the facility's comprehensive detainee supervision guidelines at least annually.

**Corrective Action (b):** On March 22, 2023, the Auditor accepted the CAP as presented by the CCDC. On March 22, 2023, the facility provided a memorandum written and signed by the Cabarrus County Sheriff indicating that the Cabarrus County Jail will review detention center post orders on an annual basis and that a review of the Post Orders was conducted on March 20, 2023. The Auditor accepted this document as evidence that the detainee supervision guidelines have been reviewed at least annually. The standard is now compliant.

### §115. 15 - Limits to cross-gender viewing and searches

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

**Notes:**

(j) CCDC Policy 118.0 states that "security staff will be trained in proper procedures for conducting pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex detainees. All pat-down searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and agency policy, including consideration of officer safety." The Auditor asked for the training platform or training curriculum for cross-gender and transgender searches prior to the on-site visit and during the on-site visit. The Auditor did not receive the requested documentation. When conducting interviews with nine officers, the majority of the officers indicated that they would request that an officer of the same gender pat-search the detainee even if it involved calling an officer off the street to perform the search. They also indicated that when confronted with searching a transgender detainee, the detainee would be asked who they preferred to be searched by. When describing how they conduct pat-down searches, the officers stated that they would use the quadrant method utilizing the back or blade of their hand. They indicated that they would inform the detainee of what was going to happen during the search so that the detainee is aware. Several officers referred to having the detainee pull the clothing away from their body to possibly shake any contraband loose. The training supervisor was asked if officers are trained in the proper procedures for conducting pat-down searches, including cross-gender and transgender pat-down searches and he confirmed that they were. After further conversations with the AJA and PSA Compliance Manager, the Auditor determined that the facility has not sufficiently trained their staff in the proper procedures for conducting cross-gender and transgender pat-down searches.

**Does Not Meet (j):** Based on staff interviews and no documentation to provide evidence of searches training, the facility does not meet provision (j) of this standard. The facility must train all CCDC security staff on all aspects of cross-gender pat-down searches, including searches of transgender and intersex detainees. The facility must provide the Auditor with the training curriculum and documentation that all CCDC security staff have acknowledged receiving the training for compliance review.

**Corrective Action (i):** On March 22, 2023, the Auditor accepted the CAP as presented by the CCDC. On May 5, 2023, the facility provided a spreadsheet indicating training was received on "guidance on pat-searches". The spreadsheet showed a total of 321 sworn deputies had been trained with 9 deputies still pending completion. The Auditor accepted this training roster as partially compliant and requested to review the training curriculum before accepting this standard as fully compliant. On June 14, 2023, the facility provided the website link to the training video used for cross-gender and transgender pat-searches. This video can be found on the PREA Resource Center website and was created by the Moss Group utilizing Connecticut Department of Corrections personnel. The Auditor reviewed the video and concluded that this training video meets the DHS PREA standard requiring the search be conducted in a professional and respectful manner, and in the least intrusive manner possible. The Auditor accepted this training as evidence that the facility staff received the required training. The standard is now compliant.

#### **§115. 17 - Hiring and promotion decisions**

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

**Notes:**

(a)(b) CCDC Policy 118.0 states that "the Cabarrus County Detention Center will implement a hiring and promotions policy to assist in the prevention of sexual abuse. The detention center will not hire or promote anyone who may have contact or enlist the services of any contractor or volunteer who may have contact with detainees who has engaged in sexual abuse in a prison, detention center, lock-up or other correctional confinement facility; has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; and/or has been civilly or administratively adjudicated to have engaged in any of the aforementioned activities." The policy further states that, "in addition, and to the extent authorized under law, Cabarrus County Detention Center will consider any incident of sexual harassment in determining whether to hire or promote anyone or to contract-with anyone who may have contact with detainees. When considering hiring or promoting staff the agency shall ask all applicants who may have contact with detainees directly about previous misconduct described in paragraph (a) of this section, in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. The agency, consistent with law, shall make its best efforts to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse."

Executive Order 10450 (Security Requirements for Government Employment), Office of Personal Management Section Part 731, and ICE Directives 6-7.0, ICE Personnel Security and Suitability Program Directive, and 6-8.0, ICE Suitability Screening Requirements for Contractor Personnel Directive, require collectively to the extent permitted by law, the agency/facility decline to hire or promote anyone who may have contact with detainees, and decline to enlist the services of any contractor, or volunteer, who may have contact with detainees, who: has engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); has been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or has been civilly or administratively adjudicated to have engaged in the activity as outlined above. The acting Unit Chief of OPR Personnel Security Operations (PSO) informed Auditors who attended virtual training in November 2021, about candidate suitability for all applicants to include their obligation to disclose: any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity.

The Human Resource Manager (HRM) was interviewed and stated that the facility does not hire nor promote anyone that has engaged in sexual abuse and that the facility acquires this information through, criminal history checks, making contact with prior institutional employers and the initial background investigation. The facility provided evidence that newly hired staff are asked the sexual misconduct questions during their background investigation conducted by CCSO when administering the mandatory polygraph. The Auditor conducted an interview with the CCSO polygrapher and requested proof that the sexual abuse questions are asked during the polygraph. The polygrapher provided the Auditor with the pre-test questions which included sexually explicit questions to include sexual abuse related questions that would capture the required misconduct questions listed in provision (a). When asked if these questions were again asked or documented when considering promoting staff and annual evaluations, the HRM stated that they are considered during any promotional process. However, the facility is not documenting that these sexual misconduct questions are asked prior to staff promotions or during their annual reviews of current employees. However, the facility's policy does address the continuing affirmative duty to disclose any sexual misconduct. The HRM indicated that when a conditional offer is made, the applicant must agree to continuing affirmative duty to disclose any such misconduct which is captured in a Minimal Standards Form that is part of the employee's file. The Auditor reviewed 11 security staff files that contained this duty to report. The HRM

also indicated when they receive a completed new hire application and the applicant discloses that they have worked for another institutional employer, she requests any prior information regarding any sexual misconduct investigations involving that new hire. This information was found in the file review of several officers previously employed by an institution or prior law enforcement when the Auditor read the background investigator's report while conducting the file review of 11 security staff members.

**Does Not Meet (b):** The facility did not provide an example or documentation of proof that the sexual misconduct questions are asked when considering the promotion of staff either in a written form, evaluations or during interviews. Additionally, these same misconduct questions must be asked in any written self-evaluations conducted as part of reviews of current employees. The facility must provide the Auditor with examples of the sexual misconduct questions being asked and documented prior to promotion or during evaluation reviews of current employees during the CAP period.

**Corrective Action (b):** On March 22, 2023, the Auditor accepted the CAP as presented by the CCDC. On May 5, 2023, the facility provided a blank copy of a newly established PREA Questionnaire that required staff to answer the sexual misconduct questions prior to promotions and during annual evaluations. The Auditor acknowledged the use of the new form but requested examples be provided where the questions were asked and answered. On June 14, 2023, the facility provided six examples of staff answering the sexual misconduct questions. However, the Auditor could not differentiate between the PREA Questionnaires that were used during a promotional process to the ones that may have been used during an employee's annual review evaluation. The Auditor requested the facility clarify the purpose (new hire, promotion, evaluation) for these submitted PREA Questionnaires. On June 23, 2023, the facility provided a revised PREA Questionnaire that included check boxes to identify for what reason the questions were asked. On July 3, 2023, the facility provided a memorandum as requested by the Auditor identifying purpose for each of the previous six examples of the PREA Questionnaire provided. These six examples were completed as a result of employee annual reviews. The facility indicated no new promotions had occurred during the CAP period. The Auditor accepted these documents and responses as evidence that the agency directly asks the sexual misconduct questions in any written self-evaluations and prior to any promotions. The standard is now compliant.

#### **§115. 51 - Detainee reporting**

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

#### **Notes:**

(b) CCDC Policy 118.0 states that, "the agency shall also provide, and the facility shall inform the detainees of, at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request."

The CCDC utilizes the DHS/OIG hotline as their outside reporting entity for ICE detainees being held in their facility. The facility handbook provides the contact information for the DHS/OIG as the detainee outside reporting entity regarding allegations of sexual abuse. The DHS/OIG poster states that the detainee may remain anonymous when making a report if they choose. While conducting the facility tour, the Auditor attempted to contact the DHS/OIG through use of a phone located in designated housing unit for ICE detainees. The Auditor was unable to connect a call to the OIG Hotline. With assistance from the PSA Compliance Manager, multiple additional calls to the OIG Hotline were attempted but the calls could never be completed, although it was confirmed that the phone system was in working order.

**Does Not Meet (b):** The facility has not demonstrated a call can be successfully made to the DHS/OIG from inside the facility using detainee phone devices. The facility must provide at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request. The facility must provide evidence that a call is successfully completed from the housing units to the DHS/OIG by documenting the time and date that the successful call was made, who made the call, location the call was placed from, and the name of the DHS/OIG call taker.

**Corrective Action (b):** On March 22, 2023, the Auditor accepted the CAP as presented by the CCDC. On March 22, 2023, the facility provided documentation of a successful call being placed to the DHS/OIG on March 16, 2023, at 1037 hours. The call was generated from the designated detainee housing unit 5B pod. The call was initiated by the PSA Compliance Manager and the call taker's identity was documented. The Auditor accepted these documents as evidence that the facility is capable of providing at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request. The standard is now compliant.

### §115. 53 - Detainee access to outside confidential support services

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

**Notes:**

(d) The Policy also states that, "The facility shall inform detainees, prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws." The PSA Compliance Manager stated that the facility would make detainees aware of these services and the extent to which they are monitored by posting the information in the housing dorms and listing the information in the facility handbook and that all calls are potentially monitored and recorded unless stated otherwise on the posting. The Auditor observed these notices posted on the housing dorms by the telephones. While the Ester House pamphlets posted on the housing unit wall were in both English and Spanish, they did not discuss the level of confidentiality nor that communications are confidential. In addition, the facility handbook contradicts the guidelines the CCSO agreed to in the MOU with the Esther House.

**Does Not Meet (d):** This provision of the standard states that each facility shall inform detainees, prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The facility handbook states that all calls are potentially monitored and recorded unless stated otherwise on the posting. This is a notification to detainees as to the level in which calls to outside services are monitored. However, The CCSO has agreed to allow survivors to speak with an advocate confidentially in person or by phone in accordance with the MOU that was entered into. The facility must take a position one way or the other and either correct the facility handbook to mirror the advocate MOU or update the MOU to agree with the facility handbook. Additionally, the facility must inform detainees the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

**Corrective Action (d):** On March 22, 2023, the Auditor accepted the CAP as presented by the CCDC. On March 22, 2023, the facility provided a revised version of the Facility Handbook that informs the detainees that calls to the rape crisis advocate will not be monitored or recorded. This procedure mirrors that of the written agreement between the Esther House and the Cabarrus County Sheriff's Office. The Auditor accepted this revision as proof of compliance regarding the conflicting information between the Facility Handbook and Advocate MOU. However, the facility still needed to address informing detainees the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory North Carolina reporting laws. On June 14, 2023, the facility provided documentation that sexual abuse will be reported to the appropriate local law enforcement agencies pursuant to the North Carolina mandatory reporting laws, NC G.S. § 7B-307. The facility added this information to the facility's detainee handbook and added it to the detainee training. The Auditor accepted these documents as evidence that the facility informs detainees prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The standard is now compliant.

### §115. 61 - Staff reporting duties

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

(a)(b)(c)(d) CCDC Policy 118.0 states that the "facility shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in a facility; retaliation against detainees or staff who reported or participated in an investigation about such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. The agency shall review and approve facility policies and procedures and shall ensure that the facility specifies appropriate reporting procedures, including a method by which staff can report outside of the chain-of-command." The policy further states that "staff members who become aware of alleged sexual abuse shall immediately follow the reporting requirements set forth in the agency's and facility's written policies and procedures. Apart from such reporting, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions." CCDC Policy 118.0 also states, "Employees and contractors and volunteers who have contact with inmates will be trained to report any incident of sexual abuse or harassment, to include suspected incidents, immediately to their supervisor. Employees will be required to submit an Incident Report to their supervisor in these cases. Volunteers and contract employees will verbally inform their supervisor who will, in turn, complete the Incident Report. Exceptions will be authorized when an employee, volunteer, or contractor has reason to believe supervisory staff may be involved in the incident or suspected incident/activity. In these cases, the employees, contractors, or volunteers will submit the report to the next highest ranking official in their chain-of-command, by-passing their supervisor. Incident Reports will be immediately reviewed and forwarded to the detention center's assigned PREA Coordinator so that an appropriate investigation can be initiated as outlined in the procedures outlined herein." The PSA Compliance Manager indicated that staff are aware that they are to report immediately any knowledge, suspicion, or information regarding sexual abuse, retaliation, or staff neglect. She also stated that staff can report incidents of sexual abuse

outside their chain of command by going to the PSA Compliance Manager. The PSA Compliance Manager further indicated that the facility does not house juvenile detainees or vulnerable adults. However, if they did run into that situation, she stated that she is aware that Social Services must be called. All nine officers interviewed stated that they would report immediately to their supervisor and would limit the information to those with a need-to-know. One officer also indicated they he could report sexual abuse to the PSA Compliance Manager. The AJA indicated that the facility would report all sexual abuse allegations to the ICE Field Office and CCSO and if an allegation were to involve a vulnerable adult detainee, the AJA stated that he or his designee would notify the Cabarrus Human Services Department. The facility provided an email from the Atlanta Field Office FOD acknowledging the review and approval of CCDC Policy 118.0. The facility reported there were no allegations of sexual abuse during this audit period, as there were no detainees housed during the audit period.

**Does Not Meet (a):** This standard requires that reporting procedures must include a method by which staff can report outside of the chain of command. The CCDC Policy 118.0 states that the facility policy and procedure, "shall ensure that the facility specifies appropriate reporting procedures, including a method by which staff can report outside of the chain-of-command" but does not specify what that outside method of reporting is, only that staff can report to the next highest ranking official in their chain of command. The facility must identify an appropriate outside reporting method for staff to report sexual abuse, and update CCDC Policy 118.0 to include this information. Staff must be advised of this reporting method.

**Corrective Action (a):** On March 22, 2023, the Auditor accepted the CAP as presented by the CCDC. On March 22, 2023, the facility provided a revised version of their PREA/SAAPI policy, CCDC 118.0 and again on May 5, 2023. The revision indicated that the facility's staff may report sexual abuse outside the chain of command by contacting the Office of the Inspector General. The Auditor accepted this method of reporting outside the chain of command for staff. However, the facility did not show how jail staff had been advised of this reporting method. On June 14, 2023, the facility provided a copy of a report that included 360 names of Cabarrus County Sheriff personnel that acknowledged the review of the most recent version of the facility's PREA/SAAPI policy 118.0. The Auditor accepted this documentation as evidence that jail staff has been advised and acknowledges the method of reporting outside the chain of command. The standard is now compliant.

## §115. 86 - Sexual abuse incident reviews

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

### Notes:

(a)(b)(c) CCDC Policy 118.0 states, "The facility shall conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and, where the allegation as not determined to be unfounded, prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the agency PSA Coordinator. The review team shall consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility. The facility shall conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the facility administrator, Field Office Director or his or her designee, and the agency PSA Coordinator."

The CCDC provided a memo dated October 31, 2022, signed by the JA/OIC, indicating that the CCDC has had no sexual abuse allegations reported as there were no detainees housed at the facility within the audit period; therefore, there were no incident reviews conducted for the Auditor to review. The interview with the PSA Compliance Manager indicated that the incident review team looks at procedures, facts, and what may have contributed to the incident. She explained that the team consists of the investigator, JA/OIC, AJA, HSA, and PREA Compliance Manager. The interview with the AJA indicated that an incident review would be conducted at the conclusion of every sexual abuse investigation. Furthermore, the AJA indicated that the facility would conduct an annual review of all sexual abuse investigations and incident reviews to improve sexual abuse intervention, prevention, and response. The PSA Compliance Manager also indicated that the facility would prepare a negative annual report if the facility had not received any reports of sexual abuse. The facility provided an ICE Negative Report as proof of compliance.

**Does Not Meet (c):** The CCDC has reported no instances of sexual abuse involving ICE detainees during the audit period. The facility policy states, and the standard requires, "If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the facility administrator and Field Office Director or his or her designee, and the agency ICE PSA Coordinator." The facility has provided a negative report indicating no instances of sexual abuse during the audit period to the Auditor for compliance

review. However, there is no documentation to indicate the facility of the transmission of the report to the facility administrator, FOD, or PSA Coordinator. To become compliant, the facility must send the negative report to the facility administrator, FOD and the agency PSA Coordinator. This documentation must be provided to the Auditor for compliance review.

**Corrective Action (c):** On March 22, 2023, the Auditor accepted the CAP as presented by the CCDC. On March 22, 2023, the facility provided a copy of an email chain generated from the assigned ICE 287(g) Program Manager for the CCDC to the Atlanta Field Office FOD, informing him of the CCDC Negative Report that was attached. The Auditor accepted this documentation as partial proof of compliance with 115.86. The Auditor requested verification that the agency PSA Coordinator had also been copied as well. On May 5, 2023, the facility provided an email chain from the ICE Program Manager to the Agency PSAC with the negative report attached. The PSAC acknowledged receipt of this report. The Auditor accepted this documentation as evidence that indicates the facility had provided the report to the appropriate Agency members. The standard is now compliant.

**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.

Ron Kidwell

July 19, 2023

**Auditor's Signature & Date**

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

July 30, 2023

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

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

July 25, 2023

**Program Manager's Signature & Date**

# PREA Audit: Subpart A

## DHS Immigration Detention Facilities

### Audit Report



# Homeland Security

#### AUDIT DATES

<b>From:</b>	1/10/2023	<b>To:</b>	1/12/2023
<b>Name of auditor:</b>	Ron Kidwell	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	409-866-(b) (6), (b) (7)(C)

#### PROGRAM MANAGER INFORMATION

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

#### AGENCY INFORMATION

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

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

#### INFORMATION ABOUT THE FACILITY BEING AUDITED

##### Basic Information About the Facility

<b>Name of facility:</b>	Cabarrus County Jail
<b>Physical address:</b>	40 Corban Ave, SE Concord, NC 28026
<b>Mailing address: (if different from above)</b>	PO Box 790, Concord, NC 28025
<b>Telephone number:</b>	704-920-3132
<b>Facility type:</b>	IGSA
<b>PREA Incorporation Date:</b>	2/24/2020

##### Facility Leadership

<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Captain
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	704-920-(b) (6), (b) (7)(C)
<b>Name of PSA Compliance Manager:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	PREA Coordinator
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	704-920-(b) (6), (b) (7)(C)

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<b>Form Key:</b>	29
<b>Revision Date:</b>	01/06/2023
<b>Notes:</b>	Click or tap here to enter text.

## NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS

**Directions:** Discuss the audit process to include the date of the audit, names of all individuals in attendance, audit methodology, description of the sampling of staff and detainees interviewed, description of the areas of the facility toured, and a summary of facility characteristics.

The U.S. Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of the Cabarrus County Jail, also known as Cabarrus County Detention Center (CCDC), operated by the Cabarrus County Sheriff's Office, was conducted from January 10-12, 2023, by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor, Ron Kidwell employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by the ICE PREA Program Manager (PM), (b) (6), (b) (7)(C) and Assistant Program Manager (APM), (b) (6), (b) (7)(C), both DOJ and DHS certified PREA Auditors. The Program Manager's role is to provide oversight to the ICE PREA audit process and liaison with the ICE Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU) during the audit report review process. The purpose of the audit was to determine compliance with the DHS PREA Standards during the audit period of February 24, 2020, through January 12, 2023. This is the first DHS PREA audit conducted for CCDC.

CCDC is in Concord, Cabarrus County, located in the southcentral region of North Carolina. This city is approximately 25 miles north of Charlotte. The city of Concord and the county of Cabarrus has a total population of 333,500. The Inter-governmental service agreement (IGSA) for the detention of ICE detainees is between the Sheriff of Cabarrus County and DHS ICE. The facility's housing capacity is 665. DHS ICE contracts with CCDC to hold adult male detainees under the "jail enforcement 287 (g) program". The facility also holds county pre-trial and sentenced inmates. At the time of the on-site audit the facility's ICE detainee population was zero. The facility has separate housing for ICE detainees and would further separate detainees by custody level based on prior jail experience and criminal history. However, CCDC has not held an ICE detainee since 2018. Since there were no ICE detainees housed at the facility and the ADP was zero consistently since 2018, there were no detainee interviews conducted, no detainee records to review, nor any allegations to review.

The CCDC reported that they do not accept or hold any juvenile, female ICE detainees, nor family units. The facility is located and attached to the Cabarrus County Courthouse. It consists of a secure sallyport, intake/receiving area, office space, kitchen area, laundry room, control center, nursing unit, and 32 housing units. The housing unit dedicated to ICE detainees is referred to as 5B housing. The housing unit consist of two-levels that open to a common area with fixed tables, TVs, phone banks, and kiosks. The entire facility is monitored from one control center which is always staffed with one officer. The main control center controls all security doors and camera observation.

The ERAU Team Lead (b) (6), (b) (7)(C) provided the completed Pre-Audit Questionnaire (PAQ), along with supporting documents and policies for the CCDC on the secure ERAU SharePoint website approximately two weeks prior to the audit. The provided information included policies, memorandums of understanding (MOUs), training records and curricula, facility schematics, and a multitude of other related documentation and materials used to determine compliance with the DHS PREA standards. The Auditor completed the review of all documentation that was provided by the Team Lead and CCDC in the FY23 Facility Document folder prior to the site visit. The CCDC reported that they had no ICE Enforcement and Removal Operations (ERO) Officers assigned to their facility. The point of contact with ICE during this audit was an ERO 287 (g) Program Manager working out of the Atlanta Field Office.

During the Pre-Audit, the Auditor identified possible gaps or issues that needed to be followed up on and in some cases requested additional information on an Issue Log. The Issue Log is used to outline requests for response to questions that need to be clarified during the audit process. The Auditor submitted his Issue Log to the Team Lead on January 4, 2023, containing 22 requests for additional information. The Team Lead was able to facilitate this need and the facility indicated that they would make the additional information available during the on-site portion of the audit.

On Tuesday, January 10, 2023, at approximately 8:00 a.m., the Auditor met with facility staff and proceeded to the facility conference room where the in-briefing was conducted by the Auditor and ERAU Team Lead (b) (6), (b) (7)(C). Those in attendance were:

(b) (6), (b) (7)(C) Assistant Jail Administrator (AJA), CCDC Lieutenant

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

(b) (6), (b) (7)(C) School Resource Deputy, Cabarrus County Sheriff's Office (CCSO)

(b) (6), (b) (7)(C) Program Manager, ICE/ERO

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

Ron Kidwell, Certified DOJ/DHS Auditor, Creative Corrections, LLC

The meeting was designed to create a positive working relationship, place names with faces, and prepare for the next three days. At the conclusion of the meeting, the Auditor began the facility tour accompanied by the AJA. The tour took approximately two hours and covered the entire facility where an ICE detainee would have access and be housed. The Auditor observed the dedicated ICE detainee housing dorm, the booking/intake center, classroom, law library, nursing unit, recreation yard, sallyport, control room, and

restricted housing unit. During the tour, the Auditor looked at camera placements for possible blind spots and detainee to officer ratio in accordance with the housing dorms capacity occupancy, and found them to be adequate. The Auditor looked at how the toilets and shower areas were configured and determined that detainees are able to change clothes, shower, and use the restroom without being viewed by opposite-gender staff. The Auditor observed that PREA Audit Notices and DHS ICE Zero Tolerance for Sexual Abuse posters with phone and other contact information were displayed in plain sight.

The Auditor noted the number of phones in each housing dorm and that the advocacy information along with the outside reporting entity contact information was readily available in the housing areas. The Auditor also conducted a test call to the DHS Office of the Inspector General (OIG) in an attempt to prove the effectiveness of the facility's practice. However, the Auditor was not able to make contact with the DHS OIG in accordance with DHS PREA Standard 115.51. Both the Auditor and PSA Compliance Manager attempted multiple calls from the designated ICE detainee unit and the call would not go through. The call completed to a pre-recorded message stating the call could not be accepted as dialed. The Auditor did not observe the processing of any ICE detainee as there were none incoming, but observed an intake officer walkthrough the intake and classification process and the computer-generated documentation that was captured during the process.

Immediately following the facility tour, the Auditor began privately interviewing staff in an office located in the Administrator's office space. The Auditor randomly selected and interviewed nine officers using the daily duty roster provided by the PSA Compliance Manager. The Auditor chose staff from both day and night shifts, working different assignments, and with different levels of experience. The Auditor also made sure interviews were conducted with the appropriate number of female staff that corresponded with the daily duty roster. Over the 3-day period, the Auditor conducted a total of 22 interviews, including 17 specialized positions. Listed below is the sample of specialized staff positions that were interviewed: AJA/OIC (1), PSA Compliance Manager (1), Human Resources Manager (HRM) (1), Investigative Staff (2), Health Services Administrator (HSA) (1), Mental Health Care staff member (1), Training Supervisor (1), Grievance Coordinator (1), Intake Officer (1), First Line Supervisor (1), Classification Officer (1), non-security first responder (1); Retaliation Monitor (1); Incident Review Team member (1), medical contractor (1), and religious volunteer (1). The selection of specialized staff included several individuals who held multiple roles and responsibilities covered by the protocols. For example, the PSA Compliance Manager is also the Training Supervisor and is responsible for monitoring retaliation. The JA/OIC is also the Grievance Coordinator.

The Auditor requested that the PSA Compliance Manager provide the Auditor with a predetermined list of investigations, detainee files, and employee files selected by the Auditor. Those files consisted of 23 employee files: 11 security staff, 6 kitchen staff, 5 nursing staff, and 1 volunteer. As previously noted in the opening, at the time of the on-site audit, the facility's ICE detainee population was zero and CCDC has not held an ICE detainee since 2018. Therefore, there were no detainee records nor investigative files to review.

The facility provided one governing policy related to and covering procedures for their Sexual Abuse and Assault Prevention and Intervention (SAAPI) program which are part of the CCDC Policy Procedures Manual: CCDC Policy 118.0-A, PREA/SAPPI; This policy is referenced throughout this report as CCDC Policy 118.0.

On Thursday, January 12, 2023, an exit briefing was held at approximately 10:00 a.m. in the Administrator's Office area to discuss the audit findings. ERAU Team Lead (b) (6), (b) (7)(C) opened the meeting and then turned it over to the Auditor for an overview of the findings. The following individuals were in attendance:

(b) (6), (b) (7)(C) Captain, Jail Administrator (JA), CCDC

(b) (6), (b) (7)(C) Program Manager, ICE/ERO

(b) (6), (b) (7)(C) Lieutenant, AJA, CCDC

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

(b) (6), (b) (7)(C) School Resource Deputy, CCSO

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

Ron Kidwell, Certified DOJ/DHS Auditor, Creative Corrections, LLC

The Auditor thanked everyone present and the entire staff at the CCDC for their cooperation, professionalism, and hospitality during the audit. The Auditor advised those in attendance that he would be unable to provide them with the audit findings until performing a triangulation of all information collected (policy, interviews, and observations) to determine if each standard is met before making a final determination of compliance.

## SUMMARY OF AUDIT FINDINGS

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

### **Number of Standards Exceeded: 0**

#### **Number of Standards Met: 32**

§115.11 Zero-tolerance of sexual abuse  
§115.16 Accommodating detainees with disabilities and detainees who are limited English proficient  
§115.21 Evidence protocol and forensic medical examinations  
§115.22 Policies to ensure investigation of allegations and appropriate agency oversight  
§115.31 Employee, contractor, and volunteer training  
§115.32 Other Training  
§115.33 Detainee education  
§115.34 Specialized training: Investigations  
§115.35 Specialized training: Medical and mental health care  
§115.41 Assessment for risk of victimization and abusiveness  
§115.42 Use of Assessment Information  
§115.43 Protective Custody  
§115.52 Grievances  
§115.54 Third-party reporting  
§115.62 Protection duties  
§115.63 Reporting to other confinement facilities  
§115.64 Responder duties  
§115.65 Coordinated response  
§115.66 Protection of detainees from contact with alleged abusers  
§115.67 Agency protection against retaliation  
§115.68 Post-allegation protective custody  
§115.71 Criminal and administrative investigations  
§115.72 Evidentiary standard for administrative investigations  
§115.73 Reporting to detainees  
§115.76 Disciplinary sanctions for staff  
§115.77 Corrective action for contractors and volunteers  
§115.78 Disciplinary sanctions for detainees  
§115.81 Medical and mental health screening; history of sexual abuse  
§115.82 Access to emergency medical services  
§115.83 Ongoing medical and mental health care for sexual abuse victims and abusers  
§115.87 Data collection  
§115.201 Scope of audits

#### **Number of Standards Not Met: 7**

§115.13 Detainee supervision and monitoring  
§115.15 Limits to cross-gender viewing and searches  
§115.17 Hiring and promotion decisions  
§115.51 Detainee reporting  
§115.53 Detainee access to outside confidential support services  
§115.61 Staff reporting duties  
§115.86 Sexual abuse incident reviews

#### **Number of Standards Not Applicable: 2**

§115.14 Juveniles and family detainees  
§115.18 Upgrades to facilities and technologies

## PROVISIONS

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

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

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

#### **Notes:**

(c) CCDC Policy 118.0 states, "The Cabarrus County Detention Center is committed to a zero-tolerance policy for all forms of detainee sexual abuse and harassment as defined under the Prison Rape Elimination Act (PREA). Any staff member or any contractor or volunteer with direct contact with a detainee found to have been involved in any incident of detainee sexual abuse or harassment will be subject to disciplinary action, up to and including immediate termination of employment, services, or contract, consistent with Cabarrus County Detention Center policies and procedures." The facility provided an email dated January 11, 2023, where the Atlanta Field Office Director (FOD) acknowledged and approved Policy 118.0.

(d) CCDC Policy 118.0 states in part, "The facility has a Prevention of Sexual Assault Compliance Manager (PSA Compliance Manager) who shall serve as the facility point of contact for the agency PSA Coordinator. They will have sufficient time and authority to oversee facility efforts to comply with facility sexual abuse prevention and intervention policies and procedures." The PSA Compliance Manager confirmed during her interview that she is the facility's point of contact for the ICE PSA Coordinator and stated that she has sufficient time and authority to oversee the facility's efforts to comply with sexual abuse prevention and intervention policies and procedures. The PSA Compliance Manager also stated that she answers directly to the AJA/OIC. This was confirmed through the Auditor's review of the organizational chart that was provided by the facility.

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

**Outcome:** Does not Meet Standard (requires corrective action)

#### **Notes:**

(a) The facility presented CCDC Policy 118.0 as the CCDC staffing plan that states, "As described in detention center policies and procedures regarding supervision rounds, detention center staff and employees will always remain alert to their surroundings. Any noted line-of-sight problems will be immediately reported to supervisors and will, if necessary or allowable, be corrected consistent with the detention center's general maintenance procedures. The Cabarrus County Detention Facility shall ensure that it maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse."

There are (b) (7)(E) in the CCDC. (b) (7)(E). The facility retains video footage for 30 days. The facility provided employee rosters with security positions that indicated there are 8 administrators, 10 security supervisors, 8 medical personnel, 3 food service employees, 91 security staff, and 19 current vacant positions. When interviewing the AJA and PSA Compliance Manager, they indicated that the facility maintains sufficient supervision of detainees to protect against sexual abuse by conducting post checks and video monitoring. The AJA also stated that they run their staffing plan based on population and that at no time would the officer to detainee ratio be more than 2 deputies to 24 detainees.

(b) The CCDC provided post orders for each post that outlines the ICE detainee supervision responsibilities as the documented comprehensive detainee supervisions guidelines. The post orders direct security staff under general duties to conduct "security rounds in the pods (b) (7)(E)

Language in each of the Post Orders states, "the post orders are reviewed annually across the facility." However, the facility did not provide the Auditor with documented evidence of these annual reviews. The AJA was asked how the facility determines and maintains appropriate staffing levels. The AJA explained that the staffing plan is based on the capacity inmate/detainee population plan that has been pre-determined as to the detainee to officer ratio. The AJA also indicated that the post orders are reviewed on an annual basis. The PSA Manager was asked how the facility maintains sufficient supervision of detainees to protect against sexual abuse. The PSA Compliance Manager responded by stating conducting security checks, video monitoring, and staff to detainee ratios.

**Does Not Meet (b):** The facility has not provided evidence that the facility reviews the post-orders on an annual basis. The facility must provide documentation that acknowledges the review of the facility's comprehensive detainee supervision guidelines at least annually.

(c) CCDC Policy 118.0 states, "In determining adequate levels of detainee supervision and determining the need for video monitoring, the facility shall take into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of each 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, and any other relevant factors,

including but not limited to the length of time detainees spend in agency custody." When the AJA was asked how the facility takes into account each of the above listed factors, the AJA indicated that there have been no judicial findings, the physical layout of the facility has not changed, and they review any substantiated or unsubstantiated incidents of sexual abuse to determine if there was any lack of supervision that may have contributed to the incident. The AJA further stated that he would consider all recommendations made by the Incident Review Team and the length of time detainees spend in facility custody. The PSA Compliance Manager indicated that she would consider blind spots, legal issues, and incident reviews. The facility reported no instances of sexual abuse as there were no detainees at the facility during the audit period.

(d) CCDC Policy 118.0 further states, "Intermediate and upper-level supervisory staff will be required to conduct and document unannounced rounds specifically for the sole purpose of identifying and deterring staff sexual abuse and harassment. Intermediate and upper-level supervisory staff will conduct such rounds on both day and evening shifts. All documentation pertaining to such rounds will be maintained and will be made accessible to the PREA Coordinator for review or documentation purposes. Staff shall be prohibited from alerting others that these security inspections are occurring unless such announcement is related to the legitimate operational functions of the facility. Any noted issues identified by intermediate and upper-level supervisory staff will be documented on an Incident Report and will be forwarded no later than the end of the shift through the chain-of-command to the Detention Captain and to the PREA Coordinator for investigation, if necessary. The facility's detainee supervision guidelines will be reviewed at least annually." The facility provided activity logs from both day and night work that document unannounced rounds at different times of the day by the on-duty supervisor. This is accomplished by documenting the supervisor's name, date, and time on an electronic log for each security post. Also, during the on-site facility tour, the Auditor physically observed these activity logs with the necessary documentation. Documents provided by the facility also show multiple checks during each shift. Finally, when conducting an interview with a first line supervisor, he indicated that unannounced rounds must be conducted on every post each shift and that the rounds must be at different times of the day and documented on the activity log.

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

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

**Notes:**

The CCDC provided a memorandum dated October 31, 2022, signed by the JA/OIC indicating that the CCDC does not house juvenile or family units for ICE. The completed PAQ indicates no juvenile detainees have been held at CCDC within the audit period, and during conversations with staff and the AJA, they confirmed that the facility does not house or accept juvenile ICE detainees. During the on-site portion of this audit, there was no indication or evidence observed by the Auditor that juvenile detainees are housed at this facility.

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

**Outcome:** Does not Meet Standard (requires corrective action)

**Notes:**

(b)(d) CCDC Policy 118.0 states, "Cross-gender pat-down searches of male detainees shall not be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances. Cross-gender pat-down searches of female detainees shall not be conducted unless in exigent circumstances." Additionally, CCDC Policy 118.0 states, "All cross-gender pat-down searches shall be documented." The facility provided a memorandum indicating there had been no instances during the audit period where CCDC staff had conducted a cross-gender pat-down search. The Auditor interviewed nine random officers, seven male and two female. During officer interviews, both male and female staff conveyed they are aware that only male officers may conduct searches of male detainees, barring any extenuating circumstances which would have to be documented. They all indicated that they had never experienced a situation where there was a need or exigent circumstance to search a detainee of the opposite gender. However, they reported if an incident occurred it would be immediately documented.

(c) CCDC houses no female detainees, therefore, this provision is not applicable.

(e)(f) CCDC Policy 118.0 states, "Cross-gender strip searches or cross-gender visual body cavity searches shall not be conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners." Additionally, Policy 118.0 states in part that "all strip searches and visual body cavity searches shall be documented." During officer interviews, both male and female staff conveyed they are aware that only male officers may conduct strip searches of male detainees, barring any extenuating circumstances which would have to be documented. They all indicated that they had never experienced a situation where there was a need or exigent circumstance to search a detainee of the opposite gender or to conduct a visual body cavity search. However, they reported if exigent circumstances occurred where an opposite-gender strip search or body cavity search was necessary, then it would be immediately documented. The HSA indicated that medical staff would not perform a strip search or body cavity search. If a body cavity search were necessary, that detainee would be sent out to the local hospital for the search to be conducted. The facility provided a memorandum indicating there had been no instances during the audit period where CCDC staff had conducted cross-gender strip searches or body cavity searches. The Auditor confirmed during random officer interviews their knowledge that the search would have to be documented. The facility does not accept nor house female or juvenile ICE detainees.

(g) CCDC Policy 118.0 states that "detainees will be able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. Staff of the opposite gender will announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing." During the on-site facility tour, the Auditor observed the dormitory bathroom layout which included full length shower curtains, half wall partitions, and institutional toilets located inside the cells. Female staff present during the facility tour conveyed to the Auditor they would make an opposite gender announcement prior to entering a dorm had there been detainees present. The Auditor observed that all camera surveillance footage is pixelated in the sensitive areas such as the restrooms and shower areas. The Auditor asked nine random officers during interviews what steps are taken to allow detainees to privately shower, use the restroom, and change clothes. All nine officers indicated they would announce themselves prior to entering the space where detainees are permitted to be in a state of undress. Several officers also indicated that they would inform the detainee to stay in the shower or close the individual cell door. Furthermore, several officers stated that the cameras are pixelated in those areas where detainees would be showering and using the restroom. There were no detainees present at the time of the on-site audit. Therefore, the Auditor was unable to obtain detainee perspective on privacy issues.

(h) This facility is not a Family Residential Facility; therefore, this provision is not applicable.

(i) CCDC Policy 118.0 states that "the facility shall not search or physically examine a detainee for the sole purpose of determining the detainee's genital characteristics. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a standard medical examination that all detainees must undergo as part of intake or other processing procedure conducted in private, by a medical practitioner." Officers were asked if they had ever conducted or witnessed a search or physical examination to determine a detainee's gender and all nine officers interviewed indicated that they had not conducted nor witnessed such a search. The AJA confirmed during his interview there were no detainees housed at the facility during the audit period.

(j) CCDC Policy 118.0 states that "security staff will be trained in proper procedures for conducting pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex detainees. All pat-down searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and agency policy, including consideration of officer safety." The Auditor asked for the training platform or training curriculum for cross-gender and transgender searches prior to the on-site visit and during the on-site visit. The Auditor did not receive the requested documentation. When conducting interviews with nine officers, the majority of the officers indicated that they would request that an officer of the same gender pat-search the detainee even if it involved calling an officer off the street to perform the search. They also indicated that when confronted with searching a transgender detainee, the detainee would be asked who they preferred to be searched by. When describing how they conduct pat-down searches, the officers stated that they would use the quadrant method utilizing the back or blade of their hand. They indicated that they would inform the detainee of what was going to happen during the search so that the detainee is aware. Several officers referred to having the detainee pull the clothing away from their body to possibly shake any contraband loose. The training supervisor was asked if officers are trained in the proper procedures for conducting pat-down searches, including cross-gender and transgender pat-down searches and he confirmed that they were. After further conversations with the AJA and PSA Compliance Manager, the Auditor determined that the facility has not sufficiently trained their staff in the proper procedures for conducting cross-gender and transgender pat-down searches.

**Does Not Meet (j):** Based on staff interviews and no documentation to provide evidence of searches training, the facility does not meet provision (j) of this standard. The facility must train all CCDC security staff on all aspects of cross-gender pat-down searches, including searches of transgender and intersex detainees. The facility must provide the Auditor with the training curriculum and documentation that all CCDC security staff have acknowledged receiving the training for compliance review.

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

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

#### **Notes:**

(a) CCDC Policy 118.0 states that the "facility shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency and facility shall ensure that any written materials related to sexual abuse are provided in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency or facility is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title 11 of the Americans with Disabilities Act, 28 CFR 35.164." The facility's intake procedure is to play a PREA educational video on a tablet that has closed caption in English and Spanish for detainees that may be hearing impaired, and the video has audio in both English and Spanish for those detainees that may be visually impaired. The facility would also issue all detainees a facility handbook both in English and Spanish that describes the definitions of sexual abuse, how to report sexual abuse, the right to be free from retaliation, how to protect yourself, and not to be disciplined for

reporting a sexual abuse allegation. The facility handbook where practicable, provisions, and materials related to sexual abuse or assaults shall be translated in writing for detainees who are identified as limited English proficient (LEP). Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate. Both the Intake Officer and Classification Officer informed the Auditor that a TTY for the deaf is available and, if needed, arrangements can be made through their language line services contract to provide sign language assistance. The Intake officer also indicated that as needed, the facility can obtain the ICE National Detainee Handbook and the DHS-prescribed ICE Sexual Abuse Awareness (SAA) information pamphlet online through the ICE website in PDF form and print out the appropriate handbook or pamphlet.

When conducting interviews with nine officers, they were asked what they would do if they encountered a detainee that was blind, deaf, or intellectually disabled and the officers indicated that deaf detainees could read the closed caption video and handbook, or they could arrange for a sign language interpreter. When discussing blind detainees, the officers indicated they could provide the information by reading the SA-API information from the facility handbook to the detainee, and with the use of an interpreter through the language line if necessary. Finally, regarding those detainees that were intellectually disabled, the officers indicated they would try to communicate on a level of understanding for the detainee or contact the medical section for assistance; medical personnel would then assess the detainee's level of comprehension and determine the appropriate method to be used to relay, ultimately ensuring the information was delivered in a manner the detainee could understand. The AJA was interviewed and asked if his facility has established procedures to provide detainees with disabilities the ability to participate in or benefit from all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. The AJA confirmed that the facility has procedures in place outlined in CCDC Policy 118.0 to ensure detainees with disabilities may effectively participate in the SA-API program.

(b)(c) CCDC Policy 118.0 states that "the agency and each facility shall take steps to ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient, including steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In matters relating to allegations of sexual abuse, the agency and each facility shall provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and the agency determines that such interpretation is appropriate and consistent with OHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse."

The facility handbook is provided in English and Spanish. The Auditor reviewed the facility handbook in English and observed the explanation of methods for reporting sexual abuse, prohibition against retaliation, and the right of a detainee that has been subjected to sexual abuse to receive treatment and counseling. During the on-site review, the Auditor observed the DHS ICE Zero Tolerance for Sexual Abuse poster, the ICE Detention Reporting and Information Line (DRIL) poster, and the Esther House informational assault hotline pamphlet placed on the perimeter walls of the housing dorm. The DHS ICE Zero Tolerance for Sexual Abuse posters are printed in English and Spanish and each poster states the "Report Sexual Assault Now" message in six additional languages. The Esther House informational assault hotline pamphlets are printed in English and Spanish.

The PREA video shown during intake, is displayed in both English and Spanish. The Auditor confirmed through interviews that the CCDC will make available to the detainees the ICE National Detainee Handbook, which is available in 14 languages (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Chinese, Romanian, Russian, Portuguese, Bengali, Turkish, and Vietnamese), and the DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet, which is available in 15 languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Turkish, Ukrainian, and Vietnamese). The intake officer confirmed that the facility would make available to all detainees both the facility handbook and ICE National Detainee Handbook and that all detainees are required to view the educational video before being transferred to their housing assignment. All this takes place in the intake area. If a detainee speaks a language that is not covered by the DHS-prescribed SAA Information pamphlet, the intake officer or another staff would read the SAA Information pamphlet to the detainee using an interpreter service, if necessary, or utilize a software program such as google translate to ensure they understand the SA-API information. The facility has demonstrated that they ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse for those who speak languages other than English. During his interview with the Auditor, the AJA stated that his staff has access to the CCSO's Language Line services and ERO Language Services Resource Flyer. The ERO Language Services Resource Flyer provides staff access to a website and a 24-hour language line for translation and interpretation services. He indicated that his staff is aware of the services available for those detainees that need assistance. Of the nine officers interviewed, all confirmed that the facility would not utilize detainee interpreters, unless the detainee requested the use of another detainee for interpretation, and the facility determines this is appropriate and meets policy guidelines. However, all nine officers indicated that they would not allow a detainee to interpret regarding a sexual abuse report. Both the AJA and PSA Compliance Manager confirmed these same procedures during their interviews. No LEP detainees were interviewed during this audit because the facility has not held any ICE detainees during the audit period and therefore, no detainee perspective could be captured.

### **§115.17 - Hiring and promotion decisions.**

**Outcome:** Does not Meet Standard (requires corrective action)

#### **Notes:**

(a)(b) CCDC Policy 118.0 states that "the Cabarrus County Detention Center will implement a hiring and promotions policy to assist in the prevention of sexual abuse. The detention center will not hire or promote anyone who may have contact or enlist the services of any contractor or volunteer who may have contact with detainees who has engaged in sexual abuse in a prison, detention center, lock-up or other correctional confinement facility; has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, of if the victim did not consent or was unable to consent or refuse; and/or has been civilly or administratively adjudicated to have engaged in any of the aforementioned activities." The policy further states that, "in addition, and to the extent authorized under law, Cabarrus County Detention Center will consider any incident of sexual harassment in determining whether to hire or promote anyone or to contract-with anyone who may have contact with detainees. When considering hiring or promoting staff the agency shall ask all applicants who may have contact with detainees directly about previous misconduct described in paragraph (a) of this section, in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. The agency, consistent with law, shall make its best efforts to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse."

Executive Order 10450 (Security Requirements for Government Employment), Office of Personal Management Section Part 731, and ICE Directives 6-7.0, ICE Personnel Security and Suitability Program Directive, and 6-8.0, ICE Suitability Screening Requirements for Contractor Personnel Directive, require collectively to the extent permitted by law, the agency/facility decline to hire or promote anyone who may have contact with detainees, and decline to enlist the services of any contractor, or volunteer, who may have contact with detainees, who: has engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); has been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or has been civilly or administratively adjudicated to have engaged in the activity as outlined above. The acting Unit Chief of OPR Personnel Security Operations (PSO) informed Auditors who attended virtual training in November 2021, about candidate suitability for all applicants to include their obligation to disclose: any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity.

The Human Resource Manager (HRM) was interviewed and stated that the facility does not hire nor promote anyone that has engaged in sexual abuse and that the facility acquires this information through, criminal history checks, making contact with prior institutional employers and the initial background investigation. The facility provided evidence that newly hired staff are asked the sexual misconduct questions during their background investigation conducted by CCSO when administering the mandatory polygraph. The Auditor conducted an interview with the CCSO polygrapher and requested proof that the sexual abuse questions are asked during the polygraph. The polygrapher provided the Auditor with the pre-test questions which included sexually explicit questions to include sexual abuse related questions that would capture the required misconduct questions listed in provision (a). When asked if these questions were again asked or documented when considering promoting staff and annual evaluations, the HRM stated that they are considered during any promotional process. However, the facility is not documenting that these sexual misconduct questions are asked prior to staff promotions or during their annual reviews of current employees. However, the facility's policy does address the continuing affirmative duty to disclose any sexual misconduct. The HRM indicated that when a conditional offer is made, the applicant must agree to continuing affirmative duty to disclose any such misconduct which is captured in a Minimal Standards Form that is part of the employee's file. The Auditor reviewed 11 security staff files that contained this duty to report. The HRM also indicated when they receive a completed new hire application and the applicant discloses that they have worked for another institutional employer, she requests any prior information regarding any sexual misconduct investigations involving that new hire. This information was found in the file review of several officers previously employed by an institution or prior law enforcement when the Auditor read the background investigator's report while conducting the file review of 11 security staff members.

**Does Not Meet (b):** The facility did not provide an example or documentation of proof that the sexual misconduct questions are asked when considering the promotion of staff either in a written form, evaluations or during interviews. Additionally, these same misconduct questions must be asked in any written self-evaluations conducted as part of reviews of current employees. The facility must provide the Auditor with examples of the sexual misconduct questions being asked and documented prior to promotion or during evaluation reviews of current employees during the CAP period.

(c)(d) CCDC Policy 118.0 states, "Before hiring new employees who may have contact with detainees, the Cabarrus County Detention Center will perform a criminal background records check and will make its best effort (consistent with all applicable laws) to contact prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. Those responsible for hiring or promoting any individual will be responsible for maintaining documentation that these checks and investigations have been completed. Documentation will be made available to the PREA Coordinator, upon request." The Cabarrus County Detention Center will ensure that criminal background checks are completed at least once every five (5) years of current employees and contractors who have contact with detainees, or more frequently should

county policies require otherwise. The policy further states that, "Cabarrus County Detention Center employees who are responsible for enlisting the services of any contract employees, will ensure a criminal background check has been completed on any potential contractor who may have contact with detainees. Documentation related to the background check will be maintained in the contract employee's personnel file and will be made accessible to the PREA Coordinator. The Cabarrus County Detention Center reserves the right to ask all applicants and employees who may have contact with detainees directly about previous conduct described in [provision (a)], in written applications or interviews for hiring or promotion or in any interviews or written self-evaluations conducted as part of an employee's or contractor's annual review." The Auditor conducted a file review on 23 randomly selected staff, including contractors. All 23 files indicated an initial criminal history was conducted prior to hiring. Of these 23 files reviewed, 11 had been employed for more than 5 years and their files contained a five-year updated criminal background check.

(e)(f) CCDC Policy 118.0 states, "Should any employee, applicant or contractor be found to have provided false information or to have omitted information regarding their involvement in any conduct described in [provision (a)], they will be subject to disciplinary action up to and including immediate termination. Those responsible for hiring, promoting, or reviewing employees, contractors or applicants will ensure documentation is maintained regarding any disciplinary action taken in these cases." The policy further states that, "unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. In the event the agency contracts with a facility for the confinement of detainees, the requirements of this section otherwise applicable to the agency also apply to the facility and its staff. Volunteers who may have contact with detainees will also be required to agree to a criminal background check." The HRM further stated during her interview that if a new hire provided false information or omitted certain material facts then the facility would rescind the offer letter. The Auditor was able to confirm this practice when reviewing the staff background investigations. Finally, the HRM indicated that any inquiries into prior employees by other institutional employers would be granted if the requesting agency provided a signed release from the applicant.

#### **§115.18 - Upgrades to facilities and technologies.**

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

##### **Notes:**

(a)(b) The CCDC reported no completion of any substantial expansion or modification of the existing facility within the audit period on the PAQ. The CCDC also provided a memorandum dated October 31, 2023, signed by the AJ/OIC, explaining the facility had not made any substantial expansions or modifications to the existing facility or electronic monitoring system since May 6, 2014. This was further confirmed during interviews with the AJA and PSA Compliance Manager; therefore, these provisions are not applicable.

#### **§115.21 - Evidence protocols and forensic medical examinations.**

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

##### **Notes:**

(a) CCDC Policy 118.0 states, "To the extent that the agency or facility is responsible for investigating allegations of sexual abuse involving detainees, it shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol shall be developed in coordination with DHS and shall be developmentally appropriate for juveniles, where applicable." The facility provided a memorandum dated October 31, 2022, signed by the JA/OIC, that indicates that the CCDC uses the CCSO to investigate allegations of sexual abuse and that CCSO Policy addresses a uniform protocol for the collection of evidence. The memo specifies that the CCSO conducts all criminal sexual assault investigations and use a uniform evidence protocol in coordination with what is developmentally appropriate for juveniles. The memo also states that if there is a conflict of interest then the State Bureau of Investigation would conduct the investigation. The facility provided an email dated January 11, 2023, from the ICE Atlanta Field Office FOD confirming that the CCSO Policy has been developed in coordination with DHS. The Auditor spoke with a sex crime investigator with the CCSO while on-site, the designated investigator at CCDC, who confirmed the practices and explained the agency's standard operating procedure uniform evidence protocol that covered evidence collection and chain of custody. The investigator also informed the Auditor that if a forensic medical exam was necessary the detainee would be taken to the Atrium Health Forensic Department that covers emergency rooms in Cabarrus County North Carolina. The facility reported no instances of sexual abuse during the audit period. Interview with the investigator confirmed his knowledge of uniform evidence protocols, consistent with the PREA Specialized Investigations Training that he had received. The investigator explained that the CCSO is contacted and obligated to conduct a criminal investigation for all sexual abuse allegations and would lead the evidence collection related to any physical evidence required to be collected. The facility would be responsible for preserving evidence until an CCSO investigator arrived on the scene. The PSA Compliance Manager who is also capable and trained to conduct administrative sexual abuse investigations confirmed this during her interview that the evidence protocols utilized at CCDC are those described by the investigator and are in accordance with agency Policy 11062.2.

Agency policy 11062.2, Sexual Abuse and Assault Prevention and Intervention, outlines the agency's evidence and investigation protocols. Per policy 11062.2, when a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility's incident review personnel in accordance with OPR policies and procedures. OPR does not perform sexual assault crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or local law enforcement agency. The OPR will coordinate with the ICE ERO 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/OIG, OPR, or the local law enforcement agency, the ERO AFOD would assign an administrative investigation to be conducted.

(b) CCDC Policy 118.0 states, "The agency and each facility developing an evidence protocol referred to in paragraph (a) of this section, shall consider how best to utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling to appropriately address victims' needs. Each facility shall establish procedures to make available, to the full extent possible, outside victim services following incidents of sexual abuse; the facility shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall provide these services by making available a qualified staff member from a community-based organization, or a qualified agency staff member. A qualified agency staff member or a qualified community-based staff member means an individual who has received education concerning sexual assault and forensic examination issues in general. The outside or internal victim advocate shall provide emotional support, crisis intervention, information, and referrals."

The CCDC provided an MOU with the Esther House of Stanly County. This MOU acknowledges the services requested regarding advocacy to detainees housed in the CCDC. The Auditor contacted the Esther House and spoke to the Director who informed the Auditor that they provide advocacy to incarcerated individuals, including detainees if they were housed at the CCDC. The Director also confirmed that her agency would provide advocacy during and after the medical forensic examination, if requested by the detainee victim. Finally, the Director informed the Auditor that, if necessary, a medical forensic examination would be performed at any hospital emergency room in the counties of Stanly or Cabarrus because that is where Sexual Assault Nurse Examiner (SANE) nurses are employed and located. When interviewing the PSA Compliance Manager, she indicated that they provide detainee victim advocacy through the Esther House and that all contact information is made available to the detainees at the facility; additionally, she confirmed detainee victims would be taken to Atrium Hospital emergency room for a SANE examination.

(c) CCDC Policy 118.0 states, "Where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the facility shall arrange for an alleged victim detainee to undergo a forensic medical examination by qualified health care personnel, including a Sexual Assault forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel." The Auditor interviewed the Forensic Nursing Program Coordinator (FNPC) for Atrium Health. The FNPC stated that they would conduct all forensic medical examinations (FME) of detainees being held at the CCDC if necessary. The FNPC confirmed that those services are offered 24 hours a day 365 days a year because she always has SANE nurses on-call. Finally, the FNPC stated that her office covers all the emergency rooms in both Stanly and Cabarrus counties. The HSA confirmed that the detainee's consent is required for the FME. The facility reported no incidents of sexual abuse, including those that required an FME. As there were no detainees at CCDC during the on-site audit, there were no detainees to interview.

(d) CCDC Policy 118.0 states, "As requested by a victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, shall be allowed for support during a forensic exam and investigatory interviews." The Auditor confirmed this procedure through interviews with the PSA Compliance Manager and the Director of the Esther House. This service is also listed in the MOU with the CCDC.

(e) CCDC Policy 118.0 states, "To the extent that the agency is not responsible for investigating allegations of sexual abuse, the agency or the facility shall request that the investigating agency follow the requirements of paragraphs A through D of this section." The CCDC provided a memorandum, signed by the JA/OIC indicating that the CCSO conducts all criminal investigations. The memo explains that the CCSO investigators will comply with DHS Standard 115.21 section (a) through (d) of this provision. In addition, the PSA Compliance Manager provided an email requesting that the CCSO Criminal Investigation Bureau (CIB) follow Standard 115.21 (a) through (d) which the supervisor agreed to. An interview with the CCDC investigator confirmed the facility follows the requirements of this section.

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

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

#### **Notes:**

(a) CCDC Policy 118.0 states, "The agency shall establish an agency protocol and shall require each facility to establish a facility protocol, to ensure that each allegation of sexual abuse is investigated by the agency or facility or shall be referred to an appropriate investigative authority. The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse." The AJA explained that when a sexual abuse allegation is made the on-duty supervisor would contact the CCSO dispatch and request an investigator respond to the CCDC. The CCDC provided a memorandum signed by the JA/OIC stating the CCSO conducts all criminal investigations. The AJA further indicated that if it is determined that the allegation is not criminal, then a facility investigator may begin an administrative investigation, or the detective could continue with the administrative investigation. Both the investigator and PSA Compliance Manager are trained and capable of conducting the administrative investigation, but the decision on who conducts the investigation is up to the Sheriff. The investigation is reviewed by the JA/OIC, Sheriff, and PSA Compliance Manager before being sent to the FOD. The investigator indicated that he is trained and capable of conducting either a criminal or administrative investigation. The CCDC provided a memorandum signed by the JA/OIC dated October 31, 2022, indicating there were no instances of alleged sexual abuse by detainees reported during the audit period, which was also confirmed through interviews with the AJA and PSA Compliance Manager.

(b) CCDC Policy 118.0 states in part, "the agency shall ensure that the agency and facility protocols required by paragraph (a) of this section, include a description of responsibilities of the agency, the facility, and any other investigating entities; and require the documentation and maintenance for at least five years, of all reports and referrals of allegations of sexual abuse." The PSA

Compliance Manager stated during her interview that reports and documentation of referrals for investigation of sexual abuse allegations will be maintained for at least five years. The facility provided a copy of the "PREA Incident Checklist" which includes a guide for the investigator as to their responsibilities when investigating a sexual abuse allegation within a confinement setting.

The agency's policy 11062.2 outlines the evidence and investigation protocols. All investigations are to be reported to the JIC, which routes allegations for assessment to determine which allegations fall within the PREA purview. The PREA allegations are then referred to DHS/OIG or OPR. DHS/OIG has the first right of refusal on all employee, volunteer, or contractor on detainee sexual abuse allegations. Once the allegation is reviewed and accepted by DHS/OIG, the OPR would not investigate so there is no possible intervention. If refused, the allegation is referred to OPR. All detainee-on-detainee allegations are referred to the OPR for assessing criminality. Once the allegation is reviewed and accepted by the OPR investigator, the investigation is conducted by OPR, who will decide on the investigative process. If OPR investigates the allegation, the investigation is conducted in accordance with OPR policies and procedures and coordination with law enforcement and facility staff. If allegations are not criminal in nature, the allegations are referred to the OPR field office or the ERO Administrative Inquiry Unit (AIU) for investigation, and the ERO AFOD would assign an administrative investigation to be completed.

(c) CCDC Policy 118.0 states in part, "the agency shall post its protocols on its website and each facility shall also post its protocols on its Web site, if it has one, or otherwise make the protocol available to the public." The CCDC provided and the Auditor reviewed both the agency website (<https://www.ice.gov/detain/prea>) and the CCDC website (<https://www.cabarruscounty.us/Government/Department/Sheriffs-Office/PREA>) that outlines the protocol regarding sexual abuse allegations involving both administrative and criminal investigations.

(d)(e)(f) CCDC Policy 118.0 states in part, "each facility protocol shall ensure that all allegations are promptly reported to the agency as described in paragraphs E and F of this section, and, unless the allegation does not involve potentially criminal behavior, are promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations. A facility may separately, and in addition to the above reports and referrals, conduct its own investigation. When a detainee, prisoner, detainee, or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the OHS Office of Inspector General, as well as the appropriate ICE Field Office Director, and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation. When a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as to the appropriate ICE Field Office Director, and to the local government entity or contractor that owns or operates the facility. If the incident is potentially criminal, the facility shall ensure that it is promptly referred to an appropriate law enforcement agency having jurisdiction for investigation. The agency shall ensure that all allegations of detainee sexual abuse are promptly reported to the PSA Coordinator and to the appropriate offices within the agency and within OHS to ensure appropriate oversight of the investigation. The agency shall ensure that any alleged detainee victim of sexual abuse that is criminal in nature is provided timely access to U nonimmigrant status information."

The facility provided a memorandum dated October 31, 2022, from the JA/OIC which states, "The Cabarrus County Sheriff's Office has not had any detainee allegations during this audit period." However, they also included in the memorandum the protocol that would be used in the event an allegation is received. This protocol states, "When a detainee, prisoner, inmate or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center (JIC), the ICE Office of Professional Responsibility (OPR), or the DHS Office of Inspector General (OIG), as well as the appropriate ICE Field Office Director, and if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation (CCSO or SBI). When a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as the appropriate ICE Field Office Director, and to the local government entity or contractor that owns or operates the facility. If the incident is potentially criminal, the facility shall ensure that it is promptly referred to an appropriate law enforcement agency having jurisdiction for investigation. The agency shall ensure that all allegations of detainee sexual abuse are promptly reported to the PSA Coordinator and to the appropriate offices within the agency and within DHS to ensure appropriate oversight of the investigation. The agency shall ensure that any alleged detainee victim of sexual abuse that is criminal in nature is provided timely access to U nonimmigrant status information."

When the Investigator was asked what external individuals or agencies the facility would report a sexual abuse allegation, he stated ICE Field Office. The AJA indicated during his interview he would notify the FOD who would then provide notification to the JIC, OPR, of all allegations.

#### **§115.31 - Staff training.**

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

#### **Notes:**

(a)(b)(c) CCDC Policy 118.0 states, "The Cabarrus County Detention Facility shall train, or require the training of and document, all employees who may have contact with immigration detainees, and all facility staff, to be able to fulfill their responsibilities under this part, including training on: the agency's and the facility's zero-tolerance policies for all forms of sexual abuse, the right of detainees and staff to be free from sexual abuse and from retaliation for reporting sexual abuse; definitions and examples of prohibited and illegal sexual behavior; recognition of situations where sexual abuse may occur; recognition of physical, behavioral, and emotional

signs of sexual abuse, and methods of preventing and responding to such occurrences; how to avoid inappropriate relationships with detainees; How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; procedures for reporting knowledge or suspicion of sexual abuse; and, the requirement to limit reporting of sexual abuse to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes."

In addition, CCDC Policy 118.0 states, "The Detention Captain/designee will ensure that refresher training is provided to employees every two (2) years. In the years when an employee is not scheduled for formal training, the Detention Captain/designee will ensure that employees review this policy. All training and policy reviews will be documented and maintained in each employee's personnel or training file for record-keeping purposes. Training records will be made accessible to the PREA Coordinator, upon request." Evidence of this training is documented and filed in each employee's personnel or training file.

The CCDC provided the PREA training curricula in a PowerPoint format for the Auditor's review which included all the required elements of training along with training rosters identifying all officers that received the initial PREA training. The facility also provided PREA refresher training histories for these employees. The Auditor reviewed 11 employee files and 11 contractor files (6-kitchen/ 5-nurses) during the document review phase and confirmed that all files that were reviewed contained evidence of the initial PREA employee training and annual refresher training. This information was confirmed and provided by the Training Supervisor during the on-site audit and during the interview. During the random staff interviews, nine officers were asked if they had received PREA training and when it occurred. All officers indicated that they had received the training during their initial training and during annual in-service training.

#### **§115.32 - Other training.**

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

**Notes:**

(a)(b)(c) CCDC Policy 118.0 states, "New detention center employees and contractors and volunteers who have with contact with detainees will receive PREA training during orientation training as described in Policy 106.0 - Employee Training Requirements and in Policy 105.0- Volunteers, respectively. (NOTE: In some cases, a contract employee's parent company will provide PREA training. In these cases, documentation of each contract employee's training will be made accessible to the PREA Coordinator, upon request.) Contractors and volunteers will receive training on the same topics [as CCDC employees outlined in 115.31] if training is received by Cabarrus County Detention Facility." The CCDC provided a PowerPoint presentation slide that contained information regarding their zero-tolerance policy and the ways to report sexual abuse along with how to detect, respond to and prevent sexual abuse. The Training Supervisor was asked during her interview if contractors and volunteers that have contact with detainees are provided with the agency's zero-tolerance policy and how to report sexual abuse. The Training Supervisor indicated that volunteers and contractors receive the training prior to providing any services. The facility also provided signed PREA training acknowledgement forms for both contractors and volunteers. The Auditor interviewed a contractor and volunteer who confirmed that they had received the PREA training and that they receive annual refresher training. The Auditor reviewed training records for 1-volunteer confirming PREA training had been completed.

#### **§115.33 - Detainee education.**

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

**Notes:**

(a)(b)(c) CCDC Policy 118.0 states, "During the intake process the Cabarrus County Detention Facility will ensure the detainee is educated on the following: the agency's and the facility's zero-tolerance policies for all forms of sexual abuse and includes (at a minimum) instruction on; prevention and intervention strategies; definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity; explanation of methods for reporting sexual abuse, including to any staff member, including a staff member other than an immediate point-of-contact line officer e.g., the compliance manager or a mental health specialist), the DHS Office of Inspector General, and the Joint Intake Center; information about self-protection and indicators of sexual abuse; prohibition against retaliation, including an explanation that reporting, sexual abuse shall not negatively impact the detainee's immigration proceedings; and the right of a detainee who has been subjected to sexual abuse to receive treatment and counseling." CCDC Policy 118.0 further states, "consistent with PREA standards, the Cabarrus County Detention Center will provide detainee education in formats accessible to all detainees, including those who are limited English proficient, learning disabled, illiterate, or who are verified by the health care provider as being deaf, visually impaired, or disabled. The PREA Coordinator/designee will be responsible for arranging assistance in these cases with local service providers, i.e., associations for deaf and hearing-impaired persons, certified translators, learning specialists, etc. The detention center will not rely on detainee interpreters, detainee readers, or any other types of assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the detainee victim's safety, the performance of first responder duties, or the investigation of a detainee's allegations. The PREA Coordinator may request a detention officer or other member of the Sheriff's Office to translate/interpret, provided he/she has been evaluated and approved by the Cabarrus County Title VI Coordinator to translate and/or interpret." The policy also states that "documentation related to training provided to detainees, to include their receipt of any written literature, will be maintained in the detainee's confinement record."

The Intake Officer confirmed during his interview that all the topics listed above are captured in the CCDC PREA orientation video detainee educational training which is shown during the intake process. The video can also be watched on the commissary kiosk presented in both in English and Spanish. The Auditor confirmed the video covered prevention and intervention, definitions and

examples, and methods for reporting sex abuse. The video also covered information about self-protection, prohibition against retaliation, and the right to receive treatment and counseling. The video does not include the DHS/OIG contact information nor advisement to the detainees that reporting an allegation of sexual abuse will not have a negative impact on the detainee's immigration proceedings; however, this information is provided to the detainees through both the facility handbook and ICE National Detainee Handbook. The facility's process is for each detainee to receive a facility handbook, an ICE National Detainee Handbook (in a language of their understanding), and the DHS-prescribed SAA Information pamphlet. The DHS-prescribed SAA Information pamphlet is available in 15 languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Turkish, Ukrainian, and Vietnamese). The facility also posts the Esther House informational assault hotline advocate pamphlet on the dorm wall in both English and Spanish. The Intake Officer explained during his interview that he would have the detainee acknowledge watching the video and receiving the DHS-prescribed SAA Information pamphlet by signing a Detainee PREA Acknowledgement form. For those detainees that speak/understand languages other than English and Spanish, the CCDC provides the ICE National Detainee Handbook that is available in 14 different languages: English, Spanish, Arabic, Bengali, Chinese, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Turkish, and Vietnamese.

The video audio is available for those detainees that are visually impaired and contains closed captioning for those detainees that are hard of hearing or deaf. The Auditor reviewed the facility handbook and the ICE National Detainee Handbook in English and observed the necessary contact information regarding the DHS/OIG and ICE DRIL was present in both resources. He also verified that if needed, a TTY is available in the intake area for deaf detainees and the facility could secure the services of a sign language interpreter if necessary. If a detainee needed another language than English or Spanish, the Intake Officer explained that they can utilize computer software such as google translate to convert the facility handbook and other documents into the appropriate language. The Intake Officer also stated that they would read the DHS-prescribed SAA Information pamphlet to the detainee with use of an interpreter in a language they understand. If a detainee speaks a language that is not covered by the DHS-prescribed SAA Information pamphlet, the intake officer or another staff will read the SAA Information pamphlet to the detainee using an interpreter service, if necessary, to ensure they understand the SAAPI information. The facility has demonstrated that they ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse for those who speak languages other than English. The facility also provided a memorandum signed by the JA/OIC stating that they have not conducted a detainee PREA educational orientation during this audit period, therefore, no records existed for the Auditor to review.

When conducting interviews with nine officers they were asked how they would provide the SAAPI information to a detainee that was blind, deaf, or intellectually disabled. They all indicated that deaf detainees could read the closed caption video (in English and Spanish), read the facility handbook, and ICE detainee handbook, or they could arrange for a sign language interpreter. When discussing blind detainees, the staff indicated they could provide the information through the audio of the video, or they could read the information to them, using an interpreter if necessary. Finally, regarding those detainees that were intellectually disabled the officers indicated they would contact the medical section for assistance and that the delivery method would depend on the detainee's level of comprehension and would be delivered in a manner of their understanding. Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

(d)(e) CCDC Policy 118.0 states, "Each facility shall post on all housing unit bulletin boards the following notices: the DHS-prescribed sexual assault awareness notice; the name of the Prevention of Sexual Abuse Compliance Manager; and the name of local organizations that can assist detainees who have been victims of sexual abuse." The policy further states, "the facility shall make available and distribute the DHS-prescribed, "Sexual Assault Awareness Information" pamphlet to all detainees. In addition, information about reporting sexual abuse shall be included in the agency's Detainee Handbook made available to all immigration detention facility detainees."

The Auditor reviewed the SAA Information pamphlet, the DHS ICE Zero Tolerance for Sexual Abuse posters with contact information for the facility's PSA Compliance Manager, and the consular contact informational flyer posted in the housing unit that detainees would be confined to. The Esther House Crisis Hotline contact information was also posted in the housing dorm.

(f) The Intake Officer confirmed during his interview the CCDC will issue all ICE detainees the ICE National Detainee Handbook. This handbook contains information regarding how to report a sexual abuse allegation through the reporting mechanisms provided by ICE.

#### **§115.34 - Specialized training: Investigations.**

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

#### **Notes:**

(a)(b) CCDC Policy 118.0 states, "In addition to the general training provided to all facility staff and employees pursuant to § 115.31, the agency or facility shall provide specialized training on sexual abuse and effective cross-agency coordination to agency or facility investigators, respectively, who conduct investigations into allegations into sexual abuse at immigration detention facilities. All investigations into alleged sexual abuse must be conducted by qualified investigators. The agency and facility must maintain written documentation verifying specialized training provided to investigators pursuant to this section." The CCDC provided a copy of the certificate of completion for the trained CCDC investigator. The training was through the National Institute of Corrections (NIC) dated November 16, 2022, and the certificate validates specialized training in the field of investigating sexual abuse in a confinement setting.

The Auditor interviewed the investigator who would be responsible for conducting an administrative investigation if directed. The investigator was asked what was taught in the online NIC investigator training. The investigator indicated that the training covered

investigative techniques, evidence collections, and covers all aspects to investigating sexual abuse in a confinement setting. Also, when interviewing the CCDC investigator he indicated that he had previously received training regarding cross-agency coordination concerning sexual abuse allegations made by ICE detainees. The Auditor also interviewed the PSA Compliance Manager is also trained to conduct sexual abuse administrative investigations in a confinement setting. The facility also provided her certificate of completion through the NIC.

Agency Policy 11062.2 states, "OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as, Office of Detention Oversight staff, and other OPR staff, as appropriate." The Auditor reviewed the ICE OPR Investigating Incidents of Sexual Abuse and Assault training curriculum and found the curriculum to cover in-depth investigative techniques, evidence collection, and all aspects to conduct an investigation of sexual abuse in a confinement setting. The agency also offers Fact Finders Training, which provides information needed to conduct the initial investigation at the facility to determine if a sexual abuse incident has taken place and whether to complete an administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP; LGBTI, and disabled detainees; and an overall view of the investigative process. The agency provides the lesson plan and rosters of trained ICE/ERO/OPR investigators on OPR's SharePoint site for Auditors' review; this documentation is in accordance with the standard's requirements. The Auditor did not review any case files because the facility has had no detainees during the audit period, therefore, no incidents were reported.

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

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

#### **Notes:**

(a) ICE Health Services Corp or U.S Public Health Service (IHSC/USPHS) staff are not present at CCDC based on an interview with the AJA and HSA; therefore, this provision is not applicable to CCDC.

(b)(c) CCDC Policy 118.0 states, "The agency shall review and approve the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse in facilities where medical staff may be assigned these activities." The CCDC uses contracted medical personnel. When conducting interviews with both the HSA and mental health professional both indicated that they had received additional PREA training through their respected contracted agencies. The HSA stated that she receives additional specialized training through her company (Southern Medical Health Partners). The HSA explained that the training she received covered how to detect signs of sexual abuse, how to respond to victims of sexual abuse, to who and how to report sexual abuse, and how to preserve physical evidence. The Auditor received a certificate of completion from the HSA regarding the training. The mental health professional indicated that he received additional training in December of 2022, through another local facility for which he provides services. The Training Supervisor indicated that the medical staff receive the specialized training through their contracting medical agency, and they manage that task. The medical contractor provided training records for the HSA that confirmed she had received the necessary training. The facility provided an email dated January 11, 2023, where the Atlanta Field Office Director (FOD) acknowledged and approved Policy 118.0.

#### **§115.41 - Assessment for risk of victimization and abusiveness.**

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

#### **Notes:**

(a)(b) CCDC Policy 118.0 states, "The facility shall assess all detainees on intake to identify those likely to be sexual aggressors or sexual abuse victims and shall house detainees to prevent sexual abuse, taking necessary steps to mitigate any such danger. Each new arrival shall be kept separate from the general population until he/she is classified and may be housed accordingly. The initial classification process and initial housing assignment should be completed within twelve (12) hours of admission to the facility."

The Classification Officer explained that if a detainee was to be brought into the facility, they have a specific room to process a detainee under the 287(g) program and that is where the intake process and the classification process would take place. In addition, this is also where the detainee would be risk screened for possible victimization or abusive behavior. The detainee is booked in one at a time and if there are multiple detainees then they would be placed in individual intake cell, awaiting the process. The Classification Officer would request and receive all ICE collected information regarding the detainee including a background criminal history check. The Classification Officer would determine a housing assignment for the detainee after the completion of the risk screening form. The PREA risk screening questions, consisting of yes and no questions, are asked by the Classification Officer along with the initial medical screening questions. The security classification criteria are either minimum, medium, or maximum custody levels. All detainees are housed accordingly with other like detainees. Once the intake and classification processes are complete, the detainee is placed in the designated ICE housing unit if appropriate. The Classification Officer stated that if a detainee answers yes to two or more risk screening questions related to possible victimization, the Classification Officer would immediately notify the Sergeant in charge to make any necessary changes to the housing assignment. The Classification Officer also indicated the initial classification and housing assignment is completed within the first hour and would never exceed twelve hours. The Intake Officer was interviewed and reiterated the comments and practice outlined by the Classification Officer. The facility provided a memorandum signed by the JA/OIC indicating that they did not perform any risk screening on any ICE detainee during the audit rating period because they have had no detainees during the audit period. Therefore, the Auditor did not review any detainee files or conduct interviews to capture detainee perspective.

(c)(d)(f) CCDC Policy 118.0 states in part, "the facility shall also consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization: whether the detainee has a mental, physical, or developmental disability;

the age of the detainee; the physical build and appearance of the detainee; whether the detainee has previously been incarcerated or detained; the nature of the detainee's criminal history; whether the detainee has any convictions for sex offenses against an adult or child; whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; whether the detainee has self-identified as having previously experienced sexual victimization; and the detainee's own concerns about his/her physical safety." The policy further states, "The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the facility, in assessing detainees for risk of being sexually abusive." Finally, Policy 118.0 states in part, "detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked [from the risk screening]."

The Auditor observed that the risk screening form contained questions covering all elements in provisions (c) and (d) and were available for use in the intake area. The facility provided a memorandum signed by the JA/OIC indicating that they did not perform any risk screening on any ICE detainee during the audit rating period. Therefore, the Auditor did not review any detainee files or conduct interviews with any detainee to capture their perspective. The Intake Officer stated that information that would be collected during the PREA risk screening ensures that potential sexual abuse victims would not be housed or intermingled with potential abusers. Both the Classification Officer and Intake Officer indicated that no detainee would be disciplined for not answering any questions associated with the risk screening form.

(e) CCDC Policy 118.0 states in part, "The facility shall reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization." The Intake Officer indicated that the Sergeant in Charge would ensure reassessments are conducted within 30 days. The Classification Officer stated that reassessments would be conducted every 30 days and within 60-90 days, which was confirmed during an interview with the PSA Compliance Manager. Both the PSA Compliance Manager and Intake Officer stated that if a detainee were to still be in their custody after the conclusion of an investigation, then a reassessment would be conducted. Both the Classification and Intake Officers explained that it would be highly unlikely that an ICE detainee taken into custody under the 287(g) program would stay over 60 days in their facility. The facility provided a memorandum signed by the JA/OIC dated October 31, 2022, indicating that there were no instances where a detainee was reassessed within 60-90 days during this rating period due to no detainees being admitted to the facility.

(g) CCDC Policy 118.0 states in part, "The facility shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees or detainees." When interviewing both the Classification and Intake Officers they stated that the facility limits who has access to the risk screening form. Both officers indicated that only classification officers have access. The Intake Officer also identified supervisors and medical staff as having access to this information. The Auditor did not review any detainee files because no detainee files were present during the on-site visit and the facility has reported that they have not housed an ICE detainee during the audit period.

#### **§115.42 - Use of assessment information.**

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

#### **Notes:**

(a) CCDC Policy 118.0 states, "The facility shall use the information from the risk assessment under § 115.41 of this part to inform assignment of detainees to housing, recreation and other activities, and voluntary work. The agency shall make individualized determinations about how to ensure the safety of each detainee." The PSA Compliance Manager stated when interviewed that the facility uses a classification tool that would help identify those detainees that should be categorized as minimum, medium, or maximum custody level. She also stated that the PREA risk screening helps in identifying those detainees that may be vulnerable to sexual victimization and those detainees that may be sexual predators. If an individual were identified as vulnerable or predatory, the facility can ensure they are not housed together or socialize in any programs or recreation. The facility reported no instances where a detainee was identified as a potential victim or potential predator during the audit period and provided a memorandum from the JA/OIC stating that they did not conduct any risk assessments on any ICE detainees during this audit period. The facility had no detainees within the audit period.

(b) CCDC Policy 118.0 states that "when making assessment and housing decisions for a transgender or intersex detainee, the facility shall consider the detainee's gender self-identification and an assessment of the effects of placement on the detainee's health and safety. The facility shall consult a medical or mental health professional as soon as practicable on this assessment. The facility should not base placement decisions of transgender or intersex detainees solely on the identity documents or physical anatomy of the detainee; a detainee's self-identification of his/her gender and self-assessment of safety needs shall always be taken into consideration as well. The facility's placement of a transgender or intersex detainee shall be consistent with the safety and security considerations of the facility, and placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee." The CCDC provided a memorandum dated October 31, 2022, signed by the JA/OIC, indicating that they have not received any transgender/intersex ICE detainees during the audit period. The HSA was interviewed and stated that the Classification Officer would consult with medical personnel when determining appropriate housing for a transgender detainee. The Intake Officer indicated that the procedure is to ask the detainee who they want to be searched by. The Classification Officer confirmed that transgender detainees would be reassessed twice a year. However, the facility has not housed a known transgender/intersex detainee within this audit period.

(c) CCDC Policy 118.0 states that "when operationally feasible, transgender and intersex detainees shall be given the opportunity to shower separately from other detainees." The PSA Compliance Manager stated they would be allowed to shower in a single private shower stall located in the housing unit. When the Intake Officer was asked the same question, he indicated that if the transgender/intersex detainee made that request, the facility would accommodate the request. Finally, nine officers were asked this question, and all answered that the transgender or intersex detainee would be able to shower separately in the single occupancy shower stalls located in each of the housing units which were observed by the Auditor during the on-site facility tour. The facility has had no transgender or intersex detainees at the facility within the audit period.

#### **§115.43 - Protective custody.**

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

#### **Notes:**

(a)(b)(c) CCDC Policy 118.0 states, "The facility shall develop and follow written procedures consistent with the standards in this subpart for each facility governing the management of its administrative segregation unit. These procedures, which should be developed in consultation with the ICE Enforcement and Removal Operations Field Office Director having jurisdiction for the facility, must document detailed reasons or placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault." The policy further states, "The use of administrative segregation by facilities to protect detainees vulnerable to sexual abuse or assault shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, as a last resort. The facility should assign detainees vulnerable to sexual abuse or assault to administrative segregation for their protection until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days. Facilities that place vulnerable detainees in administrative segregation for protective custody shall provide those detainees access to programs, visitation, counsel, and other services available to the general population to the maximum extent practicable."

The AJA was interviewed and stated that if a detainee needed to be placed in protective custody/administrative segregation the facility would immediately notify ICE by phone and then a follow-up email. CCDC provide a blank copy of their detainee "Administrative Segregation Form" that contains a list of reasons that a detainee may be placed in administrative segregation such as pending an investigation or hearing for violating a prohibited act or rule violation; medical observation; protective custody; and upon the detainees' request among other reasons. The form contains a section to record a brief outline of circumstances and events. Signature lines for the supervisor, medical staff, the facility administrator, and the detainee. The AJA stated that a detainee should be held in administrative segregation for the least amount of time as practicable and not to exceed 30 days. He also stated that if the detainee was placed in administrative segregation that detainee would still be afforded the same privileges, programs, and visitation that is available to all other general population detainees. The AJA indicated that if a detainee was placed in protective custody for sexual victimization or vulnerability, he would immediately contact ICE and have the detainee transferred to another facility. The nine officers interviewed indicated that if a detainee were placed in protective custody that detainee would be afforded the same opportunities and privileges as all other detainees. The CCDC provided a memorandum dated October 30, 2022, signed by the JA/OIC indicating that there have been no ICE detainees housed at their facility during this audit period. CCDC provided an email dated January 11, 2023, where the ICE FOD from the Atlanta Field Office reviewed and approved their Policy 118.0.

(d) CCDC Policy 118.0 states, "Facilities shall implement written procedures for the regular review of all vulnerable detainees placed in administrative segregation for their protection, as follows: A supervisory staff member shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted; and a supervisory staff member shall conduct, at a minimum, an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days, and every 10 days thereafter." Again, the facility has reported that no ICE detainees have been held at their facility during the audit period and therefore, no detainees in segregated housing to interview or documentation to review. The AJA confirmed that if they did experience this situation the policy as written would be followed.

(e) CCDC Policy 118.0 states, "Facilities shall notify the appropriate ICE Field Office Director no later than 72 hours after the initial placement into segregation, whenever a detainee has been placed in administrative segregation on the basis of a vulnerability to sexual abuse or assault. Upon receiving notification pursuant to paragraph (e) of this section, the ICE Field Office Director shall review the placement and consider whether continued placement in administrative segregation is warranted; whether any alternatives are available and appropriate, such as placing the detainee in a less restrictive housing option at another facility or other appropriate custodial options; and whether the placement is only as a last resort and when no other viable housing options exist." The AJA indicated that contact would immediately be made with the AFOD or FOD notifying them of the initial placement of a detainee in administrative segregation/protective custody.

#### **§115.51 - Detainee reporting.**

**Outcome:** Does not Meet Standard (requires corrective action)

#### **Notes:**

(a) CCDC Policy 118.0 states, "The agency and each facility shall develop policies and procedures to ensure that detainees have multiple ways to privately report sexual abuse, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents. The agency and each facility shall also provide instructions on how detainees may contact their consular official, the DHS Office of the Inspector General or, as appropriate, another designated office, to confidentially and, if desired, anonymously, report these incidents."

The facility provided examples of the DHS/OIG, ICE/DRIL and the Consular list posters. The Consular list poster contains 171 different Embassy or Consulate phone numbers and an additional 20 numbers for outside resources in the United States. These posters were observed in the designated detainee housing dorm during the on-site facility tour and the DHS/OIG and DRIL contact information can also be found in both the ICE National Detainee Handbook and the facility handbook. The PSA Compliance Manager was asked how detainees can report sexual abuse. She indicated they can report sexual abuse to any staff member, contractor, volunteer, outside family members, Attorney, DHS/OIG hotline, ICE/DRIL, advocate, and their Consular office. The Auditor was unable to interview any detainees because no detainee was present during the on-site visit. Therefore, no detainee perspective is able to be captured regarding this subpart of the standard.

(b) CCDC Policy 118.0 states that, "the agency shall also provide, and the facility shall inform the detainees of, at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request."

The CCDC utilizes the DHS/OIG hotline as their outside reporting entity for ICE detainees being held in their facility. The facility handbook provides the contact information for the DHS/OIG as the detainee outside reporting entity regarding allegations of sexual abuse. The DHS/OIG poster states that the detainee may remain anonymous when making a report if they choose. While conducting the facility tour, the Auditor attempted to contact the DHS/OIG through use of a phone located in designated housing unit for ICE detainees. The Auditor was unable to connect a call to the OIG Hotline. With assistance from the PSA Compliance Manager, multiple additional calls to the OIG Hotline were attempted but the calls could never be completed, although it was confirmed that the phone system was in working order.

**Does Not Meet (b):** The facility has not demonstrated a call can be successfully made to the DHS/OIG from inside the facility using detainee phone devices. The facility must provide at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request. The facility must provide evidence that a call is successfully completed from the housing units to the DHS/OIG by documenting the time and date that the successful call was made, who made the call, location the call was placed from, and the name of the DHS/OIG call taker.

(c) CCDC Policy 118.0 states, "Facility policies and procedures shall include provisions for staff to accept reports made verbally, in writing, anonymously, and from third parties and to promptly document any verbal reports." All nine officers interviewed stated they would accept sexual abuse reports verbally, in writing, anonymously, and by a third party, and that upon becoming aware of the allegation, would promptly document any reports.

## **§115.52 - Grievances.**

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

### **Notes:**

(a)(b) CCDC Policy 118.0 states, "The facility shall permit a detainee to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint. The facility shall not impose a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse." Detainees are provided instructions on the grievance process in the facility handbook which was reviewed by the Auditor. The Grievance Coordinator confirmed during his interview that he would accept a sexual abuse allegation made through the grievance process. The Grievance Coordinator also indicated that there are no time limits on when a detainee can submit a grievance regarding an allegation of sexual abuse. In addition, nine officers were asked the same question and they answered they would accept a sexual abuse report through the grievance process, if they were to receive the allegation. No detainees were interviewed regarding this provision because no detainees were present during the on-site audit visit.

(c) CCDC Policy 118.0 states, "The facility shall implement written procedures for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse." The post orders for the Housing Sergeant states that they are to "answer inmate grievances and general requests or forward to the appropriate personnel for a response. All PREA related grievances will be reviewed immediately and forwarded to the appropriate personnel." The Grievance Coordinator was asked if there is a different set of procedures for responding to time sensitive grievances regarding sexual abuse. The Grievance Coordinator explained that when you receive a formal grievance, you must take immediate action by contacting the PSA Compliance Manager and the AJA so that an investigator can be assigned to investigate the allegation. The CCDC provided a memorandum dated October 31, 2022, signed by the JA/OIC stating that the facility has not received any grievances related to sexual abuse from ICE detainees during the audit period; there have been no detainees at the facility during the audit period.

(d) CCDC Policy 118.0 states, "Facility staff shall bring medical emergencies to the immediate attention of proper medical personnel for further assessment." The Grievance Coordinator and random officers were asked if they received a grievance related to sexual abuse medical emergency, would they notify medical staff. Both the Grievance Coordinator and all the random officers interviewed indicated that yes, they would notify medical personnel immediately. The HSA also indicated that facility staff would bring medical emergencies to the attention of medical personnel immediately.

(e) CCDC Policy 118.0 states, "The facility shall issue a decision on the grievance within five days of receipt and shall respond to an appeal of the grievance decision within 30 days. Facilities shall send all grievances related to sexual abuse and the facility's decisions with respect to such grievances to the appropriate ICE Field Office Director at the end of the grievance process." The Grievance

Coordinator confirmed that a response would be provided in five days and an appeal regarding the decision within 30 days and that the FOD would be notified of the response at the conclusion of the grievance process.

(f) The CCDC Policy 118.0 also states, "To prepare a grievance, a detainee may obtain assistance from another detainee, the housing officer or other facility staff, family members, or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties." When conducting interviews with random officers and the Grievance Coordinator, they were asked how they would expedite a detainee's request for assistance from another person to help file a grievance. The Grievance Coordinator stated he would help accommodate the procedure by making available appropriate and expedited correspondence between the parties. The majority of the random officers indicated they would facilitate communication between the third-party that is trying to assist by making the phones or tablets more assessable by prioritizing the needs of the detainee requesting assistance with his grievance.

**§115.53 - Detainee access to outside confidential support services.**

**Outcome:** Does not Meet Standard (requires corrective action)

**Notes:**

(a)(b) CCDC Policy 118.0 states that the "facility shall utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation, and the prosecution of sexual abuse perpetrators to appropriately address victims' needs. The facility shall maintain or attempt to enter into, "Memorandums of Understanding," or other similar agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime. Each facility's written policies shall establish procedures to include outside agencies in the facility's sexual abuse prevention and intervention protocols if such resources are available." The CCDC provided a MOU with the Esther House to provide the services of an advocate for sexual abuse victims at the CCDC. When interviewing the PSA Compliance Manager, she indicated that they draw on community resources such as the Esther House for victim advocacy, Atrium Health Services for forensic medical examinations, and if needed, the State Bureau of Investigation. The Auditor interviewed the Director of Esther House who informed the Auditor that her agency provides a 24-hour hotline that detainees can call to arrange counseling or other services that they may need regarding sexual victimization. The contact number and mailing address was posted and observed by the Auditor in the housing unit during the on-site facility tour.

(c) The CCDC Policy also states, "The facility shall make available to detainees' information about local organizations that can assist detainees who have been victims of sexual abuse, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). If no such local organizations exist, the facility shall make available the same information about national organizations. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible." The CCDC posted the Esther House informational assault hotline pamphlet both in English and Spanish with contact information (phone number and mailing address) in the designated ICE detainees' housing unit. These posters indicate the mandatory duty to report. The Esther House MOU states that, "the CCDC will allow survivors to speak with an advocate confidentially in person or by phone." The facility handbook states that, "while communicating to outside resources, communications will be monitored." The Auditor has confirmed these advocacy services are provided by Esther House through interviews with the PSA Compliance Manager and the Director of Esther House. The PSA Compliance Manager indicated that arrangements would be made so that the advocate could have professional visits with the detainee victim at the facility so that the communication can be as confidential as possible. The Director of Esther House confirmed this practice stating that her counselors could respond to the CCDC to meet with the alleged detainee victim.

(d) The Policy also states that, "The facility shall inform detainees, prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws." The PSA Compliance Manager stated that the facility would make detainees aware of these services and the extent to which they are monitored by posting the information in the housing dorms and listing the information in the facility handbook and that all calls are potentially monitored and recorded unless stated otherwise on the posting. The Auditor observed these notices posted on the housing dorms by the telephones. While the Esther House pamphlets posted on the housing unit wall were in both English and Spanish, they did not discuss the level of confidentiality nor that communications are confidential.. In addition, the facility handbook contradicts the guidelines the CCSO agreed to in the MOU with the Esther House.

**Does Not Meet (d):** This provision of the standard states that each facility shall inform detainees, prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The facility handbook states that all calls are potentially monitored and recorded unless stated otherwise on the posting. This is a notification to detainees as to the level in which calls to outside services are monitored. However, The CCSO has agreed to allow survivors to speak with an advocate confidentially in person or by phone in accordance with the MOU that was entered into. The facility must take a position one way or the other and either correct the facility handbook to mirror the advocate MOU or update the MOU to agree with the facility handbook. Additionally, the facility must inform detainees the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

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

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

**Notes:**

CCDC Policy 118.0 states that "the facility shall establish a method to receive third-party reports of sexual abuse in its immigration detention facilities and shall make available to the public information on how to report sexual abuse on behalf of a detainee." The CCDC has provided the ICE website where, under the ICE ERO DRIL contact information is available to the public to report many things including incidents of sexual or physical assault or abuse. In addition, contact information regarding DHS/OIG is also made available on the CCDC website. The Auditor's review of the ICE website <https://www.ice.gov/prea>, and Cabarrus County Detention Center website, <https://www.cabarruscounty.us/Government/Department/Sheriff's> confirmed the websites have third-party reporting information available to the public.

#### **§115.61 - Staff reporting duties.**

**Outcome:** Does not Meet Standard (requires corrective action)

**Notes:**

(a)(b)(c)(d) CCDC Policy 118.0 states that the "facility shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in a facility; retaliation against detainees or staff who reported or participated in an investigation about such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. The agency shall review and approve facility policies and procedures and shall ensure that the facility specifies appropriate reporting procedures, including a method by which staff can report outside of the chain-of-command." The policy further states that "staff members who become aware of alleged sexual abuse shall immediately follow the reporting requirements set forth in the agency's and facility's written policies and procedures. Apart from such reporting, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions." CCDC Policy 118.0 also states, "Employees and contractors and volunteers who have contact with inmates will be trained to report any incident of sexual abuse or harassment, to include suspected incidents, immediately to their supervisor. Employees will be required to submit an Incident Report to their supervisor in these cases. Volunteers and contract employees will verbally inform their supervisor who will, in turn, complete the Incident Report. Exceptions will be authorized when an employee, volunteer, or contractor has reason to believe supervisory staff may be involved in the incident or suspected incident/activity. In these cases, the employees, contractors, or volunteers will submit the report to the next highest ranking official in their chain-of-command, by-passing their supervisor. Incident Reports will be immediately reviewed and forwarded to the detention center's assigned PREA Coordinator so that an appropriate investigation can be initiated as outlined the procedures outlined herein."

The PSA Compliance Manager indicated that staff are aware that they are to report immediately any knowledge, suspicion, or information regarding sexual abuse, retaliation, or staff neglect. She also stated that staff can report incidents of sexual abuse outside their chain of command by going to the PSA Compliance Manager. The PSA Compliance Manager further indicated that the facility does not house juvenile detainees or vulnerable adults. However, if they did run into that situation, she stated that she is aware that Social Services must be called. All nine officers interviewed stated that they would report immediately to their supervisor and would limit the information to those with a need-to-know. One officer also indicated they he could report sexual abuse to the PSA Compliance Manager. The AJA indicated that the facility would report all sexual abuse allegations to the ICE Field Office and CCSO and if an allegation were to involve a vulnerable adult detainee, the AJA stated that he or his designee would notify the Cabarrus Human Services Department. The facility provided an email from the Atlanta Field Office FOD acknowledging the review and approval of CCDC Policy 118.0. The facility reported there were no allegations of sexual abuse during this audit period, as there were no detainees housed during the audit period.

**Does Not Meet (a):** This standard requires that reporting procedures must include a method by which staff can report outside of the chain of command. The CCDC Policy 118.0 states that the facility policy and procedure, "shall ensure that the facility specifies appropriate reporting procedures, including a method by which staff can report outside of the chain-of-command" but does not specify what that outside method of reporting is, only that staff can report to the next highest ranking official in their chain of command. The facility must identify an appropriate outside reporting method for staff to report sexual abuse, and update CCDC Policy 118.0 to include this information. Staff must be advised of this reporting method.

#### **§115.62 - Protection duties.**

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

**Notes:**

CCDC Policy 118.0 states, "If an agency employee or facility staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee." When interviewing nine officers, they indicated that they would immediately remove a detainee who is subject to a substantial risk of imminent sexual abuse from the situation and contact a supervisor. The first line supervisor stated that he would interview the detainee to determine the circumstances, make necessary housing assignments and contact ICE ERO to decide if the detainee or alleged aggressor would need to be transferred to a different facility, if necessary. Interviews with the PSA Compliance Manager, AJA, officers, and first line

supervisor confirmed that there have been no instances of a detainee at substantial risk of imminent sexual abuse during the audit period as there were no detainees at the facility during the audit period.

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

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

**Notes:**

(a)(b)(c)(d) CCDC Policy 118.0 states, "Upon Cabarrus County Detention Facility receiving an allegation that a detainee was sexually abused while confined at another facility, the agency or facility whose staff received the allegation shall notify the appropriate office of the agency or the administrator of the facility where the alleged abuse occurred. The notification provided [...] shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The Cabarrus County Detention Facility shall document that it has provided such notification. The Cabarrus County Detention Facility, to the extent the facility is covered by this subpart, shall ensure that the allegation is referred for investigation in accordance with these standards and reported to the appropriate ICE Field Office Director." The facility provided a memorandum dated October 31, 2022, signed by the JA/OIC, that indicated that there have been no instances where the CCDC received a sexual abuse allegation where the incident occurred at another facility or received an allegation from another facility alleging sexual abuse at the CCDC during the audit period. When interviewing the PSA Compliance Manager, she indicated that if her facility were to receive an allegation regarding sexual abuse that occurred at another facility, the CCDC would immediately notify that facility's administrator at least within 72 hours by phone, then followed up with an email, and send an official letter signed by the JA/OIC. She further stated that if CCDC received a sexual abuse allegation from another facility, they would immediately initiate a PREA investigation into the matter. The AJA confirmed this practice and indicated that ICE would be notified via phone call, followed up with an email, and he would have an investigator start an investigation. There were no detainees housed at the facility within the audit period.

#### **§115.64 - Responder duties.**

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

**Notes:**

(a)(b) CCDC Policy 118.0 states, "Upon learning of an allegation that a detainee was sexually abused, the first security staff member to respond to the report, or his or her supervisor, shall be required to: separate the alleged victim and abuser; preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect an evidence; if the abuse occurred within a time period that still allows for the collection of physical evidence, request 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 occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating." The policy further states "if the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff." The facility provided a memorandum dated October 31, 2022, signed by the JA/OIC, stating that the CCDC has not received any detainee complaints alleging sexual abuse during the audit period. All nine officers interviewed indicated if they became aware of an incident of sexual abuse, they would immediately separate the individuals involved, secure the scene, preserve the evidence, and request that the victim not brush their teeth, use the bathroom, change their clothes, shower, and notify the medical staff. The officers also indicated that they would ensure the alleged perpetrator not destroy physical evidence by placing the individual in a single cell and shut off the water supply until the situation could be assessed. The contractor interviewed indicated that they would immediately ensure the safety of the alleged victim, notify security staff, and request that the alleged victim not use the restroom, eat, drink, change clothes, or take a shower. There were no detainees housed at the facility during the audit period, therefore, no incidents occurred to review.

#### **§115.65 - Coordinated response.**

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

**Notes:**

(a)(b) CCDC Policy 118.0 states, "The facility shall develop a written institutional plan to coordinate actions taken by staff first responders medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. the facility shall use a coordinated, multidisciplinary team approach to responding to sexual abuse." The facility has provided a "PREA Incident Response Checklist" that provides direction and captures dates, times, and names. The checklist records all the actions necessary for the first responder, shift supervisor, investigator, mental health professional, and medical staff. The AJA stated coordination and communication among staff in response to an incident is arranged through the radio, phone, and email. The on-duty supervisor delegates out individual responsibilities to all those individuals involved in the critical incident. The AJA indicated that all involved staff would follow the "PREA Incident Response Checklist" to coordinate these actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership.

(c)(d) CCDC Policy 118.0 further states, "If a victim of sexual abuse is transferred between facilities covered by subpart A or B of this part, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services. If a victim of sexual abuse is transferred from a DHS immigration detention facility to a facility not covered by [6 CFR part 115 A and B], the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise." The facility provided a memorandum signed by the AJA indicating that there were no instances where a report of sexual abuse by a detainee was handled by a first responder or non-security staff. When the AJA was interviewed, he stated that everything in the sexual abuse investigation is placed in a packet that

would be retained and follow the detainee during transport to any other DHS facility and would be provided to all other detention facilities upon request by the detainee.

**Recommendation (c):** The Auditor recommends that the facility clarify CCDC Policy 118.0 language regarding transferring of detainees from a facility covered by 6 CFR part 115, subpart A or B. The current policy reads "covered by subpart A or B or this part" which does not accurately explain the component requirement. The policy should include language that is consistent with the standard language, "If a victim of sexual abuse is transferred between facilities covered by 6 CFR part 115, subpart A or B, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services."

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

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

**Notes:**

CCDC Policy 118.0 states, "Staff, contractors, and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation." During the interview with the AJA, he indicated that if staff were involved in a sexual abuse allegation the staff member would be placed on administrative leave until the conclusion of the investigation. He also stated that if a contractor or volunteer were involved in a sexual abuse allegation, they would not be allowed back into the facility until the investigation was completed and a conclusion was determined. The facility provided a memorandum signed by the JA/OIC dated October 31, 2022, indicating there were no reported staff, contractor, or volunteer on detainee allegations made during this audit period.

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

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

**Notes:**

(a)(b)(c) CCDC Policy 118.0 states, "Staff contractors, and volunteers, and immigration detention facility detainees, shall not retaliate against any person, including a detainee who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual activity as a result of force, coercion, threats, or fear of force." The policy also states, "The agency shall employ multiple protection measures, such as housing changes, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or for cooperating with investigations. For at least 90 days following a report of sexual abuse, the agency and facility shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff and shall act promptly to remedy any such retaliation. Items the agency should monitor include any detainee disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. DHS shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need."

The facility provided a memorandum dated October 31, 2022, signed by the JA/OIC, indicating there were no instances or case where the need to monitor for retaliation for reporting sexual abuse, or cooperating with an investigation during the audit period. The PSA Compliance Manager was interviewed and stated that if she were made aware of any possible retaliation regarding a sexual abuse allegation, she would immediately act on that information and ensure that it was properly investigated. The PSA Compliance Manager also stated that she would monitor incident reports, housing changes, and meet with the alleged victim at the 30, 60, and 90-day mark to ascertain how the alleged victim is doing. If monitoring staff, she would look for negative performance reviews and adverse job assignment changes or unscheduled leave and tardiness and meet with them as needed. The PSA Compliance Manager indicated that normally a detainee victim or staff would be monitored for 90 days unless there is a need to extend that time-period.

#### **§115.68 - Post-allegation protective custody.**

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

**Notes:**

(a)(b)(c) CCDC Policy 118.0 states, "The facility shall take care to place detainee victims of sexual abuse in a supportive environment that represents the least restrictive housing option possible, e.g., protective custody, subject to the requirements of § 115.43. Detainee victims shall not be held for longer than five (5) days in any type of administrative segregation, except in highly unusual circumstances or at the request of the detainee." The policy further states that, "a detainee victim who is in protective custody after having been subjected to sexual abuse shall not be returned to the general population until completion of a proper re-assessment, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse."

The JA/OIC advised the Auditor that the CCDC has not received any complaints of sexual abuse from ICE detainees due to there being no detainees at the facility during the audit period. The PSA Compliance Manager indicated that if an alleged detainee victim needed to be placed in protective custody they would evaluate each incident on a case-by-case basis, and if needed, the detainee would be housed in the least restrictive safe area, and that it would not be for more than five days. The PSA Compliance Manager indicated that the facility must complete a reassessment before returning a detainee victim to general population and that the facility notifies the ICE FOD whenever a detainee victim has been held in administrative segregation for 72 hours.

(d) CCDC Policy 118.0 also states, "The facility shall notify the appropriate ICE Field Office Director whenever a detainee victim has been held in administrative segregation for 72 hours." The AJA was asked how the facility notifies ICE when a detainee victim has been in protective custody for 72 hours and he responded notification would be made via phone or email. No detainees have been housed at the facility during the audit period.

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

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

**Notes:**

(a) CCDC Policy 118.0 states, "If the facility has responsibility for investigating allegations of sexual abuse, all investigations into alleged sexual abuse must be prompt, thorough, objective, and conducted by specially trained, qualified investigators." As noted earlier, the CCSO investigates criminal allegations, and the investigator can and will conduct administrative investigations when directed to. When interviewing the investigator, he stated that he ensures that all investigations are prompt, thorough and objective by following the policy and having oversight. The PSA Compliance Manager also indicated that the facility would follow procedure to ensure the investigations are prompt, thorough, objective, fair, and conducted by specially trained investigators. CCDC provided training records for the investigator indicating he has received the specialized training. The CCDC provided a memorandum dated October 31, 2022, signed by the JA/OIC stating that there have been no instances of PREA related allegations from ICE detainees at the CCDC, as there were none housed at the facility during the audit period. This was also confirmed through interviews with the AJA and PSA Compliance Manager.

(b) CCDC Policy 118.0 states, "Upon conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the appropriate investigative office within OHS, and the assigned criminal investigative entity." The investigator stated that he would coordinate with other entities when conducting administrative sexual abuse investigations, which would include coordinating with ICE officials. The PSA Compliance Manager responded the same. Finally, when asked if a criminal investigation were substantiated or unsubstantiated, would the facility conduct an administrative investigation, the PSA Compliance Manager and investigator both stated yes, they would. There were no allegations of sexual abuse reported within the audit period.

(c) CCDC Policy 118.0 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 (5) years." The policy further states that "such procedures shall govern the coordination and sequencing of the two (2) types of investigations, in accordance with [115.71 (b)] to ensure that the criminal investigation is not compromised by an internal administrative investigation. The agency shall review and approve the facility policy and procedures for coordination and conduct of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference with criminal investigations." The investigator was asked what information/evidence the investigator would collect in a sexual abuse investigation. The investigator indicated that he would collect physical and circumstantial evidence. The investigator also indicated that he would collect witness, victim, and perpetrator statements, video evidence and logbooks. When the PSA Compliance Manager was asked that question, she indicated that security staff's primary responsibility is to secure the scene and preserve the evidence until the CCSO can respond to collect evidence. Furthermore, she stated that all administrative sexual abuse investigations would be kept in her office. The investigator indicated that he would complete and document the investigation after it was finished. Finally, the AJA stated that the investigator would attempt to determine whether any failures at the facility led to the abuse if directed to conduct an administrative investigation.

(e) CCDC Policy 118.0 states, "The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation." Both the investigator and AJA confirmed the investigation would continue even if the alleged abuser or victim were no longer at the CCDC.

(f) CCDC Policy 118.0 states, "When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation." The AJA, PSA Compliance Manager, and investigator was asked if the facility would cooperate with outside investigators, and all three answered yes. The investigator stated that he would provide all information they required and would try to remain informed during the course of the investigation. He also stated that he would ensure the administrative investigation did not interfere with the criminal investigation.

#### **§115.72 - Evidentiary standard for administrative investigations.**

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

**Notes:**

CCDC Policy 118.0 states, "When an administrative investigation is undertaken, the agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated." During the interview with the investigator, he indicated that the standard of proof in sexual abuse administrative investigations is the preponderance of the evidence. The facility had no reported incidents of sexual abuse and no detainees housed at the facility during the audit period; therefore, there were no investigative files to review.

### **§115.73 - Reporting to detainees.**

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

**Notes:**

CCDC Policy 118.0 states, "The facility shall, when the detainee is still in immigration detention, or where otherwise feasible, following an investigation into a detainee's allegation of sexual abuse notify the detainee as to the result of the investigation and any responsive action taken." The AJA stated the PSA Compliance Manager is the designee for notifying detainees who reported sexual abuse about the results of the investigation and any actions taken by the facility. When interviewing the PSA Compliance Manager, she indicated that she would provide a "letter of outcome" to the detainee either by hand delivering it or mailing the letter to the last known address of the detainee. The facility had no incidents of sexual abuse reported or detainees at the facility during the audit period; therefore, there were no investigative files to review.

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

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

**Notes:**

(a)(b)(c)(d) CCDC Policy 118.0 states, "Staff shall be subject to disciplinary or adverse action up to and including removal from their position and the Federal service for substantiated allegations of sexual abuse or for violating agency or facility sexual abuse policies. The agency shall review and approve facility policies and procedures regarding disciplinary or adverse actions for staff and shall ensure that the facility policy and procedures specify disciplinary or adverse actions for staff, up to and including removal from their position and from the Federal service, when there is a substantiated allegation of sexual abuse, or when there has been a violation of agency sexual abuse rules, policies, or standards. Removal from their position and from the Federal service is the presumptive disciplinary sanction for staff who have engaged in or attempted or threatened to engage in sexual abuse, as defined under the definition of sexual abuse of a detainee by a staff member, contractor, or volunteer, in the DEFINITIONS section of this policy (§ 115.6)." The policy further states, "The facility shall report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to appropriate law enforcement agencies, unless the activity was clearly not criminal. The facility shall make reasonable efforts to report removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to any relevant licensing bodies, to the extent known."

The CCDC provided a memorandum dated October 31, 2022, signed by the JA/OIC, that indicated the CCDC had no terminations, resignations, or other sanctions of staff members for violating sexual abuse policies during the audit period. During the interview with the AJA, he explained that staff who violate the sexual abuse policy is subject to disciplinary action up to and including termination. He also stated that if staff is terminated or resigns in lieu of removal for violating the sexual abuse policy, the CCSO and Sheriff are made aware of the situation. The AJA also stated that the staff member who was the perpetrator of the sexual abuse would be terminated by order of the Cabarrus County Sheriff, which constitutes notification to the local law enforcement entity. Finally, the AJA explained that if security staff resigns or is terminated due to violating the facility's sexual abuse policy, the CCSO Training Supervisor notifies the state to revoke the license because the individual has violated the North Carolina Sheriff Standards. These standards are governed by the state who is the licensing body for law enforcement and corrections officers. Finally, the facility provided an email from the ICE Atlanta Field Office FOD recognizing and approving the CCDC Policy 118.0.

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

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

**Notes:**

(a)(b)(c) CCDC Policy 118.0 states, "Any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees. Each facility shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. Such incidents shall also be reported to law enforcement agencies unless the activity was clearly not criminal. Contractors and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation. The facility shall take appropriate remedial measures and shall consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse but have violated other provisions within these standards."

The CCDC provided a memorandum dated October 31, 2022, signed by the JA/OIC, which indicates the CCDC has had no contractors or volunteers violate the sexual abuse policies within the audit period. They also reported no instances where a licensing body was contacted regarding a contractor or volunteer violating their sexual abuse policy. If there were an instance of sexual abuse by a contractor or volunteer, the Sheriff and Jail Administrator would immediately be notified, and the contractor/volunteer would be immediately suspended or terminated. The AJA was interviewed and explained that the facility's policy on addressing sexual abuse allegations involving contractors or volunteers is zero-tolerance and the facility would prohibit access to any contractor or volunteer who was the subject of a sexual abuse investigation until the investigation was complete. He also stated that the CCSO would be notified as well as ICE and the contracting agency. The AJA stated that the facility would work in collaboration with the contracting agency to notify any applicable licensing body that may be involved in oversight of that profession.

### **§115.78 - Disciplinary sanctions for detainees.**

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

**Notes:**

(a)(b) CCDC Policy 118.0 states that the "facility shall subject a detainee to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse." The policy also states that "at all steps in the disciplinary process[...], any sanctions imposed shall be commensurate with the severity of the committed prohibited act

and intended to encourage the detainee to conform with rules and regulations in the future.” When interviewing the AJA, he stated that the facility would discipline detainees who engaged in sexual abuse. He further stated that the detainee would have a due process hearing and if found guilty would receive disciplinary sanctions. The CCDC provided a memorandum dated October 31, 2022, signed by the JA/OIC, indicating that the CCDC had not received any complaints of sexual abuse from ICE detainees, as no detainees were housed at the facility during this audit period.

(c) CCDC Policy 118.0 states, “Each facility holding detainees in custody shall have a detainee disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedures.” The CCDC facility handbook outlines the facility disciplinary procedures. The Auditor reviewed the CCDC disciplinary procedures and found they provide a system with progressive levels of reviews, appeals, procedures, and documentation procedure to ensure due process. There were no reports to review as there were no detainees housed at the facility within the audit period.

(d)(e)(f) CCDC Policy 118.0 states, “The disciplinary process shall consider whether a detainee’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. The facility shall not discipline a detainee for sexual contact with staff unless there is a finding that the staff member did not consent to such contact. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.” When interviewing the AJA, he indicated that the hearing officer would consult with the mental health provider regarding any relevant information about a detainee’s mental state that may have contributed to the offense. He also stated that no detainee would be disciplined for engaging in sexual contact with a staff member. The AJA explained it is against North Carolina state law for a person with custodial authority over a prisoner to engage in sexual contact. Finally, the AJA indicated that no detainee would be disciplined if a report of sexual abuse were made in good faith, but the investigation did not establish enough evidence to substantiate the incident.

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

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

##### **Notes:**

(a)(b)(c) CCDC Policy 118.0 states, “If the assessment pursuant to § 115.41 indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/or mental health follow-up as appropriate. When a referral for medical follow-up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of assessment. When a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral.”

The Auditor interviewed the Classification Officer who was identified as the person responsible for conducting risk screenings. The Classification Officer confirmed that if a detainee disclosed that they were previous victims of sexual abuse they would be referred to medical for further evaluation and a follow-up meeting scheduled. If the detainee wanted to speak with mental health, then the medical staff would make a referral. The Auditor interviewed the HSA who confirmed the practice of collecting all the initial medical screening and booking forms that would also include referrals notated on the initial medical screening form and a follow-up meeting with the nurse is scheduled if the form indicates that they reported prior victimization. The HSA stated that if a detainee were identified as a possible sexual abuse victim during the intake process, the Classification Officer would inform medical. The HSA further stated that if the detainee reported prior sexual abuse that detainee would be seen by a medical staff member within two days and a mental health professional within three days after receiving the referral. When the Auditor interviewed the mental health professional, he confirmed this practice and stated that he would make contact with the detainee within 72 hours because he works on Mondays, Wednesdays, and Fridays. If a detainee is identified as a possible aggressor, the detainee would also be referred to the mental health provider for an evaluation. The HSA confirmed these procedures, and that the medical department is responsible for scheduling a follow-up meeting with mental health. Based on the interviews with the HSA and mental health provider, there were no detainee referrals made to medical or mental health for prior sexual abuse or victimization within the audit period as there were no detainees housed at the facility within the audit period.

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

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

##### **Notes:**

(a)(b) CCDC Policy 118.0 states, “Detainee victims of sexual abuse shall have timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. Emergency medical treatment services provided to the victim shall be without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.”

The HSA explained during her interview that all detainees have access to emergency medical treatment and crisis intervention services at the Atrium Health Center in Charlotte, North Carolina. She stated at the emergency room the detainee would receive the necessary treatment such as emergency contraception and sexually transmitted infections prophylaxis. The HSA also confirmed that the medical treatment received for sexual abuse victims is free of charge regardless of whether the victim names the abuser or cooperates with the investigation. The CCDC provided a memorandum dated October 31, 2022, signed by the JA/OIC, which indicates that the CCDC has

received no allegations of sexual abuse as there were no detainees housed at the facility within the audit period; therefore, there have been no emergency medical or mental health services of this nature provided.

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

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

**Notes:**

(a)(b)(c)(d)(e)(f)(g) CCDC Policy 118.0 states, "The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while in immigration detention. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The facility shall provide such victims with medical and mental health services consistent with the community level of care. Detainee victims of sexually abusive vaginal penetration by a male abuser while incarcerated shall be offered pregnancy tests. If pregnancy results from an instance of sexual abuse, the victim shall receive timely and comprehensive information about lawful pregnancy-related medical services and timely access to all lawful pregnancy-related medical services. Detainee victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The facility shall attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners."

The interview with the HSA indicated that any additional tests or treatment would be handled by the attending physician and that the medical staff at the facility would provide the necessary continuity of care. The HSA also stated that the medical provider would be consulted regarding all continued medical care and treatment. The HSA stated that the medical and mental health services offered at the facility are consistent with that of the community. She indicated that they would provide the continuity of care for detainee victims of sexual assault as specified by the attending physicians at the hospital and the CCDC doctor. The HSA indicated that if a detainee were identified as an abuser, a referral would be sent to mental health. The mental health provider confirmed this practice during his interview and stated that the detainee would be seen within 60 days; however, he indicated that he had not received any referrals during the audit period. The CCDC has reported no incidents of sexual abuse involving ICE detainees requiring medical attention as there were no detainees housed at the facility during this audit period.

**§115.86 - Sexual abuse incident reviews.**

**Outcome:** Does not Meet Standard (requires corrective action)

**Notes:**

(a)(b)(c) CCDC Policy 118.0 states, "The facility shall conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and, where the allegation as not determined to be unfounded, prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the agency PSA Coordinator. The review team shall consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility. The facility shall conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the facility administrator, Field Office Director or his or her designee, and the agency PSA Coordinator."

The CCDC provided a memo dated October 31, 2022, signed by the JA/OIC, indicating that the CCDC has had no sexual abuse allegations reported as there were no detainees housed at the facility within the audit period; therefore, there were no incident reviews conducted for the Auditor to review. The interview with the PSA Compliance Manager indicated that the incident review team looks at procedures, facts, and what may have contributed to the incident. She explained that the team consists of the investigator, JA/OIC, AJA, HSA, and PREA Compliance Manager. The interview with the AJA indicated that an incident review would be conducted at the conclusion of every sexual abuse investigation. Furthermore, the AJA indicated that the facility would conduct an annual review of all sexual abuse investigations and incident reviews to improve sexual abuse intervention, prevention, and response. The PSA Compliance Manager also indicated that the facility would prepare a negative annual report if the facility had not received any reports of sexual abuse. The facility provided an ICE Negative Report as proof of compliance.

**Does Not Meet (c):** The CCDC has reported no instances of sexual abuse involving ICE detainees during the audit period. The facility policy states and the standard requires, "If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the facility administrator and Field Office Director or his or her designee, and the agency ICE PSA Coordinator." The facility has provided a negative report indicating no instances of sexual abuse during the audit period to the Auditor for compliance review. However, there is no documentation to indicate the facility of the transmission of the report to the facility administrator, FOD, or PSA Coordinator. To become compliant, the facility must send the negative report to the facility administrator, FOD and the agency PSA Coordinator. This documentation must be provided to the Auditor for compliance review.

#### **§115.87 - Data collection.**

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

**Notes:**

(a) CCDC Policy 118.0 states, "The Cabarrus County Detention Facility shall maintain in a secure area all case records associated with claims of sexual abuse including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary, and/or counseling in accordance with these standards and applicable agency policies, and in accordance with established schedules. The OHS Office of Inspector General shall maintain the official investigative file related to claims of sexual abuse investigated by the OHS Office of Inspector General." The interview with the PSA Compliance Manager indicated that all sexual abuse case files are kept in the PSA Compliance Manager's Office, in a locked cabinet.

#### **§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)(i) The Auditor was provided full access to and observed all areas of the CCDC without restriction. The Auditor was also permitted to conduct all interviews in a private setting with the detainees.

(e) The Auditor was provided relevant documentation to complete a thorough audit of the facility prior to the on-site visit, during the visit, and upon request during the post audit period. The Auditor received the requested documents or copies of relevant materials.

(j) PREA Audit Notices in English and 11 other languages (Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese) were sent to the CCDC prior to the on-site visit. The PREA Audit Notice communicates to staff and detainees that the facility will be undergoing an audit for compliance with the DHS/ICE Standards to Prevent, Detect, and Respond to Sexual Abuse in a Confinement Setting. The notice also spells out how confidential information is to be handled and where that confidential information can be reported. These notices explained that detainees, staff, or any other interested party were permitted to send the Auditor confidential correspondence through the Creative Corrections, LLC mailing address. The Auditor did not receive any correspondences from either staff, ICE detainees, or other parties.

#### **AUDITOR CERTIFICATION**

Update Audit Findings Outcome Counts by Clicking Button:

**Update Outcome Summary**

<b>SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)</b>	
<b>Number of standards exceeded:</b>	0
<b>Number of standards met:</b>	32
<b>Number of standards not met:</b>	7
<b>Number of standards N/A:</b>	2
<b>Number of standard outcomes not selected (out of 41):</b>	0

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

*Ron Kidwell*

3/3/2023

**Auditor's Signature & Date**

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

3/3/2023

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

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

3/6/2023

**Program Manager's Signature & Date**