

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



# Homeland Security

## AUDITOR INFORMATION

<b>Name of auditor:</b>	Wendy J. Roal Warner	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	<a href="mailto:wrwarner@creativecorrections.com">wrwarner@creativecorrections.com</a>	<b>Telephone number:</b>	(309) 241- <span style="background-color: black; color: red;">(b) (6), (b) (7)(C)</span>

## AGENCY INFORMATION

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

<b>Name of Field Office:</b>	Newark Field Office
<b>Field Office Director:</b>	John Tsoukaris
<b>ERO PREA Field Coordinator:</b>	Assistant Field Office Director <span style="background-color: black; color: red;">(b) (6), (b) (7)(C)</span> Supervisory Detention and Deportation Officer <span style="background-color: black; color: red;">(b) (6), (b) (7)(C)</span>
<b>Field Office HQ physical address:</b>	DHS ICE Enforcement and Removal Operations, 970 Broad Street, 11 <sup>th</sup> Floor, Newark, NJ 07102
<b>Mailing address:</b> <i>(if different from above)</i>	

## Basic Information About the Facility

<b>Name of facility:</b>	Elizabeth Contract Detention Facility
<b>Physical address:</b>	625 Evans Street, Elizabeth, NJ 07201
<b>Mailing address:</b> <i>(if different from above)</i>	
<b>Telephone number:</b>	(908) 352-3776
<b>Facility type:</b>	CDFCDF

## Facility Leadership

<b>Name of Official/Officer in Charge:</b>	<span style="background-color: black; color: red;">(b) (6), (b) (7)(C)</span>	<b>Title:</b>	Assistant Field Office Director
<b>Email address:</b>	<a href="mailto:Jose.Simao@ice.dhs.gov">Jose.Simao@ice.dhs.gov</a>	<b>Telephone number:</b>	(908) 282- <span style="background-color: black; color: red;">(b) (6), (b) (7)(C)</span>
<b>Facility PSA Compliance Manager</b>			
<b>Name of PSA Compliance Manager:</b>	<span style="background-color: black; color: red;">(b) (6), (b) (7)(C)</span>	<b>Title:</b>	Quality Assurance Manager
<b>Email address:</b>	<span style="background-color: black; color: red;">(b) (6), (b) (7)(C)</span>	<b>Telephone number:</b>	(908) 659- <span style="background-color: black; color: red;">(b) (6), (b) (7)(C)</span>

## AUDIT FINDINGS

### 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 Prison Rape Elimination Act (PREA) Audit of the Elizabeth Contract Detention Facility (ECDF), Elizabeth, New Jersey, was conducted by Wendy Roal Warner, a PREA auditor contracted through Creative Corrections, LLC. The purpose of the audit was to determine compliance with the Department of Homeland Security (DHS) PREA Standards. This was the first PREA audit of ECDF.

ECDF is a low/medium facility operated by CoreCivic, a private Corrections Company with headquarters in Nashville, Tennessee. ECDF follows CoreCivic policy and procedures. CoreCivic policies allow for modifications to be facility specific; ECDF has modified the policies and they are referenced as ECDF Policy throughout the report. The facility is contracted by U.S. Immigration and Customs Enforcement (ICE) for the housing of detainees. The administration area of the facility has dedicated office space for ICE staff and the Executive Office of Immigration Review (EOIR) staff along with two courtrooms for immigration hearings. The rest of the facility is under the command of CoreCivic staff. ECDF has 161 positions with 159 filled and two positions in the process of being filled. ECDF has one contract barber who has detainee interaction. ECDF operates 24-hours a day, seven days a week, for the admission of male and female adult detainees. ECDF processed 2,164 detainees into the facility in the last 12 months. The count on the first day of the audit was 281; 260 male and 21 female. ECDF does not house juveniles nor family units.

The point of contact for the audit was (b) (6), (b) (7)(C) Team Lead, Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU), ICE. The audit started with a review of the Pre-Audit Questionnaire (PAQ) which was provided to the Auditor April 16, 2018, two weeks prior to the on-site audit. The PAQ reveals ECDF had 4 allegations of sexual abuse in the preceding 12 months; 1 is pending review by ICE; 2 were substantiated, and 1 was unfounded. The PAQ contained policies, directives, procedures, forms, training records and curriculum, facility layout, and other PREA-related materials.

The on-site audit of ECDF was conducted May 1 -3, 2018. An entry briefing was held on May 1, 2018, and opened by the Team Lead. In attendance were:

(b) (6), (b) (7)(C)	Team Lead, OPR, ERAU
(b) (6), (b) (7)(C)	Assistant Field Office Director (AFOD)
(b) (6), (b) (7)(C)	Supervisory Detention and Deportation Officer (SDDO)
(b) (6), (b) (7)(C)	Detention Services Manager (DSM), Detention Monitoring Unit (DMU), Enforcement and Removal Operations (ERO)
(b) (6), (b) (7)(C)	ICE Health Service Corps (IHSC) Health Services Administrator (HSA)
Orlando Rodriguez	Warden
(b) (6), (b) (7)(C)	Assistant Warden
(b) (6), (b) (7)(C)	Quality Assurance Manager (QAM)/Prevention of Sexual Assault (PSA) Compliance Manager
(b) (6), (b) (7)(C)	Administrative Supervisor
(b) (6), (b) (7)(C)	Human Resources Manager (HRM)
(b) (6), (b) (7)(C)	Business Manager
(b) (6), (b) (7)(C)	Food Service Manager (FSM)
(b) (6), (b) (7)(C)	Detention Officer
(b) (6), (b) (7)(C)	Warden's Secretary

After introductions, the Auditor gave a tentative schedule and overview of the on-site audit process. A tour of the facility followed the meeting. During the tour, the Auditor was able to observe the vehicle sally-port; processing area to include holding-cells; all housing pods; segregation; law library; barber shops; indoor and outdoor recreation; visitation; food services; laundry; warehouse, and central control. The Auditor noted cross gender announcements being made while touring, interaction between CoreCivic staff and detainees, and male and female detainees being held separately. (b) (7)(E) and no blind spots were observed. Audit notices and PREA posters containing reporting methods and zero tolerance for sexual abuse information were observed throughout the facility.

ECDF has 11 housing pods; 8 male and 1 female general population, and 1 male and 1 female short-term housing. The short-term housing pods hold detainees who are generally at the facility 24-72 hours. Housing pods are open dormitories. General population male pods contain 20 to 44 beds and the female general population pod contains 29 beds. The male and female transition pods contain six beds each. Each pod has a shower area, toilets, and common area with televisions and telephones. ECDF has one segregation unit where male and female detainees are placed. The segregation pod contains 12 cells with single beds (11 male and 1 female), and 2 showers (1 male and 1 female). At the time of the on-site audit there were zero detainees in segregation. Meals are made at ECDF and delivered to each housing pod under staff escort.

Following the tour, the auditor was provided a roster of CoreCivic staff working during the on-site audit as well as a list of detainees by housing pod. The Auditor selected random Detention Officers and detainees to be interviewed. Staff interviews consisted of 12 random Detention Officers on all shifts, one contract barber, one non-security staff member, 13 designee staff, and one ICE staff. Additionally, information was provided from two ICE headquarters staff via email regarding staffing and investigations.

A total of 23 detainees were interviewed, 20 male and 3 female. Nineteen detainee interviews were random and four targeted. The targeted detainees interviewed were one disabled, one transgender, and two whom identified as gay; no other detainee's in target areas were identified at the facility during the on-site audit. Of the 23 detainees interviewed, 18 were limited English proficient (LEP). Language Services Associates (LSA) was utilized to assist with the interviews of the 18 LEP detainees. The countries of origin for the LEP detainees interviewed were:

- Africa
- Angola
- Bangladesh
- China
- Dominican Republic
- Ecuador
- El Salvador
- Guatemala
- Guinea
- Honduras
- India
- Jamaica
- Mexico
- Nigeria
- Philippians
- Somalia
- Senegal
- Uganda
- Venezuela

## 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.

On May 3, 2018, an exit briefing was held. In attendance were:

(b) (6), (b) (7)(C) Team Lead, OPR, ERAU  
(b) (6), (b) (7)(C) AFOD  
(b) (6), (b) (7)(C) SDDO  
(b) (6), (b) (7)(C) DSM, DMU, ERO  
(b) (6), (b) (7)(C) IHSC Acting Assistant HSA  
Orlando Rodriguez Warden  
(b) (6) Assistant Warden  
(b) (6), (b) (7)(C) QAM/PSA Compliance Manager  
(b) (6), (b) (7)(C) Administrative Supervisor  
(b) (6), (b) (7)(C) HRM  
(b) (6), (b) (7)(C) FSM  
(b) (6), (b) (7)(C) Learning Development Manager (LDM)  
(b) (6), (b) (7)(C) Detention Officer  
(b) (6), (b) (7)(C) Records and Mail Clerk  
(b) (6), (b) (7)(C) Warden's Secretary

During the exit briefing, the Auditor discussed observations made during the on-site audit and gave preliminary findings of the audit. The Auditor found staff to be professional and possess a positive demeanor. Staff interactions with detainees is professional and respectful. Morale among staff and detainees appears to be positive. The Executive Staff and Supervisors are actively involved in the day-to-day operations and were observed throughout the facility frequently interacting with staff and detainees. It is clear the leadership at ECDF has made PREA compliance a high priority and PREA is well understood by staff. Overall, ECDF has an excellent PREA program and procedures.

Of the 41 standards reviewed, 1 was found to exceed the standard; 37 were found to be in compliance; 2 were determined to not be in compliance, and 1 was found not applicable. The areas not in compliance are summarized below.

Standard 115.15 regarding searches requires corrective action. Interviews with random Detention Officers reveal they have not received training specific to searching transgender/intersex detainees.

Standard 115.33 regarding detainee education requires corrective action. Interviews with detainees reveal PREA education is not being effectively communicated, in particular for detainees who speak other than English or Spanish and/or have a disability or limited reading skills.

## SUMMARY OF AUDIT FINDINGS

Number of standards exceeded:	1
Number of standards met:	37
Number of standards not met:	2
Number of standards N/A:	1

## 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) ECDF's Policy 14-2, Sexual Abuse Prevention and Response, mandates zero tolerance towards all forms of sexual abuse. The policy outlines ECDF's approach to preventing, detecting and responding to sexual abuse. Document review confirms the policy has been approved by ICE.
- (d) ECDF has a designated PSA Compliance Manager at the supervisory level who oversees the facility's compliance with PREA. An interview with the PSA Compliance Manager indicates he has sufficient time and authority to oversee and coordinate the PREA program. The PSA Compliance Manager states prevention of sexual abuse is his priority which he monitors through walking the facility, talking and reminding staff of PREA requirements, and ensuring all PREA notices and posters are in position. Interviews with Detention Officers and the PSA Compliance Manager reveal PREA is well integrated into the facility and staff are very knowledgeable on how they are to help prevent, detect and respond to PREA allegations.

### §115.13 – Detainee supervision and monitoring.

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

**Notes:**

- (a) A review of ECDF's staffing reveals they have 161 positions of which 159 are filled and 2 are pending. Interviews with the Warden and HRM confirm CoreCivic authorizes ECDF to fill 100% of their positions which greatly enhances the ability to monitor detainees. ECDF has one contract barber. The PSA Compliance Manager states he completes roster reviews to ensure all housing units maintain sufficient supervision. Review of the PAQ and observation during the tour confirm ECDF has 91 cameras to assist with supervision of detainees and help prevent sexual abuse. No blind spots were noted during the tour. All cameras are fixed but have zoom capability. The cameras are in good working order and observation of the camera monitors reveals they are of sufficient clarity. The PSA Compliance Manager routinely checks the cameras to ensure they are in good working condition. Interviews with the Warden and PSA Compliance Manager reveal ECDF added two cameras in the last year to assist with detainee supervision. The Warden indicated mirrors were also added to enhance supervision; for example, a mirror was positioned to allow staff to see behind the laundry machines.
- (b)(c) ECDF Policy 14-2 requires the development of comprehensive detainee supervision guidelines to meet detainee supervision needs. The policy requires all areas in section (c) of the standard to be considered in developing the supervision guidelines. A review of ECDF's supervision guidelines confirms it sufficiently provides 24-hour detainee supervision 7-days a week. ECDF policy 14-2 requires a yearly review of the supervision guidelines. ECDF completed the yearly PREA Staffing Plan Assessment on January 30, 2018. The assessment was forwarded to CoreCivic's Facility Support Center (FSC) (headquarters) PREA Coordinator as required by policy.
- (d) ECDF Policy 14-2 and Policy 9-7, Security Inspections, require staff, to include supervisors, to make frequent, unannounced rounds of all detainee accessible areas of the facility. The rounds are to occur on all shifts and be documented. Document review confirms staff and supervisors are making unannounced rounds as required. An interview with the Warden and PSA Compliance Manager confirm supervisory CoreCivic staff, to include department heads and executive staff, are required to make unannounced rounds of every housing pod weekly. Additionally, the Facility Duty Officers (FDO) and Administrative Duty Officers (ADO) are required to work four hours between 10:00 pm – 4:00 am per duty week, and are making unannounced rounds during these required overnight hours. Discussion with the AFOD and interview with the SDDO reveal ICE staff located at ECDF also make routine rounds of the facility and interact with detainees. ECDF exceeds the standard by their high staffing level, the number of cameras and mirrors throughout the facility, the frequent systematic checks of the cameras to ensure they are in working order, and the frequency of unannounced rounds by supervisors to include the overnight shift.

### §115.14 – Juvenile and family detainees.

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

**Notes:**

Review of the PAQ and interviews with the Warden and PSA Compliance Manager confirm ECDF does not house juveniles nor family units.

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

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

**Notes:**

(b)(c) ECDF Policy 14-2 and Policy 9-5, Searches of Inmates/Residents and Various Locations, both state pat-down searches of male detainees by female staff are not to be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances. The policies state pat-down searches of female detainees by male staff are not to be conducted except in exigent circumstances. If cross gender pat-down searches are conducted, they are to be documented. The policies indicate all pat-down searches are to be conducted in a professional and respectful manner. Interviews with the Warden, PSA Compliance Manager, and Detention Officers reveal staff are knowledgeable about cross gender pat-down searches and the need to document cross gender pat-down searches.

(d)(e)(f) Interviews with Detention Officers reveal ECDF does not conduct strip searches. A review of ECDF Policy 14-2 and Policy 9-5 reveals cross gender pat-down searches are to be documented. ECDF reports one cross gender search of a male was conducted in the last 12 months and document review confirms it was documented. ECDF Policy 14-2 and Policy 9-5 indicate body cavity searches are only to be conducted by a medical professional and documented. Interviews with Detention Officers reveal they have a clear understanding they are not to conduct strip or body cavity searches. A memorandum from the PSA Compliance Manager reveals ECDF did not conduct any strip or body cavity searches during calendar year 2017 to date 2018.

(g) ECDF Policy 14-2 indicates detainees are to 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 incidental to routine cell checks. Policy further states staff of the opposite gender must announce their presence when entering areas where detainees are likely to be showering, performing bodily functions, or changing clothing. During the tour of the facility, staff were heard making announcements as required, and interviews with Detention Officers confirms they are aware of announcement requirement. Observation during the tour found all showers have shower curtains which limit the view of breast and groin areas of detainees. All toilet areas have partial walls in front of them, limiting view of the groin area. Detainee responses during interviews confirm they have sufficient privacy when showering, using the toilet, or changing clothes.

(i) ECDF Policy 14-2 and Policy 9-5 state staff are not to search or physically examine a detainee for the sole purpose of determining the detainee's gender. If a detainee's gender is unknown, it is to be determined during conversations, by medical staff review of medical records, or through standard medical examination. Interviews with Detention Officers confirms staff are aware of policy restriction on searching detainees for the sole purpose of determining the detainee's gender.

(j) This subsection regarding training security staff on proper pat searches, to include cross gender searches and searches of transgender/intersex detainees, requires corrective action. ECDF Policy 14-2 and Policy 9-5 indicate security staff are to receive training on how to conduct cross-gender pat-down searches and searches of transgender and intersex detainees, in a manner that is professional, respectful, and in the least intrusive manner possible while being consistent with security needs. A review of the training curriculum and an interview with the LDM confirm search training is conducted for all new employees and annually for all staff and contract workers. The class is instructor lead and includes a video showing proper search methods. Staff are to demonstrate proper search procedures during the class. A review of the LDM's training roster and training files for seven CoreCivic staff and the contract barber confirms CoreCivic staff have been trained. Interviews with Detention Officers reveal staff are fairly knowledgeable on when cross-gender pat searches can be conducted and the need to document such searches. However, staff are not knowledgeable on how to search the breast area of female detainees nor how to search transgender/intersex detainees resulting in non-compliance. Specifically, while the policies indicate searches of the female breast area are to be conducted using the back or side of the hand, staff descriptions on how they search the female breast area varied greatly and were inconsistent. Further, a review of the search training material reveals it does not specify how to conduct searches of transgender/intersex detainees but does indicate if a transgender/intersex detainee requests to be searched by staff of the opposite sex than the person conducting the search, staff are to follow the request. Interviews with 12 Contract Detention Officers reveal only half stated they had been trained on how to conduct searches of transgender/intersex detainees, and none stated they were to follow a transgender/intersex detainee's request to be searched by staff of the opposite gender. Staff responses on how to conduct pat searches of the female breast area and the breast or groin area of transgender/intersex detainees ranged from not to search the breast or groin area to search the back and legs only. It is recommended training material emphasize how to search the female breast area and include specifics on how to conduct searches of transgender/intersex detainees and all staff responsible for conducting searches of detainees be trained on the revised procedures.

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

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

**Notes:**

(a)(b) ECDF Policy 14-2 indicates ECDF is to take appropriate steps to ensure detainees with disabilities and LEP have an equal opportunity to participate or benefit from the facility's efforts to prevent, detect, and respond to incidents of sexual abuse. A review of the PAQ and interviews with the Warden, PSA Compliance Manager, and Detention Officers confirm ECDF has a contract with Language Line to provide interpretive services.

(c) Interviews with the Warden and PSA Compliance Manager confirm several CoreCivic staff speak more than one language. The Detainee Handbook indicates the facility has staff that speak English, Spanish, Mandarin and Portuguese. During the tour, ICE and ECDF PREA information, along with telephone numbers to call to report sexual abuse or assault, were observed posted in both English and Spanish. Interviews with Detention Officers assigned to the processing area, as well as the Auditor's observation, confirm ECDF's Detainee Handbook is available in both English and Spanish. Detention Officers assigned to the processing area state if necessary, Language Line is available for interpretations and they indicate they know how to utilize the service. Further the Detention Officers are aware of the requirements of ECDF Policy 14-2 requiring detainees with disabilities, physical or intellectual, and LEP be provided effective interpretation in formats understood by the detainee. The Detention Officers indicate if a detainee is illiterate or blind they would read PREA material to the detainee and in a manner understood by the detainee; if a detainee was deaf they would have the detainee read the material, and in both cases they would seek guidance from a supervisor. The PSA Compliance Manager confirms ECDF has a telecommunication device for the deaf. A review of the PREA information provided to detainees confirms it is in a format that allows for effective communication.

### **§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) ECDF Policy 14-2 states the facility will decline to hire or promote anyone who may have contact with detainees, and decline to enlist the services of any contractor or volunteer who may have contact with detainees, who has 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. The policy indicates the Self-Declaration of Sexual Abuse/Sexual Harassment form will be completed as part of the hiring and promotional process. The form asks the applicant/staff directly about previous misconduct as required in the standard. The policy requires staff to complete the form annually, and indicates the form serves as verification of an employee's fulfillment of his/her continuing affirmative duty to disclose any sexual misconduct as described in the policy; the form is to be retained in the employee's personnel file. The HRM indicates the affirmative duty to disclose information is also included in the Employee Code of Conduct and employees are required to sign annually indicating they understand the code of conduct. ECDF Policy 14-2 indicates best efforts are to be made to contact all prior institutional employers for information on sexual abuse incidents prior to hiring. Interviews with the Warden, PSA Compliance Manager, and HRM confirm ECDF complies with the policy on hiring. Additionally, the Warden informs staff of their obligation to report during staff recalls and meetings. A review of seven staff and one contract worker's personnel files confirms staff have completed the forms initially, and annually as required.

(c)(d) ECDF Policy 14-2 requires criminal background checks be conducted on all staff and contract workers who may have contact with detainees. An interview with the HRM confirms all background checks are completed by ICE. Review of documents provided by ICE's Personnel Security Unit (PSU) Unit Chief (sections of Executive Order 13764-Amending the Civil Services Rules, and Executive Order 13488 and Executive Order 13467 to Modernize the Executive Branch-Wide Governance Structure and Processes for Security Clearances, Suitability and Fitness for Employment and Credentialing and Related Matters) confirms the agency conducts background checks for all ECDF staff and contract workers and would not allow ECDF to hire or promote anyone who may have contact with detainees who has engaged in sexual abuse as described in the standard. The HRM and PSU Unit Chief confirm criminal background checks are conducted every five years. A review of staff and the contract worker personnel files confirms background investigations have been completed and cleared for hire by ICE.

(e) ECDF Policy 14-2 states the facility may decline to hire or promote and may terminate employment based on material omissions regarding sexual abuse/harassment misconduct, or the provision of materially false information. An interview with the HRM confirms compliance with the policy requirement.

(f) ECDF Policy 14-2 states unless prohibited by law, ECDF will provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such an employee has applied to work. The HRM confirms ECDF compliance with the policy requirement.

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

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

**Notes:**

(a)(b) ECDF Policy 14-2 requires consideration of the effect on the ability to protect detainees from sexual abuse when making modifications to the facility or installing or updating video monitoring systems. ECDF uses CoreCivic forms for documenting such consideration. An interview with the Warden and PSA Compliance Manager reveal no modifications or expansions to ECDF have been made in the last year. However, as a result of PREA, ECDF added two cameras to assist with efforts to protect detainees from sexual abuse.

### **§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) ECDF Policy 14-2 requires the investigating entity to follow uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. A review of the policy and ICE Directive 11062.2 confirm they contain evidence protocol that meets the requirements of the standard. An interview with the two Investigators who completed investigations in the last year confirms they follow the policy and evidence protocol.

(b)(c) ECDF Policy 14-2 requires when developing the protocol, a victim advocate from a rape crisis center, community-based organization, or a qualified staff member is to be made available to the victim. A review of the PAQ and interview with the PSA Compliance Manager (who also serves as Investigator), and IHSC staff, reveals under the New Jersey Attorney General's Guideline, the District Attorney's Office responsible for Elizabeth, New Jersey, maintains a Memorandum of Understanding (MOU) with four hospitals and the Union County Rape Crisis Center for services when individuals are sexually assaulted. North University Hospital, where ECDF would take sexual assault victims, is one of the four hospitals in the MOU. Once at the Emergency Room (ER), the hospital's Forensic Nurse is activated by ER staff. Simultaneously, Union County Rape Crisis Center is activated. Interviews with the Investigators confirms no sexual abuse allegations in the last year have warranted forensic medical examination. Documentation confirms ECDF has attempted an MOU with both North University Hospital and Union County Rape Crisis Centers. However due to the MOU with District Attorney's office, the hospital has indicated a separate MOU with ECDF is not warranted, and Union County Rape Crisis Center has not responded to the request.

(d) ECDF Policy 14-2 indicates if requested by the victim, the victim advocate will be allowed to accompany and support the victim through the forensic medical examination and Investigatory interviews. The Investigators indicate victims are informed of the availability of Union County Rape Crisis Center, to include being present during the interview. A review of the three closed investigatory files confirms the detainees were notified of Union County Rape Crisis Center services and the detainee notifications are documented.

(e) ECDF Policy 14-2 indicates if the facility is not responsible for investigating a sexual abuse allegation, the facility is to request the investigating agency comply with the requirements of the standards regarding evidence protocol, forensic medical examination, and victim advocate services. A review of PAQ documents and interviews with the Warden and PSA Compliance Manager confirm ECDF has sent the Elizabeth, New Jersey Police Department a MOU requesting they follow the evidence protocol, provide victims access to SAFE/SANE and victim advocate services. The Elizabeth Police Department has not responded to the MOU or follow-up calls.

### **§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) A review of ICE Directive 11062.2, Sexual Abuse and Assault Prevention and Intervention, establishes an agency protocol to ensure each allegation of sexual abuse is investigated by federal, state, or local law enforcement, DHS OIG and/or OPR. The Directive lists the responsibilities of the agency and investigative entities and includes timeframes for the retention of investigative documents. ECDF Policy 14-2 requires the Warden to ensure an administrative investigation and referral for criminal investigation, where appropriate, are completed for all allegations of sexual abuse/harassment. Whenever feasible, the facility is to enter into a written MOU with the outside investigating entity outlining the roles and responsibilities of both the facility and the investigating entity. Document review confirms ECDF has drafted a MOU with the Elizabeth Police Department that outlines the investigative roles and responsibilities of the two agencies, however the Police Department has not responded to the MOU.
- (c) A review of the ICE website ([www.ice.gov](http://www.ice.gov)) confirms the protocols are available to the public. A review of CoreCivic's website ([www.corecivic.com](http://www.corecivic.com)) confirms the protocols are available to the public.
- (d)(e)(f) ICE Directive 11062.2 and ECDF Policy 14-2 require all notifications and referrals to ICE and local law enforcement. Discussion with the AFOD and interview with the Warden, PSA Compliance Manager, and Investigators confirm ECDF complies with all notification requirements. A review of the three closed investigative files confirms notifications were made as required.

### **115.31 – Staff training.**

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

#### **Notes:**

- (a)(b) ECDF Policy 14-2 requires CoreCivic staff who have detainee contact be trained on the zero-tolerance policy on sexual abuse and sexual harassment. Training is required during pre-service and annual in-service. The policy requires training on all nine areas required in the standard, and a review of the training curriculum confirms the training includes all required areas. Interviews with Detention Officers reveal staff have been trained and understand their responsibilities to help prevent, detect, and respond to sexual abuse. The interviews reveal the Warden places such a high emphasis on PREA that he himself conducts the training.
- (c) ECDF Policy 14-2 requires documentation of training and staff acknowledgment they understand the training. An interview with the LDM and review of seven CoreCivic staff training files confirm training is conducted and documentation retained.

### **§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) ECDF Policy 14-2 requires contract staff and volunteers who have detainee contact receive training on their responsibilities pertaining to sexual abuse/harassment prevention, detection, reporting and response. The level and type of training is to be based on the level and service they have with detainees. A review of the training curriculum confirms the training meets the requirements of the standard. Interviews with the LDM and Warden confirm the Warden also conducts the PREA training for contract staff and volunteers. An interview with the contract staff confirms she has received training as required by policy.
- (c) ECDF Policy 14-2 requires documentation contractors and volunteers with detainee contact have been trained and understand their responsibilities regarding PREA. An interview with the LDM and review of the contract barber and six volunteer files confirm they have received the training as required.

### **§115.33 – Detainee education.**

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

#### **Notes:**

(a) ECDF Policy 14-2 requires upon arrival, detainees be provided written information regarding sexual abuse prevention and reporting, to include all areas required by the standard. Observation of intake processing and interviews with Detention Officers and detainees confirm detainees are provided information on sexual abuse upon intake.

(d)(e)(f) ECDF Policy 14-2 requires staff ensure key information is continuously and readily available or visible to detainees through posters, detainee handbooks, or other written formats. Observation during the tour confirms ECDF maintains all documents required in the standard. The documents were observed in each housing pod. An interview with the PSA Compliance Manager reveals he routinely checks the various areas to ensure the documents are posted.

(b)(c)(d)(e)(f) ECDF Policy 14-2 requires detainees be educated upon admission of the zero-tolerance policy through orientation and the Detainee Handbook. Policy requires documentation of detainee participation in the orientation. Interviews with Detention Officers assigned to the processing area reveal they provide PREA education material to detainees upon intake via issuance of an English or Spanish version of the Detainee Handbook and PREA pamphlet. A review of the handbook and pamphlet confirms they outline ECDF's PREA procedures to include definitions, reporting methods, self-protection information, prohibition against retaliation, etc. Detention Officers indicate if a detainee is unable to read or understand English or Spanish, they call Language Line and read the Sexual Assault and Sexual Abuse-Zero Tolerance Orientation Education sheet, which includes an overview of the areas in the handbook. Detention Officer's state they also show CoreCivic's Video "PREA What You Need to Know" which is available in English and Spanish. When asked how they would provide education material to deaf or blind detainees, most Detention Officers were unclear on procedures, other than to seek guidance from a supervisor. The PSA Compliance Manager confirmed ECDF does have a telecommunication device for the deaf.

Interviews with 23 detainees resulted in 14 stating they had not received or understood PREA education material upon intake. Of the 14 reporting they did not receive PREA education material, 3 spoke English/Spanish and 11 spoke languages other than English/Spanish. Of the nine stating they did receive PREA education material, eight spoke English/Spanish and one spoke languages other than English/Spanish. One detainee who received education material has limited hearing and stated while he did receive information, he did not understand or hear what the Detention Officer was saying. A review of nine files of detainees interviewed reveals they all contain the intake checklist and had checkmarks indicating the detainee received the Detainee Handbook, PREA pamphlet, and watched the PREA video. Despite the checkmarks, the high number of non-English/non-Spanish speaking detainees reporting they did not receive PREA education material, or if they did receive it they did not understand it, results in a determination Detention Officers are not providing education material in an effective manner resulting in non-compliance with subsection (b). It is recommended ECDF develop procedures to effectively communicate PREA education material to non-English and non-Spanish speaking detainees, and/or those who have a disability or limited reading skills.

It is noted that while the initial detainee PREA education at intake is not effective, the facility is going above and beyond by having the Detention Officer assigned to assist the PSA Compliance Manager go to the housing pods on a monthly basis and conduct additional PREA education for detainees. An interview with her reveals she pulls non-English and non-Spanish detainees aside and individually goes over the education material through Language Line. Some of the detainees who reported they were not educated at intake stated they were subsequently informed by the Detention Officer.

#### **§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) ECDF Policy 14-2 requires PREA investigators receive training on conducting sexual abuse investigations to include interviewing sexual abuse victims, evidence collection in confinement settings, and criteria and evidence required for administrative investigations and prosecutorial referral. The policy requires all PREA investigations be conducted by Investigators who have received the specialized training. Policy also requires more than one person be trained to ensure a back-up is available during employee absence. An interview with the ECDF Investigators and review of training certificates confirms ECDF has three trained Investigators and the three completed investigations were conducted by ECDF trained investigators. The training certificates and Investigator interviews verify the training meets the requirements of the standard and the Investigators are knowledgeable in the requirements. None of the completed PREA investigations were conducted by ICE staff resulting in no verification of training for ICE Investigators.

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

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

##### **Notes:**

(a)(b)(c) ECDF Policy 14-2 requires all full and part time qualified health care professionals and qualified mental health professionals who work regularly in the facility receive specialized medical training as required in the standard. Interviews with the IHSC HSA, IHSC Clinical Psychologist, and IHSC Compliance Officer and document review confirm all medical and mental health staff have received the required training, and the training includes all areas required in the standard. The interviews confirm IHSC medical staff at ECDF do not conduct forensic medical examination. Document review further confirms the policy/procedures have been approved by ICE.

#### **§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) ECDF Policy 14-2 requires upon admission, detainees be screened within 12-hours to assist in keeping separate those at high risk of being sexually victimized from those at high risk of being sexually abusive. Interviews with Detention Officers confirms they have a general knowledge of the purpose of the screening tool. Detention Officers and PSA Compliance Manager interviews, along with review of nine detainee files, confirm screenings and initial housing assignments are conducted in the processing area in less than 12-hours of arrival.

(c)(d) A review of ECDF's Sexual Abuse Screening Tool confirms it contains all assessment areas required by the standard. The form requires staff document if the assessment reveals the detainee has been victimized in the past, is a potential victim, has been convicted of sexual abuse in the past, or is a potential predator. Detention Officer and detainee interviews confirm Language Line is available if needed to ask the questions. An interview with the SDDO, Warden, PSA Compliance Manager, and Detention Officers confirms ECDF is a low/moderate level facility and does not ordinarily accept detainees with histories of violence or predatory behavior. If a predatory detainee is admitted to the facility, ECDF staff contact ICE and ICE reassigns the detainee to a more appropriate facility; the detainee is not placed in general population. No incidents of predatory detainee's needing to be reassigned have occurred in the last 12 months.

(e) ECDF Policy 14-2 requires a reassessment be conducted within 60-90 days of the date of the initial assessment, and when warranted due to referral, request, incident of sexual abuse, or receipt of additional information that may impact the detainee's risk of victimization/abusiveness. A review of 9 files of detainees interviewed reveal 5 had been at the facility for 90-days or more; of the 5, only 1 was missing a reassessment.

(f)(g) ECDF Policy 14-2 indicates detainees may not be disciplined for refusing to answer, or for not disclosing complete information, in response to the questions asked during the assessment/reassessment. Policy also requires appropriate controls of information given in response to the questions asked. Interviews with the PSA Compliance Manager and Detention Officers confirm staff are aware of the requirement to not discipline detainees if they refuse to answer assessment questions and not to disclose information other than to those with a need to know.

**§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)(b) ECDF Policy 14-2 and Policy 18-100, Classification, indicate the risk assessment information is to assist in making housing, cell, work, education, and program assignments. The policies state when making decisions to house transgender/intersex detainees in male or female housing areas, the facility is to consider the detainee's own views with respect to his/her own safety and on a case-by-case basis. ECDF Policy 18-100 indicates a medical or mental health professional is to be consulted when making housing decisions for transgender/intersex detainees. Both policies state housing and program assignments for transgender/intersex detainees are to be reassessed twice a year. Interviews with the SDDO reveals prior to the arrival of a transgender/intersex detainee at ECDF, ICE Field Office staff at ECDF are informed by staff at the holding facility if a detainee self-identifies as transgender/intersex. Field Office staff then review background information, criminal history, and medical documentation to determine if the detainee is suitable for detention or if alternatives to detention should be pursued. If detention is determined appropriate, ICE reviews which facility will best meet the needs of the detainee. Interviews with the Warden, PSA Compliance Manager and processing area Detention Officers reveal upon arrival, ECDF staff conduct the risk assessment to include asking if the detainee identifies as lesbian, bisexual, gay, transgender/intersex (LBGTI).

(c) ECDF Policy 14-2 indicates transgender/intersex detainees are to be given the opportunity to shower separately from other detainees. An interview with the Warden, PSA Compliance Manager and Detention Officers reveal staff are knowledgeable on transgender/intersex detainees being allowed to shower separately. Staff indicate transgender/intersex detainees would be taken to the processing area to shower. An interview with the one transgender detainee reveals he was offered an opportunity to shower separately; his bed in general population is close to the officer's station, and he/she feels safe. A review of the transgender detainee's classification assessment confirms the assessment was completed as required by policy. An interview with the IHSC HSA and IHSC Psychologist confirm they were contacted and provided input in regards to the housing assignment of the transgender detainee.

**§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) ECDF Policy 10-100, Segregation, and Policy 14-2 address the placement of detainees in segregation. ECDF Policy 14-2 specifically states the use of administrative segregation to protect detainees at high risk of sexual abuse is restricted to incidents where reasonable efforts have been made to provide appropriate housing and be made for the least amount of time possible, and when no other viable options exist, as a last resort. The placement is to be in the least restrictive housing available, and if no viable options are available, ICE is to be consulted. If placed in segregation, the placement is to be only until alternative housing can be made, not to exceed 30 days. Interviews with the Warden and PSA Compliance Manager confirm ECDF does not place vulnerable detainees in involuntary segregation. At the time of the on-site audit, no detainees were in segregated housing and information in the PAQ reveals no detainees at risk for sexual victimization have been placed in segregation calendar year 2017 to date.

(c) ECDF Policy 14-2 states detainees in segregation for these purposes are to have access to programs, privileges, education, and work opportunities. An interview with the PSA Compliance Manager confirms the facility complies with the requirements.

(d)(e) ECDF Policy 14-2 includes procedures for notifications and reviews of vulnerable detainees in segregation as required by the standard. An interview with the PSA Compliance Manager confirms compliance with the requirements.

### **§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) ECDF Policy 14-2 outlines various methods for detainees to report sexual abuse/harassment to include notifying health services staff; calling the facilities 24-hour toll-free notification telephone number; verbally telling any employee including the Chaplain; forwarding a confidential, sealed letter to the Warden or any other employee; calling/writing someone outside the facility who can notify facility staff and writing to CoreCivic's FSC PREA Coordinator. The policy identifies DHS OIG as the one way to report sexual abuse to an entity not part of the agency. A review of the PAQ, Detainee Handbook, and observation during the tour confirms ECDF has posters and flyers throughout the facility, in English and Spanish, notifying detainees of the various ways to report. The notices include ICE Sexual Abuse and Assault Awareness pamphlet, CoreCivic's Preventing Sexual Abuse and Misconduct pamphlet, and Union County Rape Crisis Center pamphlet. The information advises detainees they can make free calls to report sexual abuse to the DHS Inspector General's Office, ICE Detention and Reporting Information Line, CoreCivic, the ECDF PSA Compliance Manager, and Consulate Offices. Interviews with detainees confirm the detainees are aware of the posters, pamphlets and reporting procedures. For detainees that do not understand English or Spanish, the PREA information sheet that is to be read to detainees through an interpreter notifies detainees of the various ways they can report PREA allegations.

(c) ECDF Policy 14-2 states staff are to take all allegations of sexual abuse seriously, including verbal, anonymous, and third-party; staff are to promptly document any verbal reports. Interviews with Detention Officers confirm staff are aware of the need to accept all reports regarding sexual abuse and to document verbal reports.

### **§115.52 – Grievances.**

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

#### **Notes:**

(a)(b) ECDF Policy 14-2 and Policy 14-5 Inmate/Resident Grievance Procedures, and the Detainee Handbook all include information on filing grievances. Time limits are not imposed for filing sexual abuse grievances and detainees are not required to file informal grievances first. The policies include provisions for handling time-sensitive grievances. Review of the PAQ and interview with the PSA Compliance Manager reveal no PREA grievances have been filed in the last calendar year. However, the PSA Compliance Manager confirms ECDF is in compliance with the requirements.

(c) ECDF Policy 14-5 outlines procedures for handling emergency grievances in compliance with the standards and an interview with the PSA Compliance Manager confirms compliance.

(d) ECDF Policy 14-2 requires staff to immediately refer medical emergencies to medical staff. Interviews with the PSA Compliance Manager and IHSC HSA, IHSC Clinical Psychologist and IHSC Compliance Officer confirm the compliance with the standard.

(e) ECDF Policy 14-5 indicates grievances will be responded to within 5 days. The timeframes are also included in the Detainee Handbook. Information in the PAQ indicates appeals will be responded to within 30 days, and all sexual abuse related grievances are sent to the ICE FOD at the end of the grievance procedure as required in the standard. An interview with the PSA Compliance Manager confirms compliance with the standard.

(f) ECDF Policy 14-5 indicates detainees will be provided the opportunity to obtain assistance through library aid staff and qualified interpretation services in filing grievances, and an interview with the PSA Compliance Manager confirms detainees would be able to obtain assistance in filing grievances.

### **§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) ECDF Policy 14-2 requires the facility maintain or attempt to enter into a MOU with a community service provider able to provide detainees with confidential emotional support services related to sexual abuse. A review of the PAQ and interview with the PSA Compliance Manager reveal ECDF has attempted to enter into a MOU with Union County Rape Crisis Center, however the Center has not responded to the request. It is noted, however, under the Attorney General's Guideline for the state of New Jersey, the District Attorney's Office responsible for Elizabeth, New Jersey, maintains a MOU with Union County Rape Crisis Center to provide advocate services to individuals who are sexually assaulted; this would include ECDF detainees.

(b)(c)(d) While ECDF does not have a MOU with Union County Rape Crisis Center, they are included in the facility's protocols and contact information for the Center is provided to detainees. ECDF Policy 14-2 requires detainees be informed of the extent of monitoring with the victim advocate, and the Detainee Handbook and notices posted by the detainee telephones inform detainees that contact with Union County Rape Crisis Center is confidential. The PSA Compliance Manager confirms if requested, interpretation assistance would be provided. A review of ECDF Policy 14-2 confirms the facility complies with mandatory reporting laws. While not a finding, it is recommended ECDF add language to the handbook and notices posted by the telephones making it clear to detainees the facility complies with mandatory reporting laws.

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

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

**Notes:**

A review of both ICE's website ([www.ice.gov](http://www.ice.gov)) and CoreCivic's website ([www.corecivic.com](http://www.corecivic.com)) confirm the public is notified how to report incidents of sexual abuse/harassment on behalf of detainees. Interviews with Detention Officers confirm they are aware of the requirement to accept sexual abuse notifications from third parties.

#### **§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) ECDF Policy 14-2 requires staff to immediately report any knowledge, suspicion or information regarding sexual abuse/harassment, retaliation against detainees or staff who report incidents, and any employee neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation. An interview with the PSA Compliance Manager and review of policy confirms the policy has been approved by ICE. Interviews with Detention Officers confirm staff are aware of their reporting requirements, to include being able to report outside their chain of command.

(c) ECDF Policy 14-2 states apart from reporting information to supervisors, staff are not to reveal information to others without a need to know. Interviews with Detention Officers confirm staff are aware of the limits of reporting and the need for confidentiality.

(d) ECDF does not house juveniles or family units.

#### **§115.62 – Protection duties.**

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

**Notes:**

ECDF Policy 14-2 requires staff to take immediate action when they learn a detainee may be at substantial risk of imminent sexual abuse. Interviews with Detention Officers confirm staff are aware of the need for immediate action. There were no incidents of detainees being at risk of imminent sexual abuse in the last 12 months.

#### **§115.63 – Report 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) ECDF Policy 14-2 requires the Warden to report to the head of another facility any information received regarding a detainee sexual assault/harassment while confined at the other facility. The notification is to occur as soon as possible, but no later than 72-hours. The policy requires all such notifications be documented. Interviews with the Warden and PSA Compliance Manager confirm they are aware of the requirements and follow policy. No notifications were made or received during the review period.

(d) ECDF Policy 14-2 indicates if an allegation is received from another facility, the Warden is to ensure it is investigated. An interview with the Warden and PSA Compliance Manager confirm the notification responsibilities have been delegated to the PSA Compliance Manager and he is well aware of the reporting procedures. No notifications have been made or received in the last year to date.

#### **§115.64 – Responder duties.**

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

**Notes:**

(a)(b) ECDF Policy 14-2 delineates first responder procedures for sexual assaults. The procedures are clear and follow all requirements in the standard, to include limiting information to those with a need to know. ECDF has issued staff laminated cards listing first responder duties. Interviews with Detention Officers, both security and non-security, reveal staff are well aware of their responsibilities. Document review and interview with the PSA Compliance Manager reveals there were no incidents resulting in first responders during the review period. While not a finding, staff interviews reveal Detention Officers are not aware of the full response protocol. It is recommended CoreCivic staff be informed of the entire sexual assault response process to include taking the individual to the hospital for a forensic medical examination and allowing the victim advocate to be present during the examination and investigative interviews. This is important as staff will be escorting detainees to the hospital and need to understand the full process.

#### **§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) ECDF has established a Sexual Abuse Response Team (SART) as required in Policy 14-2. The SART is comprised of the PSA Compliance Manager, Assistant Warden, and Medical and Mental Health staff. The policy lists specific responsibilities for first responders, each SART member, as well as management. The response plan describes an efficient and effective coordinated response to sexual abuse. Interviews with the various SART members confirm they are knowledgeable and trained in SART duties and responsibilities. Document review and interview with the PSA Compliance Manager confirm there were no instances resulting in the activation of the SART during the review period.

(c)(d) ECDF Policy 14-2 indicates if a victim is transferred between facilities, ECDF will notify, if permitted by law, the receiving facility of the victim's potential need for medical or social services. There were no cases of victims being transferred to another facility in the last 12 months. An interview with PSA Compliance Manager confirms compliance with the requirements. Further the SDDO indicates they would also notify the receiving facility.

#### **§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:**

ECDF Policy 14-2 indicates staff, volunteers and contract employees suspected of sexual abuse are to be removed from all duties requiring detainee contact pending investigation. An interview with the Warden confirms staff, volunteers, and contract employees would be removed from all duties requiring detainee contact pending an investigation. None of the three closed PREA investigations in the last 12 months required the removal of staff, volunteers or contract employees.

#### **§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) ECDF Policy 14-2 prohibits staff, volunteers, and contract staff from retaliating against anyone who reports sexual abuse. CoreCivic staff interviews confirm staff are aware of the prohibition against retaliation.

(b)(c) An interview with the PSA Compliance Manager reveals he is designated as the Retaliation Monitor. ECDF utilizes CoreCivic's retaliation monitoring forms that are comprehensive and ensure retaliation is effectively monitored. The forms list various areas to check for both staff and detainees and the PSA Compliance Manager confirms he is very familiar with different areas to monitoring for retaliation. The PSA Compliance Manager indicates he met frequently with the detainees who reported sexual abuse/harassment and he documents the meetings. Review of investigative files for the three completed PREA investigations confirms they contain the retaliation monitoring forms and the monitoring continued for at least 90 days as required by the standard.

#### **§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) ECDF Policy 14-2 indicates sexual abuse victims are to be housed in a supportive environment in the least restrictive area possible. The policy indicates the victim is not to be held in any type of administrative segregation for longer than five days except in highly unusual circumstances. Policy indicates a victim in protective custody is not to be returned to general population until a reassessment of their safety has been made. Interviews with the Warden and PSA Compliance Manager confirm they are aware of the requirements of the standard and confirm ECDF does not place victims of sexual assault in involuntary administrative segregation. PAQ document review reveals no sexual abuse victims were placed in segregation calendar year 2017 to date.

(d) ECDF Policy 14-2 includes notification procedures to ICE as required in the standard. Interviews with the Warden and PSA Compliance Manager confirm they would provide notification to ICE. Discussion with the ICE AFOD and SDDO confirm ECDF does an excellent job at keeping ICE informed on all relevant issues.

#### **§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) ECDF Policy 14-2 has specific procedures for investigations that include all areas required in the standard. Interviews with the PSA Compliance Manager and Assistant Warden, who are designated as Investigators and have completed PREA investigations in the last year, confirm they refer all investigations to the Elizabeth Police Department for consideration of criminal investigation/charges. A review of the investigative files and interview with the Investigators confirms administrative investigations are completed for all allegations.

(a)(c)(e)(f) A review of the three completed investigative files confirm the reports are thorough, prompt, objective, and include all areas required in section (c) of the standard. The interviews confirm the Investigators are well versed in ensuring the administrative investigation does not compromise a possible criminal investigation. The PSA Compliance Manager is the liaison with the Elizabeth Police Department and attempts to stay informed on the status of referrals. He reports ECDF cooperates with the Police Department in whatever way is needed. The Investigators also indicate an investigation does not stop due to the departure of a victim or alleged abuser.

#### **§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:**

ECDF Policy 14-2 states administrative investigations are to impose no higher a standard than a preponderance of evidence. Interviews with the two Investigators who have completed investigations confirm they are aware of the standard of evidence for administrative investigations.

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

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

**Notes:**

ECDF Policy 14-2 requires victims be notified of the results of the investigation and any action taken. The notification is to be documented and noted in the detainee file. Interviews with Investigators reveal the Investigators are responsible for notifying detainees of the investigation results. The Investigators utilize CoreCivic's form which is detailed and lists all notification requirements as required by the standard. A review of the investigative files for the three closed investigations confirms the detainee victims were promptly notified of the investigation results and the notifications were documented.

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

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

**Notes:**

(a)(b)(c)(d) ECDF Policy 14-2 indicates staff found to have violated PREA policy will be disciplined up to and including termination from federal service, with termination being the presumptive sanction. A review of the PAQ confirms ICE has approved ECDF's policy. Policy requires reporting of staff removals or resignations in lieu of removal for policy violation to law enforcement agencies and relevant licensing bodies. Interviews with the Warden and PSA Compliance Manager confirms ECDF has procedures for the notification to law enforcement and licensing bodies as required. None of the three closed investigation in the last 12 months involved staff.

#### **§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) ECDF Policy 14-2 indicates contractors and volunteers found to have violated PREA policy will be prohibited from contact with detainees. An interview with the Warden reveals remedial measures would be taken and the contractor's or volunteer's service would be terminated with no further contact with detainees. Policy requires reporting of substantiated contractor or volunteer cases to law enforcement agencies and relevant licensing bodies. Interviews with the Warden and PSA Compliance Manager confirm ECDF has procedures for the notification of contractors/volunteers found to have violated the PREA Policy.

#### **§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) ECDF Policy 14-2 and 15-100, Resident Rules and Discipline, indicate detainees found guilty of sexual abuse will be disciplined according to facility disciplinary procedures. The policies indicate the sanctions are to be commensurate with the severity of the incident. A review of ECDF Policy 15-100 finds the disciplinary system has progressive levels of review and appeal. Detainees are allowed to appeal disciplinary sanctions through the facility grievance procedures. An interview with the PSA Compliance Manager confirms ECDF complies with the policy requirements. A review of the investigative files for the two substantiated cases and interview with the PSA Compliance Manager confirms the perpetrators received disciplinary sanctions for their actions.

(d)(e)(f) ECDF Policies 14-2 and 15-100 require staff to consider if a detainee's mental disabilities/illness contributed to the behavior. The policies state detainees are not to be disciplined for sexual contact with a staff member if the staff member consented to the contact, and detainees are not to be disciplined for reports made in good faith. Interviews with the Warden and PSA Compliance Manager reveal ECDF complies with the policies.

#### **§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) ECDF Policy 14-2 and IHSC Directive 03-01, Sexual or Physical Assault, Abuse, Neglect, require a referral to medical or mental health staff when initial screening indicates a detainee has a history of prior sexual victimization, or perpetrated sexual abuse. Once referred, policies require a medical evaluation within two working days and a mental health evaluation within 72-hours or sooner. Interviews with the IHSC HSA and IHSC Psychologist confirm ECDF has well established procedures for the nurse conducting intake medical screenings to refer detainees with histories of victimization or abusiveness to the Psychologist. The Psychologist indicates she normally sees detainees with histories of prior victimization or sexual abusiveness within 24-hours. The Psychologist indicates ECDF has a Psychiatrist on staff one day a week and he sees detainees when referred by the Psychologist. Review of the PAQ reveals one detainee was identified at intake as having a history of prior victimization. A review of the file and interview with the Psychologist confirm the detainee was seen the next day.

#### **§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) Review of ECDF Policy 14-2 and IHSC Directive 03-01 reveals detainee victims are to receive timely unimpeded access to emergency medical treatment and crisis intervention services including emergency contraception and sexually transmitted infections prophylaxis. The treatment is to be provided at no cost to the detainee and regardless of if the victim names the abuser or cooperates with the investigation. Interviews with the IHSC HSA, IHSC Compliance Officer and IHSC Psychologist confirm staff are aware of the policy requirements. The interviews and review of the files for the victims in the two substantiated cases confirms they were offered medical and mental health services. While ECDF does not have a MOU with the North University Hospital, IHSC staff have been in contact with the hospital SANE staff and confirm such services and treatments are provided. The IHSC medical staff indicate all follow-up services would be provided at ECDU.

#### **§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) ECDF Policy 14-2 and IHSC Directive 03-01 indicate medical and mental health evaluations, as appropriate, are to be offered to all sexual abuse victims. The services are to include follow-up services, treatment plans, and referrals for continued care. The services are to be provided at the community level of care and include tests for sexually transmitted infections. The evaluation and treatment is to 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. Interviews with the IHSC HSA and IHSC Psychologist reveal they are aware and comply with the requirements (d). A review of medical records for the victims involved in the closed investigations during the last 12 months confirm they were referred to medical and mental health staff and see in accordance to policy requirements. ECDF Policy 14-2 and interviews with IHSC HSA, IHSC Clinical Psychologist, and IHSC Compliance Manager confirm female detainee victims of male sexual abuse would be offered pregnancy tests and if pregnancy results, timely information about all lawful pregnancy related medical services.

(e)(f) ECDF Policy 14-2 indicates detainees are to be provided tests for sexually transmitted infections as medically appropriate, and medical services are to be provided without cost, and regardless if the victim names the alleged abuser or cooperates with the investigation. Interviews with the PSA Compliance Manager, IHSC HSA, IHSC Clinical Psychologist, and IHSC Compliance Manager confirm compliance with the requirements.

(g) IHSC Directive 03-01 indicates mental health evaluations are to be attempted for all detainee-on-detainee abusers within 60 days of learning of such behavior. An interview with the IHSC Psychologist confirms she is aware of the requirement and would provide the evaluation. She indicates no detainees with histories of being sexual abusive have been at ECDF in the last 12 months.

#### **§115.86 – Sexual abuse incident reviews.**

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

**Notes:**

(a)(b)(c) ECDF's policy 14-2 requires incident reviews at the conclusion of all sexual abuse investigations. If the investigation is substantiated or unsubstantiated, a report is to be written within 30 days of the conclusion of the investigation. The report is to contain recommendations, if warranted, to policy or practice that could improve the PREA program. Recommendations are to be implemented, or documented as to why not implemented. The policy requires the report determine if the incident was motivated by race, ethnicity, or sexual identity of the victim. A review of the three closed investigative files confirms incident reviews were conducted for all three cases and incident review reports written as warranted. The incident reviews and reports were timely and contained all required areas. ECDF Policy 14-2 requires ECDF to conduct an annual review of investigations and incident reviews to assess and improve the PREA program and document the review via a report. The report is to be forwarded to the facility administrator and FOD for transmission to the ICE PSA Coordinator. A review of reports and annual review, along with interviews with the Warden and PSA Compliance Manager confirm ECDF is aware of the requirements of the standard and the annual reviews and reports are being conducted and forwarded as required.

#### **§115.87 – Data collection.**

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

**Notes:**

(a)(b)(c)(d)(e) ECDF Policy 14-2 requires data collection as required in the standard. An interview with the PSA Compliance Manager confirms he is responsible for the data collection and he utilizes the Survey of Sexual Victimization as required. Document review confirms the yearly data report was forwarded to the Warden and AFOD.

#### **§115.201 – Scope of audits.**

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

**Notes:**

During the PREA audit of ECDF, the Auditor was able view all policies, memos, and other documents necessary to make assessments on PREA compliance. All areas of the facility were observed and revisited as necessary. Interviews of staff and detainees were accommodated in private areas without delay, and the Auditor was able to interview staff on various shifts. The audit notices were posted and no correspondence was received prior to nor during the on-site audit.

#### **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.

Wendy J. Roal Warner

**Auditor's Signature & Date**

July 20, 2018

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



**Homeland  
Security**

**AUDITOR INFORMATION**

<b>Name of auditor:</b>	Wendy J. Roal Warner	<b>Organization:</b>	Creative Corrections, LLC
<b>Email:</b> (b) (6), (b) (7)(C)		<b>Telephone number:</b>	(309) 241- [REDACTED]

**AGENCY INFORMATION**

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

<b>Name of Field Office:</b>	Newark Field Office
<b>Field Office Director:</b>	John Tsoukaris
<b>ERO PREA Field Coordinator:</b>	Assistant Field Office Director (b) (6), (b) (7)(C) Supervisory Detention and Deportation Officer (b) (6), (b) (7)(C)
<b>Field Office HQ physical address:</b>	DHS ICE Enforcement and Removal Operations, 970 Broad Street, 11 <sup>th</sup> Floor, Newark, NJ 07102
<b>Mailing address:</b> (if different from above)	

**INFORMATION ABOUT THE FACILITY BEING AUDITED**

Basic Information About the Facility			
Name of facility:	Elizabeth Contract Detention Facility		
Physical address:	625 Evans Street, Elizabeth, NJ 07201		
Mailing address: (if different from above)			
Telephone number:	(908) 352-(b) (6), (b) (7)(C)		
Facility type:	CDF		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Assistant Field Office Director
Email (b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	Telephone number:	(908) 282-(b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Quality Assurance Manager
Email (b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	Telephone number:	(908) 659-(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 Prison Rape Elimination Act (PREA) Audit of the Elizabeth Contract Detention Facility (ECDF), Elizabeth, New Jersey, was conducted May 1-4, 2018, by Wendy Roal Warner, a certified PREA auditor with Creative Corrections. The PREA Audit Report noted two standards in non-compliance. A Corrective Action Plan (CAP) was initiated and evidence of corrective action was submitted over the preceding months. All standards are now in compliance and this serves as the CAP Final Determination for ECDF.

115.15: Information provided in the CAP confirms all staff have received refresher training on searches of females and transgenders. Documentation of the training video was provided along with training attendance logs with staff signatures verifying their completion of the training. This standard is now in compliance.

115.33: Information provided in the CAP confirms ECDF is utilizing the language service line at intake for detainees who do not speak English and/or Spanish. A log reflecting use of the translator service line during processing was provided. Additionally, ECDF conducts monthly Detainee PREA Education, with the assistance of the language service line when needed. Documentation of detainee attendance during the monthly PREA Education was provided. ECDF also verified it has one Text Telephone available for detainees who are hard of hearing or deaf. This standard is now in compliance.

## 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. 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:**

At the time of the on-site audit, interviews with staff revealed they were not clear on procedures for conducting pat searches of female or transgender/intersex detainees. During the CAP, ECDF conducted pat search training for all staff. A review of the training video reveals the training is detailed, thorough, and provides clear instruction on how to conduct pat searches of male, female and transgender/intersex detainees, with specifications on searching the breast area. Verification of staff attending search training was submitted. Additionally, ECDF has added the training video to the Quarterly PREA training for employees. This standard is now in compliance.

### §115. 33 - Detainee education

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

**Notes:**

At the time of the on-site audit, detainee interviews revealed PREA education was not being effectively communicated to detainees who speak other than English or Spanish and/or have a disability or limited reading skills. During the CAP, ECDF stated the language service line would be utilized during intake and the monthly PREA Education session. A log was implemented effective August 6, 2018, to verify and document when the language service line is utilized for both intake and the monthly PREA Education session. The Documentation of the log from August 6, 2018, was submitted along with documentation of attendance at the monthly PREA Education session. ECDF provided documentation it has one portable Text Telephone (TTY) which is accessible 24/7 by the shift supervisor and provided assurance the TTY will be utilized when needed. With the implementation of these new measures, this standard is now in 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:**

**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.

Wendy J. Roal Warner

October 12, 2018

**Auditor's Signature & Date**