

PREA Audit: Subpart A

DHS Immigration Detention Facilities

Corrective Action Plan Final Determination



Homeland Security

AUDITOR INFORMATION

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

PROGRAM MANAGER INFORMATION

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

AGENCY INFORMATION

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

Name of Field Office:	St. Paul Field Office
Field Office Director:	(b) (6), (b) (7)(C)
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	1 Federal Drive, Suite 1600, Fort Snelling, MN 55111
Mailing address: (if different from above)	

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

Name of facility:	Freeborn County Adult Detention Center
Physical address:	411 South Broadway, Albert Lea, MN 56007
Mailing address: (if different from above)	
Telephone number:	507-377-(b) (6), (b) (7)(C)
Facility type:	IGSA

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Jail Administrator
Email address:	(b) (6), (b) (7)(C)	Telephone number:	507-377-(b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Assistant Jail Administrator
Email address:	(b) (6), (b) (7)(C)	Telephone number:	507-377-(b) (6), (b) (7)(C)

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS:

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

During the audit, the Auditor found FCADC met 25 standards, had 0 standards that exceeded, had 2 standards (115.14, 115.18) that were non-applicable, and 14 non-compliant standards (115.11, 115.15, 115.17, 115.21, 115.22, 115.41, 115.42, 114.43, 115.51, 115.61, 115.65, 115.76, 115.78, 115.86). As a result of the facility being out of compliance with 14 standards, the facility entered into a 180-day corrective action period which began on September 20, 2022, and ended on March 19, 2023. The purpose of the corrective action period is for the facility to develop and implement a Corrective Action Plan (CAP) to bring these standards into compliance.

On October 18, 2022, the Auditor received notification of the facility's first CAP via email from the Office of Professional Responsibility's (OPR), External Reviews and Analysis Unit (ERAU) and reviewed the submission over the course of several days. Additional documentation and response were provided by the facility and reviewed by the Auditor on October 19, 2022, December 01, 2022, January 7, 2023, February 15, 2023, and March 16, 2023. At the conclusion of the CAP period on March 19, 2023, the Auditor determined that the facility demonstrated compliance with all 14 standards found non-compliant at the time of the site visit.

Number of Standards Met: 14

§115.11 Zero-tolerance of sexual abuse
§115.15 Limits to cross-gender viewing and searches
§115.17 Hiring and promotion decisions
§115.21 Evidence protocol and forensic medical examinations
§115.22 Policies to ensure investigation of allegations and appropriate agency oversight
§115.41 Assessment for risk of victimization and abusiveness
§115.42 Use of Assessment Information
§115.43 Protective Custody
§115.51 Detainee reporting
§115.61 Staff reporting duties
§115.65 Coordinated response
§115.76 Disciplinary sanctions for staff
§115.78 Disciplinary sanctions for detainees
§115.86 Sexual abuse incident reviews

PROVISIONS

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

§115. 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) FCADC has a written FCADC Policy 4.02, that states in part, "The Freeborn County Adult Detention Center (FCADC or facility) maintains a zero-tolerance policy for all forms of sexual abuse or assault. It is the policy of the FCADC to provide a safe and secure environment for a detainees, employees, contractors, and volunteers, free from the threat of sexual abuse or assault, by maintaining Prison Rape Elimination Act (PREA) and Sexual Abuse and Assault Prevention and Intervention (SAAPI) programs that ensure effective procedures for preventing, reporting, responding to, investigating, and tracking incidents or allegations of sexual abuse or assault. Sexual abuse or assault of detainees by other detainees or by employees, contractors, or volunteers is prohibited and subject to administrative, disciplinary, and criminal sanctions." The FCADC did not provide proof that the agency (ICE) has reviewed and approved the facility's PREA/SAAPI written policy.

Does Not Meet (c): The facility has not provided any example or documentation as proof that the agency has reviewed and approved the facility's written PREA/SAAPI policy. FCADC must have the agency review and approve the facility's written PREA/SAAPI policy and provide documentation as evidence of compliance.

Corrective Action (c): On October 12, 2022, the Auditor accepted the CAP as presented by the FCADC. On March 10, 2023, the facility provided a copy of their signature page for the Freeborn County Sheriff's Office PREA/SAAPI policy that reflected the signature of the ICE St. Paul Field Office Director (FOD), dated March 10, 2023. The Auditor accepted this document as evidence that the agency had reviewed and approved the facility's written PREA/SAAPI policy. The standard is now compliant.

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

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

Notes:

(j) FCADC Policy 4.02 states in part, "All pat-down searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and policy, including officer safety." The facility provided a memorandum for record indicating there had been no instances during the audit period where FCADC staff had conducted a cross-gender pat-down search. The facility also provided a memorandum for record indicating they receive their PREA searches training via online through "Relias." The Auditor asked for the training platform or training curriculum for cross-gender and transgender searches prior to the on-site visit. The Auditor did not receive the additional requested documentation. When conducting interviews with 11 random officers, 8 officers indicated that they were unfamiliar with how to conduct a pat-down search on a transgender detainee in a professional and respectful manner. When describing how they conduct pat-down searches, the officers stated that they would use the quadrant method utilizing the back or blade of their hand. They indicated that they would inform the detainee of what was going to happen during the search so that the detainee is aware. Several officers referred to having the detainee pull the clothing away from their body to possibly shake any contraband loose. The training supervisor was asked if officers are trained in the proper procedures for conducting pat-down searches, including cross-gender and transgender pat-down searches and he confirmed that they were. After further conversations with the JA/OIC and PSA Compliance Manager, the Auditor determined that the facility has not sufficiently trained their staff in the proper procedures for conducting cross-gender and transgender pat-down searches.

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

Corrective Action (j): On October 12, 2022, the Auditor accepted the CAP as presented by the FCADC which included a cross-gender and transgender training video along with Relias training records for the 28 current security staff members. The Auditor watched the video that was created by the Connecticut Department of Corrections which provided instruction on

the proper and professional way to conduct pat-searches on cross-gender, juvenile, and transgender detainees. The standard is now compliant.

§115. 17 - Hiring and promotion decisions

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

Notes:

(a)(b) FCADC Policy 4.02 states in part, "FCADC shall not hire or promote anyone who may have contact with inmates and shall not enlist the services of any contractor who may have contact with inmates, who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; Has been convicted of engaging or attempt to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; Has been civilly or administratively adjudicated to have engaged in the activity described. FCADC shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. FCADC conducts annual criminal background checks on all current employees who have contact with [detainees]."

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

The HRM was interviewed and stated that the facility does not hire or promote anyone that has engaged in sexual abuse and that the facility acquires this information through bi-annual performance evaluations, criminal history checks, and making contact with prior institutional employers. The facility provided evidence that newly hired staff are asked the sexual misconduct questions during their background investigation conducted by FCSO when completing the New Hire Application. When asked if these questions were again asked or documented when considering promoting staff, the JA/OIC stated that they are again captured during the evaluation period and those responses are considered during any promotional process. However, the facility is not documenting that these sexual misconduct questions are asked prior to staff promotions nor did the facility make available annual reviews of current employees so the Auditor could not confirm the practice. Also, the facility's policy does not address the continuing affirmative duty to disclose any sexual misconduct. The HRM indicated that when an applicant discloses that they have worked for another institutional employer, he would request any prior information regarding any sexual misconduct investigations involving that new hire. This information was found in the file review of several officers that was previously employed by institutional facility when the Auditor read the background investigator's report while conducting the staff file review of 12 staff members.

Does Not Meet (b): The facility did not provide an example or documentation of proof that the sexual misconduct questions are asked when considering the promotion of staff either in a written form, evaluations or during interviews. Additionally, these same misconduct questions must be asked in any written self-evaluations conducted as part of reviews of current employees. The facility has not provided a policy, example, or documentation as proof that staff has a continuing affirmative duty to disclose any sexual misconduct. The facility must implement a procedure and practice of informing staff of the obligation of the continuing affirmative duty to disclose sexual misconduct. All staff shall then be trained and acknowledge the affirmative duty to disclose any sexual misconduct, and documentation of this training must be provided to the Auditor for compliance review. In addition, the facility must provide examples of the sexual misconduct questions being asked and documented prior to promotion or during evaluation reviews of current employees during the CAP period.

Corrective Action (b): On October 12, 2022, the facility provided a revised PREA/SAAPI policy that governs when sexual misconduct questions are to be asked prior to promotion and during the background new hire process. Additionally, during the CAP review on December 1, 2022, the facility provided two examples of employee evaluations with the appropriate

sexual misconduct questions being asked and answered by staff. The facility also provided 22 examples of signed training acknowledgement forms where security staff had reviewed and understands agency policy's 4.03 (Disciplinary Plan) and policy 4.02 (PREA/SAAPI). The Auditor accepted all these documents for compliance. By the end of the CAP period, the facility had not experienced an opportunity to conduct a promotional process and capture the necessary documentation. The Auditor accepted the facility's explanation that there had been no promotions within the CAP period and that the likelihood of a promotion occurring within the next 20 days was unlikely. Based on review of the revised policy, the standard is now compliant.

§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) FCADC Policy 4.02 states that, "Staff shall take immediate action to separate any detainee who alleges that he/she has been sexually abused or assaulted from the alleged assailant and shall refer the detainee for a medical examination and/or clinical assessment for potential negative symptoms. The security staff member to respond to a report of sexual abuse, or his or her supervisor, shall preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect evidence." FCSO Policy 902 further states that, "[The PREA Coordinator shall develop a protocol that ensures] evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, 'A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/ Adolescents' or a similarly comprehensive and authoritative protocol."

The facility provided a memo of record that indicates that the FCADC uses the FCSO to investigate allegations of sexual abuse and that FCSO Policy 902 addresses a uniform protocol for the collection of evidence. The policy specifies that the FCSO conduct all criminal sexual assault investigations and use a uniform evidence protocol in coordination with what is developmentally appropriate for juveniles. There is no evidence to confirm the FCADC Policy 4.02 and FCSO Policy 902 have been developed in coordination with DHS. The Auditor spoke with a sex crime detective with the FCSO while on-site who confirmed the practices and explained the agency's standard operating procedure uniform evidence protocol that covered evidence collection and chain of custody. The detective also informed the Auditor that if a forensic medical exam was necessary the detainee would be taken to the Mayo Clinic in Rochester Minnesota. The facility reported there were no instances of sexual abuse during the audit period. Interview with the trained facility investigator confirmed his knowledge of uniform evidence protocols, consistent with the PREA Specialized Investigations Training they he had received. The facility investigator explained that the FCSO is contacted and presented the obligated to conduct a criminal investigation for all sexual abuse allegations and would lead the evidence collection related to any physical evidence required to be collected. The facility would be responsible for preserving evidence until an FCSO investigator arrived on the scene. The PSA Compliance Manager confirmed during his interview that the evidence protocols utilized at FCADC are those described by the facility investigator and are in accordance with agency Policy 11062.2.

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

Does Not Meet (a): The facility has not provided proof or evidence that FCADC Policy 4.02 and FCSO Policy 902 has been developed in coordination with DHS. The facility must have ICE personnel review and approve the policies.

Corrective Action (a): On October 12, 2022, the Auditor accepted the CAP as presented by the FCADC. On March 10, 2023, the facility provided a copy of their signature page for the Freeborn County Sheriff's Office PREA/SAAPI policy that reflected the signature of the ICE St. Paul Field Office Director (FOD), dated March 10, 2023. In the audit report the Auditor originally requested ICE personnel review and approval for both Policy 4.02 and 902. However, upon further review of Policy 4.02 it was found to contain the required protocols of this standard as without the support of 902. The language found in Policy 902 provided no additional information that was not already covered by 4.02; therefore, the Auditor waived the required for 902 to be reviewed and approved by ICE. The Auditor accepted this document as evidence that the agency had reviewed and approved the facility's written PREA/SAAPI policy. The standard is now compliant.

§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:

(d)(e)(f) The facility administrator shall coordinate, as necessary, with the ICE Office of Professional Responsibility (OPR) and/or criminal investigative entities responsible for investigation of the incident. The JA/OIC indicated that when a sexual abuse allegation is made regarding an ICE detainee the facility immediately notifies ICE Field Office. The PSA Compliance Manager stated that the facility would provide ICE Field Office with all the information needed regarding an alleged sexual abuse by a detainee. The facility investigator and JA/OIC confirmed during their interviews that the facility would report sexual abuse allegations to ICE Field Office and local law enforcement (FCSO); however, they were not aware of the requirement to report to JIC, OPR, or DHS/OIG.

Does Not Meet (d)(e)(f): The FCADC does not have a policy that governs when a detainee, prisoner, inmate, or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center (JIC) the Office of Professional Responsibility (OPR) or the DHS/OIG as well as the appropriate ICE FOD. In addition, no policy exists for when a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the JIC, OPR, or DHS/OIG as well as the appropriate ICE FOD. If the incident appears to be criminal the appropriate law enforcement agency must also be notified. The FCADC must develop a policy to address the above requirements and train all staff on the procedures that must be followed. This documentation must be provided to the Auditor for compliance review.

Corrective Action (d)(e)(f): On October 12, 2022, the facility provided a revised PREA/SAAPI policy that included the appropriate language to address provisions (d)(e) and (f). On December 1, 2022, the Auditor reviewed the uploaded CAP documentation. The facility provided an email from the ICE Contract Manager to the FCADC supervisors directing their staff to review the specific changes made to their PREA/SAAPI policy which included staff notification and reporting requirements associated with this standard. Additionally, the facility provided 22 staff acknowledgement training affidavits regarding provisions (d)(e) and (f). After review of all documentation provided, the standard is now compliant.

§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) FCADC Policy 4.02 states in part that, "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 12 hours of admission to the facility."

The Classification Officer explained that the intake process and the classification process are two different procedures. However, it is during the intake process where the detainee is risk screened for possible victimization or abusive behavior. The detainees are booked in one at a time as the rest are placed in individual intake cells awaiting the process. Prior to the detainee's arrival, the Classification Officer receives all ICE collected information regarding the detainee including a background criminal history check. The Classification Officer has already determined a housing assignment for the detainee prior to the detainee arriving at the facility. However, the Classification Officer stated that the housing assignment is not confirmed until the completion of the risk screening tool. The PREA risk screening questions, consisting of yes and no questions, are asked by the Intake Officer along with the initial medical screening questions. The security classification criteria are either minimum, medium, or maximum custody levels. All detainees are housed accordingly with other like detainees. Once the intake and classification processes are complete, the detainee is placed in quarantine due to COVID-19 protocols, which is a single occupant cell. The Intake Officer stated that if a detainee answers yes to two or more risk screening questions related to possible victimization, the Intake Officer would immediately notify the Sergeant in charge to make any necessary changes to the housing assignment. The Classification Officer indicated the initial classification and housing assignment is completed within the first hour and would never exceed twelve hours. The Intake Officer was interviewed and reiterated the comments and practice outlined by the Classification Officer. During the Auditor's review of 12 detainee files, the Auditor confirmed that the detainees were booked and processed to include housing assignments within the first two hours. The Auditor's review also revealed only 4 files contained a risk screening. The PSA Compliance Manager explained that the facility had just implemented a new risk assessment form to explain why eight detainee files did not contain the risk assessment form. The earliest risk assessment form located in a detainee file was dated June 21, 2022. Based on the sample reviewed, 8 of 12 detainees did not have proof of a risk assessment being performed.

Does Not Meet (a): The facility has instituted the appropriate risk screening procedure and appears to be following the appropriate policy that governs the practice; however, evidence shows that at the time of the on-site audit, not all detainees had been initially screened for possible sexual victimization or abusiveness. Therefore, the facility must ensure all current detainees have received an initial risk screening assessment to comply with this standard and provide to the Auditor screenings for any detainees who arrived prior to June 20, 2022, and who are still at the facility, and 5 new arrivals since the last day of the audit as documentation screening practice has been implemented for compliance review.

Corrective Action (a): On October 19, 2022, the Auditor reviewed the documentation uploaded on October 12, 2022. The facility provided seven risk screening assessments of detainees that were still incarcerated at the FCADC prior to 06/20/2022. The facility also provided five risk screening assessments of detainees since the last day of the PREA audit. Provision (a) of this standard is now compliant.

(e) FCADC Policy 4.02 states, "The facility shall reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of the initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization." The Intake Officer indicated that the Sergeant in Charge ensures reassessments are conducted within 30 days. The Classification Officer stated that reassessments are usually conducted every 30 days and within 60-90 days. Both the PSA Compliance Manager and Intake Officer stated that if a detainee was still in their custody after the conclusion of an investigation, then a reassessment would be conducted. The Auditor reviewed 12 detainee files and 4 detainees had been reassessed within 60 to 90 days; the other 8 had not been at the facility for 60 days and did not have a reassessment due.

Does Not Meet (e): Interviews conducted revealed that reassessments are conducted at the conclusion of the PREA investigation. This practice is not consistent with the standard provision that states the reassessment will be conducted following an incident of abuse or victimization. The facility must show that a reassessment is conducted once an incident of sexual abuse is alleged and that all staff effected must be trained on this procedure.

Corrective Action (e): On October 19, 2022, the Auditor reviewed the documentation uploaded on October 12, 2022. The facility provided a negative report indicating no instances of sexual abuse being reported. The Auditor deferred compliance anticipating the possibility of obtaining an example of a reassessment conducted once an incident of sexual abuse is alleged until later into the CAP period. The Auditor reviewed the CAP on December 1, 2022, where the facility provided 22 security staff acknowledgement training affidavits regarding the review of policy 4.02 (PREA/SAAPI) to include the changes made regarding 115.41 provision (e). The Auditor accepted this evidence as compliance related to all staff being trained on this procedure. The Auditor reviewed the CAP on January 7, 2023, where the facility still reported no instances of conducting a reassessment following a report of a sexual abuse. On February 15, 2023, after a CAP review the Auditor recognizing March 6, 2023, was the completion date for this CAP, accepted compliance with provision (e) of this standard. The Auditor has concluded that it was unlikely that the facility would encounter a situation where a sexual abuse is alleged, and a reassessment be conducted prior to the CAP conclusion date. After review, provision (e) of this standard is compliant.

(g) FCADC Policy 4.02 also states that, "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 or inmates." When interviewing the PSA Compliance Manager and Intake Officer, they indicated that the detainee files are located in the control center in an unlocked filing cabinet. The Auditor personally observed the location of the detainee files. Because all officers are assigned to the control center and the files are not in a secure location, all officers have access to detainee risk screening results.

Does Not Meet (g): The completed detainee risk screening instruments are not maintained securely. The facility shall implement appropriate controls on the dissemination and storage of responses to questions asked during the risk screening assessment in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees. Once implemented, evidence must be provided to the Auditor that shows the detainee risk screening is stored in a secure area with limited access to only those staff that have a need-to-know.

Corrective Action (g): On October 12, 2022, the Auditor accepted the CAP as presented by the FCADC. On November 30, 2022, the facility provided an email from the Assistant Jail Administrator (AJA) directing the supervisory staff to provide all PREA risk screening documentation to the AJA so that the information can be placed in the detainee folders located in his locked office. The AJA also informs staff that only administrative staff and Sergeants has access to these files. Provision (e) of this standard is now compliant.

§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) FCADC Policy 4.02 states in part that, "All detainees shall be screened during the book-in process for potential risk of sexual abuse, assault, or sexual violent behavior. Detainees will be classified and housed accordingly. Information gathered during the risk assessment will be used to inform housing, bed, work, education, and programing assignments with the goal of keeping separate those detainees at high risk of being sexually victimized from those at high risk of being sexually abusive. Detainees considered to be at risk for sexual victimization shall be placed in the least restrictive housing that is available and appropriate. If appropriate housing is not available at the FCADC, the FCADC will contact the ICE Field Office Director to determine if ICE can provide additional assistance." The PSA Compliance Manager stated when interviewed that the facility uses a classification tool that identifies those detainees that should be categorized as minimum, medium, or maximum custody level. He also stated that the PREA risk screening helps in identifying those detainees that may be vulnerable to sexual victimization and those detainees that may be sexual predators. When these individuals are identified, the facility can ensure they are not housed together or socialize in any programs or recreation. The facility reported no instances where a detainee was identified as a potential victim or potential predator during the audit period.

Does Not Meet (a): The facility was unable to demonstrate that they were conducting risk assessments, pursuant to 115.41 of detainees prior to June 20, 2022. Based on this information, the facility could not have utilized information from the risk assessment to inform assignment of detainees to housing, recreation and other activities, and voluntary work. To become compliant, the facility must demonstrate detainees have received an initial risk screening assessment and provide to the Auditor 10 examples indicating the information from this risk screening assessment was used to inform assignment of detainees to housing, recreation and other activities, and voluntary work, for compliance review.

Corrective Action (a): On October 19, 2022, the Auditor reviewed the documentation uploaded on October 12, 2022. The facility provided seven risk screening assessments after June 20, 2022, and five risk screening assessments since the last day of the on-site PREA audit. The facility also provided a revised PREA/SAAPI policy that addresses using the information gathered during the risk screening to inform assignment of detainees to housing, recreation, and other activities. After review, this standard is compliant.

§115. 43 - Protective custody

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

Notes:

(a)(b)(c)(d) FCADC Policy 4.02 states, "Victims and vulnerable detainees shall be housed in a supportive environment that represents the least restrictive housing option possible (e.g., in a different housing unit, transfer to another facility, medical housing, or protective custody), and that will, to the extent possible, permit the victim the same level of privileges he/she was permitted immediately prior to the sexual assault. This placement should take into account any ongoing medical or mental health needs of the victim. Victims may not be held for longer than five days in any type of administrative segregation for protective purposes, except in highly unusual circumstances or at the request of the victim. The facility shall notify the appropriate ICE Field Office Director, within 72 hours, whenever a detainee victim, or detainee placed due to vulnerability to sexual abuse or assault has been held in administrative segregation. Victims and vulnerable detainees shall be housed in a supportive environment that represents the least restrictive housing option possible (e.g., in a different housing unit, transfer to another facility, medical housing, or protective custody), and that will, to the extent possible, permit the victim the same level of privileges he/she was permitted immediately prior to the sexual assault."

The JA/OIC was interviewed and stated that if a detainee needed to be placed in protective custody/administrative segregation the facility would immediately notify the ICE FOD and have the detainee moved to another facility. The JA/OIC stated that a detainee should be held in administrative segregation for the least amount of time as practicable and no longer than five days. He stated that he has never experienced a situation where a detainee was placed in protective custody for sexual victimization or vulnerability. However, if that were to happen, he would immediately contact ICE and have the detainee transferred to another facility. The 11 random officers interviewed indicated that if a detainee were placed in protective custody that detainee would be afforded the same opportunities and privileges as all other detainees. The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC indicating that there have been no instances where an ICE detainee was placed in protective custody/administrative housing during this audit period, which was also confirmed during interviews with officers who work the segregation unit. FCADC has not provided a policy that addresses regular review of all vulnerable detainees placed in administrative segregation for their protection or written procedures developed in consultation by the ICE FOD.

Does Not Meet (a)(d): The written procedures provided by the FCADC Policy 4.02 do not address all requirements of this standard, specifically provisions (a) and (d). The facility shall develop and follow written procedures consistent with the standards in this subpart governing management of its administrative segregation unit. These procedures should be developed in consultation with ICE FOD having jurisdiction for the facility. The facility must document detailed reasons for placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault. In addition, the facility must create a policy to address regular reviews of all vulnerable detainees that are placed in administrative segregation. The policy must contain language that a supervisor shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted; and a supervisor shall conduct, at a minimum, an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days, and every 10 days thereafter. The policy must be acknowledged by all security staff assigned to the FCADC.

Corrective Action (a)(d): On October 22, 2022, the Auditor reviewed documentation uploaded on October 12, 2022. The facility provided an updated Special Management policy that governs the management of its administrative segregation unit. The policy outlined the need to document detailed reasons for placement, and regular reviews of vulnerable detainees. The policy included a supervisory review within 72 hours and an identical review after seven days and every week thereafter. The Auditor reviewed documentation uploaded to the CAP on February 15, 2023, providing training documentation regarding policy changes to 4.02 (PREA/SAAPI), policy 4.03 (Disciplinary Plan), and policy 4.17 (Special Management). On March 13, 2023, the facility provided a copy of their signature page for the Freeborn County Sheriff's Office PREA/SAAPI policy that reflected the signature of the St. Paul Field Office FOD dated 03/10/2023. This document is evidence that the agency had reviewed and approved the facility's written PREA/SAAPI policy. This standard is now compliant.

§115. 51 - Detainee reporting

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

Notes:

(b) The FCADC Policy 4.02 also states, "Detainee reports of sexual abuse or assault, retaliation for reporting sexual abuse or assault, and/or staff neglect or violations of responsibilities that may have contributed to such incidents may be made using any available methods of communication, including but not limited to: Verbal reports to any staff member; Written informal or formal requests or grievances to the facility; Sick call requests; Reports from family members, friends, or other outside entities; Reports to an individual or organization outside the facility who can contact facility staff; Reports to DHS/ICE, written informal or formal requests or grievances (including emergency grievances) to the ICE Field Office, telephone calls or written reports to DHS/OIG and ICE/DRIL. If any of these requirements cannot be met for ICE detainees, the FCADC will consult with the ICE Field Office Director to determine if ICE can provide additional assistance. Any allegation of sexual abuse or assault shall be immediately and effectively reported to ICE/ERO. In turn, ICE/ERO will report the allegation as a significant incident for referral of an allegation for investigation."

The 12 detainees interviewed were asked if they knew a sexual abuse report could be made without providing a name and 7 of the 12 indicated they were aware. The FCADC utilizes the DHS/OIG hotline as their outside reporting entity for ICE detainees being held in their facility. The DHS/OIG poster states that the detainee may remain anonymous when making a report if they choose. While conducting the facility tour, the Auditor attempted to contact the DHS/OIG through use of a phone located in a general population housing unit. The Auditor was unable to connect a call to the OIG Hotline. With assistance from the JA/OIC, multiple additional calls were attempted but the call could never go out and connect. The JA/OIC requested assistance from an officer that was familiar with the phone system, and he attempted to place a call with the handheld I-phone that is assigned to each detainee as another means of communication. Those call attempts also failed.

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

Corrective Action (b): On October 12, 2022, the Auditor accepted the CAP as presented by the FCADC. The facility provided one example of a call being placed to the Office of the Inspector General (OIG) documenting the date the call was

made, the individual that made the call, what housing unit the call was generated from, and the name of the DHS/OIG call taker. This standard is now compliant.

§115. 61 - Staff reporting duties

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

Notes:

(a)(b)(c)(d) FCADC Policy 4.02 states that, "all staff must immediately report any knowledge, suspicion, or information regarding an incident or allegation of sexual abuse occurring at the facility; any retaliation against detainees or staff who reported or participated in an investigation about sexual abuse or assault; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Staff must also be able to report the above outside of the chain of command. Staff shall accept reports made verbally, in writing, anonymously, and from third parties, and promptly document any verbal reports." The policy further states that, "Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have a need-to-know in order to make decisions concerning the victim's welfare, and for law enforcement investigative purposes. Apart from such reporting, staff shall not reveal any information related to a sexual abuse and assault report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions. If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person statute, the facility shall report that information to the Field Office Director so that ICE can report the allegation to the designated State or local services agency under applicable mandatory reporting laws."

Does Not Meet (a): This standard requires the agency to review and approve facility policies and procedures related to this standard. Additionally, these reporting procedures must include a method by which staff can report outside of the chain of command. The FCADC Policy 4.02 states "staff must also be able to report sexual abuse outside of the chain of command." However, the policy does not specify what that outside method of reporting is. Additionally, the facility provided no evidence that the facility has provided its FCADC Policy 4.02 to the agency for review or approval. The facility must identify an appropriate outside reporting method for staff to report sexual abuse, and update FCADC Policy 4.02 to include this information. Staff must be advised of this reporting method. Additionally, the facility must provide the FCADC Policy 4.02 to ICE for review and approval.

Corrective Action (a): On October 12, 2022, the facility provided the Auditor with a revised PREA/SAAPI policy that identified the OIG hotline as the outside reporting method for staff to report sexual abuse outside their chain of command. On February 15, 2023, the Auditor reviewed training documentation acknowledging security staff had reviewed the facility's revised PREA/SAAPI policy 4.02. Additionally, the Auditor reviewed the documentation uploaded on March 13, 2023, consisting of a copy of their signature page for the Freeborn County Sheriff's Office PREA/SAAPI policy that reflects the signature of the St. Paul Field Office FOD dated 03/10/2023. This document is evidence that the agency has reviewed and approved the facility's written PREA/SAAPI policy. This standard is now compliant.

§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) FCADC Policy 4.02 states that, "the facility must use a coordinated, multidisciplinary team approach to responding to sexual abuse, such as a sexual assault response team (SART), which includes a medical practitioner, a mental health practitioner, a security staff member, and an investigator from the assigned investigative entity, as well as representatives from outside entities that provide relevant services and expertise." The JA/OIC stated coordination and communication among staff in response to an incident is arranged through the radio, phone, and email and delegates out individual responsibilities to all those individuals involved in the critical incident. The written coordinated response plan was requested by the Auditor through the issue log provided to the Team Lead and presented to the facility. However, the facility did not provide a written institutional plan to coordinate these actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse.

Does Not Meet (a)(b): The facility has not provided a written institutional plan to coordinate actions taken by first responders, medical and mental health professionals, investigators, and facility leadership. Therefore, the facility has not demonstrated it uses a coordinated multidisciplinary team approach to responding to sexual abuse as outlined in (b). To become compliant, the facility must develop a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse and provide to the Auditor for compliance review.

Corrective Action (a)(b): On January 7, 2023, the Auditor reviewed documentation uploaded on January 6, 2023. The FCADC provided a revised copy of their PREA/SAAPI policy 4.02. The revised version listed responsibilities for first responders, investigators, facility leadership, and medical and mental health professionals. The Auditor accepted this written policy as a coordinated response. On March 16, 2023, the Auditor reviewed the documentation uploaded on March 13, 2023, consisting of Relias training records indicating that all security staff at the FCADC had been trained on their coordinated response policy. Provisions (a)(b) of this standard are now compliant.

(c)(d) The information conveyed by the JA/OIC, and review of the documentation provided did not support any procedures in place for complying with provisions (c)(d). The FCADC has not provided evidence of a procedure that governs if a victim of sexual abuse is transferred from FCADC to another facility covered by the DHS PREA standards, subpart A or B, to ensure the receiving facility is informed of the incident and the victim's potential need for medical or social services. Additionally, there is no procedure that governs when a victim is transferred from FCADC to a facility not covered by the DHS PREA standards to ensure the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.

Does Not Meet (c)(d): To become compliant with (c), the facility must have procedures in place to inform the receiving facility of a sexual abuse incident and the victim's potential need for medical or social services when a detainee victim is transferred to another facility covered by DHS PREA standards. To become compliant with (d), the facility must have procedures in place to inform the receiving facility of a sexual abuse incident and the victim's potential need for medical or social services when a detainee is transferred to a facility not covered by DHS PREA standards, unless the victim requests otherwise. The facility must develop procedures that addresses these provisions or update the existing FCADC Policy 4.02. The facility must document that affected staff has been trained on the procedure. This documentation of the procedure and training must be provided to the Auditor for compliance review.

Corrective Action (c)(d): On October 12, 2022, the Auditor accepted the CAP as presented by the FCADC. The facility provided a revised version of their PREA/SAAPI policy that reflected the required changes identified in the required corrective action. The facility also provided a copy of a Detainee Transfer Report that lists information that should be provided to a receiving detention facility upon transport of a detainee if the detainee has been a victim of sexual abuse, if warranted, and consistent with the requirements of these provisions. On December 1, 2022, the Auditor reviewed the documentation uploaded on November 30, 2022, providing 22 staff acknowledgement training affidavits regarding the review of policy 4.02 (PREA/SAAPI) to include the changes made regarding procedures to inform the receiving facility of a sexual abuse incident and the victim's potential need for medical or social services when a detainee victim is transferred to another facility covered by DHS PREA standards. The facility also provided training records regarding procedures to inform the receiving facility of a sexual abuse incident and the victim's potential need for medical or social services when a detainee is transferred to a facility not covered by DHS PREA standards, unless the victim requests otherwise. Provisions (c)(d) of this standard are now compliant.

§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) FCADC Policy 4.02 states that, "Staff shall be subject to disciplinary or adverse action, up to and including removal from their position, for substantiated allegations of sexual abuse or for violating ICE or facility sexual abuse rules, policies, or standards. Termination shall be the presumptive disciplinary sanction for staff who have engaged in, attempted, or threatened to engage in sexual abuse, as defined under the definition of staff-on-detainee abuse in Section II, paragraphs (a)-(d) and (g)-(h). The Facility shall report all incidents of substantiated sexual abuse by staff, and all removals of staff, or resignations in lieu of removal for violations of sexual abuse policies, to appropriate law enforcement agencies unless the activity was clearly not criminal. The facility shall also report all such incidents of substantiated abuse, removals, or resignations in lieu of removal to the ICE Field Office Director, regardless of whether the activity was criminal, and shall make reasonable efforts to report such information to any relevant licensing bodies, to the extent known."

Does Not Meet (b): The facility was unable to demonstrate they have submitted FCADC Policy 4.02 to the agency for review and approval of facility policies and procedures regarding disciplinary or adverse actions for staff. To become compliant, the facility must submit their FCADC Policy 4.02 to the agency for review and approval and provide the Auditor with evidence this has been completed.

Corrective Action (b): On March 13, 2023, the Auditor reviewed the documentation uploaded on March 10, 2023, consisting of a copy of their signature page for the Freeborn County Sheriff's Office PREA/SAAPI policy that reflected the

signature of the ICE St. Paul (FOD), dated March 10, 2023. The Auditor accepted this document as evidence that the agency reviewed and approved the facility's written PREA/SAAPI policy. The standard is now compliant.

§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:

(b) The facility indicated on the "Document Request Form" that there is a disciplinary policy, FCADC Policy 4.03, however, this policy was not provided to the Auditor for review; therefore, the Auditor was unable to verify the facility's formal disciplinary process is compliant with this provision. There was no evidence to verify that sanctions imposed are commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future. The Auditor requested on the Issue Log that the disciplinary policy be provided; however, the policy was never provided to the Auditor for review.

Does Not Meet (b): The Facility must implement a procedure to ensure that any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future. The Auditor must be provided with evidence of this procedure for compliance review.

Corrective Action (b): On February 15, 2023, the Auditor reviewed the documentation uploaded on February 14, 2023. The Auditor reviewed policy 4.03 (Detainee Discipline) and confirmed the appropriate language is contained in that policy. Policy 4.02 (PREA/SAAPI) directs the reader to policy 4.03. The Auditor accepted the procedure to ensure that any sanctions imposed shall be commensurate with the severity of the committed prohibited act. On March 13, 2023, the facility also provided Relias training records indicating that all security staff at the FCADC had been trained on policy 4.03 (Detainee Discipline). The standard is now compliant.

§115. 86 - Sexual abuse incident reviews

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

Notes:

(a)(b)(c) FCADC Policy 4.02 states, "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 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 Field Office Director, or his or her designee, for transmission, to the ICE PSA Coordinator. The review team shall consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bi-sexual, transgender, or intersex identification status or perceived status, or gang affiliation, or was motivated or otherwise caused by group dynamics within the facility; Examine area in facility where incident allegedly occurred to assess whether physical barriers within the facility may enable abuse; Assess adequacy of staffing levels in that area during different shifts; Assess monitoring technology deployed or possible augmented to supplement supervision by staff; Prepare a report of findings with any recommendations for improvement and submit such report to the facility administrator. The facility shall implement the recommendations for improvement or document its reasons for not doing so. 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 Field Office Director, or his or her designee, for transmission to the ICE PSA Coordinator."

The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC, indicating that the FCADC has had no sexual abuse allegations reported within the audit period; therefore, there were no incident reviews conducted for the Auditor to review. The interview with the PSA Compliance Manager indicated that the incident review team looks at procedures, facts, and what may have contributed to the incident. He explained that the team consists of the facility investigator, JA/OIC, AJA, HSA, and PREA Compliance Manager. The interview with the JA/OIC indicated that an incident review would be conducted at the conclusion of every sexual abuse investigation. Furthermore, the JA/OIC indicated that the facility would conduct an annual review of all sexual abuse investigations and incident reviews to improve sexual abuse intervention, prevention, and response. The JA/OIC also indicated that the facility would prepare a negative annual report if the facility had not received any reports of sexual abuse.

Does Not Meet (c): The FCADC has reported no instances of sexual abuse involving ICE detainees during the audit period. The facility policy states, "If the facility has not had any reports of sexual abuse during the annual reporting period,

then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the facility administrator and Field Office Director or his or her designee, for transmission to the ICE PSA Coordinator.” The facility has not provided a negative report indicating no instances of sexual abuse during the audit period for compliance review. To become compliant, the facility must prepare a negative report and provide to the facility administrator, FOD and the agency PSA Coordinator. This documentation must be provided to the Auditor for compliance review.

Corrective Action (c): On October 12, 2022, the Auditor accepted the CAP as presented by the FCADC. The facility provided a negative PREA Report for 2021. The report was directed to the AFOD. On February 15, 2023, the Auditor reviewed the documentation uploaded on February 14, 2023, providing an email chain where the St. Paul Field Office AFOD forwarded the FCADC Negative Report for 2021 and 2022 to the agency PSA Coordinator. The standard is now compliant.

AUDITOR CERTIFICATION:

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

Ron Kidwell

Auditor's Signature & Date

March 12, 2023

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

Assistant Program Manager's Signature & Date

April 12, 2023

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

Program Manager's Signature & Date

April 12, 2023

PREA Audit: Subpart A DHS Immigration Detention Facilities Audit Report



Homeland Security

AUDIT DATES

From:	7/19/2022	To:	7/21/2022
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AUDITOR INFORMATION

Name of auditor:	Ron Kidwell	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	571-606-(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:	772-579-(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:	St. Paul Field Office
Field Office Director:	(b) (6), (b) (7)(C)
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	1 Federal Drive, Suite 1600, Fort Snelling, MN 55111
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:	Freeborn County Adult Detention Center
Physical address:	411 South Broadway, Albert Lea, MN 56007
Mailing address: (if different from above)	Click or tap here to enter text.
Telephone number:	507-377-(b) (6), (b) (7)(C)
Facility type:	IGSA
PREA Incorporation Date:	2/11/2020

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Jail Administrator
Email address:	(b) (6), (b) (7)(C)	Telephone number:	507-377-(b) (6), (b) (7)(C)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Assistant Jail Administrator
Email address:	(b) (6), (b) (7)(C)	Telephone number:	507-377-(b) (6), (b) (7)(C)

ICE HQ USE ONLY

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 U.S. Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of the Freeborn County Adult Detention Center (FCADC) operated by the Freeborn County Sheriff's Office was conducted on July 19-21, 2022, by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor, Ron Kidwell employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by the U.S. Immigration and Customs Enforcement (ICE) PREA Program Manager (PM), (b) (6), (b) (7)(C), and Assistant ICE Program Manager (APM), (b) (6), (b) (7)(C), both DOJ and DHS certified PREA Auditors. The PM's role is to provide oversight to the ICE PREA audit process and liaison with the ICE, Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU) during the audit report review process. The purpose of the audit was to determine compliance with the DHS PREA Standards during the audit period of February 11, 2020, through July 21, 2022. This is the first DHS PREA audit conducted for FCADC.

FCADC is in Albert Lea, a city located in Freeborn County in the southcentral region of Minnesota. This city is approximately 90 miles south of Minneapolis. The city of Albert Lea and the county of Freeborn has a total population of 30,565. The Inter-governmental service agreement (IGSA) regarding the detention of ICE detainees is between the Sheriff of Freeborn County and DHS ICE. The facility's housing capacity is 148. DHS ICE contracts with FCADC to hold adult male detainees. The facility also holds county pre-trial and sentenced inmates. At the time of the on-site audit the facility's ICE detainee population was 12. At this facility, ICE detainees are housed in the same units as the county inmates. The detainees wear orange jumpsuits; the county inmates wear green jumpsuits. The FCADC further separates detainees by custody level based on prior jail experience and criminal history. It was explained to the Auditor that the facility holds somewhere between 15 to 20 ICE detainees at any given time. The FCADC reported that they do not accept or hold any juvenile, female ICE detainees, or family units. The facility is in the basement of the Freeborn County Courthouse. It consists of a secure sallyport, intake/receiving area, office space, kitchen area, laundry room, control center, nursing unit, and three housing units. The housing units consist of a work release housing unit, a female housing unit, and a very large general population housing unit. All units are two-levels and open to a common area with fixed tables, televisions, phone banks, and kiosks. Each housing unit also contains mini housing dormitories within the unit where individuals can be segregated in individual cells if necessary or mingle within the mini dorm with several other detainees, but still separated from the rest of the unit. For instance, in the general population unit there are four different sub-dayrooms that contain two single cells. In addition, there are the same amount of administrative housing sub-dayrooms with single occupancy cells in the general population housing unit. The entire facility is monitored by one control center which is always staffed with one officer. (b) (7)(E)

Team Lead (b) (6), (b) (7)(C) from OPR ERAU provided the completed Pre-Audit Questionnaire (PAQ), along with supporting documents and policies for the FCADC on the secure ERAU SharePoint website approximately three weeks prior to the audit. The provided information included policies, memorandums of understanding (MOUs), training records and curricula, facility schematics, and a multitude of other related documentation and materials used to determine compliance with the DHS PREA standards.

The Auditor completed the review of all documentation that was provided by the Team Lead and FCADC in the FY22 Facility Document folder prior to the site visit. On July 9, 2022, the Auditor emailed the ICE OPR Personnel Security Operations (PSO) Unit and Team Lead with a background clearance form that listed three ICE Office of the Enforcement and Removal Operations (ERO) officers. The Auditor also identified possible gaps or issues that needed to be followed up on and in some cases requested additional information. The request was captured on an easy to review document called an Issue Log. The log is used to outline requests for response to questions that need to be clarified during the audit process. The Auditor submitted his Issue Log to the Team Lead on July 7, 2022, containing 19 requests for additional information. . The Team Lead was able to facilitate this need and the facility indicated that they would make the additional information available during the on-site portion of the audit.

On July 19, 2022, at approximately 8:00 a.m., the Auditor met with facility staff and proceeded to the Facility Administrator's Office where the in-briefing was conducted by the Auditor and ERAU Team Lead (b) (6), (b) (7)(C) via teleconference call. Those in attendance were:

(b) (6), (b) (7)(C), ICE/ERO, Assistant Field Office Director (AFOD) (via telephone)
(b) (6), (b) (7)(C), ICE/ERO, Supervisory Detention & Deportation Officer (SDDO)
(b) (6), (b) (7)(C), FCADC, Jail Administrator/Officer in Charge (JA/OIC)
(b) (6), (b) (7)(C), FCADC, Assistant Jail Administrator (AJA), Prevention of Sexual Assault (PSA) Compliance Manager
(b) (6), (b) (7)(C), ICE/OPR/ERAU Inspections and Compliance Specialist (ICS), via telephone
Ron Kidwell, Creative Corrections, LLC, Certified DOJ/DHS Auditor

The meeting was designed to create a positive working relationship, place names with faces, and prepare for the next three days. Soon after the conclusion of the meeting the Auditor began the facility tour accompanied by the JA/OIC. The tour covered the entire facility over the next two hours. The Auditor observed three housing dorms, a booking/intake center, classroom, law library, medical treatment unit, recreation yards, sallyport, laundry room, food service kitchen, storage rooms, control room, restricted housing unit, and loading dock. (b) (7)(E)

. The Auditor looked at how the toilets and shower areas were configured and

if detainees are able to change clothes, shower, and use the restroom without being viewed by opposite-gender staff. The Auditor observed that DHS ICE Zero Tolerance for Sexual Abuse posters with phone and other contact information and PREA Audit Notices were displayed in plain sight.

PREA Audit Notices in English and 11 other languages (Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese) were sent to the FCADC prior to the on-site visit. The PREA Audit Notice communicates to staff and detainees that the facility will be undergoing an audit for compliance with the DHS/ICE Standards to Prevent, Detect, and Respond to Sexual Abuse in a Confinement Setting. The notice also spells out how confidential information is to be handled and where that confidential information can be reported. The Auditor did not receive any correspondences from either staff, ICE detainees, or other parties. The Auditor noted the number of phones in each housing dorm and that the advocacy information along with the outside reporting entity contact information was readily available in the housing areas. The Auditor also conducted a test call to the outside entity which was the DHS Office of the Inspector General (OIG) in an attempt to prove the effectiveness of the facility's practice. However, the Auditor was not able to make contact with the DHS OIG in accordance with DHS PREA Standard 115.51. Finally, the Auditor did not observe the processing of any ICE detainee but had an Intake Officer walk through the intake and classification process and observed the computer-generated documentation that is captured during those processes. The opportunity to witness the processing of an ICE detainee did not present itself during the Auditor's time at the on-site audit.

Immediately following the facility tour, the Auditor interviewed staff as well as the Staff interviews were conducted in an office located in the Administrator's office space in private. During the interview process, 11 random officers were interviewed. The officers were randomly selected by the Auditor using the daily duty roster provided by the PSA Compliance Manager. The Auditor chose staff from both day and night shifts, working different assignments, and with different levels of experience. The Auditor also made sure interviews were conducted with the appropriate number of female staff that corresponded with the daily duty roster. Over the three-day period, the Auditor conducted a total of 26 interviews, including 2 contractors and 11 randomly selected staff, and covering multiple specialized positions. Listed below is the sample of specialized staff positions that were interviewed: 1-JA/OIC, 1-PSA Compliance Manager, 1-Human Resources Manager (HRM), 2-Investigative Staff, 1-Medical, 1-Mental Health Care staff member, 1-Training Supervisor, 1-Grievance Coordinator, 1-Intake Officer, 1-First Line Supervisor, 1-Classification Officer, and 1-non-security first responder; 1-Retaliator Monitor; 1-Incident Review Team member. The selection of specialized staff included several individuals who held multiple roles and responsibilities covered by the protocols. For example, the PSA Compliance Manager is also responsible for monitoring retaliation and the JA/OIC is part of the Incident Review Team. The Auditor selected 12 detainees for interviews. The only detainees at the facility during the site visit qualifying in a targeted category were three limited English proficient (LEP), and all three detainees were interviewed. Interviews were conducted using both the random sample of detainees and detainees who are limited English proficient (LEP) protocols. The Auditor utilized the Creative Corrections language services line to perform the interview with the assistance of an interpreter because all three the detainees spoke Spanish. The Auditor interviewed the remaining nine random detainees that were currently in custody at the facility. The FCADC PAQ indicated that there were no transgender or intersex detainees currently being housed at their facility. All detainees that were interviewed did not identify or acknowledged being LGBTI, had not reported prior sexual victimization, or were disabled.

The Auditor requested that the PSA Compliance Manager provide the Auditor with a predetermined list of investigations, detainee files, and employee files selected by the Auditor. Those files consisted of 12 files of the detainees that were interviewed, and 12 employee files of staff that were interviewed. There were no allegations of sexual abuse reported during the audit period. This information was confirmed by the Team Lead through communication with OPR Investigations requesting JICMS PREA allegations regarding FCADC, the submitted PAQ, and an email to the AJA asking for any information regarding sexual abuse allegations.

The facility provided three governing policies related to and covering procedures for their Sexual Abuse and Assault Prevention and Intervention (SAAPI) program which are part of the FCADC Policy Procedures Manual: FCADC Policy 4.02, PREA/SAPPI; Freeborn County Sheriff's Office (FCSO), Policy 902, Prison Rape Elimination; FCSO, Policy 2.04, Staffing Requirements. These policies will be referenced throughout this report as FCADC Policy 4.02, FCSO Policy 2.04, and FCSO Policy 902.

On Thursday, July 21, 2022, an exit briefing was held at approximately 1:30 p.m. in the Administrator's Office area to discuss the audit findings. ERAU Team Lead (b) (6), (b) (7)(C) opened the meeting and then turned it over to the Auditor for an overview of the findings. The following individuals were in attendance:

(b) (6), (b) (7)(C), ICE/ERO, SDDO
(b) (6), (b) (7)(C), FCADC, JA/OIC
(b) (6), (b) (7)(C), FCADC, AJA, PSA Compliance Manager
(b) (6), (b) (7)(C), ICE/OPR/ERAU, ICS (via telephone)
Ron Kidwell, Creative Corrections, LLC, Certified DOJ/DHS Auditor

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

SUMMARY OF AUDIT FINDINGS

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

Number of Standards Exceeded: 0

Number of Standards Met: 25

§115.13 Detainee supervision and monitoring
§115.16 Accommodating detainees with disabilities and detainees who are limited English proficient
§115.31 Employee, contractor, and volunteer training
§115.32 Other Training
§115.33 Detainee education
§115.34 Specialized training: Investigations
§115.35 Specialized training: Medical and mental health care
§115.52 Grievances
§115.53 Detainee access to outside confidential support services
§115.54 Third-party reporting
§115.62 Protection duties
§115.63 Reporting to other confinement facilities
§115.64 Responder duties
§115.66 Protection of detainees from contact with alleged abusers
§115.67 Agency protection against retaliation
§115.68 Post-allegation protective custody
§115.71 Criminal and administrative investigations
§115.72 Evidentiary standard for administrative investigations
§115.73 Reporting to detainees
§115.77 Corrective action for contractors and volunteers
§115.81 Medical and mental health screening; history of sexual abuse
§115.82 Access to emergency medical services
§115.83 Ongoing medical and mental health care for sexual abuse victims and abusers
§115.87 Data collection
§115.201 Scope of audits

Number of Standards Not Met: 14

§115.11 Zero-tolerance of sexual abuse
§115.15 Limits to cross-gender viewing and searches
§115.17 Hiring and promotion decisions
§115.21 Evidence protocol and forensic medical examinations
§115.22 Policies to ensure investigation of allegations and appropriate agency oversight
§115.41 Assessment for risk of victimization and abusiveness
§115.42 Use of Assessment Information
§115.43 Protective Custody
§115.51 Detainee reporting
§115.61 Staff reporting duties
§115.65 Coordinated response
§115.76 Disciplinary sanctions for staff
§115.78 Disciplinary sanctions for detainees
§115.86 Sexual abuse incident reviews

Number of Standards Not Applicable: 2

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

PROVISIONS

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

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(c) FCADC has a written FCADC Policy 4.02, that states in part, "The Freeborn County Adult Detention Center (FCADC or facility) maintains a zero-tolerance policy for all forms of sexual abuse or assault. It is the policy of the FCADC to provide a safe and secure environment for a detainees, employees, contractors, and volunteers, free from the threat of sexual abuse or assault, by maintaining Prison Rape Elimination Act (PREA) and Sexual Abuse and Assault Prevention and Intervention (SAAPI) programs that ensure effective procedures for preventing, reporting, responding to, investigating, and tracking incidents or allegations of sexual abuse or assault. Sexual abuse or assault of detainees by other detainees or by employees, contractors, or volunteers is prohibited and subject to administrative, disciplinary, and criminal sanctions." The FCADC did not provide proof that the agency (ICE) has reviewed and approved the facility's PREA/SAAPI written policy.

Does Not Meet (c): The facility has not provided any example or documentation as proof that the agency has reviewed and approved the facility's written PREA/SAAPI policy. FCADC must have the agency review and approve the facility's written PREA/SAAPI policy and provide documentation as evidence of compliance.

(d) FCADC Policy 4.02 states in part that, "The facility shall designate a Prevention of Sexual Assault (PSA) Compliance Manager who shall serve as the facility point of contact for the local 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 Compliance Manager shall: assist with the development of written policies and procedures for the PREA and SAAPI programs, and with keeping the current [programs in place]; Assist with the development of initial and ongoing training protocols; Serve as 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; Review facility practices to ensure required levels of confidentiality are maintained." The PSA Compliance Manager confirmed during his interview that he is the facility's point of contact for the ICE PSA Coordinator and stated that he has sufficient time and authority to oversee the facility's efforts to comply with sexual abuse prevention and intervention policies and procedures. The PSA Compliance Manager also stated that he answers directly to the JA/OIC. This was confirmed through the organizational chart that was provided by the facility.

§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) The facility presented FCSO Policy 2.04 as the FCADC staffing plan that states in part, "The Freeborn County Jail Administrator shall prepare and retain a staffing plan indicating the personnel assigned to the facility and their duties. The FCADC staff will consist of: One (1) Jail Administrator and one (1) Assistant Jail Administrator, who will be responsible for the daily operations of the FCADC and whose duties are solely related to the administration of the facility; In the absence of the Administrators or shift sergeants, a staff person in the facility will be designated in charge at all times; The next senior line staff will assume the shift sergeant duties for that shift; The Sheriff or Jail Administration can and may designate (other than the next senior line officer) a line staff officer to assume the sergeants' duties for that team; Two (2) Program Coordinators who will oversee educational, vocational, social services, work release and volunteer programs; One (1) Training and Compliance Sergeant who will be responsible for scheduling and documenting staff training; Four (4) Shift Sergeants, one (1) per team; The Sergeant will oversee the operation of the facility and detention staff during their shift; 28 detention officers, consisting of four teams of 7 officers, covering the five (5) duty posts [Master Control, Intake/Release, Work Release, General Population, Rover]; Each team will consist of male and female officers to ensure proper gender supervision." (b) (7)(E)

There (b) (7)(E)

(b) FCSO Policy 2.04 also states that, "The facility administrator or designee shall review the facility's staffing plan at least once each year. The review shall be documented in written form sufficient to indicate that staffing plans have been reviewed and revised as appropriate to the facility's needs or referred to the facility's governing body for funding consideration. Detention Staff shall not be given facility maintenance duties that interfere with their primary responsibilities of supervising detainees. Additional personnel shall be provided by the Sheriff to perform ancillary functions such as transportation and court escort. The ratio of detention staff to detainees shall not be less than one (1) staff to 60 detainees in the General Population unit any time detainees are not secured in cells or one (1) staff to 48 detainees in Female Population or Work Release. No detainee shall be detained without custody staff on duty, present in the facility, awake and alert at all times. Staff members shall not be placed in positions of responsibility for the supervision and welfare of detainees of the opposite sex in circumstances that can be described as invasion of privacy, degrading, or humiliating to

the detainees." The FCADC provided post orders for each post that outlines the supervision responsibilities regarding ICE detainees. (b) (7)(E), monitor detainee activities within the housing unit dayroom areas, and other instructions associated with each specific security post. The post orders are reviewed and signed off on annually by the JA/OIC. The current post order signature page indicated that the JA/OIC signed off on the post orders in January of 2022. The JA/OIC was asked how the facility determines and maintains appropriate staffing levels. The JA/OIC stated that their staffing analysis is based on the Minnesota Department of Corrections standard and that at no time would the officer to detainee ratio be more than 1 officer to 60 detainees.

(c) FCADC Policy 4.02 states in part that, (b) (7)(E) The facility administrator shall determine security needs based on comprehensive staffing analysis and a documented comprehensive supervision guideline that is reviewed and updated at least annually. (b) (7)(E) the facility shall take into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of each facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse and other incidents reflecting on facility security and detainee safety, the findings and recommendations of sexual abuse incident review reports or other findings reflecting on facility security and detainee safety, the length of time detainees spend in agency custody, and any other relevant factors." When the JA/OIC was asked how the facility takes into account each of the above listed factors, the JA/OIC indicated that there have been no judicial findings, the physical layout of the facility has not changed, and they review any substantiated or unsubstantiated incidents of sexual abuse to determine if there were any lack of supervision that contributed to the incident. The JA/OIC further stated that he considers all recommendations made by the Incident Review Team and the length of time detainees spend in facility custody. The facility reported no instances of sexual abuse; and therefore, no investigative file or incident review was reviewed.

(d) FCADC Policy 4.02 further states that, "frequent unannounced security inspections shall be conducted to identify and deter sexual abuse of detainees. Inspections will occur on night as well as day shifts. Staff are prohibited from alerting others that these security inspections are occurring unless such announcement is related to the legitimate operational functions of the facility." The facility provided activity logs from both day and night work that document unannounced rounds at different times of the day by the on-duty supervisor. This is accomplished by documenting the supervisor's badge number, date, and time on a form titled "Unannounced PREA Visits." Also, during the on-site facility tour, the Auditor physically observed these activity logs with the necessary documentation. Documents provided by the facility also show multiple checks during each shift. Finally, when conducting an interview with a first line supervisor, he indicated that unannounced rounds must be conducted on every post twice a shift and that the rounds must be at different times of the day and documented on the "Unannounced PREA Visits" activity log.

§115.14 - Juvenile and family detainees.

Outcome: Not Applicable (provide explanation in notes)

Notes:

The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC indicating that the FCADC does not house juvenile or family units for ICE. The completed PAQ indicates no juvenile detainees have been held at FCADC within the audit period, and during conversations with staff and the JA/OIC, they confirmed that the facility does not house or accept juvenile ICE detainees. During the on-site portion of this audit, there was no indication or evidence that juvenile detainees are housed at this facility.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(b)(c) FCADC Policy 4.02 states in part, "pat-down searches of male detainees by female staff shall not be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances. Pat-down searches of female detainees by male staff shall not be conducted unless in exigent circumstances." The Auditor interviewed 11 random officers. Eight staff members were male officers who were asked if they had ever witnessed a female officer conduct a pat search of a male detainee or if they had conducted a pat search on a female detainee. All eight officers stated "no" to both questions. In addition, when three female officers were asked if they had ever witnessed a male officer conduct a pat search on a female detainee or if they had conducted a pat search on a male detainee, all three female officers stated "no" to both questions.

(d) FCADC Policy 4.02 states in part, "all pat-down searches by staff of the opposite gender shall be documented." The facility provided a memorandum for record indicating there had been no instances during the audit period where FCADC staff had conducted a cross-gender pat-down search. When interviewing random officers, they all indicated that they had never experienced a situation where there was a need or exigent circumstance to search a detainee of the opposite gender. However, they reported if an incident occurred it would be immediately documented.

(e) FCADC Policy 4.02 states in part, "strip searches or visual body cavity searches by staff of the opposite gender shall not be conducted except in exigent circumstances, including consideration of the 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." During the interview process 11 random officers, 8 male and 3 female, were asked if they had ever performed or witnessed a strip search or body cavity search of either a male or female detainee. All 11 officers stated "no" regarding any strip

search or body cavity search being conducted on any ICE detainees. The Health Services Administrator (HSA) indicated that medical staff would not perform either a strip search or body cavity search. If a body cavity search were necessary, that detainee would be sent out to the local hospital for the search to be conducted. The facility does not accept or house juvenile ICE detainees.

(f) FCADC Policy 4.02 states in part, "All strip searches and visual body cavity searches shall be documented." The facility provided a memorandum for record indicating there had been no instances during the audit period where FCADC staff had conducted a cross-gender strip searches or body cavity searches. The Auditor confirmed during random officer interviews their knowledge that the search would have to be documented.

(g) FCADC Policy 4.02 states in part, "staff may not visually observe detainees of the opposite sex while changing, performing bodily functions, or showering. Staff of opposite gender must announce their presence upon entering detainee living areas." During the on-site facility tour, the Auditor observed the dormitory bathroom layout which included full length shower curtains, half wall partitions, and curtains on the windows that can be drawn or opened from the outside hallway. The Auditor also observed officers making opposite gender announcements prior to entering a dorm of the opposite gender. (b) (7)(E)

The Auditor interviewed 11 (8-male/3-female) random officers and asked what steps are taken to allow detainees to privately shower, use the restroom, and change clothes. From those interviews all 11 officers indicated they would announce themselves prior to entering the space where detainees are permitted to be in a state of undress. Several officers also indicated that they would inform the detainee to stay in the shower or close the individual cell door window cover. (b) (7)(E)

Twelve detainees were interviewed, and 11 detainees indicated that they had adequate privacy to shower, use the restroom, and change clothes. (b) (7)(E)

The detainees were also asked if officers of the opposite gender announced their presence before entering the housing units; seven detainees indicated that they do, and five detainees stated that the officers do not or that they only make the announcements in English.

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

(i) FCADC Policy 4.02 states in part, "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." Random officers were asked if they had ever conducted or witnessed a search or physical examination to determine a detainee's gender and all 11 random officers interviewed indicated that they had not conducted or witnessed such a search. The JA/OIC confirmed during his interview there were no searches conducted on detainees to determine a detainee's gender during the audit period.

(j) FCADC Policy 4.02 states in part, "All pat-down searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and policy, including officer safety." The facility provided a memorandum for record indicating there had been no instances during the audit period where FCADC staff had conducted a cross-gender pat-down search. The facility also provided a memorandum for record indicating they receive their PREA searches training via online through "Relias." The Auditor asked for the training platform or training curriculum for cross-gender and transgender searches prior to the on-site visit. The Auditor did not receive the additional requested documentation. When conducting interviews with 11 random officers, 8 officers indicated that they were unfamiliar with how to conduct a pat-down search on a transgender detainee in a professional and respectful manner. When describing how they conduct pat-down searches, the officers stated that they would use the quadrant method utilizing the back or blade of their hand. They indicated that they would inform the detainee of what was going to happen during the search so that the detainee is aware. Several officers referred to having the detainee pull the clothing away from their body to possibly shake any contraband loose. The training supervisor was asked if officers are trained in the proper procedures for conducting pat-down searches, including cross-gender and transgender pat-down searches and he confirmed that they were. After further conversations with the JA/OIC and PSA Compliance Manager, the Auditor determined that the facility has not sufficiently trained their staff in the proper procedures for conducting cross-gender and transgender pat-down searches.

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

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

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

Notes:

(a) FCADC Policy 4.02 states in part that, "The facility shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, or detainees who have intellectual, psychiatric, or speech disabilities, limited reading skills, or who are blind or have low vision 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; Providing access to written materials related to sexual abuse in formats or through methods that ensure effective communication.” The facility plays a PREA educational video that has closed caption in English and Spanish for detainees that may be hearing impaired, and the video has audio in both English and Spanish for those detainees that may be visually impaired. Where practicable, provisions for written translation of materials related to sexual abuse or assaults shall be made for any significant segments of the population who are identified as LEP. Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate. Both the Intake Officer and Classification Officer informed the Auditor that a TTY for the deaf is available and, if needed, arrangements can be made through their language line services contract to provide sign language assistance.

When conducting interviews with 11 random officers, they were asked if they had ever encountered a detainee that was blind, deaf, or intellectually disabled. They all stated “no.” When asked how they would provide that information, the officers indicated that deaf detainees could read the closed caption video, or they could arrange for a sign language interpreter. When discussing blind detainees, the officers indicated they could provide the information through the audio of the video, or they could read the SAAPI information to the detainee, and with the use of an interpreter through the language line if necessary. Finally, regarding those detainees that were intellectually disabled, the officers indicated they would contact the medical section for assistance; medical personnel would then assess the detainee’s level of comprehension and determine the appropriate method to be used to relay, ultimately ensuring the information was delivered in a manner the detainee could understand. The JA/OIC was interviewed and asked if his facility has established procedures to provide detainees with disabilities the ability to participate in or benefit from all aspects of the agency’s and facility’s efforts to prevent, detect, and respond to sexual abuse, and if the facility had ever been unable to accommodate a detainee and he confirmed that the facility had not experienced a detainee with a special need requiring accommodations that they were unable to meet.

(b)(c) FCADC Policy 4.02 states in part, “The facility shall take steps to ensure meaningful access to all aspects of the facility’s efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient, including steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In matters relating to allegations of sexual abuse, the facility shall employ effective expressive and receptive verbal communication techniques while communicating with detainees with disabilities in accordance with professionally accepted standards of care. The facility shall provide detainees with disabilities and detainees with limited English proficiency with in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. 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 have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse. Where practicable, provisions for written translation of materials related to sexual abuse or assaults shall be made for any significant segments of the population with limited English proficiency. 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.”

The facility handbook is provided in English and Spanish. The top three nationalities of the facility population reported by the facility are Mexican, Sudanese, and Guatemalan. The Auditor reviewed the facility handbook in English and observed the explanation of methods for reporting sexual abuse, prohibition against retaliation, and the right of a detainee that has been subjected to sexual abuse to receive treatment and counseling. The facility handbook provides the contact information for the DHS/OIG as the detainee outside reporting entity regarding allegations of sexual abuse. During the on-site review, the Auditor observed the ICE Zero-Tolerance poster and the ICE Detention Reporting and Information Line (DRIL) poster placed on the perimeter walls of the housing dorms. These posters state the “Report Sexual Assault Now” message in six languages other than English and Spanish.

The PREA video shown during intake, is displayed in both English and Spanish. The Auditor received and observed evidence that the FCADC makes available to the detainees the ICE National Detainee Handbooks, which are available in 14 languages (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Chinese, Romanian, Russian, Portuguese, Bengali, Turkish and Vietnamese), and the DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlets, which are available in 9 languages (Arabic, English, French, Haitian Creole, Chinese, Portuguese, Hindi, Punjabi, and Spanish). The intake officer confirmed that all detainees receive both the facility handbook and ICE National Detainee Handbook and that all detainees are required to view the educational video before being transferred to their housing assignment. All this takes place in the intake area. If a detainee speaks a language that is not covered by the DHS-prescribed SAA Information pamphlet, the intake officer or another staff will read the DHS-prescribed SAA Information pamphlet to the detainee using an interpreter service, if necessary, to ensure they understand the SAAPI information. The facility has demonstrated that they ensure meaningful access to all aspects of the agency’s and facility’s efforts to prevent, detect, and respond to sexual abuse for those who speak languages other than English. The JA/OIC was interviewed and asked if his facility has established procedures to provide detainees who are LEP the ability to participate in or benefit from all aspects of the agency’s and facility’s efforts to prevent, detect, and respond to sexual abuse. The JA/OIC stated that his staff has access to the ERO Language Services Resource Flyer, and most recently began to issue all detainees the ICE National Detainee Handbook, using the various languages as needed. The ERO Language Services Resource Flyer provides staff access to a website and a 24-hour language line for translation and interpretation services. He indicated that his staff is aware of the services available for those detainees that need assistance. Of the 11 officers interviewed, all confirmed that the facility does not utilize detainee interpreters, unless the detainee requests the use of another detainee for interpretation, and the facility determines this is appropriate and meets policy guidelines. However, all 11

random officers indicated that they would not allow a detainee to interpret regarding a sexual abuse report. Both the JA/OIC and PSA Compliance Manager confirmed this practice during their interviews. Officers assigned to intake are able to use the language line services. Two detainees interviewed were LEP and both spoke Spanish. Through the assistance of an interpreter using a language line service, both detainees explained that when they first arrived at the facility, staff used another detainee that spoke fluent English and Spanish to interpret for them. The detainees also stated that they were provided a facility handbook and ICE National Detainee Handbook in a language they could understand. The detainees also acknowledged awareness of the PREA posters mounted to the dorm wall in Spanish. Finally, the facility utilizes a kiosk to supplement written requests such as medical referrals, detainee requests, and commissary orders. The kiosk can be used in both English and Spanish.

§115.17 - Hiring and promotion decisions.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) FCADC Policy 4.02 states in part, "FCADC shall not hire or promote anyone who may have contact with inmates and shall not enlist the services of any contractor who may have contact with inmates, who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; Has been convicted of engaging or attempt to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; Has been civilly or administratively adjudicated to have engaged in the activity described. FCADC shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. FCADC conducts annual criminal background checks on all current employees who have contact with [detainees]."

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

The HRM was interviewed and stated that the facility does not hire or promote anyone that has engaged in sexual abuse and that the facility acquires this information through bi-annual performance evaluations, criminal history checks, and making contact with prior institutional employers. The facility provided evidence that newly hired staff are asked the sexual misconduct questions during their background investigation conducted by FCSO when completing the New Hire Application. When asked if these questions were again asked or documented when considering promoting staff, the JA/OIC stated that they are again captured during the evaluation period and those responses are considered during any promotional process. However, the facility is not documenting that these sexual misconduct questions are asked prior to staff promotions nor did the facility make available annual reviews of current employees so the Auditor could not confirm the practice. Also, the facility's policy does not address the continuing affirmative duty to disclose any sexual misconduct. The HRM indicated that when an applicant discloses that they have worked for another institutional employer, he would request any prior information regarding any sexual misconduct investigations involving that new hire. This information was found in the file review of several officers that was previously employed by institutional facility when the Auditor read the background investigator's report while conducting the staff file review of 12 staff members.

Does Not Meet (b): The facility did not provide an example or documentation of proof that the sexual misconduct questions are asked when considering the promotion of staff either in a written form, evaluations or during interviews. Additionally, these same misconduct questions must be asked in any written self-evaluations conducted as part of reviews of current employees. The facility has not provided a policy, example, or documentation as proof that staff has a continuing affirmative duty to disclose any sexual misconduct. The facility must implement a procedure and practice of informing staff of the obligation of the continuing affirmative duty to disclose sexual misconduct. All staff shall then be trained and acknowledge the affirmative duty to disclose any sexual misconduct, and documentation of this training must be provided to the Auditor for compliance review. In addition, the facility must provide examples of the sexual misconduct questions being asked and documented prior to promotion or during evaluation reviews of current employees during the CAP period.

(c)(d)(e)(f) FCADC Policy 4.02 states in part, "FCADC conducts annual criminal background checks on all current employees who have contact with inmates." The Auditor conducted a file review on 12 randomly selected staff, including contractors. All 12 files indicated an initial criminal history was conducted along with the annual criminal background checks. Additionally, the Auditor submitted a Background Investigation for Employees and Contractors form to the OPR PSO prior to the site visit requesting verification of background investigations on three ERO officers assigned to the FCADC. OPR PSO responded via email confirming the ERO officers

were current on their five-year background investigations. The HRM further stated during his interview that if a new hire provided false information or omitted certain material then the facility would rescind the offer letter. The Auditor was able to confirm this practice when reviewing the staff background investigations. Finally, the HRM indicated that any inquiries into prior employees by other institutional employers would be granted if the requesting agency provided a signed release from the applicant.

Recommendation (d)(e)(f): The Auditor recommends that the FCADC add the language necessary to address provisions (d)(e)(f). The facility's practice is in accordance with these provisions; however, there is no policy that governs or provides guidance to staff for these provisions.

§115.18 - Upgrades to facilities and technologies.

Outcome: Not Applicable (provide explanation in notes)

Notes:

The Auditor determined compliance through interviews. The FCADC reported no completion of any substantial expansion or modification of the existing facility within the audit period on the PAQ. The FCADC also provided a memorandum dated June 30, 2022, signed by the JA/OIC, explaining the facility had not made any substantial expansions or modifications to the existing facility or electronic monitoring system since this audit period. This was further confirmed during interviews with the JA/OIC and PSA Compliance Manager.

§115.21 - Evidence protocols and forensic medical examinations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) FCADC Policy 4.02 states that, "Staff shall take immediate action to separate any detainee who alleges that he/she has been sexually abused or assaulted from the alleged assailant and shall refer the detainee for a medical examination and/or clinical assessment for potential negative symptoms. The security staff member to respond to a report of sexual abuse, or his or her supervisor, shall preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect evidence." FCSO Policy 902 further states that, "[The PREA Coordinator develop a protocol that ensures] evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, 'A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents' or a similarly comprehensive and authoritative protocol."

The facility provided a memo of record that indicates that the FCADC uses the FCSO to investigate allegations of sexual abuse and that FCSO Policy 902 addresses a uniform protocol for the collection of evidence. The policy specifies that the FCSO conduct all criminal sexual assault investigations and use a uniform evidence protocol in coordination with what is developmentally appropriate for juveniles. There is no evidence to confirm the FCADC Policy 4.02 and FCSO Policy 902 have been developed in coordination with DHS. The Auditor spoke with a sex crime detective with the FCSO while on-site who confirmed the practices and explained the agency's standard operating procedure uniform evidence protocol that covered evidence collection and chain of custody. The detective also informed the Auditor that if a forensic medical exam was necessary the detainee would be taken to the Mayo Clinic in Rochester Minnesota. The facility reported there were no instances of sexual abuse during the audit period. Interview with the trained facility investigator confirmed his knowledge of uniform evidence protocols, consistent with the PREA Specialized Investigations Training they he had received. The facility investigator explained that the FCSO is contacted and presented the obligated to conduct a criminal investigation for all sexual abuse allegations and would lead the evidence collection related to any physical evidence required to be collected. The facility would be responsible for preserving evidence until an FCSO investigator arrived on the scene. The PSA Compliance Manager confirmed during his interview that the evidence protocols utilized at FCADC are those described by the facility investigator and are in accordance with agency Policy 11062.2.

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

Does Not Meet (a): The facility has not provided proof or evidence that FCADC Policy 4.02 and FCSO Policy 902 has been developed in coordination with DHS. The facility must have ICE personnel review and approve the policies.

(b) FCADC Policy 4.02 states that "the facility administrator shall establish procedures to make available to detainees' information about local organizations that can assist detainees who have been victims of sexual abuse, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). If no such local organizations exist, the facility shall make available the same information about national organizations. The facility shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available, the facility shall work with ICE to provide these services from a qualified staff member from a community-based organization, or qualified ICE staff member. The victim advocate shall be able to provide emotional support, crisis intervention, information, and referrals. FCADC shall attempt to make available to the victim a victim advocate from a rape crisis center. If the rape crisis center is not available to provide victim advocate services, FCADC will make available to provide

these services a qualified staff member from a community-based organization or a qualified staff member. Efforts will be documented. As requested by the victim, the victim advocate, qualified agency staff member or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interview and shall provide emotional support, crisis intervention, information, and referrals.”

The FCADC provided a Letter of Agreement (LOA) from the Freeborn Department of Human Services CVCC. This LOA acknowledges the services requested regarding advocacy to the detainees housed in the FCADC. The contact number and mailing address was posted and observed by the Auditor in housing units during the on-site facility tour. The Auditor contacted the CVCC and spoke to the Director. The Director informed the Auditor that they provide advocacy to incarcerated individuals, including detainees housed at the FCADC. The Director also informed the Auditor that her agency provides a 24-hour hotline that detainees can call to arrange counseling or other services that they may need regarding prior sexual victimization. The Director also confirmed that her agency would provide advocacy during and after the medical forensic examination, if requested by the detainee victim. Finally, the Director informed the Auditor that, if necessary, a medical forensic examination would be performed at the Mayo Clinic in Rochester Minnesota because that is where SANE nurses are employed and located. When interviewing the PSA Compliance Manager, he indicated that they provide detainee victim advocacy through the CVCC and that all contact information is made available to the detainees at the facility; additionally, he confirmed detainee victims would be taken to the Mayo Clinic in Rochester for a SANE examination .

(c) FCSO Policy 902 states that “access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or SANEs where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.” The Auditor contacted the Mayo Clinic in Rochester and confirmed through the medical emergency department that if a sexual assault occurred in FCADC and a law enforcement request was made, the Emergency Forensic Unit would provide a SANE nurse to conduct a forensic medical examination (FME). The emergency department confirmed that those services are offered 24 hours a day, 365 days a year. FCADC Policy 4.02 states “Where evidentiary or medically appropriate, at no cost to the detainee, and only with the detainee’s consent, the facility administrator shall arrange for an alleged victim to undergo a forensic medical examination by a SAFE or SANE, where practicable.” The HSA confirmed that the detainee’s consent is required for the FME. The facility reported no incidents of sexual abuse, including those that required an FME. As there were no detainees at FCADC during the on-site audit who reported an incident of sexual abuse, the Auditor was unable to conduct an interview.

(d) FCADC Policy 4.02 states, “As requested by a victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, shall be allowed for support during a forensic exam and investigatory interviews.” The Auditor confirmed this practice through interviews with the PSA Compliance Manager and the Director of the CVCC.

(e) FCSO Policy 902 states that, “The Office shall promptly, thoroughly, and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received office-approved special training shall conduct sexual abuse investigations.” Additionally, FCADC Policy 4.02 states, “in the event the investigation is being conducted by a non-federal investigating agency, the facility shall request that the investigating agency follow the applicable requirements of this policy, including requirements related to evidence preservation and forensic examinations.” The FCADC provided a memo of record indicating that the FCSO conducts all criminal investigations. The FCSO policy complies with the DHS PREA standards a-d. Finally, an interview with an FCSO sex crimes detective confirms the agency follows the requirements of this section.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) FCADC Policy 4.02 states that, “The facility shall establish a protocol, to ensure that each allegation of sexual abuse is investigated by facility or referred to an appropriate investigative authority. This protocol shall be posted on the facility website, or otherwise made available to the public. The facility shall coordinate with ICE and other appropriate investigative entities to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse. All investigations must be prompt, thorough, objective, fair, and conducted by specially trained, qualified investigators.” FCSO Policy 902 also states, “Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data; Interview alleged victims, suspects, and witnesses; Review any prior complaints and reports of sexual abuse involving the suspect; Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution; Assess the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as a prisoner or a member of the Freeborn County Sheriff's Office; Document in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings; Refer allegations of conduct that may be criminal to the County Attorney for possible prosecution; Cooperate with outside investigators and remain informed about the progress of any outside investigation. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The Office shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Office, plus five years.”

The agency’s policy 11062.2 outlines the evidence and investigation protocols. All investigations are to be reported to the JIC, which routes allegations for assessment to determine which allegations fall within the PREA purview. The PREA allegations are then referred

to DHS/OIG or OPR. DHS/OIG has the first right of refusal on all employee, volunteer, or contractor on detainee sexual abuse allegations. Once the allegation is reviewed and accepted by DHS/OIG, the OPR would not investigate so there is no possible intervention. If refused, the allegation is referred to OPR. All detainee-on-detainee allegations are referred to the OPR for assessing criminality. Once the allegation is reviewed and accepted by the OPR investigator, the investigation is conducted by OPR, who will decide on the investigative process. If OPR investigates the allegation, the investigation is conducted in accordance with OPR policies and procedures and coordination with law enforcement and facility staff. If allegations are not criminal in nature, the allegations are referred to the OPR field office or the ERO Administrative Inquiry Unit (AIU) for investigation, and the ERO AFOD would assign an administrative investigation to be completed.

The JA/OIC stated that when a sexual abuse allegation is made the facility supervisor would contact the FCSO dispatch and request a detective respond to the FCADC. The FCADC provided a memorandum of record stating the FCSO conducts all criminal investigations. FCADC Policy 4.02 outlines the response and responsibility of the agency as it pertains to the investigation of suspected criminal activity involving sexual abuse. If it is determined that the allegation is not criminal, then a facility investigator would begin an administrative investigation. The administrative investigation is completed by the facility and a final investigative file is completed with the findings. The investigation is reviewed by both the JA/OIC and PSA Compliance Manager before being sent to the FOD. The facility investigator indicated that all administrative investigations are conducted by the facility investigator and that the FCSO conducts any criminal investigations. The FCADC provided a memo for record dated June 30, 2022, indicating there were no instances of alleged sexual abuse by detainees reported during the audit period, which was also confirmed through interviews with the JA/OIC and PSA Compliance Manager. The PSA Compliance Manager stated during his interview that reports and documentation of referrals for investigation of sexual abuse allegations will be maintained for at least five years.

(c) The FCADC provided and the Auditor reviewed both the agency website (<https://www.ice.gov/detain/prea>) and the FCADC website (<https://www.co.freeborn.mn.us/296/Adult-Detention-Center>) that outlines the protocol regarding sexual abuse allegations involving both administrative and criminal investigations.

(d)(e)(f) The facility administrator shall coordinate, as necessary, with the ICE Office of Professional Responsibility (OPR) and/or criminal investigative entities responsible for investigation of the incident. The JA/OIC indicated that when a sexual abuse allegation is made regarding an ICE detainee the facility immediately notifies ICE Field Office. The PSA Compliance Manager stated that the facility would provide ICE Field Office with all the information needed regarding an alleged sexual abuse by a detainee. The facility investigator and JA/OIC confirmed during their interviews that the facility would report sexual abuse allegations to ICE Field Office and local law enforcement (FCSO); however, they were not aware of the requirement to report to JIC, OPR, or DHS/OIG.

Does Not Meet (d)(e)(f): The FCADC does not have a policy that governs when a detainee, prisoner, inmate, or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center (JIC) the Office of Professional Responsibility (OPR) or the DHS/OIG as well as the appropriate ICE FOD. In addition, no policy exists for when a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the JIC, OPR, or DHS/OIG as well as the appropriate ICE FOD. If the incident appears to be criminal the appropriate law enforcement agency must also be notified. The FCADC must develop a policy to address the above requirements and train all staff on the procedures that must be followed. This documentation must be provided to the Auditor for compliance review.

§115.31 - Staff training.

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

Notes:

(a)(b)(c) FCADC Policy 4.02 states in part that "Training on the facility's SAAPI/PREA programs shall be included in initial and annual refresher training for all employees. Training 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 from 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." The policy further states, "all employees, volunteers and other contractors who have contact with detainees shall be trained on their responsibilities under the facility's sexual abuse and preventions, detection, intervention and response policies and procedures."

The FCADC provided the PREA training curricula in a PowerPoint format for the Auditor's review which included all the required elements of training along with training histories identifying all officers that received the initial PREA training during their initial jailor

school training curriculum. The facility also provided training histories for these employee's PREA refresher training. The Auditor reviewed 12 employee files during the document review phase and confirmed that all files that were reviewed contained evidence of the initial PREA employee training and annual refresher training. Finally, the facility provided DHS PALMS training certificates of completion for five ICE staff assigned to the facility. This information was confirmed and provided by the Training Supervisor during the on-site audit and during the interview. During the random staff interviews, 11 officers were asked if they had received PREA training and when it occurred. All 11 officers indicated that they had received the training during their initial training and during annual in-service through Relias Learning.

§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) FCADC Policy 4.02 states in part that, "All volunteers and other contractors who have contact with detainees shall be trained on their responsibilities under the facility's sexual abuse and preventions, 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 ICE and the facility's zero-tolerance policy and informed of how to report such incidents."

The FCADC provided a PowerPoint presentation slide that contained information regarding their zero-tolerance policy and the ways to report sexual abuse along with how to detect, respond to and prevent sexual abuse. The Training Supervisor was asked during his interview if contractors and volunteers that have contact with detainees are provided with the agency's zero-tolerance policy and how to report sexual abuse. The Training Supervisor indicated that volunteers and contractors receive a training packet that must be completed prior to providing any services. The facility also provided signed PREA training acknowledgement forms for both contractors and volunteers. The Auditor interviewed a contractor who confirmed that they had received the PREA training and that they receive annual refresher training. Finally, the Auditor reviewed two service contractor files that contained evidence that the PREA training had been completed.

§115.33 - Detainee education.

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

Notes:

(a)(b)(c) FCADC Policy 4.02 states, "upon admission to the FCADC, all detainees shall be notified of the facility's zero-tolerance policy for all forms of sexual abuse and assault through the orientation program and detainee handbook, provided with information about the facility's SAAPI and PREA programs. 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 sexual abuse or assault, staff on detainee sexual abuse or 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 DHS/OIG and the ICE/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 the detainee who has been subjected to sexual abuse to receive treatment and counseling." The policy further states that, "the facility shall provide the detainee notification, orientation, or instruction in formats accessible to all detainees, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to detainees who have limited reading skills. The facility shall maintain documentation of detainee participation in the instruction session." As identified in 115.16, the FCADC utilizes the ERO Language Services that provides staff access to a website and a 24-hour language line for translation and interpretation services.

The FCADC provided the website address for the Auditor to review their PREA orientation, which is presented in video format in both in English and Spanish. This video is shown on a television monitor located in the detainee program classroom. The video was created by Just Detention International. The Auditor confirmed the video covered prevention and intervention, definitions and examples, methods for reporting sex abuse. The video also covered information about self-protection, prohibition against retaliation, and the right to receive treatment and counseling. The video does not include the DHS/OIG contact information or advisement to the detainees that reporting an allegation of sexual abuse will not have a negative impact on the detainee's immigration proceedings; however, this information is provided to the detainees through both the facility handbook and ICE Detainee Handbook. The detainees are staged in the program classroom and shown the orientation briefing videos. They are also issued a facility handbook, the ICE National Detainee Handbook, and the DHS-prescribed SAA Information pamphlet. The DHS-prescribed SAA Information pamphlet is available in nine languages (English, Spanish, Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi). The intake officers then have each detainee sign for the orientation as it is completed. The Intake Officer has the detainee acknowledge watching the video and receiving the DHS-prescribed SAA Information pamphlet by signing a Detainee PREA Acknowledgement Memo. For those detainees that speak/understand languages other than English and Spanish, the FCADC provides the ICE National Detainee Handbook that is available in fourteen different languages: English, Spanish, Arabic, Bengali, Chinese, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Turkish, and Vietnamese. The video audio is available for those detainees that are visually impaired and contains closed captioning for those detainees that are hard of hearing or deaf. The Auditor reviewed the facility handbook and the ICE National Detainee Handbook in English and observed the necessary contact information regarding the DHS/OIG and ICE DRIL was present in both resources. In addition, the information regarding an explanation that reporting sexual abuse shall not negatively impact the detainee's immigration proceedings is located in the ICE National Detainee Handbook. The Intake Officer was interviewed and confirmed this practice. She also verified that if needed, a TTY is available in the intake area for deaf detainees

and the facility could secure the services of a sign language interpreter if necessary. Finally, the Intake Officer indicated that the most common language spoken by detainees housed at FCADC is Spanish. If a detainee speaks a language that is not covered by the DHS-prescribed SAA Information pamphlet, the intake officer or another staff will read the DHS-prescribed SAA Information pamphlet to the detainee using an interpreter service, if necessary, to ensure they understand the SAAP information. The facility has demonstrated that they ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse for those who speak languages other than English. The Auditor interviewed 12 detainees who confirmed watching the video and receiving both the facility handbook and ICE National Detainee Handbook. The FCADC provided copies of the detainee orientation/PREA Acknowledgement memos with the PAQ that contained the signatures of ICE detainees acknowledging watching the detainee educational video. In addition, the Auditor reviewed 12 detainee files that contained the acknowledgement forms.

When conducting interviews with 11 random officers they were asked if they had ever encountered a detainee that was blind, deaf, or intellectually disabled. They all stated "no." When asked if they had to how would they provide that information, the officers indicated that deaf detainees could read the closed caption video (in English and Spanish), read the facility handbook, and ICE detainee handbook, or they could arrange for a language interpreter. When discussing blind detainees, the staff indicated they could provide the information through the audio of the video, or they could read the information to them. Finally, regarding those detainees that were intellectually disabled, the officers indicated they would contact the medical section for assistance and that the delivery method would depend on the detainee's level of comprehension and would be delivered in a manner of their understanding. Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

(d)(e) FCADC Policy 4.02 states that, "the facility shall post on all housing unit bulletin boards the following notices: The DHS-prescribed SAA Information pamphlet; The name of the PSA Compliance Manager; and Information about local organization that can assist detainees who have been victims of sexual abuse or assault, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). If no such local organizations exist, the facility shall make available the same information about national organizations. The facility shall make available and distribute the DHS-prescribed "Sexual Assault Awareness Information" [pamphlet]."

The Auditor reviewed the DHS-prescribed SAA Information pamphlet, the DHS zero-tolerance posters with contact information for the facility's PSA Compliance Manager, and the consular contact informational flyer posted in all the housing units. The CVCC Crisis Hotline contact information was also posted in the housing dorms. Finally, the facility makes available the DHS-prescribed SAA Awareness information pamphlet, in nine languages, for distribution to detainees, as needed. Those languages are English, Spanish, Arabic, Chinese, French, Haitian Creole, Hindi, Punjabi, and Portuguese.

(f) The FCADC issues all ICE detainees the ICE National Detainee Handbook. Located on page 33 of this handbook is all the information regarding how to report a sexual abuse allegation through the reporting mechanisms provided by ICE. The Auditor confirmed this practice through interviews with the Intake Officer and Classification Officer. When reviewing the detainee files, the Auditor found documentation confirming detainees' receipt of the ICE National Detainee Handbook.

§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) FCADC Policy 4.02 states, "In addition to the general training, all facility staff responsible for conducting sexual abuse or assault investigations shall receive specialized training that covers, at a minimum, interviewing sexual abuse and assault victims, sexual abuse and assault evidence collection in confinement settings, the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process. The facility must maintain written documentation verifying specialized training provided to investigators pursuant to this requirement." The FCADC provided a copy of the certificate of completion for the trained investigator. The training was through the Minnesota Department of Corrections and the certificate validates specialized training in the field of investigating sexual abuse in a confinement setting.

The Auditor interviewed the facility investigator and asked what was taught in the 14-hour class as documented on the certificate. The facility investigator stated that the training covers in depth investigative techniques, evidence collections, and covers all aspects to investigating sexual abuse in a confinement setting. The agency provides the lesson plan and rosters of trained ICE/ERO/OPR investigators on OPR's SharePoint site for Auditors' review; this documentation is in accordance with the standard's requirements. The Auditor did not review any case files because no incidents were reported. Also, when interviewing the facility investigator, he indicated that he and the FCSO sex crimes detective had previously received training regarding cross-agency coordination concerning sexual abuse allegations made by ICE detainees.

§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) IHSC/USPHS staff are not present at FCADC based on an interview with the JA/OIC and HSA; therefore, these provisions are not applicable to FCADC.

(c) FCADC Policy 4.02 states, "Facility medical staff shall be trained in procedures for examining and treating victims of sexual abuse, in facilities where medical staff may be assigned these activities. Such specialized training shall include detecting and assessing signs of sexual abuse and assault, preserving physical evidence of sexual abuse, responding effectively to victims of sexual abuse and assault, and how and whom to report allegations or suspicions of sexual abuse or assault. The facility shall maintain documentation verifying employee, volunteer, and contractor training."

The FCADC uses contracted medical personnel. The facility provided the curriculum for specialized training for medical and mental care standards through the National Institute of Corrections (NIC) on-line educational platform. The Training Supervisor indicated that the medical staff receive the specialized training through NIC, and that the contracting medical agency manages that task. The medical contractor provided training records for the HSA that confirmed she had received the necessary training.

§115.41 - Assessment for risk of victimization and abusiveness.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) FCADC Policy 4.02 states in part that, "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 12 hours of admission to the facility."

The Classification Officer explained that the intake process and the classification process are two different procedures. However, it is during the intake process where the detainee is risk screened for possible victimization or abusive behavior. The detainees are booked in one at a time as the rest are placed in individual intake cells awaiting the process. Prior to the detainee's arrival, the Classification Officer receives all ICE collected information regarding the detainee including a background criminal history check. The Classification Officer has already determined a housing assignment for the detainee prior to the detainee arriving at the facility. However, the Classification Officer stated that the housing assignment is not confirmed until the completion of the risk screening tool. The PREA risk screening questions, consisting of yes and no questions, are asked by the Intake Officer along with the initial medical screening questions. The security classification criteria are either minimum, medium, or maximum custody levels. All detainees are housed accordingly with other like detainees. Once the intake and classification processes are complete, the detainee is placed in quarantine due to COVID-19 protocols, which is a single occupant cell. The Intake Officer stated that if a detainee answers yes to two or more risk screening questions related to possible victimization, the Intake Officer would immediately notify the Sergeant in charge to make any necessary changes to the housing assignment. The Classification Officer indicated the initial classification and housing assignment is completed within the first hour and would never exceed twelve hours. The Intake Officer was interviewed and reiterated the comments and practice outlined by the Classification Officer. During the Auditor's review of 12 detainee files, the Auditor confirmed that the detainees were booked and processed to include housing assignments within the first two hours. The Auditor's review also revealed only 4 files contained a risk screening. The PSA Compliance Manager explained that the facility had just implemented a new risk assessment form to explain why eight detainee files did not contain the risk assessment form. The earliest risk assessment form located in a detainee file was dated June 21, 2022. Based on the sample reviewed, 8 of 12 detainees did not have proof of a risk assessment being performed.

Does Not Meet (a): The facility has instituted the appropriate risk screening procedure and appears to be following the appropriate policy that governs the practice; however, evidence shows that at the time of the on-site audit, not all detainees had been initially screened for possible sexual victimization or abusiveness. Therefore, the facility must ensure all current detainees have received an initial risk screening assessment to comply with this standard and provide to the Auditor screenings for any detainees who arrived prior to June 20, 2022, and who are still at the facility, and 5 new arrivals since the last day of the audit as documentation screening practice has been implemented for compliance review.

(c)(d)(f) FCADC Policy 4.02 states, "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 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. Detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked [from the risk screening instrument]." The policy further states, "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 Auditor had the Intake Officer walk through the intake process. The Auditor observed that the risk screening form contained questions covering all elements in provisions (c) and (d) and were available for use in the Intake area. The Auditor also observed completed risk screening forms for detainees that arrived after June 20, 2022. The Intake Officer stated that information collected during the PREA risk screening ensures that potential sexual abuse

victims would not be housed or intermingled with potential abusers. Both the Classification Officer and Intake Officer indicated that no detainee would be disciplined for not answering any questions associated with the risk screening form.

(e) FCADC Policy 4.02 states, "The facility shall reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of the initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization." The Intake Officer indicated that the Sergeant in Charge ensures reassessments are conducted within 30 days. The Classification Officer stated that reassessments are usually conducted every 30 days and within 60-90 days. Both the PSA Compliance Manager and Intake Officer stated that if a detainee was still in their custody after the conclusion of an investigation, then a reassessment would be conducted. The Auditor reviewed 12 detainee files and 4 detainees had been reassessed within 60 to 90 days; the other 8 had not been at the facility for 60 days and did not have a reassessment due.

Does Not Meet (e): Interviews conducted revealed that reassessments are conducted at the conclusion of the PREA investigation. This practice is not consistent with the standard provision that states the reassessment will be conducted following an incident of abuse or victimization. The facility must show that a reassessment is conducted once an incident of sexual abuse is alleged and that all staff effected must be trained on this procedure.

(g) FCADC Policy 4.02 also states that, "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 or inmates." When interviewing the PSA Compliance Manager and Intake Officer, they indicated that the detainee files are located in the control center in an unlocked filing cabinet. The Auditor personally observed the location of the detainee files. Because all officers are assigned to the control center and the files are not in a secure location, all officers have access to detainee risk screening results.

Does Not Meet (g): The completed detainee risk screening instruments are not maintained securely. The facility shall implement appropriate controls on the dissemination and storage of responses to questions asked during the risk screening assessment in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees. Once implemented, evidence must be provided to the Auditor that shows the detainee risk screening is stored in a secure area with limited access to only those staff that have a need-to-know.

§115.42 - Use of assessment information.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) FCADC Policy 4.02 states in part that, "All detainees shall be screened during the book-in process for potential risk of sexual abuse, assault, or sexual violent behavior. Detainees will be classified and housed accordingly. Information gathered during the risk assessment will be used to inform housing, bed, work, education, and programing assignments with the goal of keeping separate those detainees at high risk of being sexually victimized from those at high risk of being sexually abusive. Detainees considered to be at risk for sexual victimization shall be placed in the least restrictive housing that is available and appropriate. If appropriate housing is not available at the FCADC, the FCADC will contact the ICE Field Office Director to determine if ICE can provide additional assistance." The PSA Compliance Manager stated when interviewed that the facility uses a classification tool that identifies those detainees that should be categorized as minimum, medium, or maximum custody level. He also stated that the PREA risk screening helps in identifying those detainees that may be vulnerable to sexual victimization and those detainees that may be sexual predators. When these individuals are identified, the facility can ensure they are not housed together or socialize in any programs or recreation. The facility reported no instances where a detainee was identified as a potential victim or potential predator during the audit period.

Does Not Meet (a): The facility was unable to demonstrate that they were conducting risk assessments, pursuant to 115.41, of detainees prior to June 20, 2022. Based on this information, the facility could not have utilized information from the risk assessment to inform assignment of detainees to housing, recreation and other activities, and voluntary work. To become compliant, the facility must demonstrate detainees have received an initial risk screening assessment and provide to the Auditor 10 examples indicating the information from this risk screening assessment was used to inform assignment of detainees to housing, recreation and other activities, and voluntary work, for compliance review.

(b) FCADC Policy 4.02 states, "When making assessment and housing decisions for transgender or intersex detainee, the facility shall consider the detainee's gender self-identification and an assessment of the effects of placement on the detainee's health and safety. The facility shall consult a medical or mental health professional as soon as practicable on this assessment. The facility should not base placement decisions of transgender or intersex detainees solely on the identity documents or physical anatomy of the detainee; a detainee's self-identification of his/her gender and self-assessment of safety needs shall always be taken into consideration as well. The facility's placement of transgender or intersex detainees shall be consistent with the safety and security considerations of the facility, and placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee." The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC, indicating that they have not received any transgender/intersex ICE detainees during the audit period. The HSA was interviewed and stated that the Classification Officer would consult with medical personnel when determining appropriate housing for a transgender detainee. The Intake Officer indicated that the procedure is to ask the detainee who they want to be searched by. The Classification Officer confirmed that transgender detainees must be reassessed twice a year. However, the facility has not housed a known transgender/intersex detainee within the audit period.

(c) FCADC Policy 4.02 states, "When operationally feasible, transgender and intersex detainees shall be given the opportunity to shower separately from other detainees." When interviewing the PSA Compliance Manager, he was asked if transgender or intersex detainees could shower separately from other detainees. The PSA Compliance Manager stated they would be allowed to shower in a single private shower room located in each housing unit. When the Intake Officer was asked the same question, she indicated that if the transgender/intersex detainee made that request, the facility would accommodate the request. Finally, 11 random officers were asked this question and all 11 answered that the transgender or intersex detainee would be able to shower separately in the single occupancy shower room located in each of the housing units. The facility has had no transgender or intersex detainees at the facility within the audit period.

§115.43 - Protective custody.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(d) FCADC Policy 4.02 states, "Victims and vulnerable detainees shall be housed in a supportive environment that represents the least restrictive housing option possible (e.g., in a different housing unit, transfer to another facility, medical housing, or protective custody), and that will, to the extent possible, permit the victim the same level of privileges he/she was permitted immediately prior to the sexual assault. This placement should take into account any ongoing medical or mental health needs of the victim. Victims may not be held for longer than five days in any type of administrative segregation for protective purposes, except in highly unusual circumstances or at the request of the victim. The facility shall notify the appropriate ICE Field Office Director, within 72 hours, whenever a detainee victim, or detainee placed due to vulnerability to sexual abuse or assault has been held in administrative segregation. Victims and vulnerable detainees shall be housed in a supportive environment that represents the least restrictive housing option possible (e.g., in a different housing unit, transfer to another facility, medical housing, or protective custody), and that will, to the extent possible, permit the victim the same level of privileges he/she was permitted immediately prior to the sexual assault."

The JA/OIC was interviewed and stated that if a detainee needed to be placed in protective custody/administrative segregation the facility would immediately notify the ICE FOD and have the detainee moved to another facility. The JA/OIC stated that a detainee should be held in administrative segregation for the least amount of time as practicable and no longer than five days. He stated that he has never experienced a situation where a detainee was placed in protective custody for sexual victimization or vulnerability. However, if that were to happen, he would immediately contact ICE and have the detainee transferred to another facility. The 11 random officers interviewed indicated that if a detainee were placed in protective custody that detainee would be afforded the same opportunities and privileges as all other detainees. The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC indicating that there have been no instances where an ICE detainee was placed in protective custody/administrative housing during this audit period, which was also confirmed during interviews with officers who work the segregation unit. FCADC has not provided a policy that addresses regular review of all vulnerable detainees placed in administrative segregation for their protection or written procedures developed in consultation by the ICE FOD.

Does Not Meet (a)(d): The written procedures provided by the FCADC Policy 4.02 do not address all requirements of this standard, specifically provisions (a) and (d). The facility shall develop and follow written procedures consistent with the standards in this subpart governing management of its administrative segregation unit. These procedures should be developed in consultation with ICE FOD having jurisdiction for the facility. The facility must document detailed reasons for placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault. In addition, the facility must create a policy to address regular reviews of all vulnerable detainees that are placed in administrative segregation. The policy must contain language that a supervisor shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted; and a supervisor shall conduct, at a minimum, an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days, and every 10 days thereafter. The policy must be acknowledged by all security staff assigned to the FCADC.

(e) FCADC Policy 4.02 states that, "The facility shall notify the appropriate ICE Field Office Director, within 72 hours, whenever a detainee victim, or detainee placed due to vulnerability to sexual abuse or assault has been held in administrative segregation." The JA/OIC indicated that contact would immediately be made with the AFOD or FOD notifying them of the initial placement of a detainee in administrative segregation/protective custody.

§115.51 - Detainee reporting.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) FCADC Policy 4.02 states, "Detainees shall have multiple ways to privately, and if desired, anonymously, report signs or incidents of sexual abuse and assault, retaliation for reporting sexual abuse, or staff neglect, or violations of responsibilities that may have contributed to such incidents and will not be punished for reporting. 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 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 allegations. The facility shall provide instructions on how detainees may contact their consular official or DHS Office of the Inspector General, to confidentially and if desired, anonymously, report these incidents." The facility provided examples of the

DHS/OIG, ICE/DRIL and the Consular list posters. The Consular list poster contains 171 different Embassy or Consulate phone numbers and an additional 20 numbers for outside resources in the United States. These posters were observed in the housing dorms during the on-site facility tour and the DHS/OIG and DRIL contact information can also be found in both the ICE National Detainee Handbook and the facility handbook. The PSA Compliance Manager was asked how detainees can report sexual abuse. He indicated they can report sexual abuse to any staff member, contractor, volunteer, outside family members, Attorney, DHS/OIG hotline, ICE/DRIL, writing to the ERO agent, advocate, and their consular office. When interviewing the 12 detainees, they were asked about ways they could report sexual abuse and all indicated that they were aware that sexual abuse reports can be made in writing, or verbally to staff members. All but one detainee stated that they have seen the posters on the housing unit walls. The one detainee explained that he had just been released from the quarantine block.

(b) The FCADC Policy 4.02 also states, "Detainee reports of sexual abuse or assault, retaliation for reporting sexual abuse or assault, and/or staff neglect or violations of responsibilities that may have contributed to such incidents may be made using any available methods of communication, including but not limited to: Verbal reports to any staff member; Written informal or formal requests or grievances to the facility; Sick call requests; Reports from family members, friends, or other outside entities; Reports to an individual or organization outside the facility who can contact facility staff; Reports to DHS/ICE, written informal or formal requests or grievances (including emergency grievances) to the ICE Field Office, telephone calls or written reports to DHS/OIG and ICE/DRIL. If any of these requirements cannot be met for ICE detainees, the FCADC will consult with the ICE Field Office Director to determine if ICE can provide additional assistance. Any allegation of sexual abuse or assault shall be immediately and effectively reported to ICE/ERO. In turn, ICE/ERO will report the allegation as a significant incident for referral of an allegation for investigation."

The 12 detainees interviewed were asked if they knew a sexual abuse report could be made without providing a name and 7 of the 12 indicated they were aware. The FCADC utilizes the DHS/OIG hotline as their outside reporting entity for ICE detainees being held in their facility. The DHS/OIG poster states that the detainee may remain anonymous when making a report if they choose. While conducting the facility tour, the Auditor attempted to contact the DHS/OIG through use of a phone located in a general population housing unit. The Auditor was unable to connect a call to the OIG Hotline. With assistance from the JA/OIC, multiple additional calls were attempted but the call could never go out and connect. The JA/OIC requested assistance from an officer that was familiar with the phone system, and he attempted to place a call with the handheld I-phone that is assigned to each detainee as another means of communication. Those call attempts also failed.

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

(c) FCADC Policy 4.02 further states, "All staff must immediately report any knowledge, suspicion, or information regarding an incident or allegation of sexual abuse occurring at the facility. In addition, any retaliation against detainees or staff who reported or participated in an investigation about sexual abuse or assault; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Staff shall accept reports made verbally, in writing, anonymously, and from third parties, and promptly document any verbal reports." All 11 officers interviewed stated they would accept sexual abuse reports verbally, in writing, anonymously, and by a third party, and that upon becoming aware of the allegation, would promptly document any reports.

§115.52 - Grievances.

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

Notes:

(a)(b) FCADC Policy 4.02 states, "Formal grievances related to sexual abuse and assault may be filed at any time during, after, or in lieu of lodging an informal grievance or complaint and with no time limit imposed on when a grievance may be submitted." The Grievance Coordinator confirmed during his interview that he would accept a sexual abuse allegation made through the grievance process. The Grievance Coordinator also indicated that there are no time limits on when a detainee can submit a grievance regarding an allegation of sexual abuse. In addition, 11 officers were asked the same question and they answered they would accept a sexual abuse report through the grievance process. Finally, the 12 detainees that were interviewed all indicated they were aware that a formal grievance can be filed regarding a sexual abuse allegation. The majority of the detainees were also aware that they could request assistance in filing a formal grievance.

(c) FCADC Policy 4.02 also states, "Written procedures must be implemented for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse or assault. [The officer] receiving the grievance will notify Jail Administrator and PREA Coordinator, as soon as possible, after receiving the time sensitive grievance. The Facility staff shall be responsible on identifying and handle time-sensitive grievances that involve an immediate threat to detainees, health, safety, or welfare related to sexual abuse." The Grievance Coordinator was asked if there is a different set of procedures for responding to time sensitive grievances regarding sexual abuse. The Grievance Coordinator explained that when you receive a formal grievance, you must take immediate action by contacting the PSA Compliance Manager and the JA/OIC so that an investigator can be assigned to investigate the allegation. The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC stating that the facility has not received any grievances related to sexual abuse from ICE detainees during the audit period.

(d) The FCADC facility handbook states, "If the grievance is an emergency, life or limb issue, staff will expedite the grievance procedure to see that the detainee's needs are met as quickly as possible." The Grievance Coordinator and random officers were asked if they received a grievance related to sexual abuse medical emergency, would they notify medical staff. Both the Grievance Coordinator and all the random officers interviewed indicated that yes, they would notify medical personnel immediately. The HSA also indicated that facility staff would bring medical emergencies to the attention of medical personnel immediately.

Recommendation (d): The facility's FCADC Policy 4.02 does not direct staff to bring medical emergencies reported through the grievance procedure to the immediate attention of proper medical personnel for further assessment. The Auditor recommends the facility revise their FCADC Policy 4.02 to include this language.

(e) FCADC Policy 4.02 states, "All efforts will be made to remove [the] detainee from immediate threat to the least restrictive housing possible. Decisions on grievances shall be issued within five days of receipt and appeals shall be responded to within 30 days. All grievances related to sexual abuse and the facility's decision on any such grievance must be forwarded to the Field Office Director." The Grievance Coordinator confirmed that a response would be provided in five days and an appeal regarding the decision within 30 days and that the FOD would be notified of the response at the conclusion of the grievance process.

(f) FCADC Policy 4.02 states, "Detainees may obtain assistance from another detainee, the housing officer, or other facility staff, family members or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties." When conducting interviews with random officers and the Grievance Coordinator, they were asked how they would expedite a detainee's request for assistance from another person to help file a grievance. The Grievance Coordinator stated he would help accommodate the procedure by making available appropriate and expedited correspondence between the parties. The majority of the random officers indicated they would facilitate communication between the third-party that is trying to assist by making the phones or tablets more assessable by prioritizing the needs of the detainee requesting assistance with his grievance.

§115.53 - Detainee access to outside confidential support services.

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

Notes:

(a)(b) FCADC Policy 4.02 states, "Staff shall utilize available community resources and services to provide valuable expertise and support in areas of crisis intervention, counseling, investigation, and the prosecution of sexual abuse and assault perpetrators to address the victims' needs most appropriately. The facility shall attempt to enter into memoranda of understanding or other agreements with community service providers or, if local providers are not available, national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime." The FCADC provided an LOA with the Freeborn Department of Human Services CVCC to provide the services of an advocate for sexual abuse victims at the FCADC. When interviewing the PSA Compliance Manager, he indicated that they draw on community resources such as the CVCC and the local sheriff's office.

(c)(d) The FCADC Policy 4.02 also states, "The facility shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available, the facility shall work with ICE to provide these services from a qualified staff member from a community-based organization, or qualified ICE staff member. The victim advocate shall be able to provide emotional support, crisis intervention, information, and referrals. The facility administrator shall establish procedures to make available to detainees' information about local organizations that can assist detainees who have been victims of sexual abuse, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). If no such local organizations exist, the facility shall make available the same information about national organizations." The FCADC provided the CVCC Assault Hotline poster with contact information (phone number and mailing address) to the detainees housed at the facility. These posters indicate that the call is anonymous and will not be monitored or recorded. This same information is also provided in the facility handbook. The Auditor has confirmed these advocacy services are provided by CVCC through interviews with the PSA Compliance Manager and the Director of CVCC.

The Policy also states that, "Staff shall inform detainees, prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws." The PSA Compliance Manager stated that the facility makes detainees aware of these services and the extent to which they are monitored by posting the information in the housing dorms and listing the information in the facility handbook and that all calls are potentially monitored and recorded unless stated otherwise on the posting. The Auditor observed these notices posted on the housing dorms by the telephones.

§115.54 - Third-party reporting.

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

Notes:

FCADC Policy 4.02 states that, "Detainee reports of sexual abuse or assault, retaliation for reporting sexual abuse or assault, and/or staff neglect or violations of responsibilities that may have contributed to such incidents may be made using any available methods of communication, including but not limited to reports to family members, friends, other outside entities, individual, or organization outside the facility." The FCADC has provided the ICE website where, under the ICE ERO DRIL contact information, is available to the public to report many things including incidents of sexual or physical assault or abuse. In addition, contact information regarding DHS/OIG is also made available on the FCADC website. The Auditor's review of the ICE website, <https://www.ice.gov/prea>, and

Freeborn Adult Detention Center website, <https://www.com.freeborn.mn.us> confirmed the websites have third-party reporting information available to the public.

§115.61 - Staff reporting duties.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(d) FCADC Policy 4.02 states that, "all staff must immediately report any knowledge, suspicion, or information regarding an incident or allegation of sexual abuse occurring at the facility; any retaliation against detainees or staff who reported or participated in an investigation about sexual abuse or assault; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Staff must also be able to report the above outside of the chain of command. Staff shall accept reports made verbally, in writing, anonymously, and from third parties, and promptly document any verbal reports." The policy further states that, "Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have a need-to-know in order to make decisions concerning the victim's welfare, and for law enforcement investigative purposes. Apart from such reporting, staff shall not reveal any information related to a sexual abuse and assault report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions. If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person statute, the facility shall report that information to the Field Office Director so that ICE can report the allegation to the designated State or local services agency under applicable mandatory reporting laws."

Does Not Meet (a): This standard requires the agency to review and approve facility policies and procedures related to this standard. Additionally, these reporting procedures must include a method by which staff can report outside of the chain of command. The FCADC Policy 4.02 states "staff must also be able to report sexual abuse outside of the chain of command." However, the policy does not specify what that outside method of reporting is. Additionally, the facility provided no evidence that the facility has provided its FCADC Policy 4.02 to the agency for review or approval. The facility must identify an appropriate outside reporting method for staff to report sexual abuse, and update FCADC Policy 4.02 to include this information. Staff must be advised of this reporting method. Additionally, the facility must provide the FCADC Policy 4.02 to ICE for review and approval.

The PSA Compliance Manager indicated that staff are aware that they are to report immediately any knowledge, suspicion, or information regarding sexual abuse, retaliation, or staff neglect. He also stated that staff can report incidents of sexual abuse outside their chain of command by going to the Human Resources staff. The PSA Compliance Manager further indicated that the facility does not house juvenile detainees. All 11 random officers interviewed stated that they would report immediately to their supervisor and would limit the information to those with a need-to-know. Two officers also indicated they could report sexual abuse to ICE ERO officers. The JA/OIC indicated that the facility would report all sexual abuse allegations to the ICE Field Office and FCSO. When the allegation involved a vulnerable adult detainee the JA/OIC stated that the Freeborn Human Services Department would have to be notified. The facility reported there were no allegations of sexual abuse during this audit period.

§115.62 - Protection duties.

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

Notes:

FCADC Policy 4.02 states, "All Staff (employees, volunteers, and contractors) are responsible for being alert to signs of potential sexual abuse or assault, and to situations in which sexual abuses or assaults might occur. If a facility staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee." When interviewing 11 random officers, they indicated that they would immediately remove a detainee who is subject to a substantial risk of imminent sexual abuse from the situation and contact a supervisor. The first line supervisor stated that he would interview the detainee to determine the circumstances, make necessary housing assignments and contact ICE ERO to decide if the detainee or alleged aggressor would need to be transferred to a different facility, if necessary. Interviews with the PSA Compliance Manager, the JA/OIC, the random officers and the first line supervisor confirmed that there have been no instances of a detainee at substantial risk of imminent sexual abuse during the audit period.

§115.63 - Reporting to other confinement facilities.

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

Notes:

(a)(b)(c)(d) FCADC Policy 4.02 states, "Upon receiving an allegation that a detainee was sexually abused or assaulted while confined at another facility, the facility administrator shall notify the Field Office Director and then the appropriate administrator of the facility where the alleged abuse occurred as soon as possible, but no later than 72 hours after receiving the allegation. The facility administrator shall notify the detainee in advance of such reporting. The facility shall document that it has provided such notification. A facility receiving such notification shall ensure the allegation is referred for investigation and reported to the Field Office Director." The facility provided a memo dated June 30, 2022, signed by the JA/OIC, that indicated that there have been no instances where the FCADC received a sexual abuse allegation where the incident occurred at another facility or received an allegation from another facility alleging sexual abuse at the FCADC during the audit period. When interviewing the PSA Compliance Manager, he indicated that if his facility were to receive an allegation regarding sexual abuse that occurred at another facility, the FCADC would immediately notify that facility's administrator at least within 72 hours. He further stated that if his facility received a sexual abuse allegation from another facility, they would immediately initiate a PREA investigation into the matter. The JA/OIC confirmed this practice and indicated that ICE would be notified, and he would have an investigator start an investigation.

§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) FCADC Policy 4.02 states, "The security staff member to respond to a report of sexual abuse, or his or her supervisor, shall preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect evidence. If the abuse occurred within a time period that still allows for the collection of physical evidence, the first responder shall request the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating. If the first staff responder is not a security staff member, the responder shall request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff." The facility provided a memo dated June 30, 2022, signed by the JA/OIC, stating that the FCADC has not received any detainee complaints alleging sexual abuse during the audit period. All 11 random officers interviewed indicated if they became aware of an incident of sexual abuse, they would immediately separate the individuals involved, secure the scene, preserve the evidence, and request that the victim not brush their teeth, use the bathroom, change their clothes, shower, and notify the medical staff. The officers also indicated that they would ensure the alleged perpetrator not destroy physical evidence by placing the individual in a single cell and shut off the water supply until the situation could be assessed. The non-security staff/contractor interviewed indicated that she would immediately ensure the safety of the alleged victim, notify security staff, and request that the alleged victim not use the restroom, eat, drink, change clothes, or take a shower.

§115.65 - Coordinated response.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) FCADC Policy 4.02 states that, "the facility must use a coordinated, multidisciplinary team approach to responding to sexual abuse, such as a sexual assault response team (SART), which includes a medical practitioner, a mental health practitioner, a security staff member, and an investigator from the assigned investigative entity, as well as representatives from outside entities that provide relevant services and expertise." The JA/OIC stated coordination and communication among staff in response to an incident is arranged through the radio, phone, and email and delegates out individual responsibilities to all those individuals involved in the critical incident. The written coordinated response plan was requested by the Auditor through the issue log provided to the Team Lead and presented to the facility. However, the facility did not provide a written institutional plan to coordinate these actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse.

Does Not Meet (a)(b): The facility has not provided a written institutional plan to coordinate actions taken by first responders, medical and mental health professionals, investigators, and facility leadership. Therefore, the facility has not demonstrated it uses a coordinated multidisciplinary team approach to responding to sexual abuse as outlined in (b). To become compliant, the facility must develop a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse and provide to the Auditor for compliance review.

(c)(d) The information conveyed by the JA/OIC, and review of the documentation provided did not support any procedures in place for complying with provisions (c)(d). The FCADC has not provided evidence of a procedure that governs if a victim of sexual abuse is transferred from FCADC to another facility covered by the DHS PREA standards, subpart A or B, to ensure the receiving facility is informed of the incident and the victim's potential need for medical or social services. Additionally, there is no procedure that governs when a victim is transferred from FCADC to a facility not covered by the DHS PREA standards to ensure the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.

Does Not Meet (c)(d): To become compliant with (c), the facility must have procedures in place to inform the receiving facility of a sexual abuse incident and the victim's potential need for medical or social services when a detainee victim is transferred to another facility covered by DHS PREA standards. To become compliant with (d), the facility must have procedures in place to inform the receiving facility of a sexual abuse incident and the victim's potential need for medical or social services when a detainee is transferred to a facility not covered by DHS PREA standards, unless the victim requests otherwise. The facility must develop procedures that addresses these provisions or update the existing FCADC Policy 4.02. The facility must document that affected staff has been trained on the procedure. This documentation of the procedure and training must be provided to the Auditor for compliance review.

§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:

FCADC Policy 4.02 states "Contractors, employees and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of the investigation." During the interview with the JA/OIC, he indicated that if staff were involved in a sexual abuse allegation the staff member would be placed on administrative leave until the conclusion of the investigation. He also stated that if the contractor or volunteer were involved in a sexual abuse allegation, they would not be allowed back into the facility until the investigation was completed and a conclusion was determined. The JA/OIC reported that there were no staff, contractor, or volunteer on detainee allegation during this audit period.

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

(a)(b)(c) FCADC Policy 4.02 states that, "Staff, contractors, and volunteers 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." FCADC Policy 4.02 also states, "FCADC shall employ multiple protection measures, such as housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. For at least 90 days following a report of sexual abuse or assault, the facility, in concert with ICE, shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff, and facility shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff, and shall act promptly to remedy any such retaliation. Items the facility should monitor include any detainee disciplinary reports, housing, or program changes, or negative performance reviews or reassignments by staff. The facility shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need." The PSA Compliance Manager was interviewed and stated that if he were made aware of any possible retaliation regarding a sexual abuse allegation, he would immediately act on that information and ensure that it was properly investigated. The PSA Compliance Manager also stated that he monitors incident reports, housing changes, and meets with the alleged victim at the 30, 60, and 90-day mark to ascertain how the alleged victim is doing. If monitoring staff, he would look for negative performance reviews and adverse job assignment changes or unscheduled leave and tardiness. The PSA Compliance Manager indicated that normally a detainee victim or staff would be monitored for 90 days unless there is a need to extend that time-period. The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC, stating that the FCADC has not received any complaints of sexual abuse from ICE detainees during this audit period, which was further confirmed through interviews with both the PSA Compliance Manager and the JA/OIC.

§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) FCADC Policy 4.02 states, "victims and vulnerable detainees shall be housed in a supportive environment that represents the least restrictive housing option possible (e.g., in a different housing unit, transfer to another facility, medical housing, or protective custody), and that will, to the extent possible, permit the victim the same level of privileges he/she was permitted immediately prior to the sexual assault. This placement should take into account any ongoing medical or mental health needs of the victim. Victims may not be held for longer than five days in any type of administrative segregation for protective purposes, except in highly unusual circumstances or at the request of the victim. 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 reassessment, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse or assault.

The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC, that states the FCADC has not received any complaints of sexual abuse from ICE detainees that resulted in ICE detainees being placed in protective custody, or restrictive housing to protect them from alleged sexual abuse. The PSA Compliance Manager indicated that if an alleged detainee victim needed to be placed in protective custody they would evaluate each incident on a case-by-case basis, and if needed, the detainee would be housed in the least restrictive safe area, and that it would not be for more than five days. The PSA Compliance Manager indicated that the facility must complete a reassessment before returning a detainee victim to general population and that the facility notifies the ICE FOD whenever a detainee victim has been held in administrative segregation for 72 hours.

(d) FCADC Policy 4.02 further states, "The facility shall notify the appropriate ICE Field Office Director, within 72 hours, whenever a detainee victim, or detainee is placed due to vulnerability to sexual abuse or assault has been held in administrative segregation." The JA/OIC was asked how the facility notifies ICE when a detainee victim has been in protective custody for 72 hours and he responded notification would be made via phone or email; he further stated the ICE ERO officers visit the facility multiple times a week and this information would be conveyed then as well as being followed up with an email. During the facility tour, the Auditor noted that there were no ICE detainees being housed in a segregated housing area within the FCADC.

§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) FCADC Policy 4.02 states, "The facility shall coordinate with ICE and other appropriate investigative entities to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse. All investigations must be prompt, thorough, objective, fair, and conducted by specially trained, qualified investigators." As noted earlier, the FCSO investigates criminal allegations, and the facility investigator conducts administrative investigations. When interviewing the facility investigator, he stated that he ensures that all investigations are prompt, thorough and objective by following the policy and having oversight. The PSA Compliance Manager also indicated that the facility would follow procedure to ensure the investigations are prompt, thorough, objective, fair, and conducted by specially trained investigators. FCADC provided training records for the facility investigator indicating he has received the specialized training. The FCADC provided a memo dated June 30, 2022, from the JA/OIC stating that there have been no instances of PREA related allegations from any ICE detainees at the FCADC during the audit period which was also confirmed through interviews with the JA/OIC and PSA Compliance Manager.

(b) FCADC Policy 4.02 also states, "Upon conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity." The facility investigator stated that he would coordinate with other entities when conducting administrative sexual abuse investigations, which would include coordinating with the FCSO and ICE officials. The PSA Compliance Manager responded the same. Finally, when asked if a criminal investigation were substantiated or unsubstantiated, would the facility conduct an administrative investigation, the PSA Compliance Manager and facility investigator both stated yes, they would. There were no allegations of sexual abuse reported within the audit period.

(c) FCADC Policy 4.02 states, "Administrative investigations 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 investigating 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 years; and, Coordination and sequencing of administrative and criminal investigations to ensure that a criminal investigation is not compromised by an internal administrative investigation." Both the facility investigator and PSA Compliance Manager were asked what information/evidence the facility investigator would collect in a sexual abuse investigation and they both indicated that their primary responsibility is to secure the scene and preserve the evidence until the FCSO can respond to collect physical evidence. However, the PSA Compliance Manager also stated that they would collect witness statements, video evidence, and logbooks. Furthermore, he stated that all sexual abuse investigations would be kept in the JA/OIC's Office. The facility investigator indicated that he would complete and document the investigation after it was finished. Finally, the JA/OIC stated that the facility investigator would attempt to determine whether any failures at the facility led to the abuse.

(e) FCADC Policy 4.02 further states that, "The departure of the alleged abuser or victim from the employment or control of the Facility shall not provide a basis for terminating an investigation." Both the facility investigator and JA/OIC confirmed the investigation would continue even if the alleged abuser or victim were no longer at FCADC.

(f) FCADC Policy 4.02 states, "When outside agencies investigate sexual abuse and assault, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. Where an alleged victim of sexual abuse or assault that occurred elsewhere in ICE custody is subsequently transferred to the facility, the facility shall also cooperate with any administrative or criminal investigative efforts arising from the incident." The JA/OIC, PSA Compliance Manager, and facility investigator were all asked if the facility would cooperate with outside investigators, and all three answered yes. The facility investigator stated that he would provide all information they required and would try to remain informed during the course of the investigation. He also stated that he would ensure the administrative investigation did not interfere with the criminal investigation.

§115.72 - Evidentiary standard for administrative investigations.

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

Notes:

FCADC Policy 4.02 states that, "The Facility uses no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated." During the interview with the facility investigator, he indicated that the standard of proof in sexual abuse administrative investigations is the preponderance of the evidence. The facility had no reported incidents of sexual abuse during the audit period; therefore, there were no investigative files to review.

§115.73 - Reporting to detainees.

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

Notes:

FCADC Policy 4.02 states that, "following an investigation into a detainee's allegation that he or she suffered sexual abuse at the FCADC, the facility shall inform the detainees as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded." The JA/OIC stated the facility investigator is the designee for notifying detainees who reported sexual abuse about the results of the investigation and any actions taken by the facility. The detainee is provided a copy of the investigative report and its findings. The facility had no incidents of sexual abuse reported during the audit period; therefore, there were no investigative files to review.

§115.76 - Disciplinary sanctions for staff.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(d) FCADC Policy 4.02 states that, "Staff shall be subject to disciplinary or adverse action, up to and including removal from their position, for substantiated allegations of sexual abuse or for violating ICE or facility sexual abuse rules, policies, or standards. Termination shall be the presumptive disciplinary sanction for staff who have engaged in, attempted, or threatened to engage in sexual abuse, as defined under the definition of staff-on-detainee abuse in Section II, paragraphs (a)-(d) and (g)-(h). The Facility

shall report all incidents of substantiated sexual abuse by staff, and all removals of staff, or resignations in lieu of removal for violations of sexual abuse policies, to appropriate law enforcement agencies unless the activity was clearly not criminal. The facility shall also report all such incidents of substantiated abuse, removals, or resignations in lieu of removal to the ICE Field Office Director, regardless of whether the activity was criminal, and shall make reasonable efforts to report such information to any relevant licensing bodies, to the extent known."

Does Not Meet (b): The facility was unable to demonstrate they have submitted FCADC Policy 4.02 to the agency for review and approval of facility policies and procedures regarding disciplinary or adverse actions for staff. To become compliant, the facility must submit their FCADC Policy 4.02 to the agency for review and approval and provide the Auditor with evidence this has been completed.

The FCADC provided a memo for record dated June 30, 2022, signed by the JA/OIC, that indicated the FCADC has had no terminations, resignations, or other sanctions of staff members for violating sexual abuse policies during the audit period. During the interview with the JA/OIC, he explained that staff who violate the sexual abuse policy is subject to disciplinary action up to and including termination. He also stated that if staff is terminated or resigns in lieu of removal for violating the sexual abuse policy, the FCSO is immediately contacted. The JA/OIC also stated that the staff member who was the perpetrator of the sexual abuse would be terminated by order of the Freeborn County Sheriff, which constitutes notification to the local law enforcement entity. Finally, the JA/OIC explained that if security staff resigns or is terminated due to violating the facility's sexual abuse policy, the FCSO would notify the Minnesota Board of Peace Officer Standards and Training (POST) board. This board is the licensing body for law enforcement and corrections officers in the state of Minnesota.

§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) FCADC Policy 4.02 states, "Contractors suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring detainee contact pending the outcome of an investigation. 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, and shall make reasonable efforts to report such incidents to any relevant licensing bodies, to the extent known."

The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC, which indicates, "The FCADC has had no contractors or volunteers violate the sexual abuse policies within the audit period. If there were an instance of sexual abuse by a contractor or volunteer, the Sheriff and Jail Administrator would immediately be notified, and the contractor/volunteer would be immediately suspended or terminated." The JA/OIC was interviewed and explained that the facility's policy on addressing sexual abuse allegations involving contractors or volunteers is zero-tolerance and the facility would prohibit access to any contractor or volunteer the subject of a sexual abuse investigation until the investigation was complete. He also stated that the FCSO would be notified as well as ICE and the contracting agency. The JA/OIC stated that the facility would notify the contractor's employer and it would be the responsibility of the contractor's employer to notify any applicable licensing body that may be involved in oversight of that profession.

§115.78 - Disciplinary sanctions for detainees.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) FCADC Policy 4.02 states, "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 or assault." When interviewing the JA/OIC, he stated that the facility disciplines detainees who have engaged in sexual abuse. He further stated that the detainee would have a due process hearing and if found guilty would receive disciplinary sanctions. The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC, indicating that the FCADC had not received any complaints of sexual abuse from ICE detainees during this audit period. As a result, FCADC has not disciplined, or otherwise sanctioned, any ICE detainees for violating sexual abuse policies during that time.

(b) The facility indicated on the "Document Request Form" that there is a disciplinary policy, FCADC Policy 4.03, however, this policy was not provided to the Auditor for review; therefore, the Auditor was unable to verify the facility's formal disciplinary process is compliant with this provision. There was no evidence to verify that sanctions imposed are commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future. The Auditor requested on the Issue Log that the disciplinary policy be provided; however, the policy was never provided to the Auditor for review.

Does Not Meet (b): The Facility must implement a procedure to ensure that any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future. The Auditor must be provided with evidence of this procedure for compliance review.

(c) The FCADC facility handbook outlines the facility disciplinary procedure as follows, "detainees will be notified in writing within 36 hours of the violation and given a copy of the written report at least 24 hours before the hearing. A hearing between the detainee and the hearing officer will be held within 72 hours (excluding weekends and holidays). The hearing officer will make a decision within 24

hours following the hearing. This decision will be in writing stating the reasons for disciplinary action taken. The detainee may appeal the decision of the hearing officer to the Sheriff. The appeal must be in writing and submitted within 72 hours (excluding weekends and holidays) from the time that the decision was invoked. The Sheriff, within 5 days, will determine whether he/she will affirm, modify, or reverse the decision of the hearing officer. Response to this appeal will be final. The hearing officer shall not be the writer of the incident report, or any member of the Detention Staff involved in the incident. The detainee need not be granted the following due process safeguards: confrontation, cross-examination or right to counsel.” The JA/OIC was asked to explain the disciplinary process. He explained that a disciplinary report is written, a detainee is presented with the report outlining the facility violation and a disciplinary hearing officer holds a hearing; if the detainee is found guilty, the hearing officer gives the detainee disciplinary sanctions. The JA/OIC further stated that the detainee has a right to appeal the decision to the Sheriff.

(d)(e)(f) FCADC Policy 4.02 further states, “if a detainee in mentally disabled or mentally ill but competent, the disciplinary process shall consider whether the detainee’s mental disabilities of mental illness contribute to his or her behavior when determining what type of sanction, if any should be imposed. The Facility shall not discipline a detainee for sexual contact with staff unless there is a finding that the staff member did not consent to such contact. For the purpose of disciplinary action, reports of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if the allegation is not substantiated.” When interviewing the JA/OIC, he indicated that the hearing officer would consult with the mental health provider regarding any relevant information about a detainee’s mental state that may have contributed to the offense. He also stated that no detainee would be disciplined for engaging in sexual contact with a staff member. The JA/OIC explained it is against Minnesota state law for a person with custodial authority over a prisoner to engage in sexual contact. Finally, the JA/OIC indicated that no detainee would be disciplined if a report of sexual abuse were made in good faith, but the investigation did not establish enough evidence to substantiate the incident.

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

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

Notes:

(a)(b)(c) FCADC Policy 4.02 states, “If 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 working days from the date of the assessment. When a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after arrival.”

The Auditor interviewed the Intake Officer who was identified as the person responsible for conducting risk screenings. The Intake Officer confirmed that if a detainee discloses that they were previous victims of sexual abuse they will be referred to medical for further evaluation and a follow-up meeting scheduled. The Auditor interviewed the HSA who confirmed the practice of collecting all the initial medical screening forms that would also include referrals notated on the initial medical screening form and a follow-up meeting with the nurse is scheduled if the form indicates that they reported prior victimization. The Auditor also conducted an interview with the HSA. The HSA stated that if a detainee were identified as a possible sexual abuse victim or abuser during the intake process, the Intake Officer would inform medical. The HSA further stated that if the detainee reported prior sexual abuse that detainee would be seen by a medical staff member within two days and a mental health professional within three days after receiving the referral. When the Auditor interviewed the mental health professional, he confirmed this practice and stated that he would make contact with the detainee within 72 hours. If a detainee is identified as a possible aggressor, the detainee would also be referred to the mental health provider for an evaluation. The Auditor interviewed the HSA who confirmed these procedures, and that the medical department is responsible for scheduling a follow-up meeting with mental health. The facility reported no instances where an ICE detainee reported prior sexual victimization in the community and required a follow-up meeting with medical or mental health professionals. Based on the interviews with the HSA and mental health provider, there were no detainee referrals made to medical or mental health for prior sexual abuse or victimization within the audit period.

§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) FCADC Policy 4.02 states, “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. The facility shall provide such victims with medical and mental health services consistent with the community level of care.”

The HSA explained during her interview that all detainees have access to emergency medical treatment and crisis intervention services at the Mayo Clinic in Rochester, Minnesota. She stated at the emergency room the detainee would receive the necessary treatment such as emergency contraception and sexually transmitted infections prophylaxis. The HSA also confirmed that the medical treatment received for sexual abuse victims is free of charge regardless of whether the victim names the abuser or cooperates with the investigation. The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC, which indicates that the FCADC has received no allegations of sexual abuse within the audit period; therefore, there have been no emergency medical or mental health services of this nature provided.

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

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

Notes:

(a)(b)(c)(e)(f)(g) FCADC Policy 4.02 states, "the Facility shall offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while in immigration detention. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. 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. The facility shall provide such victims with medical and mental health services consistent with the community level of care. Detainee victims of sexually abusive vaginal penetration by a male abuser while incarcerated shall be offered pregnancy tests. If pregnancy results from an instance of sexual abuse, the victim shall receive timely and comprehensive information about lawful pregnancy-related medical services and timely access to all lawful pregnancy-related medical services. Detainee victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate. 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 HSA indicated that any additional tests or treatment would be handled by the attending physician and that the medical staff at the facility would provide the necessary continuity of care. The HSA also stated that the medical provider would be consulted regarding all continued medical care and treatment. The HSA stated that the medical and mental health services offered at the facility are consistent with that of the community. She indicated that they would provide the continuity of care for detainee victims of sexual assault as specified by the attending physicians at the hospital and the FCADC doctor. Finally, the HSA indicated that if a detainee were identified as an abuser, a referral would be sent to mental health. The mental health provider confirmed this practice during his interview and stated that the detainee would be seen within 60 days; however, he indicated that he had not received any referrals during the audit period. The FCADC has reported no incidents of sexual abuse involving ICE detainees requiring medical attention during this audit period.

(d) FCADC does not house female detainees, so this provision is not applicable.

§115.86 - Sexual abuse incident reviews.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c) FCADC Policy 4.02 states, "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 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 Field Office Director, or his or her designee, for transmission, to the ICE PSA Coordinator. The review team shall consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bi-sexual, transgender, or intersex identification status or perceived status, or gang affiliation, or was motivated or otherwise caused by group dynamics within the facility; Examine area in facility where incident allegedly occurred to assess whether physical barriers within the facility may enable abuse; Assess adequacy of staffing levels in that area during different shifts; Assess monitoring technology deployed or possible augmented to supplement supervision by staff; Prepare a report of findings with any recommendations for improvement and submit such report to the facility administrator. The facility shall implement the recommendations for improvement or document its reasons for not doing so. 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 Field Office Director, or his or her designee, for transmission to the ICE PSA Coordinator."

The FCADC provided a memo dated June 30, 2022, signed by the JA/OIC, indicating that the FCADC has had no sexual abuse allegations reported within the audit period; therefore, there were no incident reviews conducted for the Auditor to review. The interview with the PSA Compliance Manager indicated that the incident review team looks at procedures, facts, and what may have contributed to the incident. He explained that the team consists of the facility investigator, JA/OIC, AJA, HSA, and PREA Compliance Manager. The interview with the JA/OIC indicated that an incident review would be conducted at the conclusion of every sexual abuse investigation. Furthermore, the JA/OIC indicated that the facility would conduct an annual review of all sexual abuse investigations and incident reviews to improve sexual abuse intervention, prevention, and response. The JA/OIC also indicated that the facility would prepare a negative annual report if the facility had not received any reports of sexual abuse.

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

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

FCADC Policy 4.02 states that, "The facility shall maintain in a secure area all case records associated with claims of sexual abuse or assault, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary." The interview with the PSA Compliance Manager indicated that all sexual abuse case files are kept in the JA/OIC's Office, in a locked cabinet.

§115.201 - Scope of audits.**Outcome:** Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)**Notes:**

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

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

(j) Audit notices were posted in the facility which explained that detainees, staff, or any other interested party were permitted to send the Auditor confidential correspondence through the Creative Corrections, LLC mailing address. No correspondence was received.

AUDITOR CERTIFICATION

Update Audit Findings Outcome Counts by Clicking Button:

Update Outcome Summary

SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)	
Number of standards exceeded:	0
Number of standards met:	25
Number of standards not met:	14
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.

Ronald Kidwell

9/15/2022

Auditor's Signature & Date

9/20/2022

Program Manager's Signature & Date

9/20/2022

Assistant Program Manager's Signature & Date