

PREA Audit: Subpart A DHS Immigration Detention Facilities Audit Report



Homeland Security

AUDIT DATES

From:	1/26/2021	To:	1/28/2021
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AUDITOR INFORMATION

Name of auditor:	Thomas Eisenschmidt	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	315-730-(b) (6), (b) (7)(C)

PROGRAM MANAGER INFORMATION

Name of PM:	(b) (6), (b) (7)(C)	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	202-381-(b) (6), (b) (7)(C)

AGENCY INFORMATION

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

Name of Field Office:	Newark Field Office
Field Office Director:	John Tsoukaris
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	970 Broad Street, 11th Floor, Newark, NJ 07102
Mailing address: (if different from above)	Click or tap here to enter text.

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

Name of facility:	Elizabeth Contract Detention Facility (ECDF)
Physical address:	625 Evans St., Elizabeth, NJ 07201
Mailing address: (if different from above)	Click or tap here to enter text.
Telephone number:	(908) 352-3776
Facility type:	CDF
PREA Incorporation Date:	6/18/2015

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Warden
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(908) 352-(b) (6), (b) (7)(C)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	PREA Compliance Manager
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(908) 352-(b) (6), (b) (7)(C)

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Form Key:	29
Revision Date:	02/24/2020
Notes:	Click or tap here to enter text.

NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS

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

The Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of the Elizabeth Contract Detention Facility (ECDF) was conducted on January 26-28, 2021, by U.S. Department of Justice (DOJ) and U.S. Department of Homeland Security (DHS) certified PREA Auditor, Thomas Eisenschmidt for Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by the ICE PREA Program Manager, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) Assistant Program Manager, both are DOJ and DHS certified PREA Auditors. The Program's Manager's role is to provide oversight to the ICE PREA audit process and liaison with the ICE ERAU section during the audit report review process. The purpose of the audit was to determine compliance with the DHS PREA standards. The ECDF is privately owned by CoreCivic and operates under contract with the DHS, Immigration and Customs Enforcement (ICE), Office of Enforcement and Removal Operations (ERO). The facility processes detainees who are pending immigration review or deportation. According to the Pre-Audit Questionnaire (PAQ), the top three nationalities held at the ECDF are from Morocco, Egypt, and Honduras. The facility does not house juveniles or family detainees. This was the second PREA audit for the ECDF and the facility is located in Elizabeth, New Jersey.

The Team Lead opened the entry briefing at 8:00 a.m. on the first day of the on-site visit. In attendance were:

Orlando Rodriguez, Warden-CoreCivic

(b) (6), (b) (7)(C) Assistant Warden-CoreCivic

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

(b) (6), (b) (7)(C) Inspections and Compliance Specialist, ICE, Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU)

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

The Auditor introduced himself and then provided an overview of the audit process and the methodology to be used to demonstrate PREA compliance to those present. The Auditor explained the audit process is designed to not only assess compliance through written policies and procedures but also to determine whether such policies and procedures are reflected in the knowledge of staff at all levels. He further explained compliance with the PREA standards will be determined based on the review of policy and procedures, observations made during the facility tour, provided documentation review, and conducting both staff and detainee interviews. On the day of the audit, there were 75 detainees including eight females at ECDF.

ECDF is located in an industrial area of Elizabeth, New Jersey. CoreCivic leases the site and operates the facility under a contract with ICE that provides detainee housing for low and medium-low custody adult males and females. The facility was constructed in 1994 as a two-story warehouse and was converted to a one-story correctional facility in 1996. The facility has eleven dormitory housing units for general population detainees ranging in capacities from 6-44 beds. The facility also has a restricted housing unit (RHU) for both administrative and disciplinary segregation management which consists of 12 single-bed cells. The facility employs direct supervision of the detainees, with staff located in the areas that detainees are located. The housing unit dorms contain a dayroom equipped with two televisions, telephones, various board games, kiosks for ordering commissary, a computer equipped with LexisNexis, a microwave oven, and a hot-pot for heating water. Both indoor and outdoor recreation areas are available at ECDF for the detainees. Signage was observed by the Auditor in each of the housing areas, segregation, and medical areas providing detainees with PREA educational information, the facility zero-tolerance policy, methods for reporting sexual misconduct, and contact information for the victim advocate (Union Rape Crisis Center). This information was predominantly in Spanish and English with reporting information on ICE posters in Arabic, Farsi, French, Hindi, Korean, Romanian, Simplified Chinese, Tagalog, and Urdu. The detainee reporting hotline was tested in two random housing areas during the site examination and was operational. Medical Service and Mental Health Service at ECDF are provided through ICE Health Services Corps (IHSC) and the United States Public Health Service (USPHS).

During the site examination, the Auditor conducted informal interviews with staff and detainees, questioning them on their knowledge of PREA. At the conclusion of the tour, the Auditor was provided with staff and detainee rosters and randomly selected both for formal interviews. Twelve random staff (including line-staff and first-line supervisors) and specialized staff were interviewed. Those specialized staff included the Warden, Training Manager, PSA Compliance Manager, Human Resources, intake staff (2), Administrative Investigator, Grievance Coordinator, Classification Supervisor, Retaliation Monitor, incident review team member, medical staff, and mental health staff. A total of 20 random detainees were interviewed. 12 detainees interviewed were limited English proficient (LEP) and required the use of a language line through Language Services Associates (LSA) provided by Creative Corrections. There were no detainees acknowledging prior victimization and no detainees identifying as lesbian, bisexual, gay, transgender, or intersex (LBGTI). The facility also had no detainees with physical disabilities or a cognitive disability.

There were no allegations of sexual assault reported during the audit period. The Auditor did review the only reported allegation within the past three years.

On January 28, 2021, an exit briefing was held in the staffing conference room. The Team Lead opened the exit briefing and then turned it over to the Auditor.

In attendance were:

Orlando Rodriguez, Warden-CoreCivic

(b) (6), (b) (7)(C) Assistant Warden-CoreCivic

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

(b) (6), (b) (7)(C) Administrative Captain-CoreCivic

(b) (6), (b) (7)(C) Human Resources Manager-CoreCivic

(b) (6), (b) (7)(C) Fire and Safety Officer-CoreCivic

(b) (6), (b) (7)(C), ICE Health Service Corps, Health Service Administrator (HSA)

(b) (6), (b) (7)(C) IHSC Psychologist

(b) (6), (b) (7)(C) Training Manager-CoreCivic

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

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

(b) (6), (b) (7)(C) Records Clerk, CoreCivic

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) Supervisory Detention and Deportation Officer (SDDO), ICE
Human Resource Assistant, CoreCivic

The Auditor spoke briefly about his observations. He noted how impressive the intake/orientation process was setting the tone for sexual safety at the facility. The Auditor was able to give some preliminary findings but informed them that it was too early to determine the outcome. Detainees interviewed had a good understanding of PREA and knew what mechanisms are in place at ECDF to report incidents of sexual misconduct if needed.

SUMMARY OF AUDIT FINDINGS

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

Number of Standards Exceeded: 2

§115.31 Staff training

§115.35 Specialized training: Medical and Mental Health Care

Number of Standards Met: 36

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

§115.13 Detainee supervision and monitoring

§115.15 Limits to cross-gender viewing and searches

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

§115.17 Hiring and promotion decisions

§115.21 Evidence protocols and forensic medical examinations

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

§115.32 Other training

§115.33 Detainee education

§115.34 Specialized training: Investigations

§115.41 Assessment for risk of victimization and abusiveness

§115.42 Use of assessment information

§115.43 Protective custody

§115.51 Detainee reporting

§115.53 Detainee access to outside confidential support services

§115.54 Third-party reporting

§115.61 Staff reporting duties

§115.62 Protection duties

§115.63 Reporting to other confinement facilities

§115.64 Responder duties

§115.65 Coordinated response

§115.66 Protection of detainees from contact with alleged abusers

§115.67 Agency protection against retaliation

§115.68 Post-allegation protective custody

§115.72 Evidentiary standard for administrative investigations

§115.71 Criminal and 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 assessments; history of sexual abuse

§115.82 Access to emergency medical and mental health services

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

§115.86 Sexual abuse incident reviews

§115.87 Data collection

§115.201 Scope of audits.

Number of Standards Not Met: 1

§115.52 Grievances

Number of Standards Not Applicable: 2

§115.14 Juvenile 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. If additional space for notes is needed, please utilize space provided on the last page.

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

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

Notes:

(c) The Auditor determined compliance with this subpart of the standard based on a review of the policy 14-2-DHS (Sexual Abuse Prevention and Response) that requires, "CoreCivic has mandated zero-tolerance towards all forms of sexual abuse. Such conduct is prohibited by this policy and will not be tolerated: to include Detainee-on-Detainee Sexual Abuse and Employee-on-Detainee Sexual Abuse. When it is learned that a detainee is subject to a substantial risk of imminent sexual abuse, immediate action shall be taken to protect the detainee. It is CoreCivic's policy to aggressively investigate all allegations, regardless of the source and prosecute those who are involved in incidents of sexual abuse. Sexual activity between detainees or employees/civilians/contractors/volunteers and detainees regardless of consensual status, is strictly prohibited and subject to administrative and criminal disciplinary sanctions." This policy outlines the facility's approach to preventing, detecting, and responding to such conduct. The staff interviews and random detainee interviews confirmed they were provided information on the facility's zero-tolerance policy. The Auditor was provided documentation demonstrating this policy was reviewed and approved by the ICE.

(d) The Auditor determined compliance with this subpart of the standard based on a review of ECDF policy 14-2-DHS that requires, "The facility shall designate a Prevention of Sexual Assault (PSA) Compliance Manager who shall serve as the facility point-of-contact for the local ICE field office and ICE PSA Coordinator. The PSA Compliance Manager must have sufficient time and authority to oversee facility efforts to comply with facility sexual abuse and assault prevention and intervention policies and procedures. The PSA Compliance Manager shall assist with the development of written policies and procedures for the Sexual Abuse and Assault Prevention and Intervention (SAAPI) Program and with keeping them current, assist with the development of initial and ongoing training protocols, serve as a liaison with other agencies, coordinate the gathering of statistics and reports on allegations of sexual abuse or assault, review the results of every investigation of sexual abuse and assist in conducting an annual review of all investigations to assess and improve prevention and response efforts, and review facility practices to ensure required levels of confidentiality are maintained." The PSA Compliance Manager verified she is the point of contact for the agency's PREA Coordinator and she has sufficient time and authority to oversee efforts for the facility to comply with their zero-tolerance policy.

§115.13 - Detainee supervision and monitoring.

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

Notes:

(a)(b)(c) The Auditor determined compliance with these subparts of this standard based on a review of policy 14-2-DHS that requires, "The CoreCivic Facility Support Center (FSC) will develop, in coordination with the facility, comprehensive detainee supervision guidelines to determine and meet the facility's detainee supervision needs and shall review those guidelines at least annually. Each facility will ensure sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse. In calculating staffing levels and determining the need for video monitoring, the following factors shall take into consideration: generally accepted detention and correctional practices, any judicial findings of inadequacy, all components of the facility's physical plant, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, 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. Whenever necessary, but no less frequently than once each year, for each CoreCivic facility, an annual PREA staffing plan assessment will be completed. The Facility PSA Compliance Manager will complete the 14-21-DHS Annual PREA Staffing Plan Assessment and forward it to the Facility Administrator for review. Upon completion of the Facility Administrator's review, the 14-21-DHS Annual PREA Staffing Plan Assessment will be forwarded to the FSC PREA Coordinator." The Auditor was provided and reviewed the most recent staffing plan assessment review completed in April 2020. The staffing plan assessment demonstrated comprehensive detainee supervision guidelines had been developed and documented, meeting the facility's detainee supervision needs as required per subpart(b). There were no recommendations for changes to policy or operations in this review. During the three days on-site, the Auditor observed, on each of the eight-hour shifts, adequate supervision of the detainees.

(d) The Auditor determined compliance with this subpart of this standard based on a review of policy 14-2-DHS that requires "Staff, including supervisors, shall conduct frequent unannounced facility rounds to identify and deter sexual abuse of detainees. The occurrence of such rounds shall be documented in the applicable log (Administrative Duty Officer, post log, shift report, etc.). This practice shall be implemented for all shifts and all areas where detainees are permitted. Employees shall be prohibited from alerting other employees that supervisory rounds are occurring unless such announcement is related to the legitimate operational functions of the facility." The security staff post orders document the staff requirement to make periodic rounds in their assigned area. The interviews conducted with random line staff confirmed their requirement to make rounds to make rounds in their assigned area. The supervisory staff interviews confirmed their requirement to make rounds on each shift and document these rounds. A review of the provided documentation and a review of logbooks while on-site demonstrated rounds are being conducted on all shifts by supervisors and officers. The line staff confirmed their knowledge of the prohibition of alerting other staff when supervisors are conducting rounds.

§115.14 - Juvenile and family detainees.

Outcome: Not Applicable (provide explanation in notes)

Notes:

ECDF does not accept juveniles or family detainees. This was confirmed in the PAQ, interviews conducted with the Warden and PSA Compliance Manager, and the personal observations of the Auditor while on-site.

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

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

Notes:

(b)(c)(d)(j) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "In addition to the general training provided to all employees, security staff shall receive training in how to conduct cross-gender pat-down searches, and searches of transgender and intersex detainees, in a manner that is professional, respectful and the least intrusive possible, while being consistent with security needs. Pat-down searches of male detainees by female security staff shall not be conducted unless, after reasonable diligence, security staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances. Pat-down searches of female detainees by male security staff shall not be conducted unless in exigent circumstances. All cross-gender frisk/pat searches will be documented in a logbook." The Auditor interviewed 12 random line staff, who confirmed receiving additional training on conducting searches as outlined above. The female security staff indicated during interviews they could perform pat-down searches on male detainees when male security staff is not available to conduct these searches. The male security staff indicated during their interviews that they are never allowed to pat-down search any female detainees. Detainees are pat searched upon entering or leaving the housing units. The Auditor observed documentation in the housing logbook of pat searches conducted by female security staff. The facility did not provide the Auditor with any documentation indicating a male security staff member conducted pat searches on female detainees, nor did any female detainees state they have ever been pat searched by a security male staff.

(e)(f) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS stating that "Strip searches or visual body cavity searches by staff of the opposite gender shall not be conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners. Staff shall not conduct visual body cavity searches of juveniles and, instead, shall refer all such body cavity searches of juveniles to a medical practitioner." The Warden and the PSA Compliance Manager confirmed there were no cross-gender strip searches or cavity searches performed at ECDF during the audit period.

(g)(h) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "Detainees shall 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." The interviews with the random security staff confirmed opposite gender staff must announce themselves prior to entering any area where a detainee may be dressing, performing bodily functions, or showering. Random interviews (20) with detainees confirmed most of the staff acknowledge themselves prior to entering these areas. The female staff indicated during interviews male staff never enter a female living area without a female staff member. This was also confirmed during the female detainee interviews. The Auditor observed opposite gender staff announcing themselves prior to entering the male/female housing areas during the tour. The PSA Compliance Manager confirmed during her interview that the "monitored bowel movement" reference in their policy would be completed by the IHSC medical staff and not the security staff.

Recommendation: The Auditor recommends the policy language be changed to reflect "as performed by medical staff" to clarify who would be completing the monitored bowel movement.

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

(i) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "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 medical examination that all detainees must undergo as part of intake or other processing procedure conducted in private, by a medical practitioner." The random interviews with staff confirmed their awareness on not searching any detainee for the sole purpose of determining their genital status.

§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) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "The facility shall ensure that detainees with disabilities (including, but not limited to, 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 facility's efforts to prevent, detect, and respond to sexual abuse. When necessary to ensure effective communication with detainees who are deaf or hard of hearing, or detainees who have intellectual, psychiatric, or speech disabilities, limited reading skills, or who are blind or have low vision, the facility shall accommodate the detainee by 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 and providing access to written materials related to sexual abuse in formats or through methods that ensure effective communication. Auxiliary aids such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, may be provided as needed." Upon arrival at ECDF, each detainee is provided and signs for the Elizabeth Detention Center Handbook available in English and Spanish and the ICE National Detainee Handbook, available in 11 of the most prevalent languages encountered by ICE (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, and Vietnamese). The detainees view two PREA videos (Orientation and Know Your Rights) while in intake as well. The detainees are also provided the printed DHS-prescribed Sexual Assault Awareness Information pamphlet. This pamphlet, now printed in seven languages, was only available in Spanish and English at ECDF. The intake staff interviewed confirmed detainees they encounter that may be hearing impaired or deaf would require a staff member to utilize the text telephone (TTY) for communication. Detainees arriving at ECDF with limited sight or who are blind would be provided individualized attention by the staff, which may include reading the information to the detainee if necessary. In cases where a detainee has an intellectual disability or limited reading skills, depending on the degree of the detainees' limitation, the detainee would be initially referred to a supervisor or the medical/mental health department to provide the necessary orientation information appropriate for that individual. An assessment would be conducted by the staff determining if the detainee understands the orientation information provided to the detainee by staff. There were no detainees with any other disabilities present at the facility for the Auditor to interview.

(b)(c) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "The facility will provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with

meaningful access to its programs and activities. 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. Interpretation services shall be provided by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse." The intake staff provide an overview of the aspects of the facility efforts to prevent, detect, and respond to sexual abuse to each detainee who does not read/speak one of the 11 languages in the ICE National Detainee Handbook. The orientation information is provided to the detainee through the language line service at ECDF. This orientation, through the interpreter, is documented in a logbook and noted in the detainee's detention file. The Auditor interviewed 12 detainees that were LEP during the on-site visit. All 12 detainees indicated that they were provided information on sexual safety in a format that they understood. The Auditor reviewed 12 detention files and found signed documentation indicating each detainee had received the required information upon arrival. The interviews with the PSA Compliance Manager and the facility investigator confirmed an interpreter would be used in any sexual abuse allegation involving a LEP detainee. The random staff interviews confirmed their understanding of who can and cannot provide interpreter services during matters relating to sexual abuse. There was no sexual abuse allegation made at ECDF during the audit period.

§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)(e)(f) Executive Order 10450 (Security Requirements for Government Employment), Office of Personal Management Section Part 731 and ICE Directives 6.7.0 and 6.8.0 that requires, "The facility and agency, to the extent permitted by law, to refuse to hire or promote anyone who may have contact with detainees, and decline to enlist the services of any contractor or volunteer who may have contact with detainees, who has been found to have engaged, been convicted of engaging, or civilly or administratively adjudicated to have engaged in sexual abuse as defined in the standard." These documents require all new hires, those staff awaiting promotions, and all staff on an annual basis to complete and submit a Self-Declaration of Sexual Abuse/Sexual Harassment form. The individual responds directly to questions about previous misconduct as required per the standard and as verification of the employee's fulfillment of his/her continuing affirmative duty to disclose any sexual misconduct. The Division Chief of the OPR Personnel Security Unit (PSU), informed Auditors who attended video training in October 2020, that candidate suitability for all employment applicants includes their obligation to disclose any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity. Applicants are questioned directly about any such previous misconduct both during their background check and during the job interview process and a positive response to any of those specific questions are grounds for unsuitability including material omissions or making false or misleading statements in the application. The Human Resources (HR) Manager at ECDF confirmed that any employment candidate or staff member that provides false, misleading, or incomplete information would be subject to dismissal from his/her employment or withdrawal of any offer for employment. She also informed the Auditor the facility would forward all requests for information on substantiated allegations of sexual abuse involving former employees upon the request from an institutional employer for which the employee has sought new employment to her Corporate headquarters for processing and release of information. She stated that part of ECDF's employment process is requesting of all employment information from prior institutions where the prospective candidate was previously employed. The Auditor reviewed 10 staff files and observed completed background approvals from ICE dated prior to the staff's start date. The Auditor also observed an up-to-date Self-Declaration of Sexual Abuse/Sexual Harassment form in each file, which is required for all new hires, staff who receive a promotion, and all staff on an annual basis.

(c)(d) The Federal Statute 731.105 and ICE Directives 6, 7.0 and 6.8.0 require, "The facility and agency to conduct criminal background checks on all staff and contractors who may have contact with detainees prior to being allowed entrance into the facility. It further requires a background recheck be conducted every five years on all employees and unescorted contractors." The Auditor was informed by the HR Manager that ICE completes all background checks for all staff, contractors, and volunteers prior to hiring and then again, every five years. A review of documentation provided by ICE's Personnel Security Unit (PSU) Unit Chief confirmed that nine randomly selected employees (7 EFDC and 2 ICE) background checks were performed prior to them reporting to work and those within the 5-year timeframe are being conducted.

§115.18 - Upgrades to facilities and technologies.

Outcome: Not Applicable (provide explanation in notes)

Notes:

(a)(b) These subparts of the standard are not applicable at ECDF. The Warden informed the Auditor the facility has not made any upgrades to the facility or to their technologies since their previous audit.

§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)(b)(e) The Auditor determined compliance to this subpart on the following information provided to the Auditor by ICE that PREA allegations at ECDF are investigated through OPR or Office of the Inspector General (OIG). 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 incident review personnel in accordance with OPR policies and procedures. OPR does not perform sex crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or a local law enforcement agency. The OPR will coordinate with the FOD and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not accepted or assigned by DHS OIG, OPR, or local law enforcement agency, the case would be referred to ERO for assignment and completion of an administrative investigation. The facility policy 14-2-DHS requires, "Investigations conducted by a facility employee for allegations of sexual abuse will be handled in accordance with the Code of Federal Regulations, Title 28, Part 115.21, Evidence Protocol and Forensic Medical Examinations, as outlined. If the facility is not responsible or investigating such allegations, the facility shall request that the responsible outside agency or entity (i.e. state or local law enforcement, contracting agency, etc.) comply with these requirements. The investigating entity 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 developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise. The investigating entity shall attempt to make available to the victim a victim advocate from a rape crisis center. The investigating entity may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a non-governmental entity that provides similar victim services." The Auditor confirmed with the PSA Compliance Manager

that the facility has been pursuing a written MOU from both the Elizabeth Police Department and the Union Rape Crisis Center. The most recent request letters were dated December 2020. The request to the Elizabeth Police Department specifically requested their department comply with subparts (a) through (d) of the standard. Although the Elizabeth Police Department has not signed the MOU, they do respond to allegations of sexual abuse as confirmed by the Warden, PSA Compliance Manager, and ECDF investigator. The Mental Health Supervisor also provided the Auditor with a written request to the Union Rape Crisis Center for an MOU. The Auditor spoke with an advocate at the center. She indicated the center is reviewing the request to enter into a MOU with ECDF but, until the agreement is signed, the center will provide expertise and support in areas of crisis intervention and counseling to address victim needs.

(c)(d) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "The investigating entity shall offer all victims of sexual abuse access to forensic medical examinations, whether onsite or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. As requested by the victim, either the victim advocate a qualified investigating entity staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals." The Facility's Health Service Administrator (HSA) confirmed that ECDF does not conduct forensic examinations at the facility. Detainees requiring this type examination would be taken to the University Hospital of New Jersey. There were no sexual abuse allegations reported during the audit period. A review of the one allegation made during the past three years indicated the nature of the allegation did not require a forensic examination. The Auditor spoke with the victim advocate who indicated that they would be available during any forensic examination to provide support during any investigative interviews.

§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)(b)(d)(e)(f) The Auditor based compliance with these standard subparts after a review of the agency's policy 10062.2 outlining the evidence and investigative protocols. This policy requires that all investigations are to be reported to the Joint Intake Center (JIC) who assesses allegations to determine which allegations fall within the PREA purview. The JIC assesses all sexual abuse allegations reported to them to determine whether the allegation is referred to the DHS OIG or OPR. OIG has the first right of refusal on all employees, volunteers, or contractors on resident sexual abuse allegations. Once the investigation 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 investigation 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 in coordination with law enforcement and facility staff. If allegations are not criminal in nature, the allegations are investigated by the OPR field office or referred to the ERO Administrative Investigative Unit (AIU) for investigation. The ERO AIU would assign an administrative investigation to be completed by an ERO Fact Finder or to the AFOD who then would assign it to a manager for management inquiry (case summary) completion. All investigations are closed with a report of investigation. Policy 14-2-DHS requires, "The Facility Administrator shall ensure that an administrative investigation and a referral for a criminal investigation, where appropriate, are completed for all allegations of sexual abuse. Retention of such reports will be held for as long as the alleged abuser is detained or employed by the agency or facility, plus five (5) years. All allegations of sexual abuse or assault shall be immediately and effectively reported to ICE/Enforcement and Removal Operations (ERO). In turn, ICE/ERO will report the allegation as a significant incident and refer the allegation for investigation." The Warden and PSA Compliance Manager confirmed all allegations of sexual assault are reported to ICE Supervisory Detention and Deportation Officer (SDDO). The interview with the SDDO confirmed that he makes all required notifications to ICE personnel as required by the standard. As noted earlier there were no allegations of sexual assault reported during the reporting period. The Auditor did review an allegation outside the audit period, but within the past three years, and found notifications completed to ICE, CoreCivic Corporate, PSA Compliance Manager and the Elizabeth Police Department, as required by policy.

(c) The protocols for ICE investigations and CoreCivic investigations were observed by the Auditor on their respective web pages (www.ICE.gov/prea) and (www.corecivic.com/the-prison-rape-elimination-act-of-2003-prea).

§115.31 - Staff training.

Outcome: Exceeds Standard (substantially exceeds requirement of standard)

Notes:

(a)(b)(c) The Auditor determined compliance on this subpart of the standard after a review of policy 14-2-DHS that requires, "Training on the facility's Sexual Abuse or Assault Prevention and Intervention Program shall be included in training for all new employees and shall also be included in annual refresher training thereafter. Employee training shall ensure facility staff are able to fulfill their responsibilities under DHS standards and shall include: the facility's zero-tolerance policies for all forms of sexual abuse; definitions and examples of prohibited and illegal sexual behavior; the right of detainees and staff to be free from sexual abuse, and from retaliation for reporting sexual abuse; instruction that sexual abuse and/or assault is never an acceptable consequence of detention; recognition of situations where sexual abuse and/or assault may occur; how to avoid inappropriate relationships with detainees; working with vulnerable populations and addressing their potential vulnerability in the general population; recognition of the physical, behavioral and emotional signs of sexual abuse and/or assault and ways to prevent and respond to such occurrences; the requirement to limit reporting of sexual abuse and assault to personnel with a need-to-know in order to make decisions concerning the detainee-victim's welfare, and for law enforcement/investigative purposes; the investigation process and how to ensure that evidence is not destroyed; prevention, recognition and appropriate response to allegations or suspicions of sexual assault involving detainees with mental or physical disabilities; how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; instruction on reporting knowledge or suspicion of sexual abuse and/or assault; and instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse and/or assault. Employees shall be required to confirm, by either electronic or manual signature, their understanding of the received training. Signed documentation will be maintained in the employee's training file." The Auditor reviewed ten training files (seven employees, one contract employee, and two IHSC) while on-site and found written documentation verifying employee PREA training. The Auditor reviewed the curriculum provided to ECDF staff and found it covered all requirements outlined in subpart (a) of the standard. The Auditor interviewed 12 random facility staff and 2 random ICE staff. Staff interviewed described the training's content to the Auditor, and it was determined to coincide with the standard and policy requirements for training. Staff indicated refresher training is provided annually, which exceeds the standard requirement. The Training Manager provided documentation demonstrating all employees at the ECDF received the required PREA training for 2020.

§115.32 - Other training.

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

Notes:

(a)(b)(c) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "The facility shall ensure that all volunteers and other contractors who have contact with detainees have been trained on their responsibilities under the facility's sexual abuse prevention, detection, intervention and response policies and procedures. The level and type of training for volunteers and contractors will be based on the services they provide and their level of contact with detainees; however, all volunteers and contractors who have any contact with detainees must be notified of the facility's zero-tolerance policy and informed how to report such incidents. Civilians/contractors/volunteers who have contact with detainees on a recurring basis shall be provided a copy of this policy prior to admission to the facility to begin their assignment or task. Civilians/contractors/volunteers shall be required to confirm, by either electronic or manual signature, their understanding of the received training. Signed documentation will be maintained in the civilian or contractor's file." There were no contractors at the ECDF under the standard subpart (d) definition of a contractor. Due to the COVID-19 pandemic, there were also no volunteers at the facility. The Auditor interviewed the Training Manager who indicated that employee and contractor PREA training is identical and covers standard 115.31 subpart (a) requirements. She also provided the training curriculum all volunteers receive, regardless of the level of detainee contact they have, which addressed the facilities' response policies and procedures relating to sexual abuse prevention, detection, intervention, and response. She provided the Auditor with copies of five training records, for previous volunteers, to review. The Auditor observed the training acknowledgement, by signature, that they completed and understood the training.

§115.33 - Detainee education.

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

Notes:

(a)(b)(c)(e) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "Upon admission, all detainees shall be notified of the facility's zero-tolerance policy on sexual abuse and assault through the orientation program and the ECDF detainee handbook. Detainees will be provided with information (orally and in writing) about the facility's SAAP Program. Such information shall include, at a minimum: the facility's zero-tolerance policy for all forms of sexual abuse or assault; the name of the facility PSA Compliance Manager, and information about how to contact him/her; prevention and intervention strategies; definitions and examples of detainee-on-detainee sexual abuse and assault, staff-on-detainee sexual abuse and assault and coercive sexual activity; explanation of methods for reporting sexual abuse or assault, including one or more staff members other than an immediate point-of-contact line officer, the OHS/Office of Inspector General (OIG) and the ICE/Office of Professional Responsibility (OPR) investigation processes; information about self-protection and indicators of sexual abuse and assault; prohibition against retaliation, including an explanation that reporting an assault 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. The facility shall post on all housing unit bulletin boards the following notices: the DHS-prescribed sexual abuse and assault awareness notice; the name of the PSA Compliance Manager; and information about the local organization (Union County Rape Crisis Center) that can assist detainees who have been victims of sexual abuse or assault, including mailing addresses and telephone numbers (toll-free hotline numbers where available)." The documents provided to each detainee upon arrival at ECDF include the ECDF Detainees Handbook available in English and Spanish and the ICE National Detainee Handbook, available in 11 of the most prevalent languages encountered by ICE (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, and Vietnamese). The detainees are also required to view two PREA videos (PREA What You Need to Know and Know Your Rights) while in intake. The detainees are also provided the printed DHS-prescribed Sexual Assault Awareness Information pamphlet in Spanish and English at this facility. This pamphlet is currently available in seven different languages from ICE. Receipt for these documents and viewing of the video are signed for by the detainee on the Elizabeth Booking form. Interviews conducted with two intake staff confirmed if a detainee speaks a language not available in the ICE National Detainee handbook, the staff will utilize the language line service to provide this initial PREA information. Intake staff interviews confirmed any detainees that may be hearing impaired or deaf would require staff to utilize the text telephone (TTY). Detainees arriving at the facility with limited sight or who are blind, are provided individualized attention by staff that may include reading the information to the detainee. In cases where the detainee has an intellectual disability or limited reading skills, depending on the degree of limitation, the detainee would be referred to the medical/mental health department to provide the necessary orientation information. During the random detainee interviews, six detainees indicated they had not been provided orientation materials upon arrival. The Auditor reviewed their detention files (6), and four other random detention files, and found each detainee had received the written material and observed the video without any questions. As noted earlier the Auditor was also provided and reviewed a one-page orientation sheet overview (prevention and intervention strategies, examples of prohibitive acts, reporting information and the facility PSA Compliance Manager) that is provided to detainees requiring an interpreter. If the orientation is provided to the detainee through the interpreter, it is documented on this same checklist. As noted earlier, there were 12 detainees randomly chosen who were LEP. None of the detainees spoke a language where the ICE National Handbook was not available.

(d) The Auditor determined compliance on this subpart of the standard after observing the ICE prescribed sexual assault awareness posters in Spanish and English, throughout ECDF in all areas where detainees have access. The name of the PSA Compliance Manager was included in each of these postings. Also prominently displayed and observed by the Auditor, in each of these areas, was the contact information for Union County Rape Crisis Center. This information is also available in an attachment to the ECDF Detainees Handbook.

(f) The Auditor determined compliance on this subpart of the standard after reviewing detainee reporting information provided in the Elizabeth Detention Center Communication of Information to Detainees Handbook and in the ICE National Detainee Handbook. As noted earlier, the Auditor interviewed 20 random detainees. Each detainee was aware of how to report sexual abuse if they needed to for themselves or someone else.

§115.34 - Specialized training: Investigations.

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

Notes:

(a)(b) The Auditor determined compliance on these subparts of the standard after reviewing the facility, and ICE provided documentation communicated within the narrative. The ECDF policy 14-2-DHS requires, "The facility shall provide specialized training on sexual abuse and effective cross-agency coordination to facility investigators who conduct investigations into allegations of sexual abuse at immigration detention facilities." This training covers, interviewing sexual abuse and assault victims, sexual abuse and assault evidence collection in confinement settings, the criteria and evidence required for administrative action on prosecutorial referral, and information about effective cross-agency coordination in the investigation process. The interview with the facility investigator confirmed receiving this specialized training, and it was documented in her training record with a certificate of completion. This investigator training was provided through ICE and included "effective cross-agency coordination."

The agency policy 11062.2 states "OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as, Office of Detention Oversight staff, and other OPR staff, as appropriate". The lesson plan is the ICE OPR Investigations Incidents of Sexual Abuse and Assault, which covers in depth investigative techniques, evidence collections, and covers all aspects to conducting an investigation of sexual abuse in a confinement setting. The agency offers another level of training, the Fact Finders Training which provides information needed to conduct the initial investigation at the facility to determine if an incident has taken place or to complete the administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP; LGBTI, and disabled detainees; and an overall view of the investigative process. The agency provides rosters of trained investigators on OPR's SharePoint site for Auditors' review; this documentation is in accordance with the standard's requirements.

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

Outcome: Exceeds Standard (substantially exceeds requirement of standard)

Notes:

(a)(b)(c) The Auditor based compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "In addition to the general training provided to all employees, all full and part-time qualified health care professionals and qualified mental health professionals who work in the facility shall receive specialized medical training as outlined: how to detect and assess signs of sexual abuse; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse; how and to whom to report allegations of sexual abuse; and how to preserve physical evidence of sexual abuse." Medical services are provided through the IHSC at ECDF. The Auditor interviewed both the HSA and psychologist and both confirmed all medical/mental health staff (full and part-time) receive this training annually and that the staff at ECDF are current with the training. The HSA also confirmed that ECDF medical staff are prohibited from participating in sexual assault forensic medical examinations or evidence gathering. Forensic examinations are performed at the University Hospital of New Jersey. A sample of two training files for medical staff were examined and found to be complete and reflective of the standard training requirements. Medical and mental health staff are required to complete the specialized training on an annual basis, which exceeds the standard's requirement. The Auditor also reviewed the curriculum provided to the medical/mental staff, which includes the requirements outlined in this subpart.

§115.41 - Assessment for risk of victimization and abusiveness.

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

Notes:

(a)(b)(c)(d)(f) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "All detainees shall be screened upon arrival at the facility for potential risk of sexual victimization or sexually abusive behavior and shall be housed to prevent sexual abuse or assault, taking necessary steps to mitigate any such danger. Each new detainee shall be kept separate from the general population until he/she has been 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 facility shall 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 or her physical safety. The initial screening shall consider prior acts of sexual abuse or assault, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse or assault, as known to the facility, in assessing detainees for risk of being sexually abusive. The 14-2B-DHS Sexual Abuse Screening Tool form or electronic OMS version will be utilized to complete the initial screening. The facility shall implement appropriate protections on responses to questions asked pursuant to this screening, limiting dissemination, and ensuring that sensitive information is not exploited to the detainee's detriment by staff or other detainees. Detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked." The Auditor reviewed the 14-2B-DHS Sexual Abuse Screening Tool and found it addressed each of the nine requirements of subpart (c) and the requirements in subpart (d) when known to the facility. ECDF is a level one custody facility who does not house detainees with aggressive or abusive behavior. The Auditor interviewed the classification staff member who reviews the ICE Risk Classification Assessment (RCA) screening form to ensure the detainee meets the ECDF custody classification. This classification is performed typically within one hour of the detainee's arrival and always within the standard's and policy's 12-hour requirement. The two intake staff interviewed confirmed they perform the risk assessment on each detainee arriving at ECDF utilizing the 14-2B-DHS Sexual Abuse Screening Tool. They also indicated detainees are never disciplined for refusing to answer any of the risk assessment questions. They also stated that detainees are not placed in general population, until the classification and risk assessment are completed. During the random detainee interviews, the Auditor was told that four of the detainees did not receive this initial assessment. The Auditor reviewed their detention files, along with eight other detention files, and found completed assessments in each detention file on the day of arrival at ECDF.

(e) The Auditor determined compliance on this subpart of the standard after a review of policy 14-2-DHS that requires, "The facility shall reassess each detainee's risk of victimization or abusiveness between sixty (60) and ninety (90) days from the date of the initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization." The 12 detention files reviewed demonstrated completed reassessments in nine of the files, where detainees were at ECDF longer than 60 days. Each of these reassessments were completed prior to 90 days.

(g) The Auditor determined compliance on this subpart of the standard after a review of policy 14-2-DHS that requires, "All information concerning an event of detainee sexual abuse is to be treated as confidential. Apart from reporting to designated supervisors or officials, employees shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, and as specified in this policy, to make treatment, investigation, and other security and management decisions. This information should never be shared with other detainees. Appropriate controls shall be implemented within the facility regarding the dissemination of responses to questions asked pursuant to screening for risk of victimization and abusiveness in order to ensure that sensitive information is not exploited by employees or other detainees to the detainee's detriment." During the file review, the Auditor found these completed forms (initial screening and reassessments) in the detention files secured under double lock and key. The interviews with the intake staff and random staff confirmed information they become aware of is to remain confidential.

§115.42 - Use of assessment information.

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

Notes:

(a) The Auditor determined compliance on this subpart of the standard after a review of policy 14-2-DHS that requires, "The facility shall use the information from the 14-2B-DHS-DHS Sexual Abuse Screening Tool conducted at initial screening in the consideration of housing, recreation, work program, and other activities." The classification staff member confirmed assignments are made for work and housing based on each detainee's risk assessment. The instructions for completion of the document informs the staff member, conducting the risk assessment, that it is important that any PREA classification, whether it indicates the potential for being at risk of victimization or the potential of being sexual abusive be noted to provide the proper housing. The Auditor reviewed 12 detainee files in which the initial assessment and reassessment files are kept. The files demonstrated assessments were conducted on each detainee to ensure the safety of the detainee.

(b)(c) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "In deciding whether to house a transgender or intersex detainee in a male housing unit/area or female housing unit/area, or when making other housing and programming assignments for such detainees, the facility shall consider the transgender or intersex detainee's gender self-identification and an assessment of the effect of placement and shall consider on a case-by-case basis whether such a placement would ensure 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 on 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. Placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review whether any threats to safety were experienced by the detainee." There were no transgender detainees assigned at ECDF at the time of the on-site visit for the Auditor to interview. During her interview, the PSA Compliance Manager confirmed that when the facility housed transgender detainees they conferred with medical and mental health staff prior to making any decision on housing, taking into account the safety and security needs of the facility and any concerns of the transgender detainee. She also confirmed ECDF allows transgender and intersex detainees to shower separately from other detainees during count times, if necessary, or at times convenient to facility operation.

§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) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "Use of Administrative Segregation to protect detainees at high risk for sexual abuse and 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. Detainees considered at risk for sexual victimization shall be placed in the least restrictive housing that is available and appropriate. If appropriate custodial options are not available at the facility, the facility will consult with the ICE Field Office Director (FOD) to determine if ICE can provide additional assistance. Such detainees may be assigned to Administrative Segregation for protective custody only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of thirty (30) days. Detainees placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If access to programs, privileges, education, or work opportunities is restricted, the facility shall document the reason." The interview with the Warden confirmed that the use of segregation for the placement of any vulnerable detainee would not be the normal response for staff. He indicated he would move the detainee to another housing unit, a medical bed, or contact the AFOD to transfer the detainee. He also indicated because of the restriction against housing aggressive detainees at ECDF, he felt detainees would not feel as vulnerable. He stated segregation has not been used, during the audit period, for the placement of any vulnerable detainee. The Auditor did not observe any vulnerable detainees present in the segregation unit for protective custody during the on-site visit.

(d)(e)(f) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "If involuntary segregated housing is warranted then the facility will take the following actions: a supervisory staff member shall conduct a review within seventy-two (72) hours of the detainee's placement in 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 thirty (30) days and every ten (10) days thereafter." The Warden confirmed that any placement of a vulnerable detainee in segregation would require, as stipulated in policy, the review and the notification to the FOD within 72 hours.

§115.51 - Detainee reporting.

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

Notes:

(a)(b) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "The facility shall provide multiple ways for detainees to privately report sexual abuse. Detainees shall be encouraged to immediately report pressure, threats, or instances of sexual abuse as well as possible retaliation by other detainees or employees for reporting sexual abuse and staff neglect or violation of responsibilities that may have contributed to such incidents. Staff shall take seriously all statements from detainees claiming to be victims of sexual abuse or assault and shall respond supportively and non-judgmentally. Any detainee may report acts of sexual abuse or assault to any employee, contractor, or volunteer. If a detainee is not comfortable with making the report to their immediate point-of-contact line staff, he/she shall be allowed to make the report to a staff person with whom he/she is comfortable in speaking about the allegations. Detainees who are victims of sexual abuse have the option to report an incident to a designated employee other than an immediate point-of-contact line officer by using any of the following methods: submitting a request to meet with IHSC staff and/or reporting to a IHSC staff member during sick call; calling the facility's twenty-four (24) hour toll-free notification telephone number; verbally, telling any employee, including the facility Chaplain; forwarding a letter, sealed and marked "confidential", to the Facility Administrator or any other employee; calling or writing someone outside the facility who can notify facility staff; contacting the respective consular office; and/or forwarding a letter to the CoreCivic FSC PREA Coordinator." The Auditor observed contact information for each consulate in the ECDF hold rooms and in each of the detainee housing units. The Auditor also observed the ICE zero-tolerance posters, in Spanish and English, throughout the facility and in each housing units, as well with the name and contact information of the PSA Compliance Manager and the DHS OIG telephone number. The noted postings advise detainees that sexual abuse reports can be made confidentially and anonymously. As noted earlier, detainees are required to receive an orientation that includes, at a minimum, instruction on the six requirements outlined in subpart (a) of this standard informing the detainee of multiple ways to report sexual abuse, retaliation, or staff neglect. As noted in standard 115.33 reporting information is posted on all housing unit bulletin boards, provided to the detainee in the ECDC Handbook available in English and Spanish and the ICE National Detainee

Handbook, available in 11 of the most prevalent languages encountered by ICE (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, and Vietnamese). The PSA Compliance Manager confirmed detainees may report allegations to a public or private agency, not associated with the agency, which includes the JIC and the DHS OIG. This reporting information is also found in the ICE National Detainee Handbook and the ECDF Detainee Handbook. The Auditor checked the detainee reporting telephone line in multiple housing units (2) and found them operational without requiring the use of the detainee PIN. The detainee interviews (20) confirmed their knowledge about reporting opportunities relating to sexual abuse at the ECDF. The Auditor reviewed an allegation that occurred outside of the audit period and found the detainee had informed a security supervisor who immediately reported it to the PSA Compliance Manager.

(c) The Auditor determined compliance on this subpart of the standard after review of policy 14-2-DHS that requires, "Employees must take all allegations of sexual abuse seriously, including verbal, anonymous and third-party reports, and treat them as if the allegation is credible. Staff shall promptly document any verbal reports." The Auditor interviewed random staff (12) who confirmed the facility's policy requirement that they are to accept and report allegations of sexual abuse regardless of how the report was made and that all verbal reports from detainees or third parties must be documented in writing to their supervisors. The Auditor reviewed an allegation that occurred outside of the audit period and found the detainee had informed a security supervisor who documented the conversation and immediately reported it to the PSA Compliance Manager.

§115.52 - Grievances.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(e)(f) Policy 14-2-DHS states "Alleged PREA incidents will not be processed through the CoreCivic facility Detainee Grievance Procedure. Should a report be submitted and received as a detainee grievance it will immediately be referred to the Facility Investigator or Administrative Duty Office." Policy 14-5 (Inmate Resident Grievance Procedure) does not specifically detail any requirements for processing a sexual abuse allegation through the grievance process as required by subparts (b)(c)(d)(e)(f) of this standard. The Grievance Coordinator informed the Auditor that detainees may use the grievance office for allegations of sexual abuse, with no time limits when to file, and that she would respond within five days. However, this process is not documented in any policy or procedure.

DOES NOT MEET. The facility must change policy 14-2 to reflect subpart (a) requirement allowing the use of the grievance program to file a sexual abuse allegation. Policy 14-5 also needs to be updated to address the requirements of subparts (b)(c)(e)(f) of this standard.

(d) The Auditor determined compliance on this subpart of the standard after review of policy 14-2-DHS that states "facility staff shall bring medical emergencies to the immediate attention of proper medical personnel for further assessment." The Grievance Coordinator confirmed all detainees alleging sexual abuse are referred to medical for evaluation.

§115.53 - Detainee access to outside confidential support services.

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

Notes:

(a)(b)(c)(d) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that states, "CoreCivic shall maintain or attempt to enter into Memorandums of Understanding (MOU) or other agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support for immigrant victims of crimes. Each facility shall establish, in writing, procedures to include outside agencies in the facility's sexual abuse prevention and intervention protocols, if such resources are available. Detainees shall be provided access to outside victim advocates for emotional support services related to sexual abuse by giving detainees mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, state, or national victim advocacy or rape crisis organizations. Such information shall be included in the ECDF Detainee Handbook. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible. Detainees shall be informed, prior to giving them access, of the extent to which such communications shall be monitored and the extent to which reports on abuse will be forwarded to authorities in accordance with mandatory reporting laws." The Auditor spoke with the PSA Compliance Manager who confirmed the facility has been pursuing a written MOU with the Union Rape Crisis Center as recent as 12/2020. The Auditor observed, during the facility tour, the contact information for Union County Rape Crisis Center in all areas detainees have access to. The ECDF Detainee Handbook outlines the extent that calls to the center may be monitored.

§115.54 - Third-party reporting.

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

Notes:

The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "Each facility shall establish a method to receive third-party reports of sexual abuse and shall post this information on the facility PREA link found on the CoreCivic website." The Auditor noted third-party reporting information, in Spanish and English, located in the ECDF lobby and visiting area. The Auditor reviewed the ICE webpage (<https://www.ice.gov>) and CoreCivic webpage (<http://www.corecivic.com/the-prison-rape-elimination-act-of-2003-prea>) which provides a means for the public to report incidents of sexual abuse/harassment on behalf of any detainees as well. Most of the 20 random detainees interviewed were aware that family members and friends could report sexual abuse on their behalf. The facility reported one incident of sexual abuse during the past three years. The Auditor reviewed the allegation and determined it was not reported through a third party.

§115.61 - Staff reporting duties.

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

Notes:

(a)(b)(c) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "Employees must take all allegations of sexual abuse seriously, including verbal, anonymous and third-party reports, and treat them as if the allegation is credible. Staff shall promptly document any verbal reports. All reports of sexual abuse will be reported to the Facility Investigator. Employees having contact with the alleged victim should behave in a manner that is sensitive, supportive, and non-judgmental. All employees are required to immediately report: any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility in accordance with this policy, whether or not the area is under CoreCivic's management authority; retaliation against detainees or employees who have reported such an incident and any employee neglect or violation of responsibilities that may have contributed to an incident or retaliation. Apart from reporting to designated supervisors or officials, employees shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, and as specified in this policy, to make treatment, investigation, and other security and management decisions." The interviews with each

of the random staff confirmed their knowledge of the reporting requirements of the standard and this policy. Each staff was also aware of their right to go outside the chain of command, through the CoreCivic ethics reporting telephone line, to report sexual abuse if necessary. They also confirmed that apart from reporting to designated supervisor or officials, they are not required to reveal any information related to a sexual abuse report. The 14-2-DHS policy was approved by ICE. As noted earlier there were no reported allegations during the audit period but did receive one allegation made during the past three years. The detainee reported in too a supervisor.

(d) The Auditor determined compliance on this subpart of the standard after a review of policy 14-2-DHS that requires, "If the alleged victim is under the age of eighteen (18) or considered a vulnerable adult under a state or local vulnerable person's statute, the allegation shall be reported to the designated state or local services agency under applicable mandatory reporting laws." There are no juveniles housed at ECDF. The interview with the Warden confirmed, if the facility encountered an incident of sexual abuse involving a vulnerable adult, CoreCivic's counsel would be contacted to determine reporting obligations under the laws of New Jersey.

§115.62 - Protection duties.

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

Notes:

The Auditors based compliance on this standard after a review of policy 14-2-DHS that requires, "When it is learned that a detainee is subject to a substantial risk of imminent sexual abuse, immediate action shall be taken to protect the detainee." The Auditor questioned the Warden, PSA Compliance Manager, random supervisors and random staff about the handling of detainees they believed may be at substantial risk of imminent sexual abuse. All staff interviewees indicated the detainee's safety of being sexual abused would be their primary concern and would result in removing the detainee from any potential risk. The Warden and supervisors indicated placement in the medical unit would be the likely immediate response. During the previous 12 months, ECDF did not have a detainee who was at substantial risk of imminent sexual abuse, requiring the facility to take immediate action to protect the detainee.

§115.63 - Reporting to other confinement facilities.

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

Notes:

(a)(b)(c)(d) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "If the allegation of sexual abuse involves events that took place while the alleged victim was not in CoreCivic custody (e.g. while housed at another provider's facility, or state, or federal facility), the Facility Administrator of the facility that received the allegation shall ensure that the following actions are taken: contact the facility head or appropriate office of the facility where the alleged abuse took place as soon as possible, but no later than seventy-two (72) hours after receiving the allegation; and if the allegation was reported and investigated by the appropriate officials, the receiving facility shall document the allegation, the name and title of the person contacted, and that the allegation has already been addressed. Under this circumstance, further investigation and notification need not occur and all such contacts and notifications shall be documented on the 5-1 B Notice to Administration; including the allegation, any details learned from contact with the site where the alleged abuse took place, and the facility's response to the allegation. All allegations of sexual abuse or assault shall be immediately and effectively reported to ICE/Enforcement and Removal Operations (ERO). In turn, ICE/ERO will report the allegation as a significant incident and refer the allegation for investigation." The Warden, PSA Compliance Manager, and the PAQ indicated ECDF did not receive any reports of sexual abuse from a detainee on arrival at ECDF, that occurred at another facility. There were also no allegations made at other facilities reported to have occurred at ECDF, during the audit period, according to these interviews and a review of the PAQ." The Warden and PSA Compliance Manager confirmed all allegations of sexual assault are reported to ICE Supervisory Detention and Deportation Officer (SDDO). The interview with the SDDO confirmed that he makes all required notifications to ICE personnel as required by the standard.

§115.64 - Responder duties.

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

Notes:

(a) The Auditor determined compliance on this subpart of the standard after a review of policy 14-2-DHS that requires, "Any employee who discovers or learns of sexual abuse, or an allegation of sexual abuse, shall ensure that the following actions are accomplished: the alleged victim is kept safe, has no contact with the alleged perpetrator and is immediately escorted to the Health Services Department; and the Health Services Department is responsible for medical stabilization and assessment of the victim until transported to an outside medical provider, if medically indicated, for collection of evidence and any necessary medical treatment. CoreCivic will request, in writing, that the examination be performed by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE). If a SAFE or SANE provider is not available, the examination may be performed by other qualified medical practitioners. If the abuse occurred within a time period that still allows for the collection of physical evidence, employees shall, to the best of their ability, ensure that the victim does not wash, shower, remove clothing without medical supervision, use the restroom facilities, eat, drink or brush his/her teeth. The highest-ranking authority on-site is immediately notified and will further ensure to protect the safety of the victim and the integrity of the crime scene and any investigation." The random security staff interviews confirmed and detailed their responsibilities when responding to any allegation of sexual abuse, as outlined in the policy and required by the standard. The one sexual abuse allegation reviewed by the Auditor followed the first responder requirement of policy 14-2-DHS.

(b) The Auditor determined compliance on this subpart of the standard after a review of policy 14-2-DHS that requires, "If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and notify security staff." The Auditor interviewed two non-security staff and each confirmed, if an incident of sexual abuse was reported to them, they would secure the alleged victim and immediately call for a security staff member. The one allegation reviewed by the auditor did not involve a non-security responder.

§115.65 - Coordinated response.

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

Notes:

(a)(b) The Auditor determined compliance on these subparts of the standard after a review of policy 14-2-DHS that outlines the establishment and duties of the Sexual Abuse Response Team (SART) at ECDF to identify roles and responsibilities to provide a coordinated response to incidents of sexual abuse. The SART team at ECDF consists of the PSA Compliance Manager, a medical representative, a mental health staff person, security representative, facility investigator and someone from facility leadership. The SART responsibilities include: responding to reported incidents of sexual abuse and assault; responding to victim assessment and support needs; ensuring policy and procedures are enforced to enhance detainee safety; and

participating in the development of practices and/or procedures that encourage prevention and intervention of sexual abuse and assault and enhance compliance with DHS PREA Standards. The Auditor interviewed a member of the SART team, who detailed his responsibilities during a sexual assault and how he interacts with other members during a response to a sexual assault. The Auditor reviewed a sexual abuse allegation investigative file during the past three years and determined the staff's response was coordinated as outlined in the policy 14-2-DHS.

(c)(d) The Auditor based compliance on these subparts of the standard after a review of policy 14-2-DHS that requires, "If a victim of sexual abuse is transferred between facilities, 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." The Warden, HSA, PSA Compliance Manager and the PAQ confirmed that ECDF had no instances of victim transfers between DHS or non-DHS facilities within the previous 12 months. The Warden and HSA further stated that, if they were to transfer a victim of sexual abuse, all proper notifications would be made, in accordance with the policy and the standard.

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

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

Notes:

The Auditor determined compliance on this standard after review of policy 14-2-DHS that requires, "Staff suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation. Contractors and civilians suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation." There were no allegations made against staff, contractors, or volunteers during the audit period. The Warden confirmed that if any staff member, volunteer, or contractor was alleged to have perpetrated sexual abuse they would be removed from all detainee contact pending the results of the investigative process.

§115.67 - Agency protection against retaliation.

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

Notes:

(a)(b)(c) The Auditor determined compliance on these subparts of the standard after review of policy 14-2-DHS that requires, "Staff, contractors, volunteers, and detainees shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual abuse as a result of force, coercion, threats, or fear of force. For at least ninety (90) days following a report of sexual abuse, the 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 facility should monitor include any detainee disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The facility shall continue such monitoring beyond ninety (90) days if the initial monitoring indicates a need to continue. The PSA Compliance Manager shall ensure that thirty/sixty/ninety (30/60/90) day retaliation monitoring is conducted by the designated staff, following a report of sexual abuse, to protect against potential retaliation against detainees or employees. This shall include periodic status checks of detainees and review of relevant documentation. Monitoring is documented on the 14-20 PREA Retaliation Monitoring Report (30/60/90) form. Monitoring shall continue beyond ninety (90) days if the initial monitoring indicates a continuing need." The PSA Compliance Manager confirmed retaliation monitoring begins the day an allegation is made and continues for a period of 90 days or longer, if necessary. She indicated retaliation monitoring includes monthly contact with the detainee and a review of disciplinary reports and/or housing or program changes or requests. When monitoring staff retaliation, she indicated the monitoring would review negative performance reviews, time off refusals, or reassignment requests. The Auditor reviewed a sexual abuse allegation investigative file, outside the audit period, and found a 90-day retaliation monitoring conducted and documented in the investigative file as outlined in the 14-2-DHS policy. The Auditor also confirmed the facility had no reported instances of alleged retaliation occurring during the audit 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)(d) The Auditors based compliance on these subparts of the standard after review of policy 14-2-DHS requiring, "The facility shall take care to place detainee victims of sexual abuse in a supportive environment that represents the least restrictive housing option possible. Detainee victims shall not be held for longer than five days in any type of administrative segregation, except in unusual circumstances or at the request of the detainee. 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." The PSA Compliance Manager and the Warden both indicated that placing a detainee victim in involuntary administrative segregation would not be an option utilized at ECDF. As noted earlier, detainees with any aggressive behavior would be removed from the facility. In a case where a detainee victim needed to be temporarily housed, the use of a medical bed would be used. They also confirmed that, during the audit period, segregation was not used to house a victim of sexual abuse. The Warden also confirmed that, any detainee victim placed in administrative segregation, would require a notification be made to the FOD within 72 hours. He also stated, prior to the detainee returning to general population, a vulnerability reassessment would be completed.

§115.71 - Criminal and administrative investigations.

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

Notes:

(a)(b) The Auditors based compliance on these subparts of the standard after review of policy 14-2-DHS requiring, "The Facility Administrator shall ensure that an administrative investigation and a referral for a criminal investigation, where appropriate, are completed for all allegations of sexual abuse." The investigator confirmed she is required to conduct an administrative investigation on all allegations of sexual abuse, regardless of whether the allegation is referred for criminal investigation. She indicated that, in accordance with policy 14-2-DHS, she coordinates her investigation with the agency conducting the criminal investigation. She pointed out that her duties as an investigator, as described in her position description, require her investigations to be thorough, prompt and objective. The Auditor reviewed a sexual abuse allegation investigative file outside the audit period, but within the past three years, and found the investigation was completed promptly by a trained investigator and was thorough and objective.

(c)(e)(f) The Auditors based compliance on these subparts of the standard after review of policy 14-2-DHS requiring, "Administrative Investigation Procedures include: preservation of direct and circumstantial evidence, including any available physical DNA evidence and any available electronic monitoring data; interviewing alleged victims, suspected perpetrators, and witnesses; reviewing prior complaints and reports of sexual abuse or assault 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 alleged sexual abuse or assault 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; retention of

such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five (5) years; coordination and sequencing of administrative and criminal investigations to ensure that a criminal investigation is not compromised by an internal administrative investigation." The criminal investigations at ECDF are conducted by the Elizabeth Police Department. The investigator stated that she notifies this department upon any allegation of sexual abuse and waits to conduct the administrative investigation after consultation with the appropriate investigative offices within DHS. She also stated that she cooperates with the outside agency conducting the criminal investigation; when outside agencies investigate sexual abuse, the investigator and facility cooperate with outside investigators and endeavor to remain informed about the investigation's progress. She also indicated her protocols and determinations for administrative investigations are based on direct and circumstantial evidence; available physical DNA evidence; available electronic monitoring data; interviews notes from alleged victims, suspected perpetrators, and witnesses; and reviewing prior complaints and reports of sexual abuse or assault involving the suspected perpetrator. The investigator further indicated the departure of the alleged abuser or victim from the facility or agency's employment or control would not provide a basis for terminating an investigation. The Auditor reviewed a sexual abuse allegation investigative file outside the audit period and found the file content demonstrated the subpart (c) and policy 14-2-DHS protocol requirements.

§115.72 - Evidentiary standard for administrative investigations.

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

Notes:

The Auditor determined compliance on this standard after review of policy 14-2-DHS that requires, "In any sexual abuse investigation in which the facility is the primary investigating entity, the facility shall utilize a preponderance of the evidence standard for determining whether sexual abuse has taken place." The investigator confirmed the evidence standard utilized when determining the outcome of a sexual abuse case is the preponderance of evidence. The Auditor reviewed a sexual abuse allegation investigative file, outside the audit period, but within the past three years, and the outcome of the investigation was based on this standard of evidence.

§115.73 - Reporting to detainees.

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

Notes:

The Auditor determined compliance on this standard after review of policy 14-2-DHS that requires, "When the detainee is still in immigration detention, or where otherwise feasible, following an investigation into a detainee's allegation that he/she suffered sexual abuse at the facility, the detainee shall be notified of the result of the investigation and any responsive action taken. If the facility did not conduct the investigation, the relevant information shall be requested from the outside investigating agency or entity in order to inform the detainee. All detainee notifications or attempted notifications shall be documented signed for on the 14-2E Detainee Allegation Status Notification, verifying that such notification has been received. The signed 14-2E Detainee Allegation Status Notification shall be filed in the detainee's file." The investigator and PSA Compliance Manager confirmed this detainee notification process. The Auditor reviewed a sexual abuse allegation investigative file outside the audit period, but within the past three years, and found the file demonstrated the detainee was provided the outcome of the investigation.

§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) The Auditors determined compliance on these subparts of the standard after review of policy 14-2-DHS requiring, "Employees shall be subject to disciplinary sanctions up to and including termination for violating CoreCivic's sexual abuse policies. Termination is the presumptive disciplinary sanction for staff who have engaged in, attempted, or threatened to engage in sexual abuse." The Warden and HR Manager interviews confirmed removal of staff from their position at ECDF and from the Federal service, is the presumptive disciplinary sanction for any staff member who has engaged in or attempted or threatened to engage in sexual abuse or failed to follow the zero-tolerance policy. As noted in standard 115.11 the ECDF policy regarding dismissal from service for violations with the zero-tolerance policy was approved by ICE. There were no staff terminations during the audit period requiring disciplinary sanctions.

(c)(d) The Auditor determined compliance on these subparts of the standard after review of policy 14-2-DHS that requires, "All terminations for violations of CoreCivic sexual abuse policies, or resignations by employees who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal and to any relevant licensing bodies, to the extent known." The Warden confirmed all allegations of sexual abuse are reported to the Elizabeth Police Department, regardless of the employment status of the individual. He also indicated he would report violations of the ECDF sexual abuse policy to any licensing bodies, as known. There were no staff terminations during the audit period requiring disciplinary sanctions.

§115.77 - Corrective action for contractors and volunteers.

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

Notes:

(a)(b)(c) The Auditor determined compliance on these subparts of the standard after review of policy 14-2-DHS that requires, "Any contractor or volunteer who has engaged in sexual abuse or assault shall be prohibited from contact with detainees. 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 or assault but have violated other sexual abuse policies. Incidents of substantiated sexual abuse by a contractor or volunteer shall be reported to law enforcement agencies unless the activity was clearly not criminal. The facility shall also report such incidents to the FOD regardless of whether the activity was criminal and shall make reasonable efforts to report such incidents to any relevant licensing bodies, to the extent known. Contractors and civilians suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation." The Warden informed the Auditor that any contractors and volunteers would face removal from the facility for any violation of the zero-tolerance policy. The facility would report such violations to local police and licensing bodies. He further stated that there were no reported incidents requiring the removal of a contractor or volunteer within the audit period.

§115.78 - Disciplinary sanctions for detainees.

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

Notes:

(a)(b)(c)(d)(e)(f) The Auditor determined compliance on these subparts of the standard after review of policy 14-2-DHS and policy 15-100 (Resident Rules and Discipline) that require, "Detainees shall be subjected to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse, consistent with the requirements of ICE PBNDs 3.1 Disciplinary System.

Sanctions shall be commensurate with the nature and circumstances other abuse committed, the detainee's disciplinary history, and the sanctions imposed for comparable offenses by other detainees with similar histories. 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. For the purpose of disciplinary action, a report of sexual abuse or assault 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. 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. A detainee shall have the right to due process, which includes the rights to present statements and evidence, including witness testimony on his/her own behalf; and appeal the committee's determination through the detainee grievance process." The Warden and PSA Compliance Manager interviews confirmed the ECDF disciplinary system allows for progressive levels of reviews, appeals, procedures, and documentation procedures. They also confirmed no detainee was disciplined for violating the sexual abuse policy during the audit period. The Auditor reviewed a sexual abuse allegation investigative file outside the audit period, but within the past three years, and found the allegation was unsubstantiated requiring no discipline.

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

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

Notes:

(a)(b)(c) The Auditor determined compliance on these subparts of the standard after review of policy 14-2-DHS that requires, "If the screening 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 2 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 seventy-two (72) hours after the referral" The two intake officers interviewed confirmed that any detainee disclosure of prior victimization, during intake, requires the detainee be immediately referred to medical. The HSA confirmed when a medical follow-up/referral is initiated, the detainee receives a health evaluation typically the same or next day and no later than two working days from the date of the assessment/referral. When a referral for mental health is initiated, the detainee receives a mental health evaluation no later than 72 hours after the referral. There were no detainees at the facility who disclosed prior victimization for the Auditor to interview. As previously noted, detainees disclosing any prior abusive behavior are not housed at the facility.

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

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

Notes:

(a)(b) The Auditor determined compliance on these subparts of the standard after review of policy 14-2-DHS that requires, "Detainee victims of sexual abuse and assault 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. All treatment services, both emergency and ongoing, 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." Interviews with the HSA confirmed that a detainee requiring a forensic examination is sent to the University Hospital of New Jersey and all treatment services are provided without cost and with professionally accepted standards of care. ECDF had no detainees sent out for a forensic examination or medical treatment for sexual abuse during the audit period. As noted earlier the one allegation reviewed outside the audit period did not require a forensic examination.

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

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

Notes:

(a)(b)(c)(d)(e)(f) The Auditor determined compliance on these subparts of the standard after review of policy 14-2-DHS that requires, "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 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." The HSA confirmed all detainees, who experience sexual abuse while in detention, receive medical and mental health services consistent with the community-level of care, and evaluation and treatment without cost, regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident. The HSA also confirmed the medical and mental health departments at ECDF provide on-site crisis intervention services, to include emergency contraception, pregnancy testing, sexually transmitted infections and other infectious diseases testing, and prophylactic treatment to victims, if necessary. The Auditor reviewed a sexual abuse allegation investigative file outside the audit period, but within the past three years, and found the detainee was immediately seen by medical upon reporting the allegation.

(g) The Auditor determined compliance on this subpart of the standard after review of policy 14-2-DHS that requires, "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 confirmed that ECDF does not house any detainees with aggressive behavior and if a detainee were to sexually assault another detainee, the detainee would be immediately removed from the facility, prior to a mental health evaluation.

§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) The Auditor determined compliance on these subparts of the standard after review of policy 14-2-DHS that requires, "The facility shall conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault. For any substantiated or unsubstantiated allegation, the facility shall prepare a written report within thirty (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 and assault. 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 ICE FOD, or his or her designee, for transmission to the ICE PSA Coordinator. The facility shall also provide any further information regarding such incident reviews as requested by the ICE 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 Auditor interviewed a member of the incident review team who described the team review process for every incident review. Their review included the requirements noted within policy and the standard. The Auditor reviewed a sexual abuse allegation investigative file outside the audit period, but within the past three years, and found a completed incident review in the file completed within 30 days; there were no recommendations made as a result of the review.

(c) The Auditor determined compliance on this subpart of the standard after review of policy 14-2-DHS that requires, “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 and ICEFOD, or his or her designee, for transmission to the ICE PSA Coordinator.” The Auditor was provided the 2020 annual review (negative) as required by subpart (c) with a copy sent to the FOD. The review did not result in any recommendations or changes to improve sexual abuse intervention, prevention, and response.

§115.87 - Data collection.

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

Notes:

(a) The Auditor determined compliance on this subpart of the standard after review of policy 14-2-DHS that requires, “All case records associated with claims of sexual abuse, including incident reports, investigative reports, detainee information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling shall be retained in accordance with CoreCivic Policy 1-15 Retention of Records.” The Auditor observed the case record storage room and found the documents are kept under a double lock and restricted key.

§115.201 - Scope of audits.

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

Notes:

- (d) The Auditor was allowed access to the entire facility and was able to interview staff and detainees about sexual safety during the site visit.
- (e) The Auditor was able to revisit areas of the facility and to view all relevant documentation as requested.
- (i) Formal interviews with staff, contractors, and detainees were conducted in a private confidential setting.
- (j) Audit notices were posted and observed throughout the facility in English and Spanish. The Auditors received no staff or detainee correspondence.

AUDITOR CERTIFICATION

Update Audit Findings Outcome Counts by Clicking Button:

Update Outcome Summary

SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)

Number of standards exceeded:	2
Number of standards met:	36
Number of standards not met:	1
Number of standards N/A:	2
Number of standard outcomes not selected (out of 41):	0

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

Thomas Eisenschmidt

4/5/2021

Auditor's Signature & Date

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

4/5/2021

PREA Program Manager's Signature & Date

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

4/5/2021

Assistant PREA Program Manager's Signature & Date

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



**Homeland
Security**

AUDITOR INFORMATION

Name of auditor:	Thomas Eisenschmidt	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	315-730-(b) (6), (b) (7)(C)

AGENCY INFORMATION

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

Name of Field Office:	Newark Field Office
Field Office Director:	John Tsoukaris
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	970 Broad Street, 11th Floor, Newark, NJ 07102
Mailing address: (if different from above)	

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility			
Name of facility:	Elizabeth Contract Detention Facility (ECDF)		
Physical address:	625 Evans St., Elizabeth, NJ 07201		
Mailing address: (if different from above)			
Telephone number:	(908) 352-3776		
Facility type:	CDF		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Warden
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(908) 352 (b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	PSA Compliance Manager
Email address:	(b) (6), (b) (7)(C)	Telephone number:	(908) 352 (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.

The Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of the Elizabeth Contract Detention Facility (ECDF) was conducted on January 26-28, 2021, by U.S. Department of Justice (DOJ) and U.S. Department of Homeland Security (DHS) certified PREA Auditor, Thomas Eisenschmidt, employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by the Immigration and Customs Enforcement (ICE) PREA Program Manager, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) Assistant Program Manager, both DOJ and DHS certified PREA Auditors. The Program Manager's role is to provide oversight to the DHS 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. The ECDF is privately owned by CoreCivic and operates under contract with the DHS, ICE, Office of Enforcement and Removal Operations (ERO). The facility processes detainees who are pending immigration review or deportation. According to the Pre-Audit Questionnaire (PAQ), the top three nationalities held at the ECDF are from Morocco, Egypt, and Honduras. The facility does not house juveniles or family detainees. This was the second PREA audit for the ECDF and the facility is located in Elizabeth, New Jersey.

During the audit, the Auditor found ECDF met 36 standards, had two standards that exceeded (115.31 and 115.35), had two standards that were non-applicable (115.14, 115.18), and one non-compliant standard (115.52).

On May 25, 2021, the Auditor received the ICE PREA Corrective Action Plan (CAP) and updated CoreCivic Policy 14-2, DHS Sexual Abuse Prevention and Response, from ERAU Team Lead, (b) (6), (b) (7)(C). The ERO developed the CAP with the facility, and the plan addressed standard 115.52, Grievances, that did not meet compliance during the PREA audit site visit and documentation review. The Auditor reviewed the CAP and concurred with the recommendations for achieving compliance with the deficient standard.

On August 10, 2021, the agency provided documentation from the facility for compliance review. The documentation contained the updated 14-2 policy, a staff meeting agenda, Training Activity Enrollment/Attendance Rosters, and various logbook pages. The Auditor reviewed the additional documentation and found the standard to be compliant in all material ways.

Note: As of the publication of this report, (b) (6), (b) (7)(C) assumed the ICE PREA contract Program Manager role. As such, his signature is included on this report.

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. 52 - Grievances

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

Notes:

(a)(b)(c)(e)(f): Policy 14-2-DHS states "Alleged PREA incidents will not be processed through the CoreCivic facility Detainee Grievance Procedure. Should a report be submitted and received as a detainee grievance it will immediately be referred to the Facility Investigator or Administrative Duty Office." Policy 14-5 (Inmate Resident Grievance Procedure) does not specifically detail any requirements for processing a sexual abuse allegation through the grievance process as required by subparts (b)(c)(d)(e)(f) of this standard. The Grievance Coordinator informed the Auditor that detainees may use the grievance office for allegations of sexual abuse, with no time limits when to file, and that she would respond within five days. However, this process is not documented in any policy or procedure.

DOES NOT MEET (a)(b)(c)(e)(f): The facility must change policy 14-2 to reflect subpart (a) requirement allowing the use of the grievance program to file a sexual abuse allegation.

CORRECTIVE ACTION TAKEN:

On 8/10/2021, the Auditor received supporting compliance documentation for standard 115.52. The revised CoreCivic Policy 14-2, DHS Sexual Abuse Prevention and Response, which delineates the process for detainees to file a formal grievance related to sexual abuse, now covers all the requirements of standard. The policy was approved by ICE on June 14, 2021. Additionally, and after further review, the Auditor deemed a revision to Policy 14-5 was no longer necessary based on the corrective action taken by the facility. Other submitted documentation included a staff meeting agenda and Training Activity Enrollment/Attendance Rosters documenting training to all staff conducted on June 17, 2021, and various logbook pages with written entries documenting detainees were notified of the policy revision. Standard 115.52 meets substantial compliance.

§115. Choose an item.

Outcome: Choose an item.

Notes:

§115. Choose an item.

Outcome: Choose an item.

Notes:

§115. Choose an item.

Outcome: Choose an item.

Notes:

§115. Choose an item.

Outcome: Choose an item.

Notes:

§115. Choose an item.

Outcome: Choose an item.

Notes:

AUDITOR CERTIFICATION:

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

Thomas Eisenschmidt

September 29, 2021

Auditor's Signature & Date

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

9/29/2021

PREA Program Manager's Signature & Date