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

Homeland Security

AUDITOR INFORMATION			
Name of auditor:	Sabina Kaplan	**Organization:**	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	409-866-(b) (6), (b)
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)
AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		
FIELD OFFICE INFORMATION			
Name of Field Office:	Harlingen Field Office		
ICE Field Office Director:	Marcos Charles		
PREA Field Coordinator:	(b) (6), (b) (7)(C)		
Field Office HQ physical address:	1717 Zoy St. Harlingen, Tx 78550		
Mailing address: *(if different from above)*			
INFORMATION ABOUT FACILITY BEING AUDITED			
Basic Information About the Facility			
Name of facility:	Harlingen Resident Office Hold Room		
Physical address:	1717 Zoy St. Harlingen, Tx 78550		
Mailing address: *(if different from above)*			
Telephone number:	(956) 389-7884		
Facility type:	ICE Holding Facility		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	**Title:**	Officer in Charge (OIC)
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	956-547-(b) (6), (b)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	**Title:**	Supervisory Detention and Deportation Officer
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	(956) 389-(b) (6), (b)

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS:

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

During the audit, the Auditor found the Harlingen Resident Office Hold Room (HROHR) met 23 standards, had 0 standards that exceeded, had 2 standards that were non-applicable, and had 5 non-compliant standards. As a result of the facility being out of compliance with 5 standards, the facility entered into a 180-day corrective action period which began on July, 25, 2022 and ended on January 21, 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.

The facility submitted documentation, through the Agency, for the CAP on August 29, 2022, through January 20, 2023. The Auditor reviewed the CAP and provided responses to the proposed corrective actions. The Auditor reviewed the final documentation submitted on January 20, 2023. In a review of the submitted documentation to demonstrate compliance with the deficient standards, the Auditor determined compliance with all five of the previously deficient standards.

Number of Standards Initially Not Met: 5

§115.113 Detainee supervision and monitoring
§115.116 Accommodating detainees with disabilities and detainees who are limited English proficient
§115.151 Detainee reporting
§115.161 Staff reporting duties
§115.165 Coordinated response

Number of Standards Met: 5

§115.113 Detainee supervision and monitoring
§115.116 Accommodating detainees with disabilities and detainees who are limited English proficient
§115.151 Detainee reporting
§115.161 Staff reporting duties
§115.165 Coordinated response

Facility Risk Rating
§115.193 – Low Risk

At the conclusion of the corrective action period, the Auditor determined HROHR demonstrated compliance with the DHS PREA Standards.

PROVISIONS

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

§115. 113 - Detainee supervision and monitoring
Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
Notes:

(a)(b)(c): The HROHR provided a written directive, Policy 11087.1 which addresses the requirements of the standard. Policy 11087.1 states, "The Field Office Director (FOD) shall ensure that each holding facility maintains sufficient supervision of detainees, including through appropriate staffing levels, and where applicable, video monitoring, to protect detainees against sexual abuse and assault. In so doing the FOD shall take into consideration a) The physical layout of each holding facility; b) The composition of the detainee population; c) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; d) The findings and recommendations of the sexual abuse review reports; e) Any other relevant factors, including the length of time detainees spend in custody." During an interview with PSA Compliance Manager, she indicated that each of these listed factors are considered and reviewed annually to ensure adequate supervision and monitoring. The facility submitted the Holding Facility Self-Assessment Tool (HFSAT), dated March 20, 2022. This process is completed annually, and the document's purpose states it is used to determine if the facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse. The Auditor reviewed the document and confirmed that the document does not include any information regarding the development and documentation of comprehensive detainee supervision guidelines to determine and meet each facility's detainee supervision needs, nor does it confirm that the supervision guidelines were reviewed as required by subsection (b) of the standard. (b) (7)(E) [redacted] he HFSAT did not confirm that the facility took 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 an unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody as required by subsection (c) of the standard. (b) (7)(E) [redacted] Based on the onsite visit which confirmed that the video monitoring system is still in the development stage and its use has not been implemented, the Auditor did not consider the video monitoring system into the compliance determination for subsection (c) of the standard at this time.

The SDDO provided a duty roster of all ICE staff for each day. The roster showed adequate staffing to ensure proper supervision of detainees to ensure their safety and security. Staff members conduct regular and scheduled detainee hold room checks which are recorded in logbooks on their computer. During the tour, the Auditor observed staffing levels during the on-site audit and determined they were adequate. In addition, the Auditor noted that the holding rooms are checked every 15 minutes to ensure all areas are safe and secure. The Auditor reviewed the logbooks for several randomly chosen dates to confirm checks are conducted at a minimum of 15-minute intervals. Interviews with the PSA Compliance Manager and ICE DOs indicated that holding room doors always remain open when not occupied by a detainee to maintain better visibility and are monitored through direct supervision. (b) (7)(E) [redacted] Supervision guidelines are in the administrative desk area in the intake processing room for easy review. The Auditor observed staff signatures on post orders which indicated they have read and understood the documents; however, the facility did not provide any documentation that the post orders were reviewed on an annual basis as required by subsection (b) of the standard.

Does Not Meet (b): The facility is not in compliance with subsection (b) of the standard. In an interview with the PSA Compliance Manager, it was indicated that in developing the staffing plan, the facility considers the physical layout of each holding facility, the composition of the detainee population the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the finding and recommendations of sexual abuse incident review reports and any other relevant factors. However, the facility submitted their HFSAT, dated March 20, 2022, in which the Auditor reviewed and confirmed that the document did not confirm that the supervision guidelines were reviewed in the year 2021 as required by subsection (b) of the standard. To become compliant the facility must provide the Auditor with documentation to confirm that the supervision guidelines were reviewed during the last year as required by subsection (b) of the standard.

Corrective Action Taken (b): The facility submitted a memo dated 12/8/2022 indicating the review and Assistant Field Office Director annual approval of 11087.1 Operations of ERO Holding Facilities Directive and that new policy reviews will be conducted as needed. The memo further states, "In reference to the corrective action plan request for the Harlingen Office Hold Room, this official notification identifies the 2022 annual revision conducted, covering ICE Directive, Section 11087.1: Operations of ERO Holding Facilities." The facility also provided PREA CAP Review staff training sign in sheets that included the requirement of subsection (b) of this standard. Upon review of the submitted documentation the Auditor now finds the facility in compliance with subsection (b) of the standard.

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

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

Notes:

(a)(b)(c): The HROHR provided a written directive policy 11087.1, which addresses the requirements of the standard. Policy 11087.1 states, "The FOD shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to participate in, and benefit from, processes and procedures in connection with placement in an ERO holding facility, consistent with established statuary, regulatory, DHS and ICE policy requirements. The FOD shall take reasonable steps to ensure meaningful access to detainees who are limited English proficient (LEP), consistent with established regulatory and DHS/ICE policy requirements." The facility also provided policy 11062.2 which states, "Appropriate steps in accordance with applicable law to ensure that detainees with disabilities (including detainees who are deaf or hard of hearing, those who are blind, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in, and benefit from, all aspects of agency and facility efforts to prevent, detect, and respond to sexual abuse. In matters related to allegations of sexual abuse or assault, ensure the provision of in-person or telephonic interpretation that enable effective, accurate, and impartial interpretation by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that such interpretation is appropriate and consistent with DHS Policy."

HROHR takes appropriate measures to ensure detainees with disabilities and detainees who are LEP have an opportunity to participate in and benefit from the facility's efforts to prevent, detect and respond to sexual abuse. ICE National Detainee Handbooks, DHS-prescribed Sexual Abuse and Assault Awareness Information pamphlets, bulletin board postings, facility posters, and Consulate contact information posters were observed in both English and Spanish. During the onsite visit, intake staff indicated that the facility is advised by the releasing facility of the detainee's preferred language, which is determined using the I Speak Poster: Language Identification Guide. In an email provided by the facility SDDO post onsite audit it was confirmed that should a detainee arrive at the facility who does not speak English or Spanish, the facility will provide the detainee with a printed PDF of both the ICE National Detainee Handbook, available in addition to English and Spanish, in French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese; and the DHS-prescribed Sexual Abuse and Awareness Information pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi. Intake staff further indicated that should the detainee not speak one of the most prevalent languages offered onsite, or by PDF printout, the facility also has access to an ERO Language Services contract to provide 24-hour telephonic interpretation services. During an interview with the PSA Compliance Manager, it was confirmed that assistance is given to detainees with disabilities based upon their disability and need. Detainees with limited sight disabilities will have the information for reporting sexual abuse allegations and facility information read to them by facility staff. Should a detainee present with a psychiatric disability, the HROHR will accommodate the detainee with the appropriate service including utilizing staff from the Valley Baptist Medical Center. The PSA Compliance Manager also indicated that video remote interpreting services (sign language and foreign language) are provided at the request of the detainee.

During interviews with ICE DOs, it was confirmed that the facility does not allow for the use of other detainees to interpret for detainees, in matters relating to allegations of sexual abuse, who express a preference for another detainee to provide interpretation, and the interpretation is appropriate and consistent with DHS policy. As subsection (c) of the standard allows for the utilization of another detainee should the detainee express a preference for another detainee to provide interpretation, and the interpretation is appropriate and consistent with DHS policy, HROHR's practice is not in compliance with subsection (c) of the standard.

Does Not Meet (c): The facility is not in compliance with subsection (c) of the standard. During interviews with ICE DOs, it was confirmed that the facility does not allow for the use of other detainees to interpret for a detainee, in matters relating to an allegation of sexual abuse, who express a preference for another detainee to provide interpretation, and the interpretation is appropriate and consistent with DHS policy. To become compliant, the facility must implement a practice that allows for the use of other detainees to interpret for a detainee, in matters relating to an allegation of sexual abuse, as required by subsection (c) of the standard. In addition, the facility must provide documented training of all applicable staff on the implemented practice.

Corrective Action Taken (c): The facility has provided both staff attendance rosters and training curriculum that document that staff have been trained on Policy 11062.2 which contains the direction for staff to allow for the use of other detainees to interpret for a detainee, in matters relating to an allegation of sexual abuse, as required by subsection (c) of the standard. Upon review of the submitted documentation the Auditor now finds the facility in compliance with subsection (c) of the standard.

§115. 151 - Detainee reporting

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

Notes:

(a)(b)(c): The HROHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part that; "The FOD shall ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse, retaliation for reporting sexual abuse, or violations of responsibilities that may have contributed to such incidents to ERO personnel" and "the FOD shall also implement procedures for ERO personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports." Policy 11087.1 further states, "The FOD shall ensure that detainees are provided with instructions on how they can contact the DHS/Office of the Inspector General (OIG) or as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse to agency officials. Also, to confidentially, and if desired, anonymously, report these incidents." Detainees are assessed prior to arriving at the facility while in the county jail, to ensure all information and materials will be available in the detainee's native language. In an email received from a SDDO at HROHR it was confirmed, post on-site visit, that the facility provides the detainee with information in their preferred language either by a hard copy of the ICE National Detainee Handbook, or DHS-prescribed Sexual Abuse and Assault Information pamphlet in English or Spanish, by PDF printout of both in one of ICE's most prevalent languages, or by use of ERO Language Services.

The policy review and random staff interviews confirmed that there are multiple methods in which detainees can report an allegation of sexual abuse. All interviewed ICE DOs, interviews confirmed their understanding to immediately report any allegation of sexual abuse reported by a detainee in writing or verbally while in their custody. Hold rooms contain DHS PREA Zero Tolerance posters with information in English and Spanish in which detainees can report to any HROHR staff member either verbally, or in writing, the DHS OIG or Consulate via telephone; or by telephone to one of three local crisis centers: Friendship of Women Inc., Family Crisis Center, Inc., or Women Together/Mujeres Unidas. As confirmed during DO interviews, all reported allegations would immediately be documented and forwarded to the SDDO on duty.

The Auditor's telephone call to all three crisis reporting lines confirmed that the detainee, their family, or friends may report anonymously through the website or via telephone. Detainees can use their Non-Citizen Number to place a call or for anonymous calls to Crisis, DRIL, JIC, or OIG they may use a designated pin.

Does Not Meet (b): The facility is not in compliance with subpart (b) of the standard. The Auditor attempted to contact Crisis, DRIL, JIC, and the OIG via the facility phone system and confirmed that the detainee is required to use a designated pin to complete any of the attempted phone calls. To become compliant, the facility must provide a means for the detainee to make a phone call to a public or private entity or office that is not part of the agency call and to remain anonymous upon request.

Corrective Action Taken (b): The facility has provided documentation from the contractor that a direct pin is not needed to make phone calls for anonymous reporting. In addition, the facility provided a photo of a posting to detainees, in English and Spanish, advising the detainee how to make an anonymous call. Upon review of the submitted documentation, the Auditor now finds the facility in compliance with subsection (b) of the standard.

§115. 161 - Staff reporting duties

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

Notes:

(d): Policy 11062.2, states in part; "If alleged victim under the age of 18 or determined, after consultation with the relevant [Office of the Principal Legal Advisor] OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section."

The HROHR does not hold juvenile detainees. Interviews with ICE DOs indicated that all reported allegations involving a vulnerable adult would immediately be reported to the SDDO on duty who would in turn immediately report the allegation to the OIG; however, they did not confirm that they would coordinate the OPLA OCC or report the incident to any local authority having oversight as necessary under applicable mandatory reporting laws, as required by policy 11062.2. Interviews with ICE DOs further confirmed the facility did not house juveniles.

Does Not Meet (d): The facility is not in compliance with subsection (d) of the standard. Interviews with ICE DOs indicated that all reported allegations involving a vulnerable adult would be immediately reported to the SDDO on duty who would in turn immediately report the allegation to the OIG; however, they did not confirm that they would coordinate the OPLA OCC or report the incident to any local authority having oversight as necessary under applicable mandatory reporting laws, as required by policy 11062.2. To become compliant, the facility must train all applicable staff on the requirements of policy 11062.2 which state they implement a practice that "If alleged victim under the age of 18 or determined, after consultation with the relevant OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section" and document said training. In addition, the facility must

provide the Auditor, if applicable, all allegations of sexual abuse investigative files involving a vulnerable adult that occur during the CAP period.

Corrective Action Taken (d): The facility has provided a memo from an SDDO stating that he has advised all staff that "If alleged victim under the age of 18 or determined, after consultation with the relevant OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section." Upon review of the memo and associated staff training attendance documents, the Auditor finds that staff have been trained as required by the standard . Additionally, the facility has reported no new allegations of sexual abuse during the CAP period. Upon review of all submitted documentation, the Auditor now finds the facility in compliance with subsection (d) of the standard.

§115. 165 - Coordinated response

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

Notes:

(b)(c): Policy 11087.1, requires "If a victim is transferred from a holding facility to a detention facility or to a non-ICE facility, the FOD shall inform the receiving facility of the indecent and the victim's potential need for medical or mental health care of victim services." The PSA Compliance Manager indicated during interviews that if a detainee being transferred was a victim of sexual abuse, HROHR staff would provide the receiving facility any information regarding the sexual abuse allegation, including the victim's need for any medical or social services follow-up, however her interview could not confirm that should the detainee be transferred to a facility not covered by paragraph (b) of the standard that the facility will take into consideration the detainee's request not to have his/her potential need for medical or social services shared with the receiving facility.

The SDDO confirmed that there have been no allegations of sexual abuse during the audit period; therefore, there has not been a detainee victim of sexual abuse transferred to any other facility.

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

Corrective Action Taken (c): The facility submitted an ICE Broadcast dated 9/6/2022 from the Director of ICE Custody Management to all FODs and Deputy FODs entitled "Application of DHS PREA – 115.165: Coordinated Response." In addition, the facility provided documentation for staff training on the specific point of subpart (c), and therefore, the Auditor accepts the facility training for compliance. There were no allegations of sexual abuse that occurred during the CAP period; and therefore, there were no investigation, medical, and detainee files regarding any detainee victim of sexual abuse transferred during the CAP period. Upon review of the submitted documentation, the Auditor now finds the facility in compliance with subsection (c) of the standard.

§115.193

Outcome: Low Risk

Notes:

The physical layout of the HROHR provides clear direct sight of detainees while being processed and while in the holding rooms. Detainee supervision consists of direct contact and observation of detainees enhanced by video monitoring and staff interviewed were knowledgeable about their duties and responsibilities. After a careful review of corrective action, it is determined that the facility is now in compliance with all previously deficient standards, and now in compliance with the DHS PREA Standards. Therefore, the Auditor has determined that the facility is now low risk.

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.

Sabina Kaplan February 14, 2023

Auditor's Signature & Date

(b) (6), (b) (7)(C) February 14, 2023

Assistant Program Manager's Signature & Date

(b) (6), (b) (7)(C) February 17, 2023

Program Manager's Signature & Date

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

Homeland Security

AUDIT DATES			
From:	5/24/2022	**To:**	5/25/2022
AUDITOR INFORMATION			
Name of auditor:	Marlean Ames	**Organization:**	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	330-327-(b) (6), (b)
PROGRAM MANAGER INFORMATION			
Name of PM:	(b) (6), (b) (7)(C)	**Organization:**	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	722-579-(b) (6), (b)
AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		
FIELD OFFICE INFORMATION			
Name of Field Office:	Harlingen Field Office		
Field Office Director:	Marcos Charles		
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)		
Field Office HQ physical address:	1717 Zoy St. Harlingen, Tx 78550		
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:	Harlingen Resident Office Hold Room		
Physical address:	1717 Zoy St. Harlingen, Tx 78550		
Mailing address: (if different from above)	Click or tap here to enter text.		
Telephone number:	(956) 389-7884		
Facility type:	ICE Holding Facility		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	**Title:**	Officer in Charge (OIC)
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	956-547-(b) (6), (b)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	**Title:**	Supervisory Detention and Deportation Officer (SDDO)
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	(956) 389-(b) (6), (b)
ICE HQ USE ONLY			
Form Key:	29		
Revision Date:	12/14/2021		
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 Harlingen Resident Office Hold Room (HROHR) was conducted May 24 and 25, 2022. The audit was conducted by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor Marlean Ames, 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 (b) (6), (b) (7)(C) Assistant Program Manager (APM), 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. This was the second PREA audit for HROHR and included a review of the audit period from August 16, 2017, through May 25, 2022. As there were zero allegations of sexual abuse reported at HROHR for the prior 12-month period, the audit period was extended to capture closed investigations that occurred since the facility's last audit; however, there were none.

HROHR is a holding facility that processes detainees within 12 hours and is operated by DHS ICE. Only DHS ICE Detention and Deportation Officers (DOs) have any contact with detainees at HROHR. The HROHR is located at 1717 Zoy St. Harlingen, Texas 78550 which is also the location for the Harlingen Field Office. Approximately, four weeks prior to the on-site audit the ERAU Team Lead, (b) (6), (b) (7)(C) provided the completed Pre-Audit Questionnaire (PAQ) along with supporting documents and policies for the HROHR on the secure ERAU SharePoint website. The provided information included Agency policies, memorandums of understandings (MOUs), training records and curricula, facility schematics, and a multitude of other related documentation and materials to determine compliance with the DHS PREA standards. The Auditor also reviewed the Agency's website, www.ice.gov. The Auditor completed the review of all the documentation that was provided by the Team Lead, and HROHR, in the FY22 Facility Document folder found on the SharePoint platform. The main policies that provide facility direction is Agency policy 11062.2, Sexual Abuse and Assault Prevention and Intervention (SAAPI), and Agency policy 11087.1, Operations of ERO Holding Facilities. The intent of the documentation is to support how a facility establishes a baseline for its actual practice for zero-tolerance for sexual abuse and sexual harassment. The Auditor did not identify any gaps or issues that needed additional information be provided during the initial review.

On May 24, 2022, at approximately 8:00 am, the Auditor met with facility administration in the conference room where the entry briefing was moderated by the Team Lead via teleconference. In attendance at the briefing, either in person, or via teleconference were the following:

(b) (6), (b) (7)(C) ICE/OPR/ERAU, Inspections and Compliance Specialist (ICS)
(b) (6), (b) (7)(C) ICE/ERO, Supervisory Detention and Deportation Officer (SDDO)
(b) (6), (b) (7)(C) ICE/ERO, SDDO
Marlean Ames, Certified DOJ/DHS Auditor, Creative Corrections, LLC.

The meeting was designed to create a positive working relationship, place names with faces, and prepare for the next two days. Soon after the conclusion of the meeting, the Auditor, was accompanied by the SDDO and began the facility tour. The holding room facility is in a Federal Government multipurpose building that serves ICE. The design capacity for the facility is 100. The facility is located on the first floor with a secure sally port garage. HROHR has a total of five hold rooms with two of these five rooms located at the initial entrance for booking and intake. The secure garage leads into an initial intake area with two rooms for the start of intake processing including a pat down search area. Detainees are given their initial packet of information at this time which includes the ICE National Detainee Handbook and the DHS-prescribed Sexual Assault Awareness Information pamphlet in their preferred language.

Detainees are held for processing purposes at HROHR and are not housed overnight. Detainees are held on an average four to eight hours at HROHR but are held for processing purposes only. According to facility intake staff, "the facility receives detainees from local facilities and prepares them for deportation." HROHR does not process any juveniles through the facility. The HROHR operates during the hours of 0600 – 1500, which includes completing the intake process. Two shifts exist during operational hours: 0600-1400 and 0700-1500. All processing staff are ICE Deportation Officers (DOs) at HROHR. There are no contract employees at this location who may have continuing contact with detainees. During the last 12 months there were 3186 adult detainees: 2567 males and 619 females, 0 transgender, 0 juveniles and 0 intersex, processed through the HROHR.

During the tour, the Auditor looked for possible blind spots, and the detainee-to-officer ratio in accordance with the holding room capacity for occupancy. There were no blind spots observed or identified during the facility tour. (b) (7)(E) As staff monitoring the cameras cannot control the images that are being viewed, the camera system is not in use. The staff monitoring observed was 4-to-1 detainee, ensuring supervision was covered without the use of electronic monitoring. (b) (7)(E)

(b) (7)(E) [redacted] There are 20 male DOs and 5 female DOs to support the necessary staff-to-detainee ratio. The Auditor looked at privacy issues, how the toilet areas were configured, and if detainees have adequate privacy to perform bodily functions. The Auditor observed that DHS Zero-Tolerance PREA posters, in both English and Spanish, were displayed in the holding rooms and in the public areas as well. PREA audit notices, sent to the HROHR prior to the on-site visit, were observed posted in all holding rooms as well as throughout the facility. The notices provide information as to how detainees, and/or staff, could contact the Auditor should they have any concerns prior to the on-site visit. No correspondence was received from detainees, staff, or other individuals during the audit phase.

The Auditor noted the number of phones in each holding room and that the advocacy hotline number along with the outside reporting entity contact information was readily available in the holding rooms in both English and Spanish. The hold rooms contained poster information to contact calls to "Crisis, DRIL, JIC or OIG" by using specific number keys to complete a call in their preferred language. The Auditor conducted an anonymous test call to the three listed local crisis centers: The Friendship of Women, Inc., The Family Crisis Center, Inc., and the Women Together/Mujeres Unidas to confirm the centers would respond to reports of sexual abuse/assault. The calls were received by a live person, and it was explained that a PREA audit was being conducted to ensure the effectiveness of the hotline. Each of the individuals receiving the call explained the process of reporting back to the facility when a call is made for their follow-up on site. They all indicated they would make direct contact with the HROHR SDDO through an email and phone call to report any allegation of sexual abuse. The phone calls confirmed that the holding room telephones used for detainee reporting of sexual abuse allegations were in working order and the process for reporting and responding was the same for all three centers. The posters in the hold rooms allowed for detainees to use a code for anonymous calls to Family Crisis Center (Crisis), Detention Reporting and Information Line (DRIL), JIC or OIG otherwise a detainee would use their assigned Non-Citizen Number to place a call.

The detainee population at HROHR is always fluid, as detainees may be arriving and departing throughout various times of the day. Due to the short stay, there are no rooms with beds. Detainees remain in the clothing they arrive in and are offered sweatpants or sweatshirts for temperature comfort if needed. There are no educational rooms, library, on-site medical clinic, food service or recreation areas located at the HROHR. The Auditor observed during the tour that there was sufficient staff to ensure a safe environment for both detainees and staff. During the tour, the Auditor conducted informal conversations with staff regarding duties, responsibilities, and PREA standards. The Auditor also conducted a total of eight formal interviews with staff which included seven DOs, one SDDO, and the Prevention of Sexual Assault (PSA) Compliance Manager. The interviews covered detainee supervision and monitoring, detainee reporting of sexual abuse, first responders' duties to sexual abuse allegations, viewing and searching detainees by staff of the opposite gender, detainee risk assessment, what the facility's training responsibilities would be should a contractor be hired, providing information regarding zero-tolerance policy to detainees, and protecting detainees from contact with alleged abusers. In addition, the interview with the PSA Compliance Manager covered referrals of sexual abuse allegations for investigations, upgrades to the holding facility and technology, receiving allegations from and reporting allegations to other facilities, coordinating with outside investigations, designee on access to emergency medical services for detainee victims of sexual abuse, sexual abuse allegations, incident reports and processing, and volunteer training on sexual abuse should there be any new contractors or volunteers brought into the facility in the future. There were two detainees (one male and one female) at HROHR during the audit. Both detainees declined to be interviewed by the Auditor. All staff interviewed were aware of the Agency's zero-tolerance policy, their responsibilities to protect detainees from sexual abuse, and their first responder duties as part of the coordinated response. Interviewed staff were randomly selected by the Auditor, using the daily duty roster, provided by the SDDO. The Auditor chose staff from all 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. The ICE DOs interviewed by the Auditor demonstrated an understanding of PREA and their responsibilities under their specialized duties. A review of the PREA allegation spreadsheet confirmed there were zero allegations reported during the extended audit period.

On Wednesday, May 25, 2022, an exit briefing was held at approximately 1:00 pm in the Conference Room to discuss the audit findings. The ERAU ICS Team Lead opened the meeting, via telephonic conference line, and then turned it over to the Auditor for an overview of findings. In attendance at the exit meeting were:

(b) (6), (b) (7)(C) ICE/OPR/ERAU, ICS
(b) (6), (b) (7)(C) ICE/ERO, SDDO
Marlean Ames, Certified DOJ/DHS Auditor, Creative Corrections, LLC

The Auditor thanked everyone and extended appreciation to the entire staff at the HROHR for their cooperation, professionalism, and hospitality during the audit. The Auditor spoke briefly that the staff were knowledgeable on the ICE Policy 11062.2 Sexual Abuse and Assault Prevention and Intervention. The Auditor informed those present that it was too early in the process to formalize an outcome of the audit, and that she would need to review all submitted documentation and interview notes conducted with staff and detainees. The Auditor explained the audit report process, timeframes, and thanked all present for their cooperation.

SUMMARY OF AUDIT FINDINGS

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

Number of Standards Exceeded: 0

Number of Standards Not Applicable: 2
§115.114 Juveniles and family detainees
§115.118 Upgrades to facilities and technologies

Number of Standards Met: 23
§115.111 Zero-tolerance of sexual abuse
§115.115 Limits to cross-gender viewing and searches
§115.117 Hiring and promotion decisions§115.121 Evidence protocol and forensic medical examinations
§115.122 Policies to ensure investigation of allegations and appropriate agency oversight
§115.131 Employee, contractor, and volunteer training
§115.132 Notification to detainees of the agency's zero-tolerance policy
§115.134 Specialized training: Investigations
§115.141 Assessment for risk of victimization and abusiveness
§115.154 Third-party reporting
§115.162 Protection duties
§115.163 Reporting to other confinement facilities
§115.164 Responder duties
§115.166 Protection of detainees from contact with alleged abusers
§115.167 Agency protection against retaliation
§115.171 Criminal and administrative investigations.
§115.172 Evidentiary standard for administrative investigations
§115.176 Disciplinary sanctions for staff
§115.177 Corrective action for contractors and volunteers
§115.182 Access to emergency medical services
§115.186 Sexual abuse incident reviews
§115.187 Data collection
§115.201 Scope of audits

Number of Standards Not Met: 5
§115.113 Detainee supervision and monitoring
§115.116 Accommodating detainees with disabilities and detainees who are limited English proficient
§115.151 Detainee reporting
§115.161 Staff reporting duties
§115.165 Coordinated response

Holding Facility Risk Rating:
§115.193 Audits of standards – **Not Low Risk**

PROVISIONS

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

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

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

Notes:

(a): The HROHR provided a written directive Policy 11062.2 which addresses the requirements of the standard. Policy 11062.2 mandates, "ICE has a zero-tolerance policy for all forms of sexual abuse or assault. It is ICE policy to provide effective safeguards against sexual abuse and assault of all individuals in ICE custody, including with respect to screening, staff training, detainee education, response and intervention, medical and mental health care, reporting, investigation, and monitoring and oversight. Interviews with ICE staff confirmed their awareness of the zero-tolerance policy and approach to preventing, detecting, and responding to sexual abuse." During the interview with the PSA Compliance Manager, she discussed Policy 11062.2 and stressed the importance of sexual safety for detainees. All ICE staff formally interviewed reported they were aware of the zero-tolerance policy and confirmed the requirements are discussed on a regular basis during team meetings. In addition, the Auditor conducted informal conversations with the ICE DOs during the facility tour who further confirmed that HROHR has a zero-tolerance for all forms of sexual abuse and assault.

§115.113 - Detainee supervision and monitoring.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c): The HROHR provided a written directive, Policy 11087.1 which addresses the requirements of the standard. Policy 11087.1 states, "The Field Office Director (FOD) shall ensure that each holding facility maintains sufficient supervision of detainees, including through appropriate staffing levels, and where applicable, video monitoring, to protect detainees against sexual abuse and assault. In so doing the FOD shall take into consideration a) The physical layout of each holding facility; b) The composition of the detainee population; c) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; d) The findings and recommendations of the sexual abuse review reports; e) Any other relevant factors, including the length of time detainees spend in custody." During an interview with PSA Compliance Manager, she indicated that each of these listed factors are considered and reviewed annually to ensure adequate supervision and monitoring. The facility submitted the Holding Facility Self-Assessment Tool (HFSAT), dated March 20, 2022. This process is completed annually, and the document's purpose states it is used to determine if the facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse. The Auditor reviewed the document and confirmed that the document does not include any information regarding the development and documentation of comprehensive detainee supervision guidelines to determine and meet each facility's detainee supervision needs, nor does it confirm that the supervision guidelines were reviewed as required by subsection (b) of the standard. (b) (7)(E) [redacted] The HFSAT did not confirm that the facility took 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 an unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody as required by subsection (c) of the standard. (b) (7)(E) [redacted] Based on the onsite visit which confirmed that the video monitoring system is still in the development stage and its use has not been implemented, the Auditor did not consider the video monitoring system into the compliance determination for subsection (c) of the standard at this time.

Recommendation (c): During the onsite visit, the Auditor confirmed that the utilization of video monitoring was not fully implemented for facility use. Prior to implementing the video monitoring system and operating the system to its full capability, the Auditor recommends that the facility 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 an unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody as required by subsection (c) of the standard.

The SDDO provided a duty roster of all ICE staff for each day. The roster showed adequate staffing to ensure proper supervision of detainees to ensure their safety and security. Staff members conduct regular and scheduled detainee hold room checks which are

recorded in logbooks on their computer. During the tour, the Auditor observed staffing levels during the on-site audit and determined they were adequate. In addition, the Auditor noted that the holding rooms are checked every 15 minutes to ensure all areas are safe and secure. The Auditor reviewed the logbooks for several randomly chosen dates to confirm checks are conducted at a minimum of 15-minute intervals. Interviews with the PSA Compliance Manager and ICE DOs indicated that holding room doors always remain open when not occupied by a detainee to maintain better visibility and are monitored through direct supervision. The PSA Compliance Manager and ICE DOs also indicated that once the camera system is completed and fully implemented staff supervision will be augmented with video surveillance. Supervision guidelines are in the administrative desk area in the intake processing room for easy review. The Auditor observed staff signatures on post orders which indicated they have read and understood the documents; however, the facility did not provide any documentation that the post orders were reviewed on an annual basis as required by subsection (b) of the standard.

Does Not Meet (b): The facility is not in compliance with subsection (b) of the standard. In an interview with the PSA Compliance Manager, it was indicated that in developing the staffing plan, the facility considers the physical layout of each holding facility, the composition of the detainee population the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the finding and recommendations of sexual abuse incident review reports and any other relevant factors. However, the facility submitted their HFSAT, dated March 20, 2022, in which the Auditor reviewed and confirmed that the document did not confirm that the supervision guidelines were reviewed in the year 2021 as required by subsection (b) of the standard. To become compliant the facility must provide the Auditor with documentation to confirm that the supervision guidelines were reviewed during the last year as required by subsection (b) of the standard.

§115.114 - Juvenile and family detainees.

Outcome: Not Applicable (provide explanation in notes)

Notes:

(a)(b): HROHR does not hold juveniles and family detainees. This was confirmed during interviews with the SDDO, PSA Compliance Manager, and ICE DOs. According to the PAQ, there have not been any juveniles booked into the HROHR for any purpose during the audit period. Per interview with PSA Compliance Manager, any juvenile that would falsely represent their identity as an adult would be moved to a facility which exclusively serves juveniles immediately upon learning of the false representation.

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

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

Notes:

(b)(c)(e)(f): Policy 11087.1 states, "The FOD shall ensure that when pat down searches indicate the need for a more thorough search, an extended search (i.e., strip search), is conducted in accordance with ICE policies, including that a) All strip searches and visual body cavity searches are documented; b) Cross-gender strip searches or cross gender visual body cavity searches are not conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners; and c) Visual body cavity searches of minors are conducted by a medical practitioner and not by law enforcement personnel." Policy 11087.1 further states, "The FOD shall ensure that ERO personnel do not search or physically examine a detainee for the sole purpose of determining the detainee's gender." If the detainee's gender is unknown, it may be determined during conversation, reviewing medical records, or learning that information as part of a broader medical examination conducted in private by a medical practitioner.

The PSA Compliance Manager reported that there had not been any cross-gender visual body cavity searches or strip searches conducted during the audit period. Staff interviews confirmed their knowledge of cross-gender viewing, search policy and procedure, and that pat-down searches are not conducted for the sole purpose of determining the genital status of any detainee. Staff interviews and detainee search log documents indicated that all searches would be documented. In addition, the Auditor was able to observe one male and one female detainee pat-down search of which a female staff conducted the search with the female detainee and a male staff conducted the search with the male detainee. Staff interviews and the onsite observation of two pat down searches confirmed staff are trained in the proper procedures to conduct such searches. Searches including cross-gender pat-down searches and searches of transgender and intersex detainees are conducted in a professional manner, in the least intrusive manner possible and are consistent with security needs and Agency policy, including consideration for officer safety. Staff training records were reviewed confirming that all staff have obtained the needed information and understanding of the cross-gender strip and body cavity search prohibitions.

(d): Agency Policy 11087.1addresses the requirements of the provision and states in part that; "the FOD shall ensure that detainees are permitted to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine hold room checks, a medical exam, or monitored bowel movement under medical supervision. The FOD will also ensure that ERO personnel of the opposite gender announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing."

It was confirmed through direct observation that detainees can perform bodily functions without being observed by staff. The Auditor observed, during the tour, that the bathroom toilets were covered with half walls approximately 4 feet high to ensure privacy. In addition, in a memo from the FOD dated April 14, 2022, it was indicated that the facility took into consideration PREA situations of possible sexual assault when designing the new video monitoring system. As the cameras were not operable during the on-site audit,

the Auditor could not confirm their implementation would prevent staff of the opposite gender from viewing detainees performing bodily functions. The use of cross-gender announcements prior to entry into holding areas was confirmed through interviews with ICE DOs indicating they are aware of and adhere to the announcement procedure. During the onsite visit, the Auditor observed two detainees being processed in the intake area; however, there were no detainees in a holding room to allow for direct observation of announcements.

Per Policy 11087.1 "Cross-gender strip and body cavity searches are limited only to those performed in exigent circumstances or by a licensed medical practitioner." It was confirmed through interviews with the SDDO, PSA Compliance Manager, and ICE DOs, that there have not been any cross-gender strip searches conducted during the audit period. All staff interviewed understood the prohibition from performing strip searches to determine a detainee's gender. It was confirmed through interviews with ICE DOs that any strip search or body cavity search would be the result of an exigent circumstance and would involve the notification of a SDDO and the generation of an incident report.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c): The HROHR provided a written directive policy 11087.1, which addresses the requirements of the standard. Policy 11087.1 states, "The FOD shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to participate in, and benefit from, processes and procedures in connection with placement in an ERO holding facility, consistent with established statuary, regulatory, DHS and ICE policy requirements. The FOD shall take reasonable steps to ensure meaningful access to detainees who are limited English proficient, consistent with established regulatory and DHS/ICE policy requirements." The facility also provided policy 11062.2 which states, "Appropriate steps in accordance with applicable law to ensure that detainees with disabilities (including detainees who are deaf or hard of hearing, those who are blind, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in, and benefit from, all aspects of agency and facility efforts to prevent, detect, and respond to sexual abuse. In matters related to allegations of sexual abuse or assault, ensure the provision of in-person or telephonic interpretation that enable effective, accurate, and impartial interpretation by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that such interpretation is appropriate and consistent with DHS Policy."

HROHR takes appropriate measures to ensure detainees with disabilities and detainees who are LEP have an opportunity to participate in and benefit from the facility's efforts to prevent, detect and respond to sexual abuse. ICE National Detainee Handbooks, DHS-prescribed Sexual Abuse and Assault Awareness Information pamphlets, bulletin board postings, facility posters, and Consulate contact information posters were observed in both English and Spanish. During the onsite visit, intake staff indicated that the facility is advised by the releasing facility of the detainee's preferred language, which is determined using the I Speak Poster: Language Identification Guide. In an email provided by the facility SDDO post onsite audit it was confirmed that should a detainee arrive at the facility who does not speak English or Spanish, the facility will provide the detainee with a printed PDF of both the ICE National Detainee Handbook, available in addition to English and Spanish, in French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese; and the DHS-prescribed Sexual Abuse and Awareness Information pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi. Intake staff further indicated that should the detainee not speak one of the most prevalent languages offered onsite, or by PDF printout, the facility also has access to an ERO Language Services contract to provide 24-hour telephonic interpretation services. During an interview with the PSA Compliance Manager, it was confirmed that assistance is given to detainees with disabilities based upon their disability and need. Detainees with limited sight disabilities will have the information for reporting sexual abuse allegations and facility information read to them by facility staff. Should a detainee present with a psychiatric disability, the HROHR will accommodate the detainee with the appropriate service including utilizing staff from the Valley Baptist Medical Center. The PSA Compliance Manager also indicated that video remote interpreting services (sign language and foreign language) are provided at the request of the detainee.

During interviews with ICE DOs, it was confirmed that the facility does not allow for the use of other detainees to interpret for detainees, in matters relating to allegations of sexual abuse, who express a preference for another detainee to provide interpretation, and the interpretation is appropriate and consistent with DHS policy. As subsection (c) of the standard allows for the utilization of another detainee should the detainee express a preference for another detainee to provide interpretation, and the interpretation is appropriate and consistent with DHS policy, HROHR's practice is not in compliance with subsection (c) of the standard.

Does Not Meet (c): The facility is not in compliance with subsection (c) of the standard. During interviews with ICE DOs, it was confirmed that the facility does not allow for the use of other detainees to interpret for a detainee, in matters relating to an allegation of sexual abuse, who express a preference for another detainee to provide interpretation, and the interpretation is appropriate and consistent with DHS policy. To become compliant, the facility must implement a practice that allows for the use of other detainees to interpret for a detainee, in matters relating to an allegation of sexual abuse, as required by subsection (c) of the standard. In addition, the facility must provide documented training of all applicable staff on the implemented practice.

§115.117 - Hiring and promotion decisions.

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

Notes:

(a)(b)(c)(d)(e)(f): 5 CFR 731, Executive Order 10450, ICE Directive 6-7.0, ICE Personnel Program Security and Suitability, and ICE Directive 6-8.0, ICE Suitability Screening Requirements for Contractor Personnel, require "anyone entering or remaining in government service undergo a thorough background examination for suitability and retention. The background investigation, depending on the clearance level, will include education checks, criminal records check, financial check, residence and neighbor checks, and prior employment checks." In addition, 5 CFR 731 requires "investigations every five years." The PSA Compliance Manager confirmed during an interview that background checks are performed for all new hires and internal promotions. The policy outlines misconduct and criminal misconduct as grounds for unsuitability including material omissions or making false or misleading statements in the application. The Unit Chief of OPR Personnel Security Operations (PSO) informed Auditors who attended virtual training in November 2021 that detailed candidate suitability for all applicants includes their obligation to disclose: any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity. Based on information provided in an email by the OPR Personnel Security (A) Division Chief, information on substantiated allegations of sexual abuse involving a former employee would be provided to prospective employers upon request, unless prohibited by law. As confirmed during an interview with the SDDO, all staff have a continuing affirmative duty to disclose any misconduct as required by the standard and material omissions regarding such misconduct, or the provision of materially false information, would be grounds for termination.

The Auditor created a random list of five ICE DOs working at the HROHR and submitted them to the ICE PSO. The Auditor received a written response regarding up-to-date background checks on the five ICE DOs on May 25, 2022. As confirmed during the interview with the SDDO, all staff considered for a promotion shall be asked during the interview process, to disclose any previous misconduct, have an updated background investigation and impose a continuing affirmative duty to disclose any such misconduct. There were no promotions, or contractors who have contact with detainees at the facility, during this audit period.

§115.118 - Upgrades to facilities and technologies.

Outcome: Choose an item.Not Applicable (provide explanation in notes)

Notes:

(a): HROHR has not designed, modified, acquired, or expanded upon new or existing space to the detainee areas since May 6, 2014, or in the 36 months preceding this audit; therefore, subsection (a) of the standard is not applicable.

(b): The HROHR provided a written directive, policy 11087.1, which states in part "When installing or updating a video monitoring system, electronic surveillance system, electronic surveillance system, or other monitoring technology, consideration will be given how such technology may enhance the Agency's ability to protect detainees from sexual abuse."

The HROHR is currently waiting on the camera upgrade to be completed. (b) (7)(E) [redacted] The camera system will enhance the facility staff s ability to monitor detainees.

Recommendation (b): Prior to implementing the video monitoring system and operating the system to its full capability, the Auditor recommends that the facility 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 an unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody as required by subsection (c) of standard 115.113.

§115.121 - Evidence protocols and forensic medical examinations.

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

Notes:

(a): The HROHR provided written directive, policy 11062.2, which states, "When feasible, secure and preserve the crime scene and safeguard information and evidence, consistent with ICE uniform evidence protocols and local evidence protocols in order to maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions." Policy 11062.2 further states, "When a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility's incident review personnel in accordance with OPR policies and procedures. OPR does not perform sex assault crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or local law enforcement agency. The OPR will coordinate with the ICE Enforcement and Removal Operations ERO FOD and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred or accepted by DHS Office of the Inspector General (OIG), OPR, or the local law enforcement agency, the ICE AFOD would assign an administrative investigation to be conducted." Policy 11062.2 further states, "If the alleged victim is under the age of 18 or determined, after consultation with the relevant [Office of the Principal Legal Advisor] OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under a State or local vulnerable persons statute, report the

allegation to the designated State or local services agency as necessary under applicable mandatory reporting laws; and document his or her efforts taken under this section." The Auditor confirmed verbally with the SDDO, and through review of email documentation correspondence that the Harlingen Police Department (HPD) will assist with investigations of sexual assault and sexual abuse allegations occurring at the HROHR, including evidence collection. HROHR had zero sexual abuse allegations reported within the extended audit period.

(b)(c)(d): The HROHR provided Policy 11087.1, which states in part that; "The FOD shall coordinate with the ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available and appropriate, community resources and services that provide expertise and support in areas of crisis intervention and counseling to address victims' needs." The policy also states that; "where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the FOD shall arrange or refer an alleged victim detainee to a medical facility to undergo a forensic medical examination, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFE's or SANE's cannot be made available, the examination can be performed by other qualified health care personnel. If in connection with an allegation of sexual abuse, the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available consistent with security needs." All services will be provided only with the detainee's consent and at no cost as confirmed through interview with the SDDO, regardless of if the if the victim names the abuser or cooperates with the investigation.

The Auditor confirmed through interview with the PSA Compliance Manager and review of written emails between the PSA Compliance Manager and a representative from Valley Baptist Hospital that a local Sexual Assault Victim Services Provider or the Valley Baptist Child to Adult Abuse Response Team will be called on by hospital staff should the detainee wish to have a victim advocate accompany them through the forensic medical examination and investigation process. The PSA Compliance Manager further confirmed that advocacy services will be provided to any detainee victim requesting such services either during a hospital visit or while at HROHR.

The Auditor confirmed through the PSA Compliance Manager interview that an alleged victim of sexual assault would be transported to the Valley Baptist Hospital to undergo a forensic medical examination by a qualified SANE or SAFE at no const to the detainee. An email dated May 24, 2022, between the PSA Compliance Manager and a Valley Baptist Hospital (VBH) representative, confirmed the VBH will provide the SAFE or SANE services to victims of sexual abuse from the HROHR. The Auditor confirmed with the PSA Compliance Manager that the facility has attempted to enter a MOU with Valley Baptist Hospital but have only been successful with the written email commitment. The PSA Compliance Manager confirmed during the interview process, that all services will be provided to a detainee at no cost to them.

(e): Interviews with the PSA Compliance Manager, confirmed that the HPD is trained to follow the Uniform Evidence Collection protocols in compliance with PREA mandates and Agency evidence protocols for conducting criminal investigations. The HPD confirmed their training and services through an email dated April 6, 2022, between the PSA Compliance Manager and the Chief of the HPD. The Auditor confirmed through review of an email provided by the facility, that the facility has attempted to enter an MOU with the HPD but has only been successful with the HPD agreeing to assist the facility should a criminal investigation be warranted.

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

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

Notes:

(a)(c)(d): The HROHR provided written directive, Policy 11062.2, which states, "When an alleged sexual abuse incident occurs in ERO custody, the FOD shall a) Ensure that the appropriate law enforcement agency having jurisdiction for the investigation has been notified by the facility administrator of the alleged sexual abuse. The FOD shall notify the appropriate law enforcement agency directly if necessary; b) Notify ERO's Assistant Director for Field Operations telephonically within two hours of the alleged sexual abuse or as soon as practical thereafter, according to procedures outlined in the June 8, 2006, Memorandum from (b) (6), (b) (7)(C) Acting Director, Office of Detention and Removal Operations, regarding "Protocol on Reporting and Tracking of Assaults" (Torres Memorandum); and c) Notify the ICE Joint Intake Center (JIC) telephonically within two hours of the alleged sexual abuse and in writing within 24 hours via the ICE SEN Notification Database, according to procedures outlined in the Torres Memorandum." Policy 11062.2 further dictates, that "The JIC shall notify the DHS Office of Inspector General (OIG)," and "the OPR shall coordinate with the FOD or SAC and facility staff to ensure evidence is appropriately secured and preserved pending an investigation by federal, state, or local law enforcement, DHS OIG, or referral to OPR."

Interviews with the PSA Compliance Manager, confirmed Policy 11062.2, section 5.7, would be followed should an allegation of sexual abuse be reported by a detainee. In addition, the PSA Compliance Manager provided an email, which outlined the services the HPD will provide to the HROHR during allegations that are potentially criminal. There were no allegations of sexual abuse reported at HROHR during the extended audit period.

(b): Policy 11062.2 s, "All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise." A review of the ICE website (www.ice.gov) confirms the protocols are available to the public.

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

§115.131 – Employee, contractor, and volunteer training.

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

Notes:

(a)(b)(c): The HROHR provided written directive policy 11062.2, which states in part that; "All current employees required to take the training, as listed below, shall provide each employee with biennial refresher training to ensure that all employees know ICE's current sexual abuse policies and procedures," and "all newly hired employees who may have contact with individuals in ICE custody shall also take the training within one year of their entrance on duty." Policy 11062.2 further states, "All ICE personnel who may have contact with individuals in ICE custody, including all ERO officers and HSI special agents, shall receive training on, among other items: a) ICE's zero-tolerance policy for all forms of sexual abuse and assault; b) The right of detainees and staff to be free from sexual abuse or assault; c) Definitions and examples of prohibited and illegal behavior; d) Dynamics of sexual abuse and assault in confinement; e) Prohibitions on retaliation against individuals who report sexual abuse or assault; f) Recognition of physical, behavioral, and emotional signs of sexual abuse or assault, situations in which sexual abuse or assault may occur, and ways of preventing and responding to such occurrences, including: i) Common reactions of sexual abuse and assault victims; ii) How to detect and respond to signs of threatened and actual sexual abuse or assault; iii) Prevention, recognition, and appropriate response to allegations or suspicions of sexual abuse and assault involving detainees with mental or physical disabilities; and iv) How to communicate effectively and professionally with victims and individuals reporting sexual abuse or assault; g) How to avoid inappropriate relationships with detainees; h) Accommodating limited English proficient individuals and individuals with mental or physical disabilities; i) communicating effectively and professionally with lesbian, gay, bisexual, transgender, intersex, or gender nonconforming individuals, and members of other vulnerable populations; j) Procedures for fulfilling notification and reporting requirements under this Directive; k) The investigation process; and l) The requirement to limit reporting of sexual abuse or assault to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes."

The Auditor chose five random ICE DOs to confirm completion of training. The Auditor reviewed the five PALMS e-learning certificates provided and the curriculum for the trainings. The certificates confirmed completion of the PREA initial, and refresher training, as required by the standard. The Auditor confirmed that HROHR does not have volunteers that come into the facility, nor do they employ any contract workers that may have continuing contact with detainees.

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

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

Notes:

The HROHR provided a written directive, Policy 11087.1, which states in part that; "The FOD shall ensure that key information regarding ICE's zero-tolerance policy for sexual abuse is visible or continuously and readily available to detainees (e.g., through posters, detainee handbooks, or other written formats)." The HROHR ensures key information regarding ICE's zero-tolerance policy for sexual abuse is visible or continuously and readily available to detainees. As confirmed during the facility tour through direct observation, and staff interviews, detainees receive the ICE National Detainee Handbook, and DHS-prescribed Sexual Abuse and Assault Awareness Information pamphlet in their preferred language. According to interviews with intake ICE DOs, the facility is advised by the releasing facility of the detainee's preferred language, which is determined using the I Speak Poster: Language Identification Guide, prior to their arrival at HROHR. In an email submitted by the facility SDDO post onsite audit it was confirmed that should a detainee arrive at the facility who does not speak English or Spanish, the facility will provide the detainee with a printed PDF of both the ICE National Detainee Handbook, available in addition to English and Spanish, in French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese; and the DHS-prescribed Sexual Abuse and Awareness Information pamphlet, available in addition to English and Spanish, in Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, and Punjabi. Intake staff further indicated that should the detainee not speak one of the most prevalent languages offered onsite, or by PDF printout, the facility also has as access to an ERO Language Services contract to provide 24-hour telephonic interpretation services. In addition, zero-tolerance and reporting posters provided in English and Spanish are affixed to the walls in each of the holding rooms.

In an interview with the PSA Compliance Manager, it was indicated that detainees with limited sight disabilities will have the information for reporting sexual abuse allegations and facility information read to them by facility staff. Should a detainee present with a psychiatric disability the HROHR will accommodate the detainee with the appropriate service including utilizing staff from the Valley Baptist Medical Center. The PSA Compliance Manager also indicated that video remote interpreting services (sign language) is available for the detainee who is deaf or has limited hearing. The Auditor confirmed through direct observation, the ICE National

Detainee Handbook and DHS-prescribed Sexual Assault Awareness Information pamphlet was offered to both detainees entering the facility. The Auditor reviewed the ICE website, www.ice.gov and confirmed the zero-tolerance information is available to the public.

§115.134 - Specialized training: Investigations.

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

Notes:

(a)(b): The HROHR provided written directive, Policy 11062.2, section 5.2 which establishes that "OPR will provide specialized training to those staff assigned to conduct administrative investigations within the HROHR. The training shall cover at a minimum: interviewing sexual abuse victims, sexual abuse evidence collections in a confinement setting, the criteria and evidence required for administrative action or prosecutorial referral, and information regarding effective cross-agency coordination in the investigative process."

The facility provided the Specialized Training in a Confinement Setting Curriculum for Investigating Incidents of Sexual Abuse and Sexual Assault along with Certificate of Training through PALMS for the SDDO, who serves as the designated facility liaison between ICE OPR and the HPD during a sexual abuse allegation investigation by gathering any preliminary administrative incident reports needed to conduct the investigation.

In addition, the Agency provided a list of all OPR trained agents that may investigate allegations of sexual abuse of detainees in the custody of ICE, while being held at the HROHR. Compliance is based on policy review, review of required training curriculum, and completed training records. There were no allegations of sexual abuse reported during the extended audit period.

§115.141 - Assessment for risk of victimization and abusiveness.

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

Notes:

(a)(c): Policy 11087.1, states "The FOD should ensure that before placing detainees together in a hold room, there shall be consideration of whether a detainee may be at a high risk of being sexually abused and when appropriate, shall take necessary steps to mitigate any such danger to the detainee." According to interviews with the ICE DOs, ICE screens detainees for special vulnerabilities prior to being transferred into the facility, which is reflected on a Risk Classification Assessment (RCA) screening form. The RCA screening takes into consideration whether the detainee has a mental, physical, or developmental disability, the age of the detainee, whether the detainee has been previously incarcerated or detained, the nature of the detainee's criminal history, whether the detainee has self-identified as LGBTI or gender nonconforming, whether the detainee has self-identified as having previously experienced sexual victimization, and the detainee's own concerns about his or her physical safety. Per interviews with ICE DOs, no detainees are brought into the facility from the street for processing. All detainees arrive at HROHR with background information compiled before arrival which is incorporated into the intake screening process and questions once on site using the RCA. Additional questions are asked to ensure compliance with the standards which include whether the detainee has any convictions for sex offenses against an adult or child, the detainee's own concerns about his or her physical safety and any previous sexual victimization. All information is recorded in the RCA admission paperwork. Five random admission files and documents were reviewed by the Auditor on site, confirming compliance concerns about his or her physical safety and any previous sexual victimization. All information is recorded in the admission paperwork. Five random intake admission files were reviewed by the Auditor confirming compliance.

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

(d): Per ICE Policy 11087.1, "For detainees identified as being at high risk for victimization, the FOD shall provide heightened protection, including continuous direct sight and sound supervision, single-housing, or placement in a hold room actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is feasible." Interviews with ICE DOs confirmed HROHR staff ask new detainees about any prior sexual abuse victimization, violent offense histories, and detainee histories of institutional violence or abuse per the policy. If there are any affirmative identification of a detainee being a sexual abuse victim or abuser, they are placed in a holding room by themselves. Due to the short term stay of detainees, holding rooms at the HROHR are generally only occupied by one detainee at a time unless a group is brought in together. If a single holding room would not be available, the information obtained from the PREA risk screening would determine which occupied holding room the detainee would be placed to ensure the safest environment for the detainee. Detainees are also asked how they identify their sexual orientation which is recorded on the admission documents and RCA. Any detainees who identify in the LGBTI community will be housed in a hold room alone to ensure their safety. Regular 15 minutes checks are conducted and recorded in the log.

(e): ICE Policy 11087.1, requires "all holding facilities to place strict controls on the dissemination of sensitive information detainees provided during the screening procedures." Interviews with ICE DOs, and the PSA Compliance Manager, confirmed the policy and the facility's practice of strict confidentiality on a "need to know basis" is adhered to which is in alignment with the standard provisions.

§115.151 - Detainee reporting.
Outcome: Does not Meet Standard (requires corrective action)
Notes:

(a)(b)(c): The HROHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part that; "The FOD shall ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse, retaliation for reporting sexual abuse, or violations of responsibilities that may have contributed to such incidents to ERO personnel" and "the FOD shall also implement procedures for ERO personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports." Policy 11087.1 further states, "The FOD shall ensure that detainees are provided with instructions on how they can contact the DHS/Office of the Inspector General (OIG) or as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse to agency officials. Also, to confidentially, and if desired, anonymously, report these incidents." Detainees are assessed prior to arriving at the facility while in the county jail, to ensure all information and materials will be available in the detainee's native language. In an email received from a SDDO at HROHR it was confirmed, post on-site visit, that the facility provides the detainee with information in their preferred language either by a hard copy of the ICE National Detainee Handbook, or DHS-prescribed Sexual Abuse and Assault Information pamphlet in English or Spanish, by PDF printout of both in one of ICE's most prevalent languages, or by use of ERO Language Services.

The policy review and random staff interviews confirmed that there are multiple methods in which detainees can report an allegation of sexual abuse. All interviewed ICE DOs, interviews confirmed their understanding to immediately report any allegation of sexual abuse reported by a detainee in writing or verbally while in their custody. Hold rooms contain DHS PREA Zero Tolerance posters with information in English and Spanish in which detainees can report to any HROHR staff member either verbally, or in writing, the DHS OIG or Consulate via telephone; or by telephone to one of three local crisis centers: Friendship of Women Inc., Family Crisis Center, Inc., or Women Together/Mujeres Unidas. As confirmed during DO interviews, all reported allegations would immediately be documented and forwarded to the SDDO on duty.

The Auditor's telephone call to all three crisis reporting lines confirmed that the detainee, their family, or friends may report anonymously through the website or via telephone. Detainees can use their Non-Citizen Number to place a call or for anonymous calls to Crisis, DRIL, JIC, or OIG they may use a designated pin.

Does Not Meet (b): The facility is not in compliance with subpart (b) of the standard. The Auditor attempted to contact Crisis, DRIL, JIC, and the OIG via the facility phone system and confirmed that the detainee is required to use a designated pin to complete any of the attempted phone calls. To become compliant, the facility must provide a means for the detainee to make a phone call to a public or private entity or office that is not part of the agency call and to remain anonymous upon request.

Recommendation (a): The Auditor recommends that the facility provide information on how to report to one of three local crisis centers: Friendship of Women Inc., Family Crisis Center, Inc., or Women Together/Mujeres Unidas. in languages other than English and Spanish, and in a way for the physically and developmentally disabled detainee to understand.

§115.154 - Third-party reporting.
Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
Notes:

The HROHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part that; "The FOD shall also implement procedures for ERO personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports." Through direct observation of holding room ICE Zero Tolerance posters, ICE DO staff interviews, and by directly visiting the provided websites, it was confirmed that HROHR has established methods to receive third party reports of sexual abuse. Third parties may report via telephone, or email, using the information located on the website at https://www.ice.gov/contact and http://www.ice.gov/PREA

§115.161 - Staff reporting duties.
Outcome: Does not Meet Standard (requires corrective action)
Notes:

(a)(b)(c): The HROHR provided a written directive, Policy 11062.2, section 5.3, which addresses the requirements of the standard and states in part that; "All ICE employees shall immediately report to a supervisor or a designated official any knowledge, suspicion, or information regarding an incident of sexual abuse of an individual in ICE custody, retaliation against detainees or staff who reported or participated in an investigation about such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation." "The supervisor, or designated official, shall report the allegation to the FOD or [Special Agent in Charge] SAC, as appropriate. Apart from such reporting, ICE employees shall not reveal any information related to a sexual abuse allegation to anyone other than the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff, or to make medical treatment, investigation, law enforcement, or other security and management decisions." The Agency has also provided a memorandum entitled "Employee Obligation to Report Corruption and Misconduct," dated November 8, 2021, by Acting Deputy Director (b) (6), (b) (7)(C). This memo reiterates the types of misconduct allegations that employees must report to the JIC, OPR, or the DHS OIG and those types of allegations that should be referred to local management. "Employees

should report allegations of substantive misconduct or serious mismanagement to the JIC, OPR, or DHS OIG." Listed in this memo as a substantive misconduct is "Physical or sexual abuse of a detainee or anyone else."

A review of policy, training curriculums, and staff interviews with the SDDO and ICE DOs confirm that the Agency requires all staff to immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse, any retaliation against detainees or staff who reported or participated in an investigation about such an incident that may have occurred to a detainee, and not to disclose any related information to anyone other than to the extent necessary. Further, the interviews confirmed that staff are aware they may report any misconduct outside of their chain of command by calling or writing the JIC, the DHS OIG, or the third-party methods for reporting located on the ICE website.

(d): Policy 11062.2, states in part; "If alleged victim under the age of 18 or determined, after consultation with the relevant [Office of the Principal Legal Advisor] OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section."

The HROHR does not hold juvenile detainees. Interviews with ICE DOs indicated that all reported allegations involving a vulnerable adult would immediately be reported to the SDDO on duty who would in turn immediately report the allegation to the OIG; however, they did not confirm that they would coordinate the OPLA OCC or report the incident to any local authority having oversight as necessary under applicable mandatory reporting laws, as required by policy 11062.2. Interviews with ICE DOs further confirmed the facility did not house juveniles.

Does Not Meet (d): The facility is not in compliance with subsection (d) of the standard. Interviews with ICE DOs indicated that all reported allegations involving a vulnerable adult would be immediately be reported to the SDDO on duty who would in turn immediately report the allegation to the OIG; however, they did not confirm that they would coordinate the OPLA OCC or report the incident to any local authority having oversight as necessary under applicable mandatory reporting laws, as required by policy 11062.2. To become compliant, the facility must train all applicable staff on the requirements of policy 11062.2 which state they implement a practice that "If alleged victim under the age of 18 or determined, after consultation with the relevant OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section" and document said training. In addition, the facility must provide the Auditor, if applicable, all allegations of sexual abuse investigative files involving a vulnerable adult that occur during the CAP period.

§115.162 – Agency protection duties.
Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
Notes:

The HROHR provided a written directive, Policy 11062.2, that addresses the requirements of the standard and states in part that; "If an ICE employee 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." Interviews with ICE DOs confirmed their knowledge and understanding of the requirement to report, separate the detainee from the threat, and place them under direct supervision.

§115.163 - Reporting to other confinement facilities.
Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
Notes:

(a)(b)(c)(d): The HROHR provided a written directive, Policy 11062.2, which addresses the requirements of the standard and states in part; "If the alleged assault occurred at a different facility from the one where it was reported, ensure that the administrator at the facility where the assault is alleged to have occurred is notified as soon as possible, but no later than 72 hours after receiving the allegation and document such notification."

The interview with the PSA Compliance Manager, confirmed the awareness of the requirement to notify the appropriate office of the Agency or the administrator of the facility where the alleged abuse occurred within the 72-hour requirement.

The PSA Compliance Manager confirmed during her interview that all notifications regarding an allegation of sexual abuse are noted in the case record of the detainee. The interview with the PSA Compliance Manager confirmed that HROHR, upon receiving an allegation that a detainee was sexually abused while confined at another facility, would notify the facility in which the abuse occurred. The PSA Compliance Manager further confirmed that upon receiving notification that the abuse occurred while the detainee was housed at HROHR the facility would ensure that they would immediately report the incident to ICE OPR for investigation. A review of a memorandum dated April 5, 2022, from the AFOD, and an interview with the PSA Compliance Manager, confirmed there have been no notifications to the HROHR from other facilities, or made from HROHR to another facility, during the audit period. There were no allegations of sexual abuse reported during the extended audit period.

§115.164 - Responder duties.
Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
Notes:

(a): The HROHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part that; "The FOD shall ensure that upon learning of an allegation that a detainee was sexually abused, the first responder, or his or her supervisor shall; separate the alleged victim and abuser, preserve and protect to the greatest extent possible any crime scene until appropriate steps can be taken to collect any evidence, and if the sexual abuse occurred within a time period that still allows for the collection of physical evidence, requests the alleged victim not to take any actions that could destroy physical evidence. These actions would include washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. If the sexual abuse occurred within a time that still allows for the collection of physical evidence, ERO staff would ensure that the alleged abuser does not to take any actions that could destroy physical evidence, including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating." It was confirmed through interviews with ICE DOs, that they are aware of, and knowledgeable regarding their responsibilities to respond when learning of an allegation of sexual abuse toward a detainee. ICE DOs were able to explain the steps necessary as a first responder to ensure the safety of a detainee after an allegation of sexual abuse. Review of training records confirmed all staff have received the required training informing them of their first responder duties and their responsibility to ensure detainees do not destroy any physical evidence.

(b): Policy 11087.1 states, "If the first responder is not a security staff member, the responder shall request the alleged victim not to take any actions that could destroy physical evidence, and then notify security staff." HROHR does not have any non-security contractors or volunteers that have contact with any detainees.

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

(a): The HROHR provided a written directive, Policy 11087.1, which addresses the requirements of the standard and states in part that; "The FOD shall ensure a coordinated, multidisciplinary team approach to responding to allegations of sexual abuse occurring in holding facilities or in the course of transit to or from holding facilities, as well as to allegations made by a detainee at a holding facility of sexual abuse that occurred elsewhere in ICE custody."

It was confirmed through interviews with the PSA Compliance Manager and ICE DOs that they are aware of their responsibilities to respond in conjunction with the facility coordinated response to sexual abuse toward a detainee. When conducting the interviews with the PSA Compliance Manager, and ICE DOs, they indicated that they would separate the victim from the abuser, preserve the scene, contact medical personnel at Valley Baptist Hospital, secure the area, and notify a supervisor and the HPD. There were zero allegations of sexual abuse reported at HROHR during the extended audit period.

(b)(c): Policy 11087.1, requires "If a victim is transferred from a holding facility to a detention facility or to a non-ICE facility, the FOD shall inform the receiving facility of the indecent and the victim's potential need for medical or mental health care of victim services." The PSA Compliance Manager indicated during interviews that if a detainee being transferred was a victim of sexual abuse, HROHR staff would provide the receiving facility any information regarding the sexual abuse allegation, including the victim's need for any medical or social services follow-up, however her interview could not confirm that should the detainee be transferred to a facility not covered by paragraph (b) of the standard that the facility will take into consideration the detainee's request not to have his/her potential need for medical or social services shared with the receiving facility.

The SDDO confirmed that there have been no allegations of sexual abuse during the audit period; therefore, there has not been a detainee victim of sexual abuse transferred to any other facility.

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

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

The HROHR provided a written directive, Policy 11062.2, which addresses the requirements of the standard and states in part that "The FOD shall ensure that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring detainee contact pending the outcome of an investigation."

The interview with the PSA Compliance Manager confirmed staff would be removed from any duties in which detainee contact was involved pending the outcome of an investigation in conjunction with the written directive. There were no allegations of sexual abuse reported during the extended audit period.

§115.167 - Agency protection against retaliation.

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

Notes:

The HROHR provided a written directive, Policy 11062.2, which states in part that; "ICE employees shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse or for participating in sexual activity as a result of force, coercion, threats, or fear of force."

The interview with the PSA Compliance Manager confirmed that any person, including a detainee, would be protected from retaliation when a party to an allegation of sexual abuse of a detainee as outlined in the policy. The PSA Compliance Manager further confirmed during interviews that there have not been any allegations of retaliation during the audit period. There were no allegations of sexual abuse reported at HROHR during the extended audit period; and therefore, no retaliation to monitor.

§115.171 - Criminal and administrative investigations.

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

Notes:

(a): The HROHR provided written directive, Policy 11062.2, which addresses the requirements of the standard. The policy states in part that; "The FOD shall ensure that the facility complies with the investigation mandates established by PBNDS 2011, Standard 2.11, as well as other relevant detention standards and contractual requirements including by conducting a prompt, thorough, and objective investigation by qualified investigators."

The interview with the PSA Compliance Manager confirmed that all administrative investigations are referred to ICE OPR and potentially further referred to ICE ERO for action. All detainee-on-detainee sexual assault allegations and ICE employee allegations of detainee sexual abuse is referred to the HPD when criminal in nature. An interview with the PSA Compliance Manager confirmed that the procedures in policy 11062.2 would be adhered to, including referring contract employees to the HPD should the facility employ them in the future.

(b)(c)(d): In accordance with policy 11062.2, "the FOD shall ensure that the facility complies with the investigation mandates established by the Performance-Based National Detention Standards (PBNDS) 2011, Standard 2.11, as well as other relevant detention standards." PBNDS 2011 states in part that; "Upon conclusion of a criminal investigation where the allegation was substantiated, or in instances where no criminal investigation has been completed, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Substantiated allegation means an allegation that was investigated and determined to have occurred. Unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether the event occurred. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. The ICE Office of Professional Responsibility will typically be the appropriate investigative office within DHS, as well as the DHS OIG in cases where the DHS OIG is investigating." PBNDS 2011, Standard 2.11 further states, "The facility shall develop written procedures for administrative investigations, including provisions requiring; preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data, interviewing alleged victims, suspected perpetrators, and witnesses, reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator, assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph, an effort to determine whether actions or failures to act at the facility contributed to the abuse, documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings, and retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years" and "such procedures shall govern the coordination and sequencing of administrative and criminal investigations, in accordance with the first paragraph of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation." There were no allegations or investigations to review during the audit period as confirmed during the interview with the PSA Compliance Manager.

(e) Policy 11062.2 dictates that "The facility fully cooperates with any outside agency investigating and endeavor to remain informed about the progress of the investigation." The interview with the PSA Compliance Manager confirmed that the facility would fully cooperate with any outside agency as required by this policy. There were no allegations of sexual abuse reported to the HPD during the extended audit period.

§115.172 - Evidentiary standard for administrative investigations.

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

Notes:

The HROHR provided a written directive, Policy 11062.2, section 5.9, which states in part that; "the OPR shall conduct either an OPR review or investigation, in accordance with OPR policies and procedures. Administrative investigations impose no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse and may not be terminated solely due to the departure of the alleged abuser or victim from employment or control of ICE." The interview with the PSA Compliance Manager confirmed that in her role as facility investigator she is not responsible for conducting sexual abuse investigations; however, she does gather any preliminary administrative incident reports prior to any investigations being conducted by ICE OPR or the HPD. Since there were no allegations of sexual abuse reported at HROHR during the extended audit period, there was no investigations to review to determine compliance; therefore, compliance is determined based on agency policy.

§115.176 - Disciplinary sanctions for staff.

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

Notes:

(a)(c)(d): The HROHR provided a written directive, Policy 11062.2, section 5.9, which addresses the requirements of the standard and states in part; "Upon receiving a notification from a FOD, or Special Agent in Charge (SAC), of the removal or resignation in lieu of removal of staff violating agency or facility sexual abuse and assault policies, the OPR will report that information to the appropriate law enforcement agencies unless the activity was clearly not criminal and make reasonable efforts to report that information to any relevant licensing bodies, to the extent known."

The interview with the PSA Compliance Manager confirmed the disciplinary outcome of removal from service for violations of the sexual abuse policies and making attempts to inform all licensing agencies because of substantiated allegations. There were no allegations of sexual abuse reported at HROHR during the extended audit period.

§115.177 - Corrective action for contractors and volunteers.

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

Notes:

(a)(b) The HROHR provided a written directive, Policy 11062.2, which addresses the requirements of the standard and states in part; "The FOD shall ensure that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring contact with detainees pending the outcome of an investigation."

The PSA Compliance Manager confirmed during her interview that any volunteer or contractor who may have violated other provisions within the standards would be removed from all duties requiring contact with detainees pending the outcome of an investigation. The PSA Compliance Manager further confirmed that all allegations of sexual abuse would be immediately reported to the SDDO on duty and further reported to the HPD and the JIC for further review and investigation. In addition, the PSA Compliance Manager confirmed during her interview that there been no volunteers or contractors in the facility who may have continuing contact with detainees during the audit period.

§115.182 - Access to emergency medical services.

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

Notes:

(a)(b): The HROHR provided a written directive, Policy 11087.1, section 4.11, which addresses the requirements of the standard and states in part; "The FOD shall ensure that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. The FOD shall coordinate with ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available, any community resources and services that provide expertise and support in the areas of crisis intervention and counseling to address the victims' needs." Further, Policy 11087.1 provides that "victims of sexual abuse shall be provided emergency medical and mental health services and any ongoing care necessary. All treatment services, both emergency and ongoing, shall be provided to the victim without financial cost regardless of whether the victim names the abuse or cooperates with any investigation arising out of the incident."

The interview with the PSA Compliance Manager confirmed that a detainee alleging sexual abuse and in need of emergency care would be taken to the Valley Baptist Hospital, which provides a full range of inpatient, outpatient, and diagnostic service to the Harlingen area at no cost to the detainee victim. The PSA Compliance Manager further confirmed that the Valley Baptist Hospital would provide victim advocacy services from one of the local advocacy centers or the Valley Baptist's Child to Adult Abuse Response Team to the detainee victim. Per an email dated May 24, 2022, between the PSA Compliance Manager and the Valley Baptist Hospital Clinical Coordinator, advocacy services will be provided to any detainee victim requesting such services either during a hospital visit or while at HROHR. There were no allegations of sexual abuse reported at HROHR during the extended audit period.

§115.186 – Sexual abuse incident reviews.
Outcome: Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
Notes:

(a): The HROHR has provided a written directive, Policy 11087.1, section 4.11, which addresses the requirements of the standard and states in part; "A sexual abuse and assault incident review shall be conducted at the conclusion of every investigation of sexual abuse or assault occurring at a holding facility and unless the allegation was determined to be unfounded, a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse and assault. Such review shall ordinarily occur within 30 days of the EROs receipt of the investigation results from the investigating authority. The FOD shall implement the recommendations for improvement, or shall document its reasons for not doing so, in written justification. Both the report and justification shall be forwarded to the Agency PSA Coordinator."

During the interview with the PSA Compliance Manager, it was confirmed that the incident review report and recommendations, if any, would be conducted and documented. The report and/or recommendations would subsequently be sent to the AFOD for implementation, improvement, or written justification for not implementing the recommendations. In addition, the PSA Compliance Manager confirmed both the report and response is forwarded to the Agency PSA Coordinator. There were no allegations of sexual abuse reported at HROHR during the extended audit period.

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

(a) The HROHR has provided a written directive, Policy 11062.2, section 5.12, which states in part that; "data collected pursuant to this Directive shall be securely retained in accordance with agency record retention policies and the agency protocol regarding investigation of allegations, (see PBNDS 2011 Standard 2.11).
All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise. Investigative files would be retained at the OPR Headquarters in the Agency's online case management system (JICMS)."

There have not been any incidents or allegations of sexual abuse at the HROHR during the extended audit period. The PSA Compliance Manager confirmed during interviews that the information would be maintained according to the written directive provided.

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

The PREA Audit at the HROHR was the second audit for this facility. After a careful review, it was determined that the facility is not in compliance with five of the standards, and therefore not in compliance with the DHS PREA Standards. Based upon the Auditor's interviews with the PSA Compliance Manager, the SDDO, and ICE DOs, the facility tour, the fact that even though the HROHR only holds detainees up to 12 hours, and there have not been any allegations of sexual abuse between during the extended audit period, the Auditor must take into consideration the areas of non-compliance which include both policy and procedural issues. Therefore, the Auditor has determined that the facility is not low risk.

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

(d)(i): The facility meets the standard provisions. The Auditor was given access to and observed all areas of the facility. The Auditor was permitted to conduct private interviews with detainees, however, both detainees present during the onsite audit refused to be interviewed. Therefore, no interviews were conducted with detainees during the audit.

(e): The Auditor was provided with all relevant documents required to conduct a thorough PREA compliance audit of the HROHR.

(j): Audit notices were posted in each holding unit and individual holding room giving the detainees an opportunity to confidentiality correspond with the Auditor should they desire. The Auditor did not receive any correspondence from a detainee at the HROHR.

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:	23
Number of standards not met:	5
Number of standards N/A:	2
Number of standard outcomes not selected (out of 31):	0
Facility Risk Level:	Not Low Risk

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

Marlean Ames 7/10/2022

Auditor's Signature & Date

(b) (6), (b) (7)(C) 7/25/2022

Program Manager's Signature & Date

(b) (6), (b) (7)(C) 7/13/2022

Assistant Program Manager's Signature & Date