

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



# Homeland Security

## AUDITOR INFORMATION

<b>Name of Auditor:</b>	Alberto Caton	<b>Organization:</b>	Creative Corrections
<b>Email:</b> (b) (6), (b) (7)(C)		<b>Telephone number:</b>	916-717- (b) (6), (b) (7)(C)

## AGENCY INFORMATION

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

<b>Name of Field Office:</b>	San Diego Field Office
<b>Field Office Director:</b>	Gregory J. Archambeault
<b>ERO PREA Field Coordinator:</b>	SDDO (b) (6), (b) (7)(C)
<b>Field Office HQ physical address:</b>	880 Front Street, Suite 3300, San Diego, CA 92101
<b>Mailing address: (if different from above)</b>	

## INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility			
Name of facility:		Imperial Regional Detention Facility	
Physical address:		1572 Gateway Dr., Calexico, CA 92231	
Mailing address: (if different from above)			
Telephone number:		(760) 618-7200	
Facility type:		DIGSA	
Facility Leadership			
Name of Official/Officer in Charge:		(b) (6), (b) (7)(C)	Title: Warden
Email address:		(b) (6), (b) (7)(C)	Telephone number: (760) 618-(b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:		(b) (6), (b) (7)(C)	Title: PSA Compliance Manager
Email address:		(b) (6), (b) (7)(C)	Telephone number: (760) 618-(b) (7)(C)

## AUDIT FINDINGS

### NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS:

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

From June 26 - 28, 2018, Alberto Caton, Certified Prison Rape Elimination Act (PREA) AUDITOR, representing Creative Corrections, LLC of Beaumont, TX conducted the first PREA audit of the Imperial Regional Detention Facility (IRDF), located at 1572 Gateway Dr. Calexico, CA. This audit was conducted to determine the facility's level of compliance with the Department of Homeland Security (DHS) standards to prevent, detect, and respond to sexual abuse and assault in confinement facilities. The audit period under review extends from June 26, 2017 to June 25, 2018.

IRDF is a private facility operated by Management Training Corporation (MTC) pursuant to a Dedicated Intergovernmental Service Agreement with Immigration & Customs Enforcement (ICE). MTC is headquartered in Centerville, Utah and its corrections programs include preparing detainees for successful reintegration into society. The facility is secured by dual perimeter fences with no armed perimeter coverage; there are two buildings inside the secure perimeter and the warehouse is outside at the southeast corner of the complex. From the parking lot at the south end of the complex, a sally port gives access to the front entrance and security processing area that leads to the Administration and Support Building. This building includes the central control, intake processing, medical offices, detainee visiting and administrative offices. Connected to the north end of the Administration and Support Building is the Housing Support Building. This building has a center corridor that runs the length of the building from front to back or south to north. There are three pairs of housing units on either side of the center corridor that run perpendicular to the corridor. Each housing unit has its own recreation yard at the back, or opposite end from the corridor. At the north end of the Housing Support Building is the facility's main recreation yard.

The facility operates with a total of 240 employees, including ICE employees. There are 178 contract security staff members (136 male and 42 female) who work 3 8-hour shifts. There are 33 contract medical employees and an x-ray technician. Contract employees also perform other functions, such as administrative, grievance supervisor, food service, etc. Volunteers perform functions such as clergy and community resources. The facility has 3 buildings and its design capacity is 781. There is a total of 12 housing units, 3 multiple occupancy cell housing units and 9 open bay dorm housing units. There are 32 segregated housing cells and 14 medical/infirmar beds; and there is not a separate mental health facility. The facility only houses adult male and female ICE detainees classified as low, medium or high security. In the past 12 months, the facility booked a total of 4,506 ICE detainees and its average detainee population for that period is 665. The average time detainees spend in custody is 76 days. (b) (7)(E)

The cameras operate 24 hours a day, 7 days a week and have the capability to pan, tilt and zoom, but they do not record sound. The video monitoring system was in place when the facility opened in June 2014; detention officers monitor the cameras from central control and up to 45 days of recording is stored onsite on a digital video recorder. In the previous 12 months, there were 2 allegations of sexual abuse at the facility; 1 against a detainee and 1 against a staff member. Both allegations were investigated; the allegation against the detainee was unsubstantiated and the allegation against the staff member was unfounded.

### PRE-ONSITE PHASE

On June 13, 2018, External Reviews and Analysis Unit Team Lead (b) (6), (b) (7)(C) produced the Pre-Audit Questionnaire (PAQ) and supporting pre-audit documents to the AUDITOR via the SharePoint site. In addition to the PAQ, the document production included the facility's organization chart, code occupancy groups reflecting fire/alarm/wiring/sequence of operations, etc., fire alarm layout reflecting the various building floor plans, facility site plan, Fiscal Year 2017 Annual PREA Report, a spreadsheet listing the facility's PREA allegations for the audit period, and relevant facility policies for each standard under review. With the documents produced, the AUDITOR began review of the PAQ and completion of the Pre-Audit section of the PREA Audit Tool. On June 15, 2018, (b) (6), (b) (7)(C) provided an agenda for the onsite audit; on June 18, 2018, the AUDITOR submitted a detailed schedule of activities for the onsite audit. After completing the PREA Audit Tool, the AUDITOR did not have any substantive questions relative to the documents produced as they appear to address substantially all standards under review.

The AUDITOR previously visited the ICE Enforcement and Removal Operations website at <https://www.ice.gov/contact/detention-information-line> and verified that there is a link to the ICE Detention Reporting and Information Line (DRIL) flyer; the flyer provides a toll-free number and information for stakeholders who wish to report sexual abuse of detainees in ICE custody. The AUDITOR called the number, spoke with a representative who verified that detainees and third parties can report a case of sexual abuse of detainees in ICE custody by calling that number.

### ONSITE PHASE

#### Entry Briefing

On June 26, 2018, the AUDITOR arrived at the facility and was greeted by (b) (6), (b) (7)(C) Warden John Rathman, Deputy Warden (b) (6), (b) (7)(C) and Prevention of Sexual Assault (PSA) Compliance Manager (b) (6), (b) (7)(C). The group proceeded to a reserved conference room where the AUDITOR was able to setup. Per the AUDITOR's request, (b) (6), (b) (7)(C) provided an alphabetical roster of detainees at the facility and reported that the detainee count was 695, 628 men and 67 women. The AUDITOR provided a form for (b) (6), (b) (7)(C) to list detainees who meet the following seven targeted categories:

- Disabilities (hearing, vision, speech, learning, developmental disability, or mental health)
- Limited English proficient (LEP)
- Identified as transgender or intersex
- Filed a grievance related to sexual abuse
- In segregated housing (risk of sexual victimization or alleged sexual abuse)
- Reported sexual abuse
- Disclosed sexual victimization history

The group moved to a classroom for the entry briefing; in addition to Ms. Montenegro, the Warden, Deputy Warden and PSA Compliance Manager, present were the following representatives of ICE and the facility's leadership:

- (b) (6), (b) (7)(C) Supervisory Detention and Deportation Officer (SDDO)
- (b) (6), (b) (7)(C) SDDO
- (b) (6), (b) (7)(C) Classification Supervisor
- (b) (6), (b) (7)(C) Compliance Coordinator
- (b) (6), (b) (7)(C) Facilities Supervisor

- (b) (6), (b) (7)(C) Health Services Administrator (HSA)
- (b) (6), (b) (7)(C) Chief of Security
- (b) (6), (b) (7)(C) Chaplain
- (b) (6), (b) (7)(C) Risk Manager
- (b) (6), (b) (7)(C) Food Service Manager

(b) (6), (b) (7)(C) opened the meeting with a few words; those present were asked to introduce themselves and state their titles. (b) (6), (b) (7)(C) turned it over to the AUDITOR for the briefing. The AUDITOR introduced himself, provided background information, explained the scope of the audit, audit activities and expectations before turning it back to (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) concluded the briefing and dismissed the attendees. The group returned to the conference room and agreed to start the site inspection.

### Site Inspection

The AUDITOR verified that facility staff received the schedule of activities and requested to start the site inspection. In addition to the AUDITOR and (b) (6), (b) (7)(C) participated in the site inspection. The site inspection started with central control where posted security staff demonstrated the facility's video monitoring capability; the monitoring screen shows up to nine camera feeds at the same time. The AUDITOR requested to start with the vehicle sally port and detainee intake processing. (b) (6), (b) (7)(C); this is where detainees are unloaded from transportation vehicles. The group re-entered the building into the intake processing room. Staff explained how detainee searches are conducted in a hallway just inside from the sally port. There are pictures on the wall demonstrating the position detainees are expected to assume for pat-down searches; these pictures are used to instruct detainees with whom staff are unable to communicate verbally. Shortly after entering the intake processing area, a vehicle arrived with 15 detainees; the AUDITOR observed the pat-searching and interaction between staff and detainees. The searches were done very professionally, and staff provided instructions in English and Spanish. The AUDITOR was able to inspect one detainee file and to ask questions about the content. Since these detainees were on layover status they did not undergo the complete intake processing. The inspection of the intake area continued with the detainee shower area, where there are curtains that provide adequate privacy. There are five holding rooms, an x-ray room and the detainee file room. All detainee areas have a bulletin board with English and Spanish versions of the ICE zero-tolerance poster with instructions for reporting sexual abuse, the audit notice and instructions for reporting anonymously. All telephones include a sign telling the user that calls are recorded. The AUDITOR tested the phones and determined that they were operational and provided instructions for reporting a PREA incident in English and Spanish. The PREA education video is played continuously in English and Spanish in all holding rooms. There are gates that serve as privacy screens for every toilet and surveillance camera coverage does not include the toilets. The AUDITOR inspected the file storage area where detainee screening information is stored in a secured room in locked file cabinets. The AUDITOR inspected five files selected randomly and all included detainee assessment and re-assessment forms; (b) (6), (b) (7)(C) later provided a risk screening form completed in June 2017 to demonstrate that detainee risk screening has been in place throughout the audit period. (b) (7)(E) The AUDITOR asked impromptu questions of staff and spoke with the HSA about how the facility would respond to a case of sexual assault. The tour continued with the detainee visiting area, including non-contact visiting and private rooms for detainees to contact the consulate of their choice. The group then escorted the AUDITOR to the Housing Support Building where the tour included 10 of the 12 housing units (2 housing units were not toured due to ongoing quarantine status). In each housing unit toured, the AUDITOR identified video camera placements; potential blind spots; the bulletin board with the ICE zero-tolerance poster in English and in Spanish, the DHS Sexual Abuse and Assault Awareness pamphlet, the audit notice in English and in Spanish, and the facility's detainee information pamphlet with contact information for the local rape crisis center; the detainee telephone bank with instructions for reporting sexual abuse (the AUDITOR tested the phones in three housing units and verified that they are operational); availability of grievance forms; toured the showers (upstairs and downstairs); and toured the exercise yard. In the Housing Support Building, the AUDITOR toured the law library, the academic education classroom, the food service area, the barber shop, the laundry, and the main yard. In each of these areas, the AUDITOR identified video camera placements, potential blind spots (if any), and the information bulletin board. The AUDITOR asked impromptu questions of staff and detainees about detainee supervision and concern for sexual safety.

### Staff Interviews

The AUDITOR selected male and female officers from different housing units and from each of the three shifts, as well as supervisors from the day shift and the swing shift. On the first day of the audit, the AUDITOR interviewed the swing shift supervisor and two officers using the "Security Staff, Including Line Staff and First-Line Supervisors" interview guidelines. The AUDITOR introduced himself and provided the introductory script to each interviewee before proceeding with the interview. On the second day, the AUDITOR continued with interviews of two night shift officers, two day shift officers, a day shift supervisor, a volunteer and three designees. Each designee was interviewed using the respective interview guideline for that designee. On the third day, the AUDITOR completed two more designee interviews before proceeding with detainee interviews. The remaining four designee interviews were completed by phone on Monday, July 2, 2018.

### Detainee Interviews

On the third day, the AUDITOR interviewed 16 detainees, 8 in targeted detainee categories and 8 selected for random interviews. The AUDITOR interviewed detainees in targeted categories using the respective interview guidelines for each of those categories. The AUDITOR is fluent in Spanish and interviewed 12 detainees in Spanish; however, only 7 were interviewed as LEPs because 7 is enough. Two detainees required use of the telephone interpreter service and two were interviewed in English; the AUDITOR used the telephone interpreter services provided by Creative Corrections. The PSA Compliance Manager provided the list of detainees who met one or more of the 7 targeted categories listed above; however, only 3 categories were represented. Below are the categories represented and the number of interviews for each:

- With Disabilities 1
- Limited English Proficient (LEP) 7
- Disclosed Prior Sexual Victimization 3

The detainees with LEP originated from Guatemala, Honduras, El Salvador, India, and Russia. Some of the detainees were interviewed for two or three of the targeted categories. Before each interview, the AUDITOR introduced himself and provided the detainee interview script.

### Document Reviews

On the third day, to verify supervisory unannounced security inspections per Standard 115.13(d), the AUDITOR reviewed log books for the following housing units:

- Bravo Dec 2017 – Jan 2018
- Echo Oct 2017 – Nov 2017
- Golf Oct 2017 – Dec 2017
- Hotel Oct 2017 – Nov 2017

- Rest Housing Dec 2017 – Jan 2018

In each log book, the AUDITOR found numerous supervisory entries for unannounced security tours on all three shifts. The PSA Compliance Manager played five videos showing both sergeants and lieutenants inspecting housing units during daytime and nighttime.

The PSA Compliance Manager provided a binder with detainee PREA education records; the binder includes records of detainees' signatures acknowledging that they received PREA education directly from (b) (6), (b) (7)(C) in their assigned intake holding room.

The AUDITOR reviewed training files of 14 employees of various disciplines; every file included the form facility employees sign attesting that they received refresher PREA training during the audit period.

The AUDITOR reviewed personnel files of 14 employees of various disciplines; every file included documentation of a background clearance via the Electronic Questionnaires for Investigations Processing (e-QIP). Eight of the files included documentation reflecting that the employee was asked and responded to the three sexual misconduct questions specified in Standard 115.17(a).

#### **POST ONSITE PHASE**

After completing the onsite audit, the AUDITOR organized completed questionnaires for staff, contractor and detainee interviews, site inspection notes and documentation received during the onsite audit. The AUDITOR conducted telephone interviews with all remaining designees; namely, intake officer, grievance supervisor, Human Resources Manager and medical and mental health practitioners. The AUDITOR completed the Audit Narrative and Description of Facility Characteristics before moving-on to compliance determination for each standard. Upon completing the compliance determinations for the standards, the AUDITOR prepared the Summary of Overall Findings on the next page. For the compliance determination of standard provisions, AUDITOR used a template to ensure all relevant information is documented for each standard. The template provides the following information:

- POLICIES AND OTHER DOCUMENTS REVIEWED
- PEOPLE INTERVIEWED
- SITE INSPECTION OBSERVATIONS
- DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS
- RECOMMENDED CORRECTIVE ACTIONS

The AUDITOR completed a final review of the audit report and submitted it according to established protocol.

## **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.

From June 26 - 28, 2018, a Prison Rape Elimination Act audit of the Imperial Regional Detention Facility in Calexico, CA was conducted to determine the facility's compliance with Subpart A of the Department of Homeland Security (DHS) standards to prevent, detect and respond to sexual abuse and assault in confinement facilities. The audit reveals that the facility is substantially in compliance with the standards. Of the 41 standards listed in the DHS PREA Audit Tool, the facility exceeded 1, met 35, did not meet 4 and 1 did not apply. The facility exceeded or met 90% of the 40 standards that apply. Below is a summary of the standards exceeded, standards met, standards not met, and standards that did not apply.

### **\*\*\*\*STANDARDS EXCEEDED\*\*\*\***

#### **TRAINING AND EDUCATION**

- **115.33 – Detainee education**

### **\*\*\*\*STANDARDS MET\*\*\*\***

#### **PREVENTION PLANNING**

- **§115.11 – Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator**
- **§115.13 - Detainee supervision and monitoring**
- **§115.15 – Limits to cross-gender viewing and searches**
- **§115.16 – Accommodating detainees with disabilities and detainees who are limited English proficient**
- **§115.17 – Hiring and promotion decisions**
- **§115.18 – Upgrades to facilities and technologies**

#### **RESPONSIVE PLANNING**

- **§115.21 – Evidence protocols and forensic medical examinations**
- **§115.22 – Policies to ensure investigation of allegations and appropriate agency oversight**

#### **TRAINING AND EDUCATION**

- **§115.31 – Staff training**
- **§115.32 – Other training**
- **§115.34 – Specialized training: Investigations**
- **§115.35 – Specialized training: Medical and mental health care**

#### **ASSESSMENT FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

- **§115.41 – Assessment for risk of victimization and abusiveness**
- **§115.42 – Use of assessment information**
- **§115.43 – Protective custody**

#### **REPORTING**

- **§115.52 – Grievances**
- **§115.53 – Detainee access to outside confidential support services**
- **§115.54 – Third-party reporting**

#### **OFFICIAL RESPONSE FOLLOWING A DETEINEE REPORT**

- **§115.61 – Staff and agency reporting duties**
- **§115.62 – Protection duties**
- **§115.63 – Reporting to other confinement facilities**
- **§115.64 – Responder duties**
- **§115.66 – Protection of detainees from contact with alleged abusers**
- **§115.67 – Agency protection against retaliation**
- **§115.68 – Post-allegation protective custody**

#### **INVESTIGATIONS**

- **§115.72 – Evidentiary standard for administrative investigations**
- **§115.73 – Reporting to detainees**

#### **DISCIPLINE**

- **§115.76 – Disciplinary sanctions for staff**
- **§115.77 – Corrective action for contractors and volunteers**
- **§115.78 – Disciplinary sanctions for detainees**

#### **MEDICAL AND MENTAL HEALTH CARE**

- §115.81 - Medical and mental health screenings; history of sexual abuse
- §115.82 - Access to emergency medical and mental health services
- §115.83 - Ongoing medical and mental health care for sexual abuse victims and abusers

#### DATEA COLLECTION AND REVIEW

- §115.87 – Data collection
- §115.201 – Scope of Audits

#### \*\*\*\*STANDARDS NOT MET\*\*\*\*

- §115.51 – Detainee reporting
- §115.65 – Coordinated response
- §115.71 – Criminal and administrative investigations
- §115.86 – Sexual abuse incident reviews

#### \*\*\*\*STANDARDS NOT APPLICABLE\*\*\*\*

- §115.14 – Juvenile and family detainees

#### RECOMMENDATIONS AND CORRECTIVE ACTION PERIOD

The review of some standards includes an "AUDITOR RECOMMENDATION" at the end of the "DESCRIPTION OF KEY EVIDENCE RELIED UPON...;" these are just recommendations the AUDITOR believes could serve to reinforce the facility's institutionalization of practices that could lead towards a sustainable record of compliance with the standard. The facility may choose to adopt or not adopt the recommendation or may adopt a modified version of the recommendation.

The acceptance of this interim audit report by ERO triggers the start of the corrective action period which shall not exceed 180 days. The agency and the facility shall work together on the development of a corrective action plan that addresses all standards not met. The AUDITOR will take the necessary steps to verify implementation of all corrective measures. Within 21 days of approving the corrective action plan, the AUDITOR will issue a final audit report with a determination of the facility's compliance with regard to standards that required a corrective action.

SUMMARY OF AUDIT FINDINGS	
Number of standards exceeded:	1
Number of standards met:	35
Number of standards not met:	4
Number of standards N/A:	1

## PROVISIONS

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

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

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

#### Notes:

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- Performance Based National Detention Standards – IRDF Standard Operating Procedure – Sexual Assault, Abuse Prevention, Intervention (SOP)
- Facility Organizational Chart

##### PEOPLE INTERVIEWED

- PSA Compliance Manager

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

##### 115.11(c)

The standard provision requires a written policy that mandates zero-tolerance toward all forms of sexual abuse and outlines the agency's approach to preventing, detecting and responding to such conduct. The facility's SOP lists the zero-tolerance policy under Expected Practices. The policy specifies how the facility will respond to allegations of sexual abuse and consequences for those who violate the policy.

The SOP's description of the facility's response to allegations of sexual abuse and consequences for those who violate the policy supports a determination of compliance with the standard provision.

##### 115.11(d)

The standard provision requires each facility to employ or designate a PSA Compliance Manager who shall serve as the facility point of contact for the agency PSA Coordinator and who has sufficient time and authority to oversee facility efforts to comply with facility sexual abuse prevention and intervention policies and procedures. The PAQ identifies (b) (6), (b) (7)(C) as the PSA Compliance Manager and the position appears on the facility's organizational chart under the American Correctional Association Compliance Manager. The SOP does not specify the requirement to designate a PSA Compliance Manager or the minimum rank of the employee to be designated with this charge. (b) (6), (b) (7)(C) confirmed that he serves as the facility's PSA Compliance Manager, that he is the point of contact for the agency's PSA Coordinator and that he has sufficient time and authority to oversee facility's efforts to comply with established policies and procedures relative to PREA. (b) (6), (b) (7)(C) stated that PREA compliance is his only responsibility.

The organizational chart and the interview with (b) (6), (b) (7)(C) support a determination of compliance with the standard provision. Although not required by the standard provision, the facility should consider revising the SOP to require designation of a PSA Compliance Manager with sufficient time and authority to oversee facility efforts to comply with the facility's sexual abuse prevention and intervention policies and procedures, as well as the appropriate rank for this position.

##### RECOMMENDED CORRECTIVE ACTIONS

115.11(c) – No corrective action required

115.11(d) – No corrective action required

### §115.13 – Detainee supervision and monitoring.

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

#### Notes:

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Staff rosters
- Post orders
- 2017 Annual PREA Review
- Unit log books
- Video footage of supervisor inspections

##### PEOPLE INTERVIEWED

- Warden
- PSA Compliance Manager
- Sample of Security Staff, Including Line Staff and First-Line Supervisors

##### SITE INSPECTION OBSERVATIONS

- Site inspection notes



THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.13(a)

The standard provision requires each facility to ensure that it maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse. The PAQ reflects that there is sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring at the facility to protect detainees against sexual abuse. The facility provided rosters for staff, contractors and volunteers and post orders for detention officer, medical and restricted housing as well as detainee supervision and monitoring guidelines. The SOP guidelines specify that "Facility Layout" and "Video Monitoring" is considered when determining adequate levels of supervision. (b) (6), (b) (7)(C) stated that the facility maintains sufficient supervision of detainees to protect them from sexual abuse and that this is accomplished through security checks, video monitoring and the comprehensive supervision guidelines, which are reviewed annually and approved by the Warden. He added that the supervisor in charge of scheduling meets with the Warden to ensure the facility's staffing is in compliance with the staffing required by the existing contract. The Warden confirmed the use of video monitoring and comprehensive supervision guidelines to protect detainees against sexual abuse and pointed out that staff are trained on the SOPs, post orders and the 2016 Performance-Based National Detention Standards. During the site inspection, the AUDITOR noted that every housing unit was staffed with detention officers who supervise detainees assigned to that housing unit and (b) (7)(E)

The SOP, staff rosters, post orders, AUDITOR's observations during the site inspection, as well as the interviews with the PSA Compliance Manager and the Warden support a determination of compliance with the standard provision. During the tour of Intake processing, detainee visiting, the housing units, and specified detainee program areas, there was no evidence of insufficient supervision. Also, impromptu questions with detainees in housing units, the laundry and kitchen reflects that they are generally not concerned about insufficient supervision.

115.13(b)

The standard provision requires the facility to develop and document comprehensive detainee supervision guidelines to determine and meet the facility's detainee supervision needs and review those guidelines at least annually. The PAQ reflects that comprehensive detainee supervision guidelines have been developed and documented to determine and meet the facility's detainee supervision needs. The facility's supervision guidelines are documented in each post order provided; the facility provided its annual review of the guidelines for fiscal year 2017 and the inclusion in post orders is evidence of implementation. Both the Warden and the PSA Compliance Manager stated that the comprehensive supervision guidelines are updated annually.

The post orders with the comprehensive supervision guidelines, the 2017 annual review and the interviews with the PSA Compliance Manager and the Warden support a determination of compliance with the standard provision.

115.13(c)

The standard provision requires the facility to take into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of each facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody, when determining adequate levels of detainee supervision and determining the need for video monitoring. The supervision guidelines state that each element of the standard is considered in determining adequate levels of detainee supervision and list every element. The PAQ reflects that the facility employs 240 staff who may have contact with detainees; the facility operates three eight-hour shifts daily; MTC provides security services; there are 178 security staff, 136 male and 42 females. Characteristics of the facility reflect that the design capacity is 781; there are three buildings, no single cell housing, nine open bay dorms, three multiple occupancy cells, 32 segregation housing cells and 14 medical beds. The facility only houses male and female adults, no juveniles or families. Security levels are low, medium and high. The male population is significantly higher than the female population; there are no transgender or intersex detainees and the average stay at the facility is 76 days. (b) (6), (b) (7)(C) they monitor with 24/7 recording, have the capacity to pan, tilt and zoom and store 45 days of footage. The facility stores archival footage onsite on a digital video recorder. In the PAQ, the facility provided incident-based data relative to the allegations received during the last 12 months. The Warden stated that there are no judicial findings of inadequacy; the facility design included camera placements to satisfy PREA requirements; privacy screens were added to the toilets on the yard; detainees are screened and classified based upon information from ICE and are separated by security levels and safety needs. The PSA Compliance Manager stated that there are no judicial findings of inadequacy; the facility conducts a staff analysis and looks at adding cameras for better coverage and supervision of detainees; these factors are considered during incident reviews as well and the facility implements recommendations from the incident review with the Warden's approval.

The facility characteristics and composition of detainee population provided, the comprehensive supervision guidelines, the incident-based data, and the AUDITOR's observations during the site inspection, as well as the interviews with the PSA Compliance Manager and the Warden support a determination of compliance with the standard provision.

115.13(d)

The standard provision requires the facility to conduct frequent unannounced security inspections to identify and deter sexual abuse of detainees. Such inspections shall be implemented for night as well as day shifts. The facility shall prohibit staff from alerting others that these security inspections are occurring, unless such announcement is related to the legitimate operational functions of the facility. The PAQ reflect that frequent unannounced inspections are conducted on day and night shifts and that staff are prohibited from alerting others about these inspections. The facility provided post orders for dorm officer, medical security officer, and restrictive housing unit floor officer; each of these post orders require unannounced supervisory inspections on every shift; inspections must be documented in log books and alerting other staff when these tours are in progress is strictly prohibited. The review of five unit log books show supervisor documentation of unannounced inspections and the review of video footage show supervisors in the process of conducting these inspections. During the site inspection, detainees in three housing units confirmed that supervisors inspect their respective units. In random interviews, supervisors of the day and swing shifts reported that they conduct unannounced inspections randomly by showing-up without anyone being alerted and that they document these inspections in the unit log book.

The post orders, unit log books, video footage, detainee statements and supervisor interviews support a determination of compliance with the standard provision.



#### RECOMMENDED CORRECTIVE ACTIONS

115.13(a) – No corrective action required.

115.13(b) – No corrective action required.

115.13(c) – No corrective action required.

115.13(d) – No corrective action required.

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

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- PSA Compliance Manager Memorandum

##### PEOPLE INTERVIEWED

- Warden
- Sample of Security Staff, Including Line Staff and First-Line Supervisors

##### SITE INSPECTION OBSERVATIONS

- Site inspection observations

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

##### 115.14

The PAQ reflects that the facility does not house juveniles and the PSA Compliance Manager issued a memorandum reporting that the IRDF does not house juvenile or family detainees. During the site inspection, the AUDITOR did not see any evidence of juvenile detainee housing and the Warden stated that the facility does not house juveniles; therefore, the standard does not apply.

#### RECOMMENDED CORRECTIVE ACTIONS

115.14 – No corrective action required.

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

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- PSA Compliance Manager Memorandum

##### PEOPLE INTERVIEWED

- Sample of Security Staff, Including Line Staff and First-Line Supervisors
- Training Supervisor
- Sample of Medical Health Care Staff
- Random Sample of Detainees

##### SITE INSPECTION OBSERVATIONS

- Site inspection observations

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

##### 115.15(b)

The standard provision prohibits cross-gender pat-down searches of male detainees unless after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances. The PAQ reflects that such searches are not conducted unless the exceptions specified in the standard provision apply. The SOP specifies that male detainees will be pat searched by male officers, female detainees will be pat searched by female officers and transgender detainees will be allowed to choose the gender of the officer to conduct a pat search. The PSA Compliance Manager issued a memorandum reporting that the facility has not conducted any cross-gender or visual body cavity searches in the past year. The supervisors and detention officers reported that they have neither conducted nor witnessed a cross-gender pat-down search of a male detainee. During the processing of the 15 male detainees on layover status in intake processing, the AUDITOR did not witness any cross-gender searches.

The SOP, the memorandum from the PSA Compliance Manager, the interview of supervisors and officers and the AUDITOR's observations in intake processing, support a determination of compliance with the standard provision.

##### 115.15(c)

The standard provision prohibits cross-gender pat-down searches of female detainees unless in exigent circumstances. The PAQ reflects that such searches would be conducted only under exigent circumstances. The SOP specifies that male detainees will be pat searched by male officers, female detainees will be pat searched by female officers and transgender detainees will be allowed to choose the gender of the officer to conduct a pat search.

The PSA Compliance Manager issued a memorandum reporting that the facility has not conducted any cross-gender or visual body cavity searches in the past year. The supervisors and detention officers reported that they have neither conducted nor witnessed a cross-gender pat-down search of a female detainee.

The SOP, the memorandum from the PSA Compliance Manager, and the interview of supervisors and officers, support a determination of compliance with the standard provision.

115.15(d)

The standard provision requires all cross-gender pat-down searches to be documented. The PAQ reflects that all such searches are documented, and the SOP requires documentation of all cross-gender pat-down searches in the Record of Search Log, in an Incident Report and placing a copy in the detainee's detention file. Supervisors and officers at the facility reported that cross-gender pat-down searches are not done; however, should there be a situation in which one is required, it would be documented.

The SOP and statements from security staff at the facility support a determination of compliance with the standard provision.

115.15(e)

The standard provision prohibits cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners. The PAQ reflects that such searches are conducted only in exigent circumstances or if performed by a medical practitioner. The SOP states that staff would not routinely require detainees to remove their clothing and a strip search would be required only when there is reasonable suspicion that contraband may be concealed in the person's body and with supervisory approval. Male detainees will be strip searched by male officers and female detainees by female officers. Transgender detainees will be allowed to choose the gender of the officer to conduct the strip search and all such searches will be conducted in private and with medical personnel present whenever possible. The supervisors and officers reported that they have neither conducted nor witnessed any cross-gender strip or visual body cavity searches.

The SOP and interviews with security staff support a determination of compliance with the standard provision.

115.15(f)

The standard provision requires all strip and visual body cavity searches to be documented. The PAQ reflects that all such searches are documented, and the SOP requires documentation of the articulable facts supporting the conclusion that reasonable suspicion exists to justify the search. Facility staff report that there have not been any strip or body cavity searches during the review period; therefore, there is no documentation.

The SOP and staff's report of "no strip or visual body cavity searches" during the audit period, support a determination of compliance with the standard provision.

115.15(g)

The standard provision requires each facility to implement policies and procedures that enable detainees to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing. The PAQ reflects that the facility implemented policies and procedures that enable detainees to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement; and, that staff of the opposite gender are required to announce their presence when entering the areas in question. The SOP calls for detainees to be able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. The procedure further requires staff of opposite gender to announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing. During the site inspection, the AUDITOR viewed shower and toilet areas in intake processing, housing units and exercise yards; the facility provides shower curtains, gates or other privacy screens for the user and video monitoring does not capture these areas; also, announcements of staff of the opposite gender entering housing units were very consistent during the site inspection. During interviews, detainees did not express any concern with cross-gender staff viewing while performing bodily functions; one or two detainees were not happy about having to share these facilities with other detainees. Supervisors and officers reported that they announce their presence when entering areas where detainees of the opposite gender may be performing bodily functions.

The SOP, the AUDITOR's observations during the site inspection, as well as detainee and staff interviews support a determination of compliance with the standard provision.

115.15(h)

The standard provision requires the facility to permit detainees in Family Residential Facilities to shower, perform bodily functions, and change clothing without being viewed by staff, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. The PAQ reflects that the facility is not a Family Residential Facility and the standard provision, therefore, does not apply. During the onsite review, the AUDITOR did not see any evidence of families being housed at the facility.

The assertion in the PAQ and the AUDITOR's observations during the site inspection support a determination of not applicable.

115.15(i)

The standard provision prohibits the facility from searching or physically examining a detainee for the sole purpose of determining the detainee's genital characteristics. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a standard medical examination that all detainees must undergo as part of intake or other processing procedure conducted in private, by a medical practitioner. The PAQ reflects that such searches are not done at the facility and that the protocol specified in the standard provision is followed if the detainee's gender is unknown. The SOP specifically prohibits staff from searching or physically examining a detainee for the sole purpose of determining genital characteristics and includes the language of the standard provision verbatim as it relates to determining a detainee's gender as part of a broader medical examination. Security staff and supervisors reported that the facility would not

search or physically examine a detainee just to determine genital status. The facility did not identify any transgender or intersex detainees for interview.

The SOP and interviews with security staff support a determination of compliance with the standard provision.

115.15(j)

The standard provision requires the agency to train security staff in proper procedures for conducting pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex detainees. All pat-down searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and agency policy, including consideration of officer safety. The PAQ reflects that security staff are trained on the prescribed procedures and that searches are conducted accordingly. Training records provided include a 23-slide MTC PowerPoint presentation on Search Procedures on Detainees and an 18-slide Moss Group PowerPoint presentation titled "Guidance in Cross-Gender and Transgender Pat Searches." The MTC PowerPoint includes documentation dated August 17, 2014, that lists, among other items, eight instructional objectives, two of which include pat-down searches. Training records provided also include a March 2018 In-Service Training sign-in sheet for a class titled "Searches of Detainees" and a completed employee attestation form for that class. The sign-in sheet and the attestation form reflect that it was annual refresher training. The Training Supervisor and security staff interviewees reported that the prescribed training is provided; officers even explained how they conduct these searches in a professional and respectful manner.

The training records, Training Supervisor and security staff interviews support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.15(b) – No corrective action required.

115.15(c) – No corrective action required.

115.15(d) – No corrective action required.

115.15(e) – No corrective action required.

115.15(f) – No corrective action required.

115.15(g) – No corrective action required.

115.15(h) – No corrective action required.

115.15(i) – No corrective action required.

115.15(j) – No corrective action required.

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

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- PSA Compliance Manager memorandum
- Agreement with Language Line Services

PEOPLE INTERVIEWED

- Warden
- Sample of Security Staff, Including Line Staff and First-Line Supervisors
- Intake staff
- Detainees with Disabilities or Limited English Proficiency

SITE INSPECTION OBSERVATIONS

- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.16(a)

The standard provision requires the agency and each facility to take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency and facility shall ensure that any written materials related to sexual abuse are provided in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency or facility is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans with Disabilities Act, 28 CFR 35.164. The PAQ reflects that the prescribed steps are taken to ensure detainees with disabilities have equal opportunity to participate and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and that written materials are provided in formats to ensure effective communications with detainees. The SOP calls for the

facility to take appropriate steps to ensure detainees with disabilities listed in the standard provision have equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect and respond to sexual abuse. It requires effective communication with detainees who are deaf or hard of hearing, have intellectual, psychiatric, or speech disabilities, as well as detainees with limited reading skill, blindness or low vision. The procedure further lists examples of accommodation to be provided to detainees with these disabilities. During the site inspection, the AUDITOR noted that the zero-tolerance poster as well as other information is posted in large print. The Warden stated that the facility has a Telephone Typewriter or (TTY). A detainee with hearing impairment and limited English proficiency (LEP) stated that she was able to communicate with staff when she first arrived at the facility; she is hard of hearing, so the AUDITOR was able to communicate with her by speaking in a high tone.

The SOP, AUDITOR's observation during the site inspection and interviews with the Warden and the detainee support a determination of compliance with the standard provisions. The availability of the TTY for communicating with detainees who are hard of hearing is a significant accommodation.

#### 115.16(b)

The standard provision requires the agency and each facility to take steps to ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient, including steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. The PAQ reflects that such steps are taken. The PSA Compliance Manager issued documentation reporting that the local detainee handbook is available in English and Spanish and the National Detainee handbook is available in English, Spanish, Hindi, Arabic, Chinese, Creole, French, Portuguese and Vietnamese. The facility provided its contract with Language Line Services dated July 7, 2014. The agreement reflects that it is renewed annually. During the site inspection, the AUDITOR noted that most staff who have contact with detainees are fluent in Spanish. The Intake Officer reported that Spanish speaking detainees with LEP receive PREA information in Spanish when Mr. Lopez provides orientation in the holding tanks in intake processing; also, the video is played continuously in English and Spanish in every holding room and detainees receive the handbook in Spanish. Interviews with Spanish-speaking detainees indicate that they do not have problems communicating with staff; however, LEP detainees who speak other languages reported that a telephone interpreter was used when they arrived, but for the most part, they rely on other detainees who speak their language for understanding the written material in their housing units.

The handbooks in other languages, the contract with Language Line, the AUDITOR's observations during the site inspection and the interviews with staff and Spanish-speaking detainees support a determination of compliance. However, it appears LEP detainees who speak other languages may be missing out on verbal and written information, including verbal announcements alerting the presence of people of the opposite gender.

AUDITOR RECOMMENDATION: Staff who have contact with detainees, in particular security staff, should dedicate more time to providing necessary PREA-related information to these detainees using Language Line Services or "Interpretalk." Where the handbook is not available in the detainee's language, staff should relay PREA information in the handbook to these detainees using "Interpretalk," or through other means. The facility should consider other non-verbal methods for announcing the presence of people of the opposite gender in housing units; this is of particular importance given the nature of the detainee population served. A distinct buzzer, bell, or other noisemaking device may be substituted for a verbal announcement, so long as: (1) the buzzer emits a distinctive sound that is noticeably different from other common noisemakers; (2) detainees are adequately educated on the meaning of the buzzer sound and understand its purpose; and (3) the buzzer is not also used for other events at the facility. If used, such buzzers should be used in the identical manner as verbal announcements alerting when opposite gender staff enters a housing unit.

#### 115.16(c)

The standard provision requires the agency and facility to, in matters related to sexual abuse, provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and the agency determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse. The PAQ reflects that the prescribed services are provided in matters related to sexual abuse and that the prohibited interpreter services are not allowed. The facility provided its contract with Language Line Services dated July 7, 2014. The agreement reflects that it is renewed annually. Interviews with security staff indicate that they are aware of the limitations to using other detainees as interpreter in matters related to reporting sexual abuse; interviewees overwhelmingly deferred to using "Interpretalk" or contacting their supervisor or Mr. Lopez.

The contract with Language Line Services and the interviews with security staff support a determination of compliance with the standard provision.

#### RECOMMENDED CORRECTIVE ACTIONS

115.16(a) – No corrective action required.

115.16(b) – No corrective action required.

115.16(c) – No corrective action required.

### §115.17 – Hiring and promotion decisions.

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

#### Notes:

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- MTC Policy 201.3, Background Verification Disclosure
- MTC Policy 903E.02 Ensuring Safe Prisons
- 14 personnel files
- Personnel Security Unit records check

##### PEOPLE INTERVIEWED

- Administrative/Human Resources Staff

##### SITE INSPECTION OBSERVATIONS

FINAL October 20, 2017

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.17(a)

The standard provision forbids the agency or facility from hiring or promoting anyone who may have contact with detainees, or enlisting the services of any contractor or volunteer who may have contact with detainees, who has engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); who has been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or who has been civilly or administratively adjudicated to have engaged in such activity. The PAQ reflects that the agency or facility refrains from the hiring or promoting anyone or enlisting the services of any contractor or volunteer with the history of sexual misconduct specified in the standard provision. The facility provided Policy 201.3, Background Verification Disclosure, which forbids the company from hiring any person who may have inmate contact who has engaged in sexual abuse in a prison or institution, or who has been convicted of engaging or attempting to engage in sexual activity with any person by force, threat of force or coercion, or if the victim did not consent. The policy also forbids hiring any person who has been civilly adjudicated to have engaged in the aforementioned misconduct. The policy further prohibits hiring and/or promoting staff (who will have contact with inmates) who have engaged in sexual abuse or sexual harassment. The Human Resources (HR) representative stated that the facility would not hire anyone with the aforementioned history of sexual misconduct. During a training session on July 2, 2018, the Unit Chief - Personnel Security Unit (PSU) explained that all ICE and contract employees complete an e-QIP and must clear a background investigation. If the prospective employee does not clear the background investigation, he or she will not be hired to work for ICE; if it is a contract employee, his office informs the contractor that the employee cannot perform work on behalf of ICE. The Unit Chief pointed out that the sexual misconduct questions are asked in the e-QIP.

The policy, the interview with the HR Representative and the explanation provided by the Unit Chief support a determination of compliance with the standard provision. The policy, however, could be rewritten to more accurately match the wording of the standard provision. It specifies that contractors who will have contact with inmates require a background check; however, it does not specifically forbid enlisting their services if they have engaged in sexual misconduct. The Warden provided Page 8 of MTC's Policy titled "Ensuring Safe Prisons;" however, as indicated above, Item 7. c) of this policy requires a background check and quinquennial re-checks for contractors but does not specifically forbid enlisting their services if they have engaged in the sexual misconduct specified in this standard provision. The AUDITOR recognizes that the standard provision does not require a written policy; however, written policy that does not accurately address all provisions of the standard, could result in practice that does not meet the standard.

AUDITOR RECOMMENDATION: MTC/IRDF should consider revising the policy to forbid enlisting the services of any contractor who has engaged in any of the sexual misconduct specified in Standard provision 115.17(a).

115.17(b)

The standard provision states that an agency or facility considering hiring or promoting staff shall ask all applicants who may have contact with detainees directly about previous misconduct described in paragraph (a) of this section, in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. Agencies and facilities shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. The agency, consistent with law, shall make its best efforts to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse. The PAQ reflects that the all provisions of the standard are complied with. The SOP reflects that interview questions include asking employees, who have contact with detainees, if they ever engaged in any of the misconduct specified in 115.17(a) and if they have ever been found to have engaged in sexual harassment at work. The policy also specifies that criminal records checks should follow the requirements and procedures established and required by the customer. The HR Representative stated that the questions about sexual misconduct are not on the application but are asked in interviews for hiring and for promotions; employee performance reviews do not include a self-assessment or an interview; the facility imposes upon employees a continuing affirmative duty to disclose any such misconduct; and a questionnaire with the sexual misconduct questions is mailed to former employers. Eight of the 14 personnel files reviewed onsite included the three sexual misconduct questions.

The SOP, the interview with the HR Representative, 8 of the 14 personnel files reviewed, and the explanation provided by the Unit Chief support a determination of compliance with the standard provision. The policy does not include the requirement to ask the 115.17(a) questions as part of promotional interviews, nor does it impose upon employees a continuing affirmative duty to disclose any such misconduct.

115.17(c)

The standard provision states that before hiring new staff who may have contact with detainees, the agency or facility shall conduct a background investigation to determine whether the candidate for hire is suitable for employment with the facility or agency, including a criminal background records check. Upon request by the agency, the facility shall submit for the agency's approval written documentation showing the detailed elements of the facility's background check for each staff member and the facility's conclusions. The agency shall conduct an updated background investigation every five years for agency employees who may have contact with detainees. The facility shall require an updated background investigation every five years for those facility staff who may have contact with detainees and who work in immigration-only detention facilities. The PAQ reflects that background investigations are completed before hiring employees who may have contact with detainees; that written documentation is maintained showing the detailed elements and conclusions; and that the documentation is provided to the agency upon request. The SOP requires a background check for all individuals identified and selected for employment and five-year updates, unless customer procedure supersedes. The HR Representative stated that all employees at the facility undergo an e-QIP background clearance and that the PSU provides written notice of the clearance to the facility. The AUDITOR reviewed 14 personnel files of employees of various disciplines selected randomly and every file included an e-QIP clearance. During the post-audit phase, the AUDITOR provided a list with the names of the 14 employees to the PSU; the PSU provided dates of clearance to enter on duty, scheduled reinvestigation dates for those not yet due, and date reinvestigations were initiated for those that are due or past due. The PSU did not provide reinvestigation completion dates, and in all but one case, the reinvestigation dates were not missed. In the one case in which the reinvestigation date appears to have been missed, the date cleared to enter on duty was a year earlier; thus, the five-year reinvestigation has not been missed.

The SOP, the interview with the HR Representative, the personnel files reviewed, and the reinvestigation dates provided by PSU support a determination of compliance with the standard provision.

115.17(d)

The standard provision requires the agency or facility to perform a background investigation before enlisting the services of any contractor who may have contact with detainees. Upon request by the agency, the facility shall submit for the agency's approval written documentation showing the detailed elements of the facility's background check for each contractor and the facility's conclusions. The PAQ reflects that background investigations are completed before enlisting the services of contractors who may have contact with detainees; that written documentation is maintained showing the detailed elements and conclusions; and that the documentation is provided to the agency upon request. The SOP requires a background check before enlisting the services of contractors who may have contact with detainees and five-year updates. The HR Representative stated that her office is not involved in enlisting the services of contractors. The Unit Chief of PSU stated that all contractors who may have contact with detainees complete the e-QIP background clearance process. The personnel files reviewed onsite, included that of at least one contractor and all files included a notice of e-QIP background clearance.

The SOP, statement from the Unit Chief and the personnel files support a determination of compliance with the standard provision.

115.17(e)

The standard provision states that material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination or withdrawal of an offer of employment, as appropriate. The PAQ reflects that the agency and facility's practice comply with the standard provision. The SOP specifies that material omissions or the provision of materially false information is prohibited; and the HR Representative reiterated that fact adding that violation of this provision is grounds for termination or withdrawal of an offer of employment.

The SOP and the interview with the HR Representative support a determination of compliance with the standard provision; however, the SOP does not specify that material omission or providing materially false information shall be grounds for termination or withdrawal of employment offers.

115.17(f)

The standard provision states that unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. The PAQ reflects that the agency does provide information as specified in the standard provision. The SOP does not include this provision and the HR Representative stated that MTC policy does not allow disclosure of such information. The Unit Chief of PSU identified a different ICE office that is responsible for responding to these requests.

The statement from the PSU Unit Chief supports a determination of compliance with the standard provision. If MTC policy does not allow disclosure of such information, the SOP should specify whether the HR office should forward such request to the appropriate ICE office for response.

RECOMMENDED CORRECTIVE ACTIONS

115.17(a) – No corrective action required.

115.17(b) – No corrective action required.

115.17(c) – No corrective action required.

115.17(d) – No corrective action required.

115.17(e) – No corrective action required.

115.17(f) – No corrective action required.

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

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP

PEOPLE INTERVIEWED

- Warden

SITE INSPECTION OBSERVATIONS

- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.18(a)

The standard provision states that when designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the facility or agency, as appropriate, shall consider the effect of the design, acquisition, expansion, or modification upon their ability to protect detainees from sexual abuse. The PAQ reflects that the facility or agency includes the prescribed considerations when designing or acquiring any new facility or in planning substantial expansion or modification of existing facilities. The SOP includes the language of the standard provision. The Warden stated that the facility was designed to be compliant with PREA and that there has not been any renovations or modifications since it was activated in 2014. During the site inspection, the AUDITOR did not see any evidence of ongoing structural modification.

The SOP, interview with the Warden and AUDITOR's observations during the site inspection support a determination of compliance with the standard provision.

115.18(b)

The standard provision states that when installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology in an immigration detention facility, the facility or agency, as appropriate, shall consider how such technology may enhance their ability to protect detainees from sexual abuse. The PAQ reflects that the facility or agency includes the prescribed considerations when installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology. The SOP includes the language of the standard provision and adds "by eliminating any blind spot as much as possible." The Warden stated that the facility installed one new camera in every housing unit to mitigate blind spots attributed to the stairs obstructing the line of sight certain parts of the tier. During the site inspection, the AUDITOR viewed the new cameras and the improved monitoring capability created with their installation.

The SOP, interview with the Warden and AUDITOR's observations during the site inspection support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.18(a) – No corrective action required.

115.18(b) – No corrective action required.

**§115.21 – Evidence protocols and forensic medical examinations.**

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Agreement with local hospital
- Agreement with local rape crisis center
- Letter to the Sheriff's Office
- The MTC PREA Website
- The MTC Description of Responsibilities

PEOPLE INTERVIEWED

- PSA Compliance Manager
- Sample of Medical Health Care Staff
- Sure Helpline Crisis Center representatives

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.21(a)

The standard provision states that to the extent that the agency or facility is responsible for investigating allegations of sexual abuse involving detainees, it shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol shall be developed in coordination with DHS and shall be developmentally appropriate for juveniles, where applicable. The PAQ reflects that the agency or facility follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The SOP involves staff notification and reporting, First Response Requirements and Specialized Response and Victim Services. The First Response Requirements include instructions for the first responder to ensure the victim and the perpetrator do not take actions that could destroy evidence, to secure the crime scene and to preserve evidence until appropriate steps can be taken to collect it. The Specialized Response and Victim Services identify the facility's coordinated multidisciplinary team approach when responding to an allegation of sexual abuse and lists the composition of the team. It requires the team to engage the resources of the Sure Helpline Crisis Center and the Sheriff's Office, on a case-by-case basis, to provide valuable expertise and support in investigating and prosecuting perpetrators of sexual abuse at the facility. The SOP details steps to be taken in response to an allegation of sexual abuse at the facility; the steps include Triage, Transport to the Emergency Room, Notification to the community medical facility, Referral to the crisis center, etc. There is a letter from the Warden to the Sheriff referencing a situation in which the Sheriff's Office responded to an incident at the facility and the prospects for a Memorandum of Understanding (MOU) in the near future. The MTC Description of Responsibilities on the corporation's website lists six responsibilities related to evidence gathering and processing, investigating allegations of sexual abuse, coordinating with prosecuting authorities and notifying the victim of investigative results. For each responsibility, the matrix specifies whether the facility, the investigating entity, or both are responsible. The PSA Compliance Manager stated that the facility has a uniform evidence protocol for investigating allegations of sexual abuse and explained that staff secure the crime scene to protect the evidence and contacts the Sheriff's Office for crime scene investigation response. He acknowledged that the facility does not yet have an agreement with the Sheriff's Office, but a meeting on that issue will take place in the next few weeks. The auditor reviewed the allegations with the PSA Compliance Manager and neither of the two cases involved physical evidence, only verbal statements from the alleged victim.

The SOP, the Description of Responsibilities, the MTC Sexual Abuse/Assault Policy and Procedures and the interview with the PSA Compliance Manager support a determination of compliance with the standard provision. If the facility relies on the Sheriff's Office as part of its uniform evidence protocol to maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions, there should be a written agreement detailing the role the Sheriff's Office will play in maximizing the potential for obtaining useable physical evidence.

115.21(b)

The standard provision requires the agency and each facility developing an evidence protocol referred to in paragraph (a) of this section, to consider how best to utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling to most appropriately address victims' needs. Each facility shall establish procedures to make available, to the full extent possible, outside



victim services following incidents of sexual abuse; the facility shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall provide these services by making available a qualified staff member from a community-based organization, or a qualified agency staff member. A qualified agency staff member or a qualified community-based staff member means an individual who has received education concerning sexual assault and forensic examination issues in general. The outside or internal victim advocate shall provide emotional support, crisis intervention, information, and referrals. The PAQ reflects that in developing its uniform evidence protocol, the facility included the considerations prescribed by the standard provision, established the prescribed procedures and makes the prescribed community resources and services available to the victim. The facility provided its MOU with a local rape crisis center in which the center agrees to provide services to victims of sexual abuse and sexual assault consistent with the requirements of the standard provision. The PSA Compliance Manager reported that the evidence protocol draws on community resources to provide victims with outside support services and access to forensic medical exams when appropriate and identified Sure Helpline as the provider of those services. On the second day of the onsite audit, the AUDITOR interviewed two representatives of Sure Helpline who were at the facility to provide training to staff. The representatives confirmed that there has been an agreement with the facility since 2015 and that they provide the services listed in the agreement. They have not had to respond to any allegations of sexual abuse at the facility; however, they are part of the facility's coordinated response plan. The facility did not identify a victim of sexual assault for the AUDITOR to interview.

The MOU and interviews with the PSA Compliance Manager and Sure Helpline representatives support a determination of compliance with the standard provision.

#### 115.21(c)

The standard provision states that where evidentiary or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the facility shall arrange for an alleged victim detainee to undergo a forensic medical examination by qualified health care personnel, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel. The PAQ reflects that the facility arranges for detainee victims of sexual assault to receive a forensic medical examination in the manner prescribed by the standard provision. The facility provided a March 1, 2015, MOU with Pioneers Memorial Healthcare District which expires on June 30, 2019. The hospital agrees to provide among other services, a Sexual Assault Nurse Examiner for forensic medical examinations. The designees for medical and mental health reported that a detainee victim of sexual assault would be transported to Pioneers Hospital for forensic medical examination.

The MOU and interview with the medical and mental health designees support a determination of compliance with the standard provision.

#### 115.21(d)

The standard provision states that as requested by a victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, shall be allowed for support during a forensic exam and investigatory interviews. The PAQ reflects that a victim would be allowed the support specified in the standard provision if he or she requests it. The MOU with Sure Helpline includes the services prescribed by the standard provision and the two representatives confirmed that Sure Helpline provides that service. The PSA Compliance Manager reported that a victim would be provided the services described in the standard provision. The facility did not identify a victim of sexual assault for the AUDITOR to interview.

The MOU and the interviews with the PSA Compliance Manager and the Sure Helpline representatives support a determination of compliance with the standard provision.

#### 115.21(e)

The standard provision states that to the extent that the agency is not responsible for investigating allegations of sexual abuse, the agency or the facility shall request that the investigating agency follow the requirements of paragraphs (a) through (d) of this section. The PAQ reflects that the agency or the facility shall request that the investigating agency follow the requirements of the standard. The SOP reflects that allegations of sexual abuse are referred to the Imperial County Sheriff for investigation and that the facility shall request that the investigating agency follow the applicable requirements of the policy, including evidence preservation and forensic examinations. The PSA Compliance Manager reported that the facility would ask the Sheriff's Office to follow the facility's evidence protocol and that an MOU would require them to follow those protocols. There was no documentation to support the practice since no allegations were referred for investigation and there is no evidence in support of a determination that the standard was not met.

The SOP and the PSA Compliance Manager interview support a determination of compliance with the standard provision.

#### AUDITOR COMMENTS ON STANDARD 115.21

There is a framework for a uniform evidence protocol that maximizes the potential for obtaining useable physical evidence for administrative proceedings and criminal prosecutions; however, in providing documents to show compliance, the facility did not include some of the documents the AUDITOR used in making a compliance determination, i.e.: the MTC Description of Responsibilities and the MTC Sexual Abuse/Assault Policy and Procedures provided for Standard 115.65, Coordinated Response.

The facility could be better served if the uniform evidence protocol was laid-out in one document that could be provided as the complete protocol. The protocol should clearly identify critical steps (in the continuum from responding to allegations of sexual assault to prosecuting perpetrators) aimed at maximizing the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The facility could review the following document <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf> for guidance on what should be involved in the protocol; there is relevant information in Section B. Operational Issues.

If the facility is going to request that outside investigating entities follow the requirements of 115.21 (a) through (d), as specified in 115.21(e), those requirements should be documented in clear and easy to follow steps for the outside investigating entity to follow. Also, the facility should identify personnel who needs to know the uniform evidence protocol and ensure they are trained and prepared to respond accordingly in the event of an actual case of sexual assault at the facility.

#### RECOMMENDED CORRECTIVE ACTIONS

- 115.21(a) – No corrective action required.
- 115.21(b) – No corrective action required.
- 115.21(c) – No corrective action required.
- 115.21(d) – No corrective action required.
- 115.21(e) – No corrective action required.

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

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

**Notes:**

**POLICIES AND OTHER DOCUMENTS REVIEWED**

- PAQ
- SOP
- Directive 11062.2, Sexual Abuse and Assault Prevention and Intervention (SAAPI)
- The MTC PREA Website
- The MTC Description of Responsibilities

**PEOPLE INTERVIEWED**

- Warden
- PSA Compliance Manager
- Facility investigator

**SITE INSPECTION OBSERVATIONS**

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

**115.22(a)**

The standard provision requires the agency to establish an agency protocol and require each facility to establish a facility protocol, to ensure that each allegation of sexual abuse is investigated by the agency or facility or referred to an appropriate investigative authority. The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse. The PAQ reflects that there is a facility protocol to ensure that each allegation of sexual abuse is investigated, that all related reports and documentation are maintained for at least five years and that an administrative or criminal investigation is completed for all allegations of sexual abuse. The SOP specifies the protocol for referring all allegations of sexual abuse to the Sheriff's Office and to relevant agency components for investigation. The Warden stated that the facility has a protocol that describes how sexual abuse allegations are investigated; there is a procedure that identifies responsible parties and the case may be referred to the Sheriff's Office or the ICE Office of Professional Responsibility (OPR) pursuant to the Performance Based National Detention Standards (PBNDS). The PSA Compliance Manager who also investigates allegations of sexual abuse reiterated the Warden's statement. There were two allegations during the audit period and the PSA Compliance Manager conducted the investigation in both cases; one of the cases was referred to the Sheriff's Office, but the alleged victim declined to cooperate with the investigation.

The SOP, interviews with the Warden and PSA Compliance Manager/Investigator and the investigations into the two allegations support a determination of compliance with the standard provision.

**115.22(b)**

The standard provision requires the agency to ensure that the agency and facility protocols required by paragraph (a) of this section, include a description of responsibilities of the agency, the facility, and any other investigating entities; and require the documentation and maintenance, for at least five years, of all reports and referrals of allegations of sexual abuse. The PAQ reflects that the protocol includes a description of the responsibilities of the agency, the facility, and other investigative entities. The agency/facility provided Directive 11062.2, which outlines the roles of the ICE OPR and ERO during investigation of Allegations. The MTC Description of Responsibilities on the corporation's website lists six responsibilities from evidence gathering and processing to investigating and notifying the victim of investigative results. For each responsibility, the matrix specifies whether the facility, the investigating entity, or both are responsible. The Warden explained that during an investigation conducted by ICE or an outside entity, the facility may gather the facts, protect crime scene, isolate and separate detainees, transport involved detainees to the hospital for forensic examination and cooperate fully by providing witnesses, interview space, video footage, etc. With respect to the allegations received at the facility, the Warden stated that his facility reported everything to ICE and provided updates and reports; however, ICE declined and they were investigated internally. The PSA Compliance Manager who also investigates allegations of sexual abuse reiterated the Warden's statement. Neither of the two allegations are five years old; therefore, the AUDITOR was unable to verify compliance with the retention schedule prescribed by the standard provision.

Directive 11062.2, the Description of Responsibilities, the interviews with the Warden and PSA Compliance Manager/Investigator and the investigations into the two allegations support a determination of compliance with the standard provision.

**115.22(c)**

The standard provision requires the agency to post its protocols on its website; each facility shall also post its protocols on its website, if it has one, or otherwise make the protocol available to the public. The PAQ reflects that the facility posted its protocol on its website. The AUDITOR verified that Directive 11062.2 is on the agency's website. The MTC PREA website specifies the corporation's protocol for ensuring every allegation of sexual abuse is investigated by the agency or facility or referred to an appropriate investigative authority. The MTC Description of Responsibilities specifies responsible parties for each step of the evidence gathering and investigative process.

The MTC website, the agency website and MTC Description of Responsibilities support a determination of compliance with the standard provision.

#### 115.22(d)

The standard provision requires each facility protocol to ensure that all allegations are promptly reported to the agency as described in paragraphs (e) and (f) of this section, and, unless the allegation does not involve potentially criminal behavior, is promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations. A facility may separately, and in addition to the above reports and referrals, conduct its own investigation. The PAQ reflects that the facility's protocol requires that all allegations are promptly reported to the agency; ensures that all allegations are promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior; and the facility conduct its own investigation, separate from any criminal investigation. The SOP requires all allegations to be reported to the agency and promptly investigated. The Warden stated that the facility reports allegations of sexual abuse to the ICE Field Office Director (FOD) and to the Sheriff's Office. The PSA Compliance Manager added that the facility also reports allegations to MTC Headquarters (HQ). Where appropriate, the facility referred allegations to the Sheriff's Office and in both cases, reported the allegations to the ICE FOD and conducted its own investigation into the two allegations received.

The SOP, interviews with the Warden and PSA Compliance Manager and the facility's handling of the two allegations received support a determination of compliance with the standard provision.

#### 115.22(e)

The standard provision states that when a detainee, prisoner, inmate, or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General (OIG), as well as the appropriate ICE Field Office Director, and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation. The PAQ reflects that in the situation described in the standard provision, the facility reports the incident to the ICE OPR or the DHS OIG, to the appropriate ICE FOD and to the appropriate law enforcement agency, if potentially criminal. The MTC Website provides instructions for reporting an allegation of sexual abuse to the MTC PREA Coordinator and specifies that MTC will ensure an administrative or criminal investigation is completed. For IRDF, the Description of Responsibilities identifies the investigating entity as the party responsible for referring allegations for criminal prosecution. Both the Warden and the PSA Compliance Manager reported that the facility reports a case such as that described in the standard provision to the ICE FOD, to local law enforcement and to MTC and explained that the ICE FOD takes care of all other reporting required by the standard provision. The AUDITOR contacted a supervisor at the field office and he confirmed the reporting process described by the Warden and the PSA Compliance Manager.

The MTC Website, Description of Responsibilities and the interviews with the Warden and PSA Compliance Manager support a determination of compliance with the standard provision.

#### 115.22(f)

The standard provision states that when a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as to the appropriate ICE Field Office Director, and to the local government entity or contractor that owns or operates the facility. If the incident is potentially criminal, the facility shall ensure that it is promptly referred to an appropriate law enforcement agency having jurisdiction for investigation. The PAQ reflects that that in the situation described in the standard provision, the facility reports the incident to the appropriate ICE FOD, to MTC HQ, and to the appropriate law enforcement agency if potentially criminal. Both the Warden and the PSA Compliance Manager reported that the facility reports a case such as that described in the standard provision to the ICE FOD, to local law enforcement and to MTC HQ and explained that the ICE FOD takes care of all other reporting required by the standard provision.

The MTC Website, Description of Responsibilities and the interviews with the Warden and PSA Compliance Manager support a determination of compliance with the standard provision.

#### RECOMMENDED CORRECTIVE ACTIONS

115.22(a) – No corrective action required.

115.22(b) – No corrective action required.

115.22(c) – No corrective action required.

115.22(d) – No corrective action required.

115.22(e) – No corrective action required.

115.22(f) – No corrective action required.

#### **§115.31 – Staff training.**

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- PowerPoint presentation
- Employee training records

##### PEOPLE INTERVIEWED

- Training Supervisor
- Sample of Security Staff, Including Line Staff and First-Line Supervisors -

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.31(a)

The standard provision requires the agency to train, or require the training of, all employees who may have contact with immigration detainees, and all facility staff, to be able to fulfill their responsibilities under this part, including training on:

- (1) The agency's and the facility's zero-tolerance policies for all forms of sexual abuse;
- (2) The right of all detainees and staff to be free from sexual abuse and from retaliation for reporting sexual abuse;
- (3) Definitions and examples of prohibited and illegal sexual behavior;
- (4) Recognition of situations where sexual abuse may occur;
- (5) Recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing and responding to such occurrences;
- (6) How to avoid inappropriate relationships with detainees;
- (7) How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees;
- (8) Procedures for reporting knowledge or suspicion of sexual abuse; and
- (9) The requirement to limit reporting of sexual abuse to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes.

The PAQ reflects that all employees who may have contact with detainees have been trained on the nine topics prescribed by the standard provision. The SOP charges the Training Manager with the responsibility for training all staff, contractors and volunteers initially and annually thereafter. The 14 training topics listed in the policy includes all nine topics prescribed by the standard provision. The facility provided a 41-slide PowerPoint presentation titled "PREA Prison Rape Elimination Act" and all nine topics prescribed by the standard provision are included. The AUDITOR reviewed training records/files of 14 employees of various disciplines selected randomly; all files included sign-in sheets, a form attesting to receipt of 40 hours of required annual refresher training (including PREA), and an ICE PREA Training Certification form attesting to receipt of training on the nine topics prescribed by the standard provision. During an interview, the Training Supervisor reported that all facility staff who have contact with detainees received training on each of the nine topics prescribed by the standard provision. Security supervisors and officers interviewed also confirmed that they received PREA training on the nine topics prescribed by the standard provision.

The SOP, PowerPoint presentation, employee training records and interviews with the training supervisor and security staff support a determination of compliance with the standard provision. The AUDITOR notes the ICE PREA Training Certification form does not include Item 115.31(a)(2) above.

115.31(b)

The standard provision requires all current facility staff, and all agency employees who may have contact with immigration detention facility detainees, shall be trained within one year of May 6, 2014, and the agency or facility shall provide refresher information every two years. The PAQ reflects that all employees hired before May 6, 2014, who may have contact with detainees have been trained and receive biennial refresher training. The SOP requires annual refresher training. The Training Supervisor reported that refresher training about sexual abuse is provided annually.

The SOP, training records and interview with the Training Supervisor support a determination of compliance with the standard provision.

115.31(c)

The standard provision requires the agency and facility to document that staff that may have contact with immigration facility detainees have completed the training. The PAQ reflects that the facility documents that staff who may have contact with detainees completed the required training. The SOP requires documentation of training provided under this standard and the facility provided a sign-in sheet and one completed employee attestation form with the pre-audit documents. The employee training records reviewed onsite included documentation reflecting that employees completed the training.

The SOP and employee training records support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.31(a) – No corrective action required.

115.31(b) – No corrective action required.

115.31(c) – No corrective action required.

**§115.32 – Other training.**

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- PowerPoint presentations
- Volunteer/Contractor training records

PEOPLE INTERVIEWED

- Training Supervisor
- Sample of Non-Security Volunteers and Contractors who have Contact with Detainees

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.32(a)

The standard provision requires the facility to ensure all volunteers and other contractors (as defined in paragraph (d) of this section) who have contact with detainees have been trained on their responsibilities under the agency's and the facility's sexual abuse prevention, detection, intervention and response policies and procedures. The PAQ reflects that all volunteers and other contractors who have contact with detainees have been trained on the responsibilities prescribed by the standard provision. The facility provided two PowerPoint presentations: "ICE Prison Rape Elimination Act Training for Contractors and Volunteers" and "Reporting Abuse and Assault," volunteer orientation sign-in sheets with a total of eight names and two ICE PREA Training Certification forms. The two presentations include the topics prescribed by the standard provision. The Training Supervisor reported that all contractors and volunteers who have contact with detainees have been trained on sexual abuse prevention and response and receive the same classroom training, which includes the zero-tolerance policy and how to report. A volunteer confirmed during an interview that he has contact with detainees and that he received annual training on sexual abuse prevention and response a few months ago.

The PowerPoint presentations, training records and interviews with the Training Supervisor and volunteer support a determination of compliance with the standard provision.

115.32(b)

The standard provision states that the level and type of training provided to volunteers and other contractors shall be based on the services they provide and level of contact they have with detainees, but all volunteers and other contractors who have contact with detainees shall be notified of the agency's and the facility's zero-tolerance policies regarding sexual abuse and informed how to report such incidents. The PAQ reflects that the level and type of training provided to volunteers and other contractors is based on the services they provide and level of contact they have with detainees and that they have been notified of the zero-tolerance policy and how to report. The SOP includes a requirement for contractors and volunteers to be trained based upon the type of service they provide, and the two topics prescribed by the standard provision. Both the Training Supervisor and the volunteer reported that volunteers have been notified of the zero-tolerance policy and how to report.

The SOP, PowerPoint presentations and the interviews with the Training Supervisor and the volunteer support a determination of compliance with the standard provision.

115.32(c)

The standard provision requires the facility to receive and maintain written confirmation that volunteers and other contractors who have contact with immigration facility detainees have completed the training. The PAQ reflects that written confirmation is maintained when volunteers and other contractors who have contact with detainees complete the training. The SOP requires documentation of training received and the facility provided two completed ICE PREA Training Certification forms for volunteers.

The SOP and completed ICE PREA Training Certification forms support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.32(a) – No corrective action required.

115.32(b) – No corrective action required.

115.32(c) – No corrective action required.

**§115.33 – Detainee education.**

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Detainee handbooks (agency and facility)
- Detainee education video (English and Spanish)
- Detainee signed acknowledgements of PREA training
- Mr. Lopez's binder with signed acknowledgments
- DHS Sexual Abuse and Assault Awareness pamphlet
- Zero-Tolerance poster with the name of the PSA Compliance Manager
- Dorm card

PEOPLE INTERVIEWED

- Sample of Intake Staff
- Random Sample of Detainees
- Detainees with Disabilities or Limited English Proficient

SITE INSPECTION OBSERVATIONS

- Site inspection notes for Intake processing and housing units

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.33(a)

The standard provision states that during the intake process, each facility shall ensure that the detainee orientation program notifies and informs detainees about the agency's and the facility's zero-tolerance policies for all forms of sexual abuse and includes (at a minimum) instruction on:

- (1) Prevention and intervention strategies;
- (2) Definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity;
- (3) Explanation of methods for reporting sexual abuse, including to any staff member, including a staff member other than an immediate point-of-contact line officer (e.g., the compliance manager or a mental health specialist), the DHS Office of Inspector General, and the Joint Intake Center;
- (4) Information about self-protection and indicators of sexual abuse;
- (5) Prohibition against retaliation, including an explanation that reporting sexual abuse shall not negatively impact the detainee's immigration proceedings; and
- (6) The right of a detainee who has been subjected to sexual abuse to receive treatment and counseling.

The PAQ reflects that during the intake process, the detainee orientation program notifies and informs detainees of all six topics prescribed by the standard provision. The SOP calls for detainees to be informed of the facility's zero-tolerance policy as part of the orientation program and it includes the six topics prescribed by the standard provision; both the facility and the agency handbooks provide information about SAAP. (b) (6), (b) (7)(C) provided a binder with numerous signed detainee forms attesting that they receive PREA information from him during intake and that it included the zero-tolerance policy, how to report sexual abuse and the six topics prescribed by the standard provision. During an interview, an intake officer reported that detainees receive orientation on sexual abuse prevention as soon as they arrive and are placed in a holding room; they receive PREA education through the video (which is played continuously in English and Spanish), group instruction from (b) (6), (b) (7)(C) the detainee brochure and the handbooks. He confirmed that the education includes the zero-tolerance policy, how to report sexual abuse and the six topics prescribed by the standard provision. Overwhelmingly, detainee interviews confirmed that they received PREA education during intake via the methods mentioned above. During the site inspection, the AUDITOR viewed the education video on televisions in the holding rooms.

The SOP, detainee attestation forms, AUDITOR observations during the site inspection and interviews with the Intake officer and detainees support a determination of compliance with the standard provision.

#### 115.33(b)

The standard provision requires the facility to provide the detainee notification, orientation, and instruction in formats accessible to all detainees, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to detainees who have limited reading skills. The PAQ reflects that detainees receive notification, orientation, and instruction about sexual abuse prevention and response in formats accessible to all detainees, including those in the targeted categories listed in the standard provision. The SOP calls for detainee notifications and orientation to be provided in a language or manner that can be understood by detainees with LEP, as well as those who are deaf, visually impaired, otherwise disabled or have limited reading ability. The AUDITOR viewed the Spanish version of the education video and the detainee handbooks; in every housing unit, there is a bulletin board with PREA information in large print and in other languages. The Intake officer reported that the orientation program is available to detainees who are deaf or hard of hearing via the TTY and the detainee handbook, to detainees who are LEP via bilingual staff or "Interpretalk," to detainees who are blind or low vision via the audio in the video and Mr. Lopez's personal presentation, and to detainees with intellectual or psychiatric disabilities via Medical or Mental Health staff. Spanish-speaking detainees with LEP reported that they received the PREA orientation in their language; detainees with LEP who speak other languages reported that they received PREA information via Interpretalk. A Spanish-speaking detainee with hearing impairment, LEP and limited reading ability in Spanish stated that she was able to communicate verbally in Spanish with staff when she first arrived at the facility.

The SOP, the Spanish version of the education video and the handbooks, the bulletin board in housing units and interviews with the intake officer and detainees with LEP and limited reading and hearing ability support a determination of compliance with the standard provision.

#### 115.33(c)

The standard provision requires the facility to maintain documentation of detainee participation in the intake process orientation. The PAQ reflects that detainee participation in the intake orientation process is documented. The SOP specifies that the facility will maintain documentation of detainee's receipt of the facility's handbook, which includes the DHS-prescribed Sexual Assault Awareness information pamphlet and viewing of the orientation video. (b) (6), (b) (7)(C) maintains a binder with detainee-signed acknowledgements that they participated in his intake presentation and the facility provided a completed "Dorm Card" on which detainees acknowledge having received the detainee handbook and viewing the orientation video.

The SOP, Dorm Card, and (b) (6), (b) (7)(C) binder support a determination of compliance with the standard provision.

#### 115.33(d)

The standard provision requires the facility to post on all housing unit bulletin boards the following notices:

- (1) The DHS-prescribed sexual assault awareness notice;
- (2) The name of the Prevention of Sexual Abuse Compliance Manager; and
- (3) The name of local organizations that can assist detainees who have been victims of sexual abuse.

The PAQ reflects that all three notices are posted in all housing units. The facility provided the ICE Zero-Tolerance poster with the name of the PSA Compliance Manager and the DHS Sexual Abuse and Assault Awareness pamphlet, which includes name and hot-line numbers for a local crisis center. During the site inspection, the AUDITOR viewed the bulletin board in all housing units inspected and in other detainee program areas and every board provides the information prescribed by the standard provision.

The posters provided by the facility and the AUDITOR's observation during the site inspection support a determination of compliance with the standard provision.

#### 115.33(e)

The standard provision requires the facility to make available and distribute the DHS-prescribed "Sexual Assault Awareness Information" pamphlet. The PAQ reflects that the facility makes available and distributes the DHS-prescribed "Sexual Assault Awareness Information" pamphlet. During the site inspection, (b) (6), (b) (7)(C) pointed out the pamphlet or trifold on housing unit bulletin boards.

The pamphlet and the AUDITOR's observation during the site inspection support a determination of compliance with the standard provision.

#### 115.33(f)

The standard provision states that information about reporting sexual abuse shall be included in the agency Detainee Handbook made available to all immigration detention facility detainees. The PAQ reflects that information about reporting sexual abuse is included in the handbook issued to

detainees. The facility provided the ICE National Detainee Handbook and the facility's detainee handbook, and both handbooks include information about reporting sexual abuse.

The handbooks provided support a determination of compliance with the standard provision.

#### AUDITOR COMMENTS ON STANDARD 115.33

While the standard requires the intake-orientation process to inform detainees about the zero-tolerance policy, how to report sexual abuse and the six topics prescribed under 115.33(a), it does not specifically require in-person interaction with detainees. Most facilities rely on the education video and written material provided to detainees to accomplish the requirements of the standard. The AUDITOR finds that by providing in-person PREA education to detainees while they are in the holding rooms, the PSA Compliance Manager goes above and beyond the requirement of the standard to ensure detainees receive the prescribed PREA information. Unlike education provided via video and written materials, in-person presentation allows detainees to ask questions and get answers. Every detainee interviewed referred to the presentation by the PSA Compliance Manager and they know him by name. This is truly a case of professionalism and taking your responsibilities seriously. This supports a determination of "Exceeds standard."

#### RECOMMENDED CORRECTIVE ACTIONS

115.33(a) – No corrective action required.

115.33(b) – No corrective action required.

115.33(c) – No corrective action required.

115.33(d) – No corrective action required.

115.33(e) – No corrective action required.

115.33(f) – No corrective action required.

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

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Investigator training records

##### PEOPLE INTERVIEWED

- Training Supervisor
- Facility investigator

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

##### 115.34(a)

The standard provision states that in addition to the general training provided to all facility staff and employees pursuant to §115.31, the agency or facility shall provide specialized training on sexual abuse and effective cross-agency coordination to agency or facility investigators, respectively, who conduct investigations into allegations of sexual abuse at immigration detention facilities. All investigations into alleged sexual abuse must be conducted by qualified investigators. The PAQ reflects that the prescribed training is provided to investigators who investigate allegations of sexual abuse. The SOP calls for specialized training on sexual abuse and effective cross-agency coordination to facility sexual abuse investigators. The facility provided training records to show that the investigator received the prescribed specialized training. The certificates include the following:

1. PREA Specialized Training Investigating Sexual Abuse, provided by California Coalition Against Sexual Assault, issued 1/16/18
2. Sexual Assault Counselor S.A.R.T. Training, a 52-hour course provided by California Emergency Management Agency, issued 2/01/16
3. PREA: Coordinator's Roles and Responsibilities, a 3-hour course by the National Institute of Corrections, issued 4/18/16
4. Gender-Responsive Approaches for Women, a 20-hour course by Imperial Regional Detention Facility, issued 12/2/15

The facility also provided a sign-in sheet for a 2-hour PREA Resource Center class titled "First Response & Evidence Collection" presented on 5/29/18 and a sign-in sheet for a webinar presented by Sure Helpline Crisis Center on 1/16/17. The Training Supervisor confirmed that the facility's sexual abuse investigator received specialized training on interviewing victims of sexual abuse and investigating allegations of sexual abuse in confinement. The facility's sexual abuse investigator reported that he received specialized training on two topics specified by the Training Supervisor. The facility has only one investigator for whom the AUDITOR reviewed specialized training records; therefore, investigative reports were not reviewed to determine that they were completed by a trained investigator.

The SOP, training records and interviews with the Training Supervisor and the Investigator support a determination of compliance with the standard provision.

##### 115.34(b)

The standard provision requires the agency and facility to maintain written documentation verifying specialized training provided to investigators pursuant to this paragraph. The PAQ reflects that the facility maintains documentation of specialized training provided to investigators. The facility provided training certificates and sign-in sheets for specialized training received by the facility's sexual abuse investigator.

The training records provided support a determination of compliance with the standard provision.



#### RECOMMENDED CORRECTIVE ACTIONS

115.34(a) – No corrective action required.

115.34(b) – No corrective action required.

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

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP

##### PEOPLE INTERVIEWED

- None

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

##### 115.35(a)

The standard provision requires the agency to provide specialized training to DHS or agency employees who serve as full- and part-time medical practitioners or full- and part-time mental health practitioners in immigration detention facilities where medical and mental health care is provided. The PAQ reflects that the standard provision does not apply because medical and mental health practitioners are not employed by the agency.

During the onsite audit, the AUDITOR verified that medical and mental health practitioners are not employed by the agency; therefore, the standard provision does not apply.

##### 115.35(b)

The standard provision calls for the required training to cover, at a minimum, the following topics:

- (1) How to detect and assess signs of sexual abuse;
- (2) How to respond effectively and professionally to victims of sexual abuse,
- (3) How and to whom to report allegations or suspicions of sexual abuse, and
- (4) How to preserve physical evidence of sexual abuse. If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

The PAQ reflects that specialized training for medical and mental health covers the four prescribed topics.

During the onsite audit, the AUDITOR verified that medical and mental health practitioners are not employed by the agency; therefore, the standard provision does not apply.

##### 115.35(c)

The standard provision requires the agency to review and approve the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse, in facilities where medical staff may be assigned these activities. The PAQ reflects that medical and mental health staff is trained in procedures for examining and treating victims of sexual abuse. The SOP calls for the approval required by the standard provision, as well as a July 31, 2017 email from an ICE Deportation Officer that approves the facility's policy and procedures. Due to time limitations, the AUDITOR did not review medical and mental health training files.

The SOP and the email from the ICE Deportation Officer support a determination of compliance with the standard provision.

#### RECOMMENDED CORRECTIVE ACTIONS

115.35(a) – No corrective action required.

115.35(b) – No corrective action required.

115.35(c) – No corrective action required.

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

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Screening for Risk of Victimization and Abusiveness form
- Records of detainees admitted in last 12 months

##### PEOPLE INTERVIEWED

- PSA Compliance Manager
- Sample of Intake Staff, Including Classification Supervisor
- Random Sample of Detainees

SITE INSPECTION OBSERVATIONS  
- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.41(a)

The standard provision requires the facility to assess all detainees on intake to identify those likely to be sexual aggressors or sexual abuse victims and shall house detainees to prevent sexual abuse, taking necessary steps to mitigate any such danger. Each new arrival shall be kept separate from the general population until he/she is classified and may be housed accordingly. The PAQ reflects that all detainees are assessed on intake to identify those likely to be sexual aggressors or sexual abuse victims; that detainees are housed to prevent sexual abuse, taking necessary steps to mitigate any dangers identified in the assessment; and, that new arrivals are kept separate from the general population until they are classified and may be housed accordingly. The SOP calls for arriving detainees to be assessed using the Screening for Risk of Victimization and Abusiveness (risk-screening) form to identify detainees who are likely to be sexual aggressors and those who are likely to be victims. The information will be gathered by interviewing detainees and completing the Form I-213, Record of Deportable/Inadmissible Alien and Criminal Record Transcription, as well as when warranted due to receipt of additional relevant information. The facility provided two examples of completed risk assessment forms. The AUDITOR reviewed the facility's risk-screening form; it has a section titled "At risk of victimization" and below another section titled "At risk of abusiveness." During the site inspection, the AUDITOR was able to tour the Intake processing area and the Classification Office where detainee screening is done; there was no risk-assessment in progress, so the AUDITOR did not have an opportunity to observe the process; however, the AUDITOR was escorted to a secure room where completed detainee risk-assessment forms are kept in locked cabinets. The AUDITOR randomly selected five detainee files for review and all included a completed risk-assessment form. The PSA Compliance Manager provided a sixth form completed on June 20, 2017, to prove that risk-screening has been in place throughout the audit period. The PSA Compliance Manager reported that holding tanks are used to separate detainees as needed and that detainees are screened for risk of victimization and abusiveness during the intake classification process. The Classification Supervisor reiterated what the PSA Compliance Manager reported and added that risk assessments are conducted by personal observations, direct questions and use of the risk-screening form. If signs of risk of victimization or risk of being sexually abusive are identified, classification staff notify a supervisor, the PSA Compliance Manager, the HSA and mental health practitioners. A substantial number of detainees interviewed confirmed that they were asked risk-screening questions.

The SOP, the completed risk-screening forms, site inspection observations, and interviews with the Classification Supervisor, PSA Compliance Manager and detainees support a determination of compliance with the standard provision.

115.41(b)

The standard provision states that the initial classification process and initial housing assignment should be completed within twelve hours of admission to the facility. The PAQ reflects that the initial classification process and initial housing assignment is completed within twelve hours of admission to the facility. The SOP requires completion of the risk-screening form within 12 hours of admission to the facility. The Classification Supervisor reported that the initial classification and housing assignment is completed within 12 hours of admission to the facility. The facility's risk screening form does not include a field to record the time of admission or the time of housing assignment. Of 16 detainees interviewed, 13 reported being housed in 12 hours or less of arrival at the facility and more than half reported being housed within six hours; of the other three, one reported 14 hours, one four days and one did not recall and stated he was thinking about his family. Only 12.5% of detainees interviewed reported not being housed within the mandated 12 hours of arrival. The facility did not have any detainees identified as transgender for interview with the AUDITOR.

The SOP, and interviews with the Classification Supervisor and detainees support a determination of compliance with the standard provision.

AUDITOR RECOMMENDATION:

The facility should consider revising the screening form to include reporting the time of admission and time of initial housing assignment; this data would facilitate auditing for compliance with the standard provision.

115.41(c)

The standard provision requires the facility to also consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization:

- (1) Whether the detainee has a mental, physical, or developmental disability;
- (2) The age of the detainee;
- (3) The physical build and appearance of the detainee;
- (4) Whether the detainee has previously been incarcerated or detained;
- (5) The nature of the detainee's criminal history;
- (6) Whether the detainee has any convictions for sex offenses against an adult or child;
- (7) Whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- (8) Whether the detainee has self-identified as having previously experienced sexual victimization; and
- (9) The detainee's own concerns about his or her physical safety.

The PAQ reflects that staff considers all nine prescribed criteria when assessing detainees for risk of sexual victimization, if the information is available. The SOP requires consideration of all nine factors prescribed by the standard provision. The facility's risk-screening form includes all nine criteria prescribed by the standard provision. The Classification Supervisor reported that all nine prescribed criteria are used and provided examples of how staff would consider the information received in making classification and housing decisions. As examples he stated that a detainee identified as transgender would be immediately moved to another holding cell and pointed out that the risk assessment considers gang affiliation.

The SOP, the facility's risk-screening form and interview with the Classification Supervisor support a determination of compliance with the standard provision.

115.41(d)

The standard provision requires the facility to consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the facility, in assessing detainees for risk of being sexually abusive. The PAQ reflects that the facility considers all three criteria when assessing detainees for risk of being sexually abusive. The SOP requires consideration of all three factors prescribed by the

standard provision. The facility's risk-screening form includes all three criteria under the "At risk of abusiveness" section. The Classification Supervisor reported that all three criteria is considered and explained how staff would consider the information in making classification and housing decisions.

The SOP, the risk-screening form and the interview with the Classification Supervisor support a determination of compliance with the standard provision.

115.41(e)

The standard provision requires the facility to reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization. The PAQ reflects that each detainee's risk of victimization or abusiveness is reassessed between 60 and 90 days from the date of the initial assessment and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization. The SOP requires the Classification Supervisor to reassess each detainee for risk of victimization or abusiveness between 60 and 90 days from the initial assessment, and any other time when warranted based upon additional relevant information or following an incident of abuse or victimization. During the site inspection, the PSA Compliance Manager stated that he performs the reassessments and indicated how he uses the risk-screening form to distinguish between initial, reassessment and special assessment. All five detainee files reviewed included a completed reassessment form. The Classification Supervisor reported that the PSA Compliance Manager conducts the reassessments by interviewing detainees in their housing units between 60 and 90 days and at any other time upon the receipt of additional, relevant information or following an incident of abuse or victimization.

The SOP, the PSA Compliance Manager's explanation, review of detainee files and the interview with the Classification Supervisor support a determination of compliance with the standard provision.

115.41(f)

The standard provision states detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (c)(1), (c)(7), (c)(8), or (c)(9) of this section. The PAQ reflects that the facility refrains from disciplining detainees for any of the reasons specified in the standard provision. The SOP prohibits disciplining a detainee for refusing to answer or for not disclosing complete information in response to the questions listed in the standard provision, i.e.: (c)(1), (c)(7), (c)(8), or (c)(9) of this section. Both the PSA Compliance Manager and Classification Supervisor reported that detainees are not disciplined for any of the reasons specified in the standard provision.

The SOP and interviews with the PSA Compliance Manager and Classification Supervisor support a determination of compliance with the standard provision.

115.41(g)

The standard provision requires the facility to implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees or detainees. The PAQ reflects that the facility implemented controls for the reasons specified in the standard provision. The SOP specifies that due to the sensitive nature of information gathered, staff will be particularly vigilant about maintaining confidentiality and releasing information only for legitimate need-to-know reasons. Both the PSA Compliance Manager and Classification Supervisor reported that detainee risk-screening information is provided to staff only on a need-to-know basis and that access to such information requires approval from the Classification Supervisor. During the site inspection, the Classification Supervisor approved the AUDITOR's access to the information.

The SOP, AUDITOR's observations during the site inspection and interviews with the PSA Compliance Manager and Classification Supervisor support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.41(a) – No corrective action required.

115.41(b) – No corrective action required.

115.41(c) – No corrective action required.

115.41(d) – No corrective action required.

115.41(e) – No corrective action required.

115.41(f) – No corrective action required.

115.41(g) – No corrective action required.

**§115.42 – Use of assessment information.**

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- ICE Custody Classification Worksheet

PEOPLE INTERVIEWED

- PSA Compliance Manager
- Sample of Intake Staff, Including Classification Supervisor
- Sample of Security Staff, Including Line Staff and First Line Supervisor
- Sample of Medical Health Care Staff

SITE INSPECTION OBSERVATIONS  
- Site Inspection observations

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.42(a)

The standard provision requires the facility to use the information from the risk assessment under § 115.41 of this part to inform assignment of detainees to housing, recreation and other activities, and voluntary work. The agency shall make individualized determinations about how to ensure the safety of each detainee. The PAQ reflects that the information from risk assessment under 115.41 is used as prescribed by the standard provision and individualized determinations are made to ensure the safety of each detainee. The SOP requires detainees to be classified for work, housing and vulnerabilities giving special consideration to factors that raise the risk of vulnerability, victimization or assault and calls for the process to incorporate SAAP I regarding assessment for risk of victimization and abusiveness. The facility provided the ICE Custody Classification Worksheet; Part 2 of this sheet addresses "Special Vulnerabilities and Management Concerns" and uses of the form include informing housing and activities decisions for detainees. The PSA Compliance Manager stated that in making individualized assessments for housing and classification decisions, staff take into account information from the risk screening form. The Classification Supervisor explained how he would use risk-screening information to assess detainees for risk of sexual victimization or abusiveness, and to make housing and other classification decisions. He stated that the process calls for officers conducting the initial classification to notify their supervisor whenever an detainee is identified as high risk of sexual victimization or abusiveness; the supervisor sends an email to him, the PSA Compliance Manager, the Health Services Administrator and the mental health practitioner. A detainee with vulnerability concerns would be housed on the lower tier closer to the officer's station; a detainee identified as gay or bisexual would be asked about his or her views on personal safety if housed in general population. If staff believes a detainee would not be safe in general population, the detainee would be housed in protective custody.

The SOP, ICE Custody Classification Worksheet and interviews with the PSA Compliance Manager and Classification Supervisor support a determination of compliance with the standard provision.

115.42(b)

The standard provision states that when making assessment and housing decisions for a transgender or intersex detainee, the facility shall consider the detainee's gender self-identification and an assessment of the effects of placement on the detainee's health and safety. The facility shall consult a medical or mental health professional as soon as practicable on this assessment. The facility should not base placement decisions of transgender or intersex detainees solely on the identity documents or physical anatomy of the detainee; a detainee's self-identification of his/her gender and self-assessment of safety needs shall always be taken into consideration as well. The facility's placement of a transgender or intersex detainee shall be consistent with the safety and security considerations of the facility, and placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee. The PAQ reflects that all considerations, assessments and consultations prescribed by the standard provision are done for transgender detainees. The SOP includes a section titled "Classification and Housing of Transgender and Intersex Detainees." This section calls for the facility to provide a respectful, safe and secure environment and consider the gender self-identification and an assessment of the effects of placement on the detainee's health and safety when making classification and housing decisions for transgender or intersex detainees. It requires consultation with medical and mental health professionals as soon as practical and forbids basing placement decisions solely on identity document or physical anatomy; rather a detainee's self-identification and self-assessment of safety needs must always be considered. Detainees identified as transgender are temporarily housed away from the general population for no more than 72 hours (excluding weekends, holidays and exigent circumstances) pending assessment by the Transgender Classification and Care Committee (TCCC). The SOP also requires the facility to reassess housing and program assignments of transgender or intersex detainees at least twice annually to review any safety threats the detainee may have experienced. The site inspection included a tour of the Medical Observation Unit where transgender detainees are housed temporarily pending assessment by the TCCC. The Classification Supervisor identified all considerations, assessments, and consultations prescribed by the standard provision in making housing determinations for transgender or intersex detainees and stated that reassessments are conducted 60 to 90 days after admission. He was not aware of the requirement to reassess twice per year. The medical and mental health designees identified the composition of the TCCC, indicated that medical and mental health are included and verified that Intake staff consults with them when making assessments and housing decisions for transgender and intersex detainees. The facility did not have any transgender detainees for the AUDITOR to interview.

The SOP, the AUDITOR's observations, and the interviews with the Classification Supervisor and medical and mental health staff support a determination of compliance with the standard provision.

115.42(c)

The standard provision states that when operationally feasible, transgender and intersex detainees shall be given the opportunity to shower separately from other detainees. The PAQ reflects that the shower accommodations specified in the standard provision are allowed for transgender and intersex detainees. The SOP specifies that transgender and intersex detainees will be given the opportunity to shower separately from other detainees when operationally feasible. Interviewees included the PSA Compliance Manager, Classification Supervisor and line supervisors and officers; all interviewees stated that transgender and intersex detainees would be allowed to shower separately and explained that they would be housed in the Medical Observation Unit where the shower is inside the cell. During the site inspection, the AUDITOR viewed the shower inside the cells in question.

The SOP, AUDITOR's observations, and interviews with the PSA Compliance Manager, Classification Supervisor and line supervisors and officers support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.42(a) – No corrective action required.

115.42(b) – No corrective action required.

115.42(c) – No corrective action required.

### §115.43 – Protective custody.

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Memorandum from PSA Compliance Manager

PEOPLE INTERVIEWED

- Warden
- PSA Compliance Manager

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.43(a)

The standard provision requires the facility to develop and follow written procedures consistent with the standards in this subpart for each facility governing the management of its administrative segregation unit. These procedures, which should be developed in consultation with the ICE Enforcement and Removal Operations Field Office Director having jurisdiction for the facility, must document detailed reasons for placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault. The PAQ reflects that the facility developed the procedures in question in consultation with the ICE ERO FOD and that the procedures document the detailed reasons for placement of an individual in administrative segregation due to vulnerability to sexual abuse or assault. The SOP requires the facility to consult with the ICE ERO FOD via the Contracting Officer's Representative (COR) to determine if ICE ERO can provide additional assistance when appropriate custodial options are not available at the facility. The Warden explained that a detainee's placement in segregated housing due to vulnerability to sexual abuse would include a review and placement in safe housing; if the detainee does not request it, he or she would be referred to medical and mental health for evaluation and medical clearance before placement in segregated housing. The PSA Compliance Manager reported via memorandum that no detainees had been placed in segregated housing due to vulnerability to sexual abuse during the previous 12 months; therefore, there were no actual cases for the AUDITOR to review for compliance with the standard provision.

The SOP, the facility's ability to find alternatives to placing the alleged victim in segregated housing in both cases during the audit period, and the interview with the Warden support a determination of compliance with the standard provision.

115.43(b)

The standard provision states that use of administrative segregation by facilities to protect detainees vulnerable to sexual abuse or assault shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, as a last resort. The facility should assign detainees vulnerable to sexual abuse or assault to administrative segregation for their protection until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days. The PAQ reflects that use of administrative segregation to protect detainees vulnerable to sexual abuse is restricted to the reasons specified in the standard provision, that it is used until an alternative means of separation from likely abusers can be arranged, and the assignment does not ordinarily exceed 30 days. The language in the SOP is consistent with the standard provision. The Warden stated that such housing is used only until it is no longer needed. The PSA Compliance Manager reported that detainees in these cases are held no longer than five days, except for highly unusual circumstances or at the detainee's request. With respect to the two allegations at the facility, he stated that one detainee was moved to another housing unit and the other felt safe where he was in general population. The PSA Compliance Manager reported via memorandum that no detainees had been placed in segregated housing due to vulnerability to sexual abuse during the previous 12 months; therefore, there were no actual cases for the AUDITOR to review for compliance with the standard provision.

The SOP, the facility's ability to find alternatives to placing the alleged victim in segregated housing in both cases during the audit period, and the interviews with the Warden and PSA Compliance Manager support a determination of compliance with the standard provision.

115.43(c)

The standard provision states that facilities that place vulnerable detainees in administrative segregation for protective custody shall provide those detainees access to programs, visitation, counsel and other services available to the general population to the maximum extent practicable. The PAQ reflects that vulnerable detainees in administrative segregation for protective custody receive access to programs and services as specified in the standard provision. The SOP states that detainees placed in segregated housing for protection will have access to programs, services, visitation, counsel, and other services available to the general population to the maximum extent possible. The facility did not have any detainees in segregated housing for this reason during the audit period; therefore, there was no actual case to review for compliance with the standard provision.

The SOP and the facility's ability to find alternatives to placing the alleged victim in segregated housing in both cases during the audit period, support a determination of compliance with the standard provision.

115.43(d)

The standard provision requires the facility to implement written procedures for the regular review of all vulnerable detainees placed in administrative segregation for their protection, as follows:

- (1) A supervisory staff member shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted; and
- (2) A supervisory staff member shall conduct, at a minimum, an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days, and every 10 days thereafter.

The PAQ reflects that the facility implemented procedures as prescribed and the procedures require the prescribed reviews by a supervisor. The SOP requires the supervisory reviews as specified by the standard provision and provides details on what the review includes. The facility did not have any

detainees in segregated housing for this reason during the audit period; therefore, there was no actual case to review for compliance with the standard provision.

The SOP and the facility's ability to find alternatives to placing the alleged victim in segregated housing in both cases during the audit period, support a determination of compliance with the standard provision.

115.43(e)

The standard provision requires the facility to notify the appropriate ICE Field Office Director no later than 72 hours after the initial placement into segregation, whenever a detainee has been placed in administrative segregation on the basis of a vulnerability to sexual abuse or assault. The PAQ reflects that the facility makes the notification prescribed by the standard provision. The SOP specifically requires the notification prescribed by the standard provision and within the specified timeframe. The Warden stated that the facility makes this notification via a daily report of restrictive housing that outlines the status of all detainees so housed.

The SOP, the facility's ability to find alternatives to placing the alleged victim in segregated housing in both cases during the audit period, and the interview with the Warden support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.43(a) – No corrective action required.

115.43(b) – No corrective action required.

115.43(c) – No corrective action required.

115.43(d) – No corrective action required.

115.43(e) – No corrective action required.

**§115.51 – Detainee reporting.**

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- ICE Zero-tolerance poster
- Detainee handbooks (agency and facility)
- DHS Sexual Abuse and Assault Awareness pamphlet
- Education video

PEOPLE INTERVIEWED

- PSA Compliance Manager
- Sample of Security Staff, Including Line Staff and First-Line Supervisors
- Random Sample of Detainees

SITE INSPECTION OBSERVATIONS

- Site inspection observation

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.51(a)

The standard provision requires the agency and facility to develop policies and procedures to ensure that detainees have multiple ways to privately report sexual abuse, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents. The agency and each facility shall also provide instructions on how detainees may contact their consular official, the DHS Office of the Inspector General or, as appropriate, another designated office, to confidentially and, if desired, anonymously, reports these incidents. The PAQ reflects that the agency or facility developed the required policies and procedures, and informed detainees about how to contact the specified offices. The SOP specifies that detainees will have multiple ways to privately and anonymously report sexual abuse and assault, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents and detainees will not be punished for reporting. It adds that such reporting can be done verbally, in writing or telephonically. The facility provided the ICE Zero-tolerance poster, detainee handbooks and information pamphlet, all informing detainees of multiple methods of reporting sexual abuse, retaliation or staff neglect or violations of responsibilities that may lead to such incidents. The AUDITOR viewed the education video and verified that it informs detainees of multiple reporting methods. During the site inspection, the AUDITOR viewed the DHS PREA poster and the pamphlet on bulletin boards in detainee housing and program areas. The PSA Compliance Manager and security staff identified multiple methods detainees may use to report sexual abuse. Detainees interviewed also identified multiple methods they could use to report sexual abuse; although included in the education video and written materials, not all detainees know how to contact their consular official, the DHS OIG or another designated office, to confidentially or, anonymously, report these incidents. Some of them acknowledged that they did not pay attention to the video and/or did not read the written materials. Detainees also receive this information during (b) (6), (b) (7)(C) presentation in Intake processing.

The SOP, written materials provided to detainees, (b) (6), (b) (7)(C) presentation, the education video, and interviews with the PSA Compliance Manager, security staff and detainees support a determination of compliance with the standard provision.

115.51(b)

The standard provision requires the agency to also provide, and the facility shall inform the detainees of, at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request. The PAQ reflects that detainees are informed about reporting to an entity that is not part of the agency and remaining anonymous if they choose as specified in the standard provision. The SOP states that upon admission, all detainees receive instructions during orientation on how to contact their consular official or the DHS OIG to report confidentially or anonymously. Most written materials inform detainees about reporting anonymously and confidentially to the "DRIL Line" or the DHS OIG and provide contact information for that office. The PSA Compliance Manager and security staff identified the DHS OIG as an entity to whom detainees can report sexual abuse anonymously and confidentially.

Neither the documentation provided, designee interviews, nor do detainee interviews support a determination of compliance with the standard provision. None of the written material reviewed inform detainees that the DHS OIG is not part of the agency; detainees have good reason to believe the DHS OIG is part of the agency because just like ICE, the OIG is part of the federal government and part of DHS. In fact, the ICE National Detainee Handbook and the DHS Sexual Abuse and Assault Awareness pamphlet provide DHS OIG contact information under "Report to ICE or DHS Headquarters;" thus, the reader has no reason to believe the DHS OIG is not part of the agency. The facility provides contact information for Sure Helpline (the local rape crisis center with whom the facility contracts for advocacy services); however, the standard provision requires the agency (not the facility) to provide a way for detainees to report to an outside entity and the MOU with Sure Helpline does not specifically include a provision where Sure Helpline agrees to receiving reports of sexual abuse from detainees and immediately forward those reports to agency officials, allowing the detainee to remain anonymous upon request. The ICE National Detainee Handbook and the DHS Sexual Abuse and Assault Awareness pamphlet tells detainees they can report to their consular official; however, it is not known whether the agency has arranged for consular officials to immediately forward detainee reports of sexual abuse back to agency officials, allowing the detainee to remain anonymous upon request.

#### RECOMMENDED CORRECTIVE ACTIONS

115.51(a) – No corrective action required.

115.51(b) – The facility must inform detainees of at least one way to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward their reports of sexual abuse to agency officials, allowing detainees to remain anonymous upon request. If the DHS OIG is identified as that entity, the facility must inform detainees that it is not part of the agency and that it is able to receive and immediately forward their reports of sexual abuse to agency officials, allowing the reporting detainee to remain anonymous upon request.

#### **§115.52 – Grievances.**

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Memorandum from the Warden
- MTC Detainee Handbook
- Grievance #M-2017-22

##### PEOPLE INTERVIEWED

- Grievance Supervisor
- Sample of Security Staff, Including Line Staff and First-Line Supervisors
- Random Sample of Detainees

##### SITE INSPECTION OBSERVATIONS

- Site inspection notes

##### THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

##### 115.52(a)

The standard provision requires the facility to permit a detainee to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint. The PAQ reflects that detainees are permitted to file a formal grievance at any time and for the reason specified by the standard provision. The SOP tells detainees that they are expected to attempt informal resolution when possible; however, they are allowed to forgo the informal process and proceed to the formal process. The Grievance Supervisor stated that he would accept an allegation of sexual abuse made through the formal grievance system. Most of the detainees interviewed are aware they can report sexual abuse by filing a formal grievance and during the site inspection, the AUDITOR asked, and detainees confirmed that grievance forms are readily available for their use. The AUDITOR reviewed Grievance #M-2017-22 alleging that an employee of the opposite gender failed to make the required announcement upon entering the housing unit.

The SOP, Grievance #M-2017-22 and interviews with the Grievance Supervisor and detainees support a determination of compliance with the standard provision.

115.52(b) The standard provision prohibits the facility from imposing a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse. The PAQ reflects that the facility refrains from imposing a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse. Both the SOP and the MTC Detainee Handbook inform detainees that grievances may be submitted at any time and the Grievance Supervisor stated that there are no time limits on when detainees may submit a grievance alleging sexual abuse.

The SOP, the handbook and the interview with the Grievance Supervisor support a determination of compliance with the standard provision. The AUDITOR notes that there is a note at the top of the grievance form informing the user that "A grievance must be filed within 5 days of the incident or issue." If this time limit does not apply to grievances alleging sexual abuse, the form should specify that fact.



115.52(c)

The standard provision requires the facility to implement written procedures for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse. The PAQ reflects that there are written procedures for handling the time-sensitive grievances specified in the standard provision. The SOP includes an "Emergency Grievance" section that outlines the facility's procedure for handling grievances that involve an immediate threat to health, safety, welfare, or an urgent need to access legal counsel and/or the law library. The Grievance Supervisor stated that there is a different set of procedures for responding to a time-sensitive grievance about sexual abuse and that the response is provided within 72 hours.

The SOP and the interview with the Grievance Supervisor support a determination of compliance with the standard provision.

115.52(d)

The standard provision requires facility staff to bring medical emergencies to the immediate attention of proper medical personnel for further assessment. The PAQ reflects that facility staff brings medical emergencies to the immediate attention of proper medical personnel for further assessment. The SOP specifically requires medical emergencies to be brought to the immediate attention of the HSA for further assessment. The Grievance Supervisor stated that he would notify medical immediately by phone if he receives a grievance related to sexual abuse. Most of the security staff interviewed included medical in their notifications related to allegations of sexual abuse.

The SOP and the interviews with the Grievance Supervisor and security staff support a determination of compliance with the standard provision.

115.52(e)

The standard provision requires the facility to render a decision on the grievance within five days of receipt and respond to an appeal of the grievance decision within 30 days. Facilities shall send all grievances related to sexual abuse and the facility's decisions with respect to such grievances to the appropriate ICE Field Office Director at the end of the grievance process. The PAQ reflects that decisions related to sexual abuse are rendered within five days. A June 6, 2018, memorandum from the Warden amends the standard operating procedure to require the PSA Compliance Manager to provide a decision on grievances within five days of receipt and respond to appeals within 30 days. The Grievance Supervisor stated that the facility renders a decision on sexual abuse grievances within 24 to 72 hours and appeal decisions on the grievance within five days. In Grievance #M-2017-22, the facility provided an informal response within 24 hours of the filing and a formal response in six days of the filing of the formal grievance.

The memorandum from the Warden, Grievance #M-2017-22, and the interview with the Grievance Supervisor support a determination of compliance with the standard provision.

115.52(f)

The standard provision states that to prepare a grievance, a detainee may obtain assistance from another detainee, the housing officer or other facility staff, family members, or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties. The PAQ reflects that a detainee can obtain the assistance specified in the standard provision and staff take reasonable steps to expedite those requests. The memorandum specifies that detainees may obtain assistance from another detainee, the housing officer or other facility staff, family members, or legal representatives and requires facility staff to take reasonable steps to expedite requests for assistance from these other parties. The Grievance Supervisor stated that there is no problem with such request and that he would refer the detainee to the Law Library, contact the Warden for guidance and allow the detainee a phone call; he pointed out that attorney calls are arranged through his office. Security staff provided a variety of responses when asked about expediting a detainee's request for assistance with filing a grievance from another person; no responses suggested that the employee would deny a detainee's request for assistance from a third party. Ten of 16 detainees interviewed stated that they were aware they could request third-party assistance with preparing a grievance.

The memorandum from the Warden and interviews with the Grievance Supervisor and detainees support a determination of compliance with the standard provision. It appears the facility recently became aware of this standard provision and the Warden issued the memorandum to establish the policy at the facility. Responses provided by security staff suggests they may not be prepared to follow the requirements of the standard provision and the memorandum from Warden as it relates to responding to a detainee's request for assistance under this standard provision. The MTC Handbook does not inform detainees of this resource for filing a grievance. The AUDITOR has no evidence indicating that the facility violated this standard provision during the audit period; therefore, the determination of compliance stands.

AUDITOR RECOMMENDATION:

MTC should consider including this provision of the standard in the next revision of its detainee handbook. The facility should provide training to staff to prepare them to respond accordingly to a detainee's request for assistance with preparing a grievance under this standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.52(a) – No corrective action required.

115.52(b) – No corrective action required.

115.52(c) – No corrective action required.

115.52(d) – No corrective action required.

115.52(e) – No corrective action required.

115.52(f) – No corrective action required.

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

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ

- SOP
- MOU
- MTC Detainee handbook
- Detainee Request Form

#### PEOPLE INTERVIEWED

- PSA Compliance Manager
- Random Sample of Detainees
- Representatives from Sure Helpline Crisis Center

#### SITE INSPECTION OBSERVATIONS

- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

#### 115.53(a)

The standard provision requires the facility to utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse perpetrators to most appropriately address victims' needs. The facility shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime. The PAQ reflects that the facility utilizes the required community resources and services as specified by the standard provision and has entered into MOU with community service providers. In an MOU between the facility and California Coalition Against Sexual Assault (CALCASA), Sure Helpline Crisis Center agrees to provide emotional support related to sexual abuse and victim advocacy services in accordance with the PREA standards. The scope of services includes crisis intervention, counseling and accompaniment during forensic examinations and investigations. The PSA Compliance Manager reported that the facility has an MOU with Sure Helpline Crisis Center and that the services include crisis intervention, counseling, emotional support and accompaniment. During the onsite review, the AUDITOR interviewed two representatives from Sure Helpline Crisis Center who were onsite to provide training. The two representatives confirmed that there has been an MOU with the facility since about 2015 and that their services include counseling, support groups, crisis intervention, limited referrals and accompaniment. The representatives also confirmed that Sure Helpline Crisis Center is part of the coordinated response team required under Standard 115.65. The representatives reported that their organization has not received any allegations of sexual abuse from the facility and that they have not responded to any case of sexual assault at the facility.

The MOU and the interviews with the PSA Compliance Manager and the two representatives support a determination of compliance with the standard provision.

#### 115.53(b)

The standard provision requires the facility's written policies to establish procedures to include outside agencies in the facility's sexual abuse prevention and intervention protocols, if such resources are available. The PAQ reflects that the facility's written policies establish procedures to include outside agencies in the facility's sexual abuse prevention protocols. The SOP specifies that the facility uses a multidisciplinary team approach when responding to sexual abuse and the team will engage the resources of Sure Helpline Crisis Center. The SOP includes the Imperial County Sheriff on a case-by-case basis and other available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse perpetrators to address victims' needs. The PSA Compliance Manager reported that Sure Helpline's role is formally incorporated in the facility's sexual abuse prevention and intervention protocols. The representatives confirmed that their crisis center is incorporated in the facility's formal sexual abuse prevention and intervention protocols.

The SOP and the interviews with the PSA Compliance Manager and the two representatives support a determination of compliance with the standard provision.

#### 115.53(c)

The standard provision requires the facility to make available to detainees, information about local organizations that can assist detainees who have been victims of sexual abuse, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). If no such local organizations exist, the facility shall make available the same information about national organizations. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible. The PAQ reflects that detainees are provided information about the organizations in question and that the facility enables reasonable communication with these organizations in as confidential a manner as possible. The handbook informs detainees about the services provided by Sure Helpline; that the facility will allow reasonable communications with Sure Helpline in as confidential a manner as possible and it provides a mailing address and toll-free hotline number. During the site inspection, the AUDITOR viewed the bulletin boards with the posters in question, the toll-free number next to detainee telephones and verified that contact information for the organization is provided in the detainee handbook. The PSA Compliance Manager reported that the facility informs detainees about the organization through the posters on bulletin boards in every housing unit and detainee program areas and through the detainee handbook and facility pamphlet. Only four of the 16 detainees interviewed knew about the local organization and two said they learned about it from (b) (6), (b) (7)(C) presentation and from the handbook.

The handbook, the AUDITOR's observations, as well as interviews with the PSA Compliance Manager and detainees support a determination of compliance with the standard provision.

#### 115.53(d)

The standard provision requires the facility to inform detainees, prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The PAQ reflects that the facility informs detainees about monitoring communications and mandatory reporting, as required by the standard provision, prior to giving them access to outside resources. The facility provided a photo of the posting above detainee telephones informing them in English and Spanish that all calls are subject to recording and monitoring. The handbook tells detainees about an exception for legal calls and how to request such unmonitored calls. It also tells detainees that the facility will enable communications with Sure Helpline in as confidential a manner as possible and that the facility reports any evidence of sexual abuse to local law enforcement authorities. During the site inspection, the AUDITOR viewed

the posting above detainee telephones, noted that the posting cautions detainees that all calls are monitored and asked about detainee access to confidential calls. After some initial confusion, staff confirmed that all calls on detainee phones are monitored and provided a "Detainee Request Form" which detainees can use to request "special telephone access." If granted, the detainee will be allowed to place an unmonitored call from a designated office; detainees can also meet in private with providers. The PSA Compliance Manager stated that the facility is required to report allegations of sexual abuse to authorities pursuant to mandatory reporting laws and that detainees are informed of this in the handbook. None of the detainees interviewed knew anything about access to confidential communications with providers, the extent to which such communications will be monitored or the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

The handbook, the request form and the interview with the PSA Compliance Manager support a determination of compliance with the standard provision. The AUDITOR has found that it is not unusual for people in detention to not know about confidential communications with providers, facility monitoring of these communications and the facility's requirement to report sexual abuse to local authorities, even after receiving this information during orientation and in written materials provided to them.

#### RECOMMENDED CORRECTIVE ACTIONS

115.53(a) – No corrective action required.

115.53(b) – No corrective action required.

115.53(c) – No corrective action required.

115.53(d) – No corrective action required.

### §115.54 – Third-party reporting

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

#### Notes:

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- Agency website
- ICE DRIL Line flyer

##### PEOPLE INTERVIEWED

- Call to ICE DRIL line

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

#### 115.54

The standard provision requires the facility to establish a method to receive third-party reports of sexual abuse in its immigration detention facilities and shall make available to the public information on how to report sexual abuse on behalf of a detainee. The PAQ reflects that the facility established a method to receive third-party reports of detainee sexual abuse and information has been made available to the public about how to report sexual abuse on behalf of a detainee. The AUDITOR verified that the agency's website at <https://www.ice.gov/contact/detention-information-line> includes a link to the ICE DRIL Line flyer; the flyer provides a toll-free number and information for stakeholders who wish to report sexual abuse of detainees in ICE custody. The AUDITOR called the number, spoke with a representative who verified that detainees and third parties can report a case of sexual abuse of detainees in ICE custody by calling that number.

The DRIL Line flyer and the phone call to the DRIL line support a determination of compliance with the standard provision.

#### RECOMMENDED CORRECTIVE ACTIONS

115.54 – No corrective action required.

### §115.61 – Staff reporting duties.

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

#### Notes:

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- E-mail from ICE Field Office

##### PEOPLE INTERVIEWED

- Warden
- PSA Compliance Manager
- Sample of Security Staff, Including Line Staff and First-Line Supervisors -

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

#### 115.61(a)

The standard provision requires the agency and the facility to require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in a facility; retaliation against detainees or staff who reported or participated in an investigation about such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. The agency shall review and approve facility policies and procedures and shall ensure that the facility specifies appropriate reporting procedures, including a method by which staff can report outside of the chain of command. The PAQ reflects that staff are required to report immediately and according to agency policy, any knowledge, suspicion, or information regarding all events specified by the standard provision; that the facility provided such policies and procedures to the agency for review; and that the policies and procedures specify appropriate reporting procedures including how to report outside the chain of command. The SOP requires all staff, contractors and volunteers to immediately report all allegations of sexual abuse or assault to the Shift Supervisor. Immediate reports will be made by email and telephone after all evidence has been secured and victims receive medical and mental health care evaluations and shall include any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in a facility; retaliation against detainees or staff who reported or participated in an investigation about such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Staff contractors and volunteers may also report allegations outside the chain of command to ICE ERO, ICE OPR, Sure Helpline, or DHS OIG. The facility provided a July 31, 2017 email printout reflecting that the ICE Field Office approved the policy. The PSA Compliance Manager stated that staff are aware of the requirement to report suspicion, retaliation and staff neglect as specified in the standard provision and reports can be done verbally, in writing and anonymously outside the chain of command to the DHS OIG. All security staff interviewed are aware of the requirement to report immediately any of the events specified by the standard provision. Officers would report to their supervisor and supervisors would report to medical, the investigator, management, ICE, and law enforcement. Officers are also aware that they can report to the next person in the chain of command or to the OIG.

The SOP, email and interviews with the PSA Compliance Manager and security staff support a determination of compliance with the standard provision.

#### 115.61(b)

The standard provision states that staff members who become aware of alleged sexual abuse shall immediately follow the reporting requirements set forth in the agency and facility's written policies and procedures. The PAQ reflects that staff members follow the reporting requirements immediately upon learning of a case of sexual abuse. The SOP requires staff, contractors and volunteers to immediately report all allegations and forms of sexual abuse and assault to the shift supervisor. All security staff interviewed indicated that they would report immediately to their supervisor any of the events specified by the standard provision.

The SOP and interviews with security staff support a determination of compliance with the standard provision.

#### 115.61(c)

The standard provision states that apart from such reporting, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions. The PAQ reflects that apart from reporting, staff is prohibited from revealing any information related to a sexual abuse report to anyone other than for the reasons specified in the standard provision. The SOP specifically prohibits staff from revealing information related to a sexual abuse report to anyone other than to the extents specified by the standard provision. Interviews with security staff reflect that officers would report to their supervisor and supervisors would report to medical, the investigator, management, ICE, and law enforcement.

The SOP and interviews with security staff support a determination of compliance with the standard provision.

#### 115.61(d)

The standard provision states that if the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person's statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws. The PAQ reflects "N/A" indicating that the standard provision does not apply. The Warden stated that the facility reports incidents of sexual abuse immediately to local law enforcement and to the Field Office leadership, and that ICE takes care of other required reporting such as the Joint Intake Center (JIC), ICE OPR, DHS OIG, etc.; he did not comment on reporting to local services agencies if the victim is considered a vulnerable adult.

According to the explanation on the PAQ, N/A is to be selected if the facility does not house juveniles or vulnerable adults as defined by State law. While the facility does not house juveniles, it has not been established that it does not house vulnerable adults as defined by State Law. During the onsite review, the AUDITOR determined that the facility houses detainees with physical disabilities, mental illness and the elderly. The AUDITOR informed facility staff about county Adult Protective Services (APS) and recommended contacting them about reports of sexual abuse if the alleged victim is a vulnerable adult. Every county in California has an APS agency.

#### AUDITOR RECOMMENDATION:

The AUDITOR recommends that the facility establish contact with Imperial County APS about their interest receiving reports of sexual abuse involving detainees who meet the criteria for vulnerable adult under State law. Since the facility has not received an allegation of sexual abuse involving a detainee who meets the definition of vulnerable adult under State law, there is no evidence that the facility violated the standard provision during the audit period.

#### RECOMMENDED CORRECTIVE ACTIONS

115.61(a) – No corrective action required.

115.61(b) – No corrective action required.

115.61(c) – No corrective action required.

115.61(d) – No corrective action required.

#### **§115.62 – Protection duties.**

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP

PEOPLE INTERVIEWED

- Warden
- Sample of Security Staff, Including Line Staff and First Line Supervisors

SITE INSPECTION OBSERVATIONS

- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.62

The standard provision states that if an agency employee or facility staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee. The PAQ reflects that facility staff takes immediate action to protect a detainee believed to be at substantial risk of imminent sexual abuse. The SOP specifies that if staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee. The Warden stated that under the circumstances described in the standard provision, an employee would move the detainee to safety. All security staff interviewed indicated they would take action to protect the detainee, including moving the detainee to safe housing. In one of the incidents reported during the audit period, the PSA Compliance Manager indicated that the detainee was moved to another housing unit. During the site inspection, the AUDITOR noted that the facility has several housing units including two with cells; thus, providing alternatives for moving a detainee away from substantial risk of imminent sexual abuse.

The SOP, the AUDITOR observations, the PSA Compliance Manager's statement and interviews with the Warden and security staff support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.62 – No corrective action required.

**§115.63 – Report to other confinement facilities.**

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Notification letter to facility in Denver
- Email from (b) (6), (b) (7)(C) reporting allegation

PEOPLE INTERVIEWED

- Warden
- PSA Compliance Manager

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.63(a)

The standard provision states that upon receiving an allegation that a detainee was sexually abused while confined at another facility, the agency or facility whose staff received the allegation shall notify the appropriate office of the agency or the administrator of the facility where the alleged abuse occurred. The PAQ reflects that the facility notifies the facility where an alleged abuse occurred upon receiving an allegation that a detainee was sexually abused at that facility. The SOP specifies that, upon facility staff receiving notification of an allegation that a detainee was sexually abused or assaulted while confined at another facility, the Warden will notify the ICE FOD via the ICE COR and appropriate administrator of the facility where the alleged abuse occurred. The facility provided a December 19, 2017, email from (b) (6), (b) (7)(C) reporting a detainee's allegation of sexual involvement with an inmate at another facility and a letter with the same date from the Warden notifying the Warden of the other facility of the allegation. Both the Warden and the PSA Compliance Manager stated that if their facility receives a report that a detainee was sexually abused at another facility, the incident would be reported to the administrator of the facility where the alleged abuse occurred and to the ICE FOD via the ICE COR.

The SOP, the December 19<sup>th</sup> letter and interviews with the Warden and the PSA Compliance Manager support a determination of compliance with the standard provision.

115.63(b)

The standard provision requires the notification in Paragraph (a) of this section to be provided as soon as possible but no later than 72 hours after receiving the allegation. The PAQ reflects that such notifications are provided as soon as possible but no later than 72 hours after receiving the allegation. The SOP specifies that notification of the alleged sexual abuse shall occur as soon as possible but no later than 72 hours after receiving the allegation. Both the Warden and the PSA Compliance Manager stated that such notifications would be made within 72 hours of receiving the allegation.

The SOP, the email, the letter and interviews with the Warden and the PSA Compliance Manager support a determination of compliance with the standard provision.

115.63(c)

The standard provision requires the agency or facility to document that it provided such notification. The PAQ reflects that the facility documents such notifications and the SOP requires documentation of these notifications using the PREA Form 115.63, which is then placed in the detainee's detention file.

The SOP, the email and the letter support a determination of compliance with the standard provision.

115.63(d)

The standard provision states that the agency or facility office that receives such notification, to the extent the facility is covered by this subpart, shall ensure that the allegation is referred for investigation in accordance with these standards and reported to the appropriate ICE Field Office Director. The PAQ reflects that the facility ensures the allegation is investigated and reported to the appropriate ICE FOD. The SOP requires the staff member receiving notification from another facility that a detainee alleges to have been sexually assaulted at IRDF, to immediately notify the PSA Compliance Manager for investigation and report the allegation to ICE Field Office Director via the COR. Both the Warden and the PSA Compliance Manager stated that if their facility receives a report that a detainee was sexually abused there, the allegation would be referred for investigation; they also asserted that no such report has been received.

The SOP and interviews with the Warden and the PSA Compliance Manager support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.63(a) – No corrective action required.

115.63(b) – No corrective action required.

115.63(c) – No corrective action required.

115.63(d) – No corrective action required.

**§115.64 – Responder duties.**

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Laminated card with steps
- PowerPoint training for Contractors and Volunteers

PEOPLE INTERVIEWED

- Sample of Security Staff, Including Line Staff and First Line Supervisors

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.64(a)

The standard provision states that upon learning of an allegation that a detainee was sexually abused, the first security staff member to respond to the report, or his or her supervisor, shall be required to:

- (1) Separate the alleged victim and abuser;
- (2) Preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence;
- (3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
- (4) If the sexual abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

The PAQ reflects that upon learning of an allegation that a detainee was sexual abused, the first security staff member or his or her supervisor is required to take all four steps prescribed by the standard provision. The SOP lists six steps for first responder and all four steps prescribed by the standard provision are included, in addition to referring the victim for medical examination and/or clinical assessment and completing a detailed incident report and required notifications as soon as possible. The Warden and some security staff displayed a laminated card with the first security staff responder steps listed; the Warden stated that the card was issued to all security staff. During interviews, security staff were generally knowledgeable of the security responder duties prescribed by the standard provision. The two allegations reported during the audit period did not involve any physical evidence and the unsubstantiated incident required removing the alleged victim from the scene, which was accomplished by a bed move to another housing unit. The unfounded allegation did not include any physical, verbal or other contact between the staff member and the alleged victim; therefore, there was no evidence or crime scene to preserve.

The SOP, the laminated cards and interviews with security staff support a determination of compliance with the standard provision.

115.64(b)

The standard provision states that if the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff. The PAQ reflects that a non-security staff first responder is required to perform the duties prescribed by the standard provision. The SOP does not distinguish between responsibilities for a security first responder and those of a non-security first responder. There is no subsection with instructions for a non-security first responder and the facility did not have any incident in which the first responder was a non-security staff member; therefore, such interview was not conducted. The first responder duties listed in the PowerPoint used to train contractors and volunteers are consistent with the duties prescribed by the standard provision.

The PowerPoint presentation support a determination of compliance with the standard provision.

#### RECOMMENDED CORRECTIVE ACTIONS

115.64(a) – No corrective action required.

115.64(b) – No corrective action required.

#### **§115.65 – Coordinated response.**

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- PSA Compliance Manager memorandum

##### PEOPLE INTERVIEWED

- Warden

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

##### 115.65(a)

The standard provision requires the facility to develop a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. The PAQ reflects that the facility has developed the plan in question. The facility provided its "First Response Requirements" procedure and its "Specialized Response and Victim Services" procedure, as well as its Medical Sexual Abuse/Assault policy and procedure. The Warden stated that the facility communicates and coordinates with staff first responders, medical and mental health, investigators and facility leadership by taking the detainee to medical, notifying facility leadership, preserving the crime scene and investigating the incident.

The documents provided do not support a determination of compliance with the standard provision. It appears the facility provided excerpts of existing SOPs as its plan to coordinate actions to be taken by first responders. The standard provision calls for a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. The "Specialized Response and Victim Services" list members of the response team and dictates some actions to be taken but does not specify who is responsible for each action and does include actions to be taken by each member of the team. A plan that coordinates the actions to be taken by the responders referenced in the standard provision should be written into one document that lists the actions to be taken by all responders in a coordinated fashion. If the response is coordinated, all responders should know what actions are taken by the other responders to ensure the response is organized and efficient. To ensure all designated staff first responders are prepared to respond to an actual incident according to the institutional plan, copies of the plan should be distributed to each team member's post or worksite. The facility may consult the US Department of Justice publication "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults-Adolescents" at <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf> for guidance in the preparation of its institutional coordinated response plan. On Page 23, the document provides some guidance for a "Coordinated Team Approach." Although the protocols address a coordinated response to an incident in the community, the facility may still be able to draw from this publication in tailoring its institutional plan.

##### 115.65(b)

The standard provision requires the facility to use a coordinated multidisciplinary team approach for responding to sexual abuse. The PAQ reflects that the facility uses the approach prescribed by the standard provision. The SOP involves multiple stakeholders of various disciplines and the Warden reported that the facility uses the approach prescribed by the standard provision.

The SOP and the interview with the Warden support a determination of compliance with the standard provision. The facility has not had to implement a coordinated response among staff first responders during the audit period; therefore, the AUDITOR is unable to evaluate whether an actual response met the standard provision.

##### 115.65(c)

The standard provision states that if a victim of sexual abuse is transferred between facilities covered by 6 CFR part 115, subpart A or B, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services. The PAQ reflects that the facility provides the prescribed information to the receiving DHS facility as permitted by law. The SOP specifies that victims will be transported to Pioneer Memorial Hospital Emergency Room but does not include any reference to transfers to other ICE facilities referenced under this standard provision. The Warden stated that if a victim is transferred to a DHS facility, his facility would provide the information prescribed by the standard provision, medical and mental health records would be sent, and security staff would provide the incident report to the receiving facility. The PSA Compliance Manager provided a memorandum reporting that the facility has not transferred a detainee victim of sexual abuse to another confinement facility in the past year.

The interview with the Warden and the memorandum support a determination of compliance with the standard provision. If there is a possibility that the facility would transfer a detainee victim to a facility identified by the standard provision, the facility should revise its SOP to include the provisions in question.

115.65(d)

The standard provision states that if a victim is transferred from a DHS immigration detention facility to a facility not covered by paragraph (c) of this section, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise. The PAQ reflects that the facility provides the prescribed information to the receiving non-DHS facility as permitted by law. The SOP specifies that victims will be transported to Pioneer Memorial Hospital Emergency Room but does not include any reference to transfers to facilities not covered by paragraph (c) above. The Warden stated that his facility would provide the information prescribed by the standard provision unless the victim requests otherwise.

The interview with the Warden and the memorandum support a determination of compliance with the standard provision. If there is a possibility that the facility would transfer a detainee victim to a facility not covered by 6 CFR part 115, subpart A or B, the facility should revise its SOP to include the provisions in question.

RECOMMENDED CORRECTIVE ACTIONS

115.65(a) – The facility should develop a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. The plan should identify all first responders and actions each of them is expected to take during a coordinated response to an incident of sexual assault at the facility. To ensure each first responder performs the actions specified in the plan during an actual incident [115.65(b)], the plan should be kept at each first responder's post or worksite.

115.65(b) – No corrective action required.

115.65(c) – No corrective action required.

115.65(d) – No corrective action required.

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

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP

PEOPLE INTERVIEWED

- Warden

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.66

The standard provision states that staff, contractors, and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation. The PAQ reflects that staff, contractors, and volunteers suspected of perpetrating sexual abuse are removed from duties as specified by the standard provision. The SOP specifies the language of the standard provision verbatim. The Warden stated that given the scenario presented in the standard provision, a contractor would be barred from the facility and an employee would be placed on home duty or assigned where they cannot contact the victim.

The SOP and interview with the Warden support a determination of compliance with the standard provision. With respect to the Warden's statement, the AUDITOR notes that assigning the employee to a post where he or she cannot contact the victim does not satisfy the requirement of the standard to remove the employee from duties requiring contact with detainees.

RECOMMENDED CORRECTIVE ACTIONS

115.66 – No corrective action required.

**§115.67 – Agency protection against retaliation.**

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

**Notes:** POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Retaliation monitoring form
- PSA Compliance Manager memorandum

PEOPLE INTERVIEWED

- Warden
- PSA Compliance Manager

SITE INSPECTION OBSERVATIONS



- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.67(a)

The standard provision states that staff, contractors, and volunteers, and immigration detention facility detainees, shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual activity as a result of force, coercion, threats, or fear of force. The PAQ reflects that staff, contractors, and volunteers, and immigration detention facility detainees refrain from retaliation as specified by the standard provision. The SOP forbids staff, contractors and volunteers from retaliating 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 facility provided a "PREA Allegation Follow-up" form used for monitoring retaliation; the form allows the user to document retaliation monitoring activities consistent with standard provision requirements. The PSA Compliance Manager reported via memorandum that the facility did not start monitoring retaliation until July 2017; thus, there was no monitoring for the two allegations reported. The Warden stated that the facility's measures to prevent or respond to retaliation include housing changes, removing alleged staff or detainee abuser from contact with victims, protecting detainees and letting them know to report any signs of retaliation, referring staff to Employee Assistance Program or detainees to mental health for assistance. The PSA Compliance Manager reported the same protection measures as the Warden.

The SOP, the monitoring form and interviews with the Warden and PSA Compliance Manager support a determination of compliance with the standard provision.

115.67(b)

The standard provision requires the facility to employ multiple protection measures, such as housing changes, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or for cooperating with investigations. The PAQ reflects that the facility employs multiple protection measures including those prescribed by the standard provision. The SOP requires the multiple protection measures prescribed by the standard provision. Both the Warden and the PSA Compliance Manager reported the facility's multiple protection measures in subsection (a) above.

The SOP, the monitoring form and interviews with the Warden and PSA Compliance Manager support a determination of compliance with the standard provision.

115.67(c)

The standard provision states that for at least 90 days following a report of sexual abuse, the agency and facility shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff and shall act promptly to remedy any such retaliation. Items the agency should monitor include any detainee disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. DHS shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. The PAQ reflects that the facility monitors for retaliation for at least 90 days, acts promptly to remedy any such retaliation, and monitors the activities prescribed by the standard provision. The SOP calls for retaliation monitoring activities consistent with those prescribed by the standard provision. The facility will monitor in concert with ICE and will continue monitoring beyond 90 days if initial monitoring indicates a need. The "PREA Allegation Follow-up" form allows documentation of the monitoring activities prescribed by the standard provision. The Warden listed the monitoring activities prescribed by the standard provision for detainees and for staff, identified the PSA Compliance Manager as the designated retaliation monitor, and stated that monitoring continues until the threat no longer exists and includes interviewing the victim and following-up. The PSA Compliance Manager reported the same monitoring measures as the Warden and stated that he would meet with the victim one-on-one to check for signs of retaliation.

The SOP, the monitoring form and interviews with the Warden and PSA Compliance Manager support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.67(a) – No corrective action required.

115.67(b) – No corrective action required.

115.67(c) – No corrective action required.

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

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- PSA Compliance Manager memorandum

PEOPLE INTERVIEWED

- Warden
- PSA Compliance Manager

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

116.68(a)

The standard provision requires the facility to take care to place detainee victims of sexual abuse in a supportive environment that represents the least restrictive housing option possible (e.g., protective custody), subject to the requirements of §115.43. The PAQ reflects that the facility places detainee victims of sexual abuse in a supportive environment as prescribed by the standard provision. The SOP calls for victims and vulnerable detainees to be housed in a supportive environment that represents the least restrictive housing option and that will, to the extent possible, permit the victim the same level of privileges allowed prior to the incident. The PSA Compliance Manager reported that the facility houses victims of sexual abuse in a supportive environment that is the least restrictive and separate housing from the alleged abuser, or in protective custody. The facility did not have any detainees in segregated housing for risk of sexual victimization or following a sexual abuse allegation; therefore, the AUDITOR did not conduct such interview.

The SOP and the PSA Compliance Manager interview support a determination of compliance with the standard provision.

116.68(b)

The standard provision states that detainee victims shall not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances or at the request of the detainee. The PAQ reflects that the facility ensures detainee victims are not held in administrative segregation longer than the number of days specified by the standard provision. The SOP specifies that victims will not be held for longer than five days in any type of administrative segregation for protective purposes, except in highly unusual circumstances or at the request of the victim. The PSA Compliance Manager stated that detainee victims would not be held in segregated housing longer than five days unless there are unusual circumstances or the detainee requests to remain in segregated housing. He also reported via memorandum that the facility has not placed any victim of sexual abuse in restricted housing during the past year.

The SOP, the memorandum, and the PSA Compliance Manager interview support a determination of compliance with the standard provision.

116.68(c)

The standard provision states that a detainee victim who is in protective custody after having been subjected to sexual abuse shall not be returned to the general population until completion of a proper re-assessment, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse. The PAQ reflects that the facility ensures detainee victims in protective custody due to sexual abuse are properly reassessed before returning to the general population and that the reassessment takes into consideration any increased vulnerability as specified by the standard provision. The SOP specifies the language of the standard provision verbatim. The PSA Compliance Manager indicated that the facility completes the reassessment as required by the standard provision and that neither victim in the two allegations required protective custody.

The SOP and the PSA Compliance Manager interview support a determination of compliance with the standard provision.

116.68(d)

The standard provision requires the facility to notify the appropriate ICE Field Office Director whenever a detainee victim has been held in administrative segregation for 72 hours. The PAQ reflects that the facility notifies the ICE FOD when a detainee victim has been held in administrative segregation for 72 hours. The SOP requires this notification via the ICE COR. The Warden stated that the facility notifies the ICE FOD of the status of all detainees in segregated housing via a daily report of restrictive housing. The PSA Compliance Manager also stated that the facility provides the notification in question.

The SOP, the memorandum, and the interview with Warden and the PSA Compliance Manager support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.68(a) – No corrective action required.

115.68(b) – No corrective action required.

115.68(c) – No corrective action required.

115.68(d) – No corrective action required.

**§115.71 – Criminal and administrative investigations.**

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Investigator training records

PEOPLE INTERVIEWED

- Warden
- PSA Compliance Manager
- Facility investigator

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.71(a)

The standard provision states that if the facility has responsibility for investigating allegations of sexual abuse, all investigations into alleged sexual abuse must be prompt, thorough, objective, and conducted by specially trained, qualified investigators. The PAQ reflects that all facility investigations are prompt, thorough, objective, and conducted by specially trained, qualified investigators. The PSA Compliance Manager stated that all facility investigations are prompt, thorough, objective, and conducted by specially trained, qualified investigators and that the facility takes all allegations seriously. The PSA Compliance Manager serves as the facility investigator; he stated that he received the prescribed specialized training to ensure all facility investigations are in compliance with the requirements of the standard provision. The facility provided training records to show that the investigator received the prescribed specialized training. The certificates include the following:

1. PREA Specialized Training Investigating Sexual Abuse, provided by California Coalition Against Sexual Assault, issued 1/16/18
2. Sexual Assault Counselor S.A.R.T. Training, a 52-hour course provided by California Emergency Management Agency, issued 2/01/16
3. PREA: Coordinator's Roles and Responsibilities, a 3-hour course by the National Institute of Corrections, issued 4/18/16
4. Gender-Responsive Approaches for Women, a 20-hour course by Imperial Regional Detention Facility, issued 12/2/15

The facility also provided a sign-in sheet for a 2-hour PREA Resource Center class titled "First Response & Evidence Collection" presented on 5/29/18 and a sign-in sheet for a webinar presented by Sure Helpline Crisis Center on 1/16/17.

The training records and the interviews with the PSA Compliance Manager/Facility Investigator support a determination of compliance with the standard provision.

#### 115.71(b)

The standard provision states that upon conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. The PAQ reflects that administrative investigations are completed upon conclusion of a criminal investigation as required by the standard provision and include the required consultations. The SOP requires an administrative investigation upon conclusion of a criminal investigation where the allegation is substantiated or unsubstantiated; these administrative investigations will be conducted after consultation with ICE ERO via the ICE COR and the Sheriff's Office. The Warden verified that the facility conducts an administrative investigation if a criminal investigation is unsubstantiated. The PSA Compliance Manager stated that an administrative investigation is conducted after an unsubstantiated criminal investigation if required by ICE. Neither of the two allegations reported at the facility resulted in a criminal investigation and the facility conducted an administrative investigation in both cases.

The SOP, the two facility investigations, and interviews with the Warden and PSA Compliance Manager support a determination of compliance with the standard provision.

#### 115.71(c)

The standard provision requires the facility to:

- (1) Develop written procedures for administrative investigations, including provisions requiring:
  - a. Preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;
  - b. Interviewing alleged victims, suspected perpetrators, and witnesses;
  - c. Reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator;
  - d. 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;
  - e. An effort to determine whether actions or failures to act at the facility contributed to the abuse; and
  - f. 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
  - g. Retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years.
- (2) Such procedures shall govern the coordination and sequencing of the two types of investigations, in accordance with paragraph (b) of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation.

The PAQ reflects that the written procedures for investigations include all requirements of the standard provision. The SOP lists the same requirements as the standard provision. The Warden stated that after gathering all the evidence, facility investigators would attempt to determine whether any failures at the facility led to the abuse. The PSA Compliance Manager/Investigator identified information/evidence he would collect as part of the administrative investigation; including electronic monitoring; preserving direct and circumstantial evidence; interviewing alleged victim, perpetrator and witnesses; and reviewing prior sexual abuse complaints involving the alleged perpetrator; he pointed out that the Sheriff's Office would collect Deoxyribonucleic Acid (DNA) evidence.

The SOP and interviews with the Warden and PSA Compliance Manager/Investigator do not support a determination of compliance with the standard provision. The facility did not produce the written procedures for administrative investigations with the specific investigative tasks prescribed by the standard provision, instead, the SOP only reflects that administrative investigations include the investigative tasks prescribed by the standard provision without explaining how each task is to be performed. For instance, the first task calls for "Preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;" however, there is no explanation of how to preserve the different types of evidence, how to maintain and document the chain of custody, how to safely store evidence, how to collect electronic monitoring footage and data, etc. Most of these investigative activities are already written into existing ICE investigator training material, so the facility should not have to brainstorm how to perform them.

#### 115.71(e)

The standard provision states that the departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. The PAQ reflects that the facility ensures investigations are not terminated for the reasons stated in the standard provision and the SOP states the language of the standard provision. Both the Warden and the PSA Compliance Manager/Investigator stated that an investigation would not be terminated based upon the departure of the alleged abuser or victim from the employment or control of the facility or agency.

The SOP and interviews with the Warden and the PSA Compliance Manager/Investigator support a determination of compliance with the standard provision.

#### 115.71(f)

The standard provision states that when outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. The PAQ reflects that the facility cooperates with outside investigators as specified by the standard provision and the SOP states the language of the standard provision. The Warden reported that the facility cooperates with outside investigators and provided examples; the PSA Compliance Manager/Investigator stated that the facility provides electronic monitoring, gathers interview statements, remains informed about the progress of the investigation and ensures its internal investigation does not interfere with the law enforcement agency's investigation. Neither of the two allegations reported during the audit period were investigated by outside investigators.

The SOP and interviews with the Warden and the PSA Compliance Manager/Investigator support a determination of compliance with the standard provision.

#### RECOMMENDED CORRECTIVE ACTIONS

115.71(a) – No corrective action required.

115.71(b) – No corrective action required.

115.71(c) – The facility shall develop written procedures for administrative investigations, including provisions requiring the investigative tasks prescribed by the standard provision. The written procedures should explain how each task is to be completed and include relevant information such as who, when, where, etc.

115.71(e) – No corrective action required.

115.71(f) – No corrective action required.

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

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP

##### PEOPLE INTERVIEWED

- Facility investigator

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

#### 115.72

The standard provision states that when an administrative investigation is undertaken, the agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated. The PAQ reflects that for administrative investigations, the agency imposes no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated. The SOP specifies that the facility will use no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated. The Facility Investigator stated that no standard higher than a preponderance of the evidence is used in determining whether allegations of sexual abuse are substantiated.

The SOP and the interview with the Facility Investigator support a determination of compliance with the standard provision. The facility should require investigators to document in their reports the standard used in determining whether allegations of sexual abuse are substantiated. This could be required to show compliance with the standard provision during an audit.

#### RECOMMENDED CORRECTIVE ACTIONS

115.72 – No corrective action required.

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

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- PSA Compliance Manager memorandum
- Grievance #M-2017-22

##### PEOPLE INTERVIEWED

- Warden

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.73

The standard provision requires the agency to, when the detainee is still in immigration detention, or where otherwise feasible, following an investigation into a detainee's allegation of sexual abuse, notify the detainee as to the result of the investigation and any responsive action taken. The PAQ reflects that the facility notifies detainees of the results of the investigation into their allegations of sexual abuse as specified by the standard provision. The SOP requires the facility to notify the FOD, via the ICE COR, of investigative findings and any responsive actions taken so the information can be reported to ICE HQ and to the detainee. One detainee filed - Grievance #M-2017-22 to report his allegations and the facility notified the detainee of the result of the investigation via the appeal response. The Warden stated that the facility notifies the victim verbally and in writing that the allegations were investigated, and a copy of the notification is placed in the victim's file. The PSA Compliance Manager reported via memorandum that the FOD will report the result of the investigation to the detainee via the ICE COR.

The SOP, the memorandum, the response to - Grievance #M-2017-22, and the interview with the Warden support a determination of compliance with the standard provision. The AUDITOR notes the discrepancies between the victim notification process specified in the SOP/reported by the PSA Compliance Manager and the process described by the Warden. The standard provision requires the agency, not the facility, to provide the notification, but does not specifically require written notification or a record of such notification.

#### RECOMMENDED CORRECTIVE ACTIONS

115.73 – No corrective action required.

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

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

#### Notes:

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- PSA Compliance Manager memorandum
- Field Office approval email

##### PEOPLE INTERVIEWED

- Warden

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

##### 115.76(a)

The standard provision states that staff shall be subject to disciplinary or adverse action up to and including removal from their position and the Federal service for substantiated allegations of sexual abuse or for violating agency or facility sexual abuse policies. The PAQ reflects that staff is subject to the penalties specified in the standard provision for substantiated allegations of sexual abuse or for violating agency or facility sexual abuse policies. The SOP states that staff shall be subject to disciplinary or adverse action up to and including removal from their position for substantiated allegations of sexual abuse or for violating ICE ERO or the facility's sexual abuse rules, policies, or standards. The Warden stated that staff is subject to the penalties specified in the standard provision for substantiated allegations of sexual abuse or for violating facility sexual abuse policies.

The SOP and interview with the Warden support a determination of compliance with the standard provision.

##### 115.76(b)

The standard provision requires the agency to, review and approve facility policies and procedures regarding disciplinary or adverse actions for staff and shall ensure that the facility policy and procedures specify disciplinary or adverse actions for staff, up to and including removal from their position and from the Federal service, when there is a substantiated allegation of sexual abuse, or when there has been a violation of agency sexual abuse rules, policies, or standards. Removal from their position and from the Federal service is the presumptive disciplinary sanction for staff who have engaged in or attempted or threatened to engage in sexual abuse, as defined under the definition of sexual abuse of a detainee by a staff member, contractor, or volunteer, paragraphs (1)-(4) and (7)-(8) in §115.6. The PAQ reflects that the policies and procedures in question were provided to the agency for review and approval and that removal from their position and from the Federal service is the presumptive disciplinary sanction for staff who have engaged in or attempted or threatened to engage in sexual abuse, as defined under the definition of sexual abuse of a detainee by a staff member, contractor, or volunteer, paragraphs (1)-(4) and (7)-(8) in §115.6. The SOP specifies the same requirements and disciplinary sanctions as the standard provision. The PSA Compliance Manager reported via memorandum that the facility has not had any terminations, resignations or disciplinary sanctions on staff in the past year. The facility provided a July 31, 2017, email from the ICE COR reporting that the facility's SAAPI policy has been approved by the ICE Field Office.

The SOP, the memorandum and the email support a determination of compliance with the standard provision.

##### 115.76(c)

The standard provision requires the facility to report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to appropriate law enforcement agencies, unless the activity was clearly not criminal. The PAQ reflects that the facility reports all removals or resignations in lieu of removal to law enforcement agencies as specified by the standard provision. The SOP calls for reporting all substantiated allegations against staff, removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to the Sheriff's Office, unless the activity was clearly not criminal. The Warden stated that the facility notifies the Sheriff's Office or the District Attorney in situations such as those specified by the standard provision.

The SOP and the interview with the Warden support a determination of compliance with the standard provision.

115.76(d)

The standard provision requires the facility to make reasonable efforts to report removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to any relevant licensing bodies, to the extent known. The PAQ reflects that the facility makes reasonable efforts to report removals or resignations in lieu of removal, for reasons specified by the standard provision, to any relevant licensing bodies to the extent known. The SOP calls for reporting all substantiated allegations against staff, removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to the FOD, via the COR, regardless of whether the activity was criminal and making reasonable efforts to report such information to relevant licensing bodies to the extent known. The Warden stated that Human Resources would notify the licensing bodies in situations such as those described by the standard provision.

The SOP and the interview with the Warden support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.76(a) – No corrective action required.

115.76(b) – No corrective action required.

115.76(c) – No corrective action required.

115.76(d) – No corrective action required.

**§115.77 – Corrective action for contractors and volunteers.**

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- PSA Compliance Manager memorandum

PEOPLE INTERVIEWED

- Warden

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.77(a)

The standard provision states that any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees. Each facility shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. Such incidents shall also be reported to law enforcement agencies, unless the activity was clearly not criminal. The PAQ reflects that the facility ensures that any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees; makes reasonable efforts to report to any relevant licensing body, to the extent known; and reports activities that are clearly criminal to law enforcement agencies. The SOP requires removing from contact with detainees, any contractor or volunteer who has engaged in sexual abuse or assault. The SOP calls for reporting all substantiated allegations against a contractor or volunteer to the Sheriff's Office, unless the activity was clearly not criminal, and to the FOD, via the COR, regardless of whether the activity was criminal and making reasonable efforts to report such information to relevant licensing bodies to the extent known. In addition to the actions prescribed by the standard provision, the Warden stated that contractors or volunteers would be removed from contact with detainees, the facility would take remedial actions and notify ICE to address allegations of sexual abuse.

The SOP and the interview with the Warden support a determination of compliance with the standard provision.

115.77(b)

The standard provision states that contractors and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation. The PAQ reflects that the facility takes the actions prescribed by the standard provision in response to contractors and volunteers suspected of perpetrating sexual abuse. The SOP states that contractors suspected of perpetrating sexual abuse or assault will be removed from duties requiring contact with detainees pending the outcome of the investigation. The Warden confirmed that this would be the facilities response to contractors and volunteers suspected of perpetrating sexual abuse. The PSA Compliance Manager reported via memorandum that the facility has not had any substantiated cases of sexual abuse by a contractor or volunteer in the past year.

The SOP, the memorandum and the interview with the Warden support a determination of compliance with the standard provision.

115.77(c)

The standard provision requires the facility to take appropriate remedial measures and consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse but have violated other provisions within these standards. The PAQ reflects that the facility takes appropriate remedial measures as specified by the standard provision in response to contractors or volunteers who have not engaged in sexual abuse but have violated other provisions within these standards. The SOP states that the facility will take appropriate remedial measures and will consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse but have violated other sexual abuse policies. The Warden confirmed that this would be the facilities response to contractors and volunteers who have not engaged in sexual abuse but have violated other provisions within these standards. Neither of the two allegations received in the past 12 months involved a contractor or volunteer who violated provisions of the standard.

The SOP, the memorandum and the interview with the Warden support a determination of compliance with the standard provision.

#### RECOMMENDED CORRECTIVE ACTIONS

115.77(a) – No corrective action required.

115.77(b) – No corrective action required.

115.77(c) – No corrective action required.

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

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Detainee Handbook

##### PEOPLE INTERVIEWED

- Warden

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

##### 115.78(a)

The standard provision requires the facility to subject a detainee to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse. The PAQ reflects that the facility subjects a detainee to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse. The SOP specifies the language of the standard provision verbatim. The Warden indicated that the facility charges detainees with the appropriate code and applies sanctions commensurate with the severity of the act to encourage conformance with the rules in the future. The facility provided an excerpt of the detainee handbook outlining the facility's formal disciplinary process.

The SOP, handbook and the interview with the Warden support a determination of compliance with the standard provision.

##### 115.78(b)

The standard provision states that at all steps in the disciplinary process provided in paragraph (a), any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future. The PAQ reflects that sanctions are imposed commensurate with the severity of the committed prohibited act and encourage detainees to conform with rules and regulations in the future. The SOP does not specify the language of the standard provision; however, the detainee handbook provides that, the facility has the authority to impose sanctions in accordance with its table of prohibited acts and associated sanctions. The Warden commented on this issue in (a) above.

The handbook and the interview with the Warden support a determination of compliance with the standard provision.

##### 115.78(c)

The standard provision requires the facility to have a detainee disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedure. The PAQ reflects that the facility's disciplinary process provides the elements of fundamental fairness specified in the standard provision. The disciplinary process outlined in the detainee handbook includes the elements of fundamental fairness prescribed by the standard provision. The Warden commented on this issue in (a) above.

The handbook and the interview with the Warden support a determination of compliance with the standard provision.

##### 115.78(d)

The standard provision requires the disciplinary process to consider whether a detainee's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. The PAQ reflects that the disciplinary process considers the detainee factors prescribed by the standard provision when determining sanctions. The SOP includes the language of the standard provision and the Warden confirmed that mental health concerns are reviewed with mental health practitioners and considered during deliberations of guilty or not guilty and imposition of sanctions if found guilty.

The SOP and the interview with the Warden support a determination of compliance with the standard provision.

##### 115.78(e)

The standard provision prohibits the facility from disciplining a detainee for sexual contact with staff unless there is a finding that the staff member did not consent to such contact. The PAQ reflects that the facility refrains from disciplining a detainee under the circumstances specified by the standard provision. The SOP specifies the language of the standard provision verbatim and the Warden confirmed that the facility would not discipline a detainee under the circumstances specified by the standard provision.

The SOP and the interview with the Warden support a determination of compliance with the standard provision.

##### 115.78(f)

The standard provision states that for the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. The PAQ reflects that the facility refrains from disciplining a detainee under the circumstances specified by the standard provision. The SOP specifies the language of the standard provision verbatim and the Warden confirmed that the facility would not discipline a detainee under the circumstances specified by the standard provision.

The SOP and the interview with the Warden support a determination of compliance with the standard provision.

#### RECOMMENDED CORRECTIVE ACTIONS

115.78(a) – No corrective action required.

115.78(b) – No corrective action required.

115.78(c) – No corrective action required.

115.78(d) – No corrective action required.

115.78(e) – No corrective action required.

115.78(f) – No corrective action required.

### **§115.81 – Medical and mental health assessment; history of sexual abuse.**

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- Intake Nurse email
- Detainee health record

##### PEOPLE INTERVIEWED

- Sample of Intake Staff
- Sample of Medical and Mental Health Care Staff

##### SITE INSPECTION OBSERVATIONS

- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

#### 115.81(a)

The standard provision states that if the assessment pursuant to §115.41 of this part indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/or mental health follow-up as appropriate. The PAQ reflects that if the 115.41 assessment indicates that a detainee experienced prior sexual victimization or perpetrated sexual abuse, staff ensures the referral prescribed by the standard provision is made. The SOP calls for staff to ensure detainees are immediately referred for medical or mental health follow-up when security or medical intake screening or classification assessment indicate that a detainee experienced sexual victimization or perpetrated sexual abuse. During the site inspection, medical staff provided an email from an intake nurse referring a detainee who disclosed prior sexual victimization to medical and mental health. The AUDITOR also reviewed a detainee's health record, which shows that a detainee who was referred to mental health for this reason was seen two days later. The intake officer reported that if the risk assessment identifies the concerns specified by the standard provision, the detainee would be immediately referred for medical and/or mental health follow-up as appropriate. The medical and mental health practitioners reiterated the information provided by the Intake Officer.

The SOP, the AUDITOR's observations during the site inspection and interviews with the intake officer and medical and mental health practitioners support a determination of compliance with the standard provision.

#### 115.81(b)

The standard provision states that when a referral for medical follow-up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of assessment. The PAQ reflects that when a medical referral is initiated, the detainee receives the health evaluation within the timeframe required by the standard provision. The SOP requires the health evaluation within the timeframe prescribed by the standard provision. The medical practitioner reported that referrals for medical follow-up are seen the same day. The AUDITOR's review of a detainee's health record during the site inspection confirms the practitioners' report.

The SOP, the AUDITOR's observation during the site inspection and the interview with the medical practitioner support a determination of compliance with the standard provision.

#### 115.81(c)

The standard provision states that when a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral. The PAQ reflects that when a mental health referral is initiated, the detainee receives the mental health evaluation within the timeframe required by the standard provision. The SOP requires the mental health evaluation within the timeframe prescribed by the standard provision. The interview with the mental health practitioner and the AUDITOR's review of a detainee's health record during the site inspection reflect that mental health referrals are seen within the timeframe prescribed by the standard provision.



The SOP, the AUDITOR's observation during the site inspection and the interview with the mental health practitioner support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.81(a) – No corrective action required.

115.81(b) – No corrective action required.

115.81(c) – No corrective action required.

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

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP

PEOPLE INTERVIEWED

- Sample of Medical and Mental Health Care Staff

SITE INSPECTION OBSERVATIONS

- Site Inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.82(a)

The standard provision states that detainee victims of sexual abuse shall have timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. The PAQ reflects that detainee victims of sexual abuse receive timely, unimpeded access to the emergency medical treatment prescribed by the standard provision. The SOP specifies that the facility does not perform forensic examinations and the standard protocol is to transport detainee victims of sexual assault to the nearest hospital for a "rape kit" as soon as possible and all victims are immediately referred to the local emergency room for further evaluation and treatment. During the site inspection, the AUDITOR asked impromptu questions and medical staff onsite confirmed that detainee victims of sexual assault receive the emergency medical treatment in question. The medical designee reported that detainee victims of sexual assault receive all the emergency medical treatment prescribed by the standard provision; and explained that the mental health practitioner is on call and if police is called, health care staff will wait to avoid interfering with evidence collection.

The SOP, the AUDITOR's observation during the site inspection and the interviews with the medical and mental health practitioners support a determination of compliance with the standard provision.

115.82(b)

The standard provision states that emergency medical treatment services provided to the victim shall be without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The PAQ reflects that emergency medical treatment services are provided to victims without financial cost, regardless of whether they cooperate as indicated by the standard provision. The SOP specifies that forensic medical examinations will be conducted with the detainee's consent and at no cost to the detainee; however, it is silent on the matter of the detainee naming the abuser or cooperating with investigations related to the incident. The facility has not had any cases of sexual abuse that involved the matters under review; therefore, there are no reports, investigations or medical records to review for compliance with the standard provision.

The SOP and the facility's clean record on the types of incidents under consideration support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.82(a) – No corrective action required.

115.82(b) – No corrective action required.

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

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

**Notes:**

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP

PEOPLE INTERVIEWED

- Sample of Medical and Mental Health Care Staff

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.83(a)

The standard provision requires the facility to offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while in immigration detention. The PAQ reflects that the facility offers the medical and mental health evaluation and the treatment prescribed by the standard provision. The SOP specifies that detainees who allege sexual victimization at the facility are transported to a community hospital for medical evaluation and treatment. The medical and mental health designees reported that the facility offers follow-up on lab, medication, referral to specialty care, etc. The facility has not had any cases of sexual abuse that involved the matters under review; therefore, there are no reports, investigations or medical records to review for compliance with the standard provision.

The SOP and the interviews with the medical and mental health designees support a determination of compliance with the standard provision.

115.83(b)

The standard provision states that the evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The PAQ reflects that the facility offers all evaluation and treatment prescribed by the standard provision. The SOP requires evaluation and treatment to include, as appropriate, follow-up services, treatment plans and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The medical and mental health designees confirmed that the facility offers all evaluation and treatment prescribed by the standard provision.

The SOP and the interviews with the medical and mental health designees support a determination of compliance with the standard provision.

115.83(c)

The standard provision requires the facility to provide such victims with medical and mental health services consistent with the community level of care. The PAQ reflects that the health care services provided to detainee victims is consistent with community level of care. The medical and mental health designees confirmed that the facility provides community level of care to detainee victims.

The SOP and the interviews with the medical and mental health designees support a determination of compliance with the standard provision.

115.83(d)

The standard provision states that detainee victims of sexually abusive vaginal penetration by a male abuser while incarcerated shall be offered pregnancy tests. If pregnancy results from an instance of sexual abuse, the victim shall receive timely and comprehensive information about lawful pregnancy-related medical services and timely access to all lawful pregnancy-related medical services. The PAQ reflects that female victims of sexual abuse by a male abuser are offered the tests, information and access to medical services prescribed by the standard provision and the SOP includes the language of the standard provision verbatim. The medical and mental health designees confirmed that female victims of sexual abuse by a male abuser are offered the tests, information and access to medical services prescribed by the standard provision.

The SOP and the interviews with the medical and mental health designees support a determination of compliance with the standard provision.

115.83(e)

The standard provision states that detainee victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate. The PAQ reflects that detainee victims of sexual abuse are offered the tests prescribed by the standard provision. The SOP states that prophylactic treatment and follow-up examination for sexually transmitted diseases shall be offered to all victims as appropriate. The medical and mental health designees confirmed that victims of sexual abuse are offered the tests prescribed by the standard provision.

The SOP and the interviews with the medical and mental health designees support a determination of compliance with the standard provision.

115.83(f)

The standard provision states that treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The PAQ reflects that treatment services are provided to the victim without financial cost as specified by the standard provision. The SOP specifies that forensic medical examinations will be conducted with the detainee's consent and at no cost to the detainee; however, it is silent on the matter of the detainee naming the abuser or cooperating with investigations into the incident. The medical and mental health designees confirmed that treatment services are offered regardless of cooperation with any investigation arising out of the incident.

The SOP and the interviews with the medical and mental health designees support a determination of compliance with the standard provision.

115.83(g)

The standard provision requires the facility to attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners. The PAQ reflects that the facility attempts to conduct the mental health evaluation of detainee abusers in the instances described by the standard provision and the SOP includes the language of the standard provision verbatim. The medical and mental health designees confirmed that the facility provides mental health evaluation and treatment to detainees who are perpetrators of sexual abuse. The facility did not report any cases in which this evaluation was provided.

The SOP and the interviews with the medical and mental health designees support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.83(a) – No corrective action required.

115.83(b) – No corrective action required.

115.83(c) – No corrective action required.

115.83(d) – No corrective action required.

115.83(e) – No corrective action required.

115.83(f) – No corrective action required.

115.83(g) – No corrective action required.

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

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

#### **Notes:**

##### **POLICIES AND OTHER DOCUMENTS REVIEWED**

- PAQ
- SOP
- PREA Allegations spreadsheet
- Annual Report FY 2016/17

##### **PEOPLE INTERVIEWED**

- Warden
- PSA Compliance Manager

##### **SITE INSPECTION OBSERVATIONS**

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

#### **115.86(a)**

The standard provision requires the facility to conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and, where the allegation was not determined to be unfounded, prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the agency PSA Coordinator. The PAQ reflects that the facility conducts a sexual abuse incident review at the conclusion of every investigation of sexual abuse; prepares a written report with recommendations under the circumstances specified by the standard provision within 30 days of the conclusion of the investigation; and implements the recommendations or documents reasons for not doing so as specified by the standard provision. The SOP states that the facility will conduct an incident review at the conclusion of every investigation of sexual abuse or assault and a written report will be prepared within 30 days of the conclusion of the investigation regardless of the finding. The report will include recommendations revealed by the allegation or investigation to change policy or practice to better prevent, detect or respond to sexual abuse or assault. The SOP also requires the facility to implement the recommendations for improvement or document the reasons for not implementing them in a written response. Both the report and the response will be forwarded to the FOD, via the COR, for transmission to the ICE/ERO PSA Coordinator. The facility provided a "PREA Allegations" spreadsheet summarizing its two allegations of sexual abuse. Both incidents were reported on the day of occurrence. The first took place prior to the start of the audit period and was closed just over two months later (during the audit period) as unsubstantiated; the spreadsheet reflects that an incident review was completed the day after the incident or two months before closure. The second occurred during the audit period and was closed about four-and-a-half months later as unfounded; the spreadsheet reflects that the incident review was completed about seven months after closure or 19 days before the onsite audit. The Warden stated that the facility conducts an incident review within 48 hours of the conclusion of every investigation of sexual abuse. The PSA Compliance Manager reported that the facility conducts incident reviews within 30 days of receiving the investigation results, prepares a written report documenting whether a change in policy or practice could better prevent or respond to sexual abuse; implements recommendations for improvement or documents reasons for not doing so in a written response; and forwards the report and response to the ICE PSA Coordinator. He acknowledged that the facility was not yet conducting these reviews at the time they were required for the most recent incident, but an after-action report was issued.

While the SOP and interviews with the Warden and PSA Compliance Manager tend to support a determination of compliance with the standard provision, the information in the spreadsheet does not. The first incident occurred before the audit period; however, closure during the audit period and the unsubstantiated finding required an incident review and written incident review report within 30 days of closure. The second incident occurred and was closed during the audit period and an incident review was required following closure; however, the unfounded result does not require a written incident review report. The facility did not produce a written incident review report, with recommendations revealed by the allegation or investigation to change policy or practice to better prevent, detect or respond to sexual abuse or assault; this report was due within 30 days of closing the investigation into the first incident. Because the standard provision does not require a written incident review report when the investigation determines the allegations to be unfounded, the absence of such report, for the second incident, is not considered as evidence in support of the audit determination.

#### **AUDITOR RECOMMENDATION:**

The facility should consider identifying the composition of the incident review team. Given the considerations prescribed for the team's review in Subsection (b) of this standard, the composition of the team should include the most experienced minds at the facility, such as the Warden or Deputy Warden, Chief of Security, PSA Compliance Manager, Training Supervisor, Classification Supervisor, Medical and Mental Health practitioners, investigators and even the Gang Intelligence Officer where appropriate. Someone should be designated to schedule team incident reviews after the conclusion of every sexual abuse investigation. It is advisable to designate someone to record meeting minutes during team incident reviews and provide those minutes to the person responsible for preparing the written incident review report. It is also advisable to create a template for incident review reports to ensure consistency in the information reported, including review findings, team recommendations and the names and titles of participating team members.

#### **115.86(b)**

The standard provision requires the team to consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group

dynamics at the facility. The PAQ reflects that the team makes the considerations prescribed by the standard provision and the SOP includes the language of the standard verbatim. The PSA Compliance Manager stated that in considering whether the incident or allegation was motivated by either of the group dynamics specified by the standard provision, the team reviews the detainees' history at the facility and information available to facility staff.

While the SOP and interviews with the PSA Compliance Manager tend to support a determination of compliance with the standard provision, the information in the spreadsheet does not. The facility did not conduct a team review of the first incident and generate a written incident review report to show that the team considered the group dynamics specified by the standard provision.

#### 115.86(c)

The standard provision requires the facility to conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the facility administrator, Field Office Director or his or her designee, and the agency PSA Coordinator. The PAQ reflects that the facility conducts an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts, including preparation of a negative report if the facility does not have any reports of sexual abuse during the reporting year and that the results and findings are provided to the facility administrator, the FOD and the agency PSA Coordinator. The SOP includes the language of the standard verbatim, requiring the results and findings to be provided to the Warden and to the FOD, via the COR for transmission to the ICE ERO PSA Coordinator. The PSA Compliance Manager reported via memorandum that the facility had a total of 19 allegations during the calendar year 2017, two of which ICE classified as PREA incidents and resulting investigations determined the allegations to be unsubstantiated and unfounded respectively. The facility provided its fiscal year 16/17 Annual Report with a summary of allegations at the facility during that review period, as well as policy and procedural changes implemented in response to two substantiated allegations. The AUDITOR believes the facility is referring to two allegations classified as PREA incidents as opposed to two substantiated allegations. The Warden stated that every September, the facility conducts an annual review of all sexual abuse investigations and resulting incident reviews as prescribed by the standard provision and the results are provided, with the SA-API review, to the FOD, via the COR for transmission to the ICE ERO PSA Coordinator. The PSA Compliance Manager reiterated the Warden's statement and added that he (the PSA Compliance Manager) makes a determination of the allegations and whether any modifications should be made to improve detainee sexual safety; as examples of recent modification, he explained that a third camera was added in every housing unit to address blind spots created by lines of sight blocked by the stairs, the facility started to conduct detainee reassessments, and he meets with detainees during intake to provide orientation in person. The AUDITOR pointed out that the standard provision requires a negative report if the facility has not had any reports of sexual abuse during the annual reporting period.

The SOP, Annual Report, the memorandum and the interviews with the Warden and PSA Compliance Manager support a determination of compliance with the standard provision.

#### RECOMMENDED CORRECTIVE ACTIONS

115.86(a) – The facility shall conduct a sexual abuse incident review at the conclusion of every investigation into an allegation of sexual abuse; where the investigation finds the allegations to be substantiated or unsubstantiated, the facility shall issue a written incident review report within 30 days of the completion of the investigation. The report shall include the review team's finding on whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse and any corresponding recommendations from the team. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the agency PSA Coordinator and the facility should be prepared to provide documentation of the transmission of the report and response, if any, to the PSA Coordinator.

115.86(b) – The review team shall consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility. The incident review report should reflect these considerations.

115.86(c) – No corrective action required.

#### §115.87 – Data collection.

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

#### Notes:

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- SOP
- PREA Allegations spreadsheet

##### PEOPLE INTERVIEWED

- PSA Compliance Manager

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

#### 115.87(a)

The standard provision requires the facility to maintain in a secure area all case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary, and/or counseling in accordance with these standards and applicable agency policies, and in accordance with established schedules. The DHS Office of Inspector General shall maintain the official investigative file related to claims of sexual abuse investigated by the DHS Office of Inspector General. The PAQ reflects that the facility maintains in a secure area all case records associated with claims of sexual abuse,

including all reports and information prescribed by the standard provision, and in accordance with established schedules. The SOP includes the retention schedule but does not include this provision. The PREA Allegations spreadsheet includes data from some of the case records prescribed by the standard provision. The PSA Compliance Manager reported that the facility maintains case records related to sexual abuse allegations in a secure area in accordance with the established retention schedule.

The spreadsheet and the interview with the PSA Compliance Manager support a determination of compliance with the standard provision. To the extent staff follow the SOP for the discharge of their duties, the SOP should include the requirement of the standard provision to maintain case records in a secure area.

#### RECOMMENDED CORRECTIVE ACTIONS

115.87(a) – No corrective action required.

#### **§115.201 – Scope of audits.**

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

#### **Notes:**

##### POLICIES AND OTHER DOCUMENTS REVIEWED

- None required

##### PEOPLE INTERVIEWED

- None required

##### SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.201

The standard provision states:

- (d) The AUDITOR shall have access to, and shall observe, all areas of the audited facilities.
- (e) The agency shall provide the AUDITOR with relevant documentation to complete a thorough audit of the facility.
- (i) The AUDITOR shall be permitted to conduct private interviews with detainees.
- (j) Detainees shall be permitted to send confidential information or correspondence to the AUDITOR.

After completing all audit steps, and evaluating the detention facility's compliance with each provision of PREA, the AUDITOR:

- Had access to, and the opportunity to observe, all areas of the detention facility.
- Had access to relevant documentation to complete a thorough audit of the detention facility.
- Was able to conduct private interviews with detainees.
- Was able to receive confidential information or correspondence from detainees.

The facility posted the audit notice with the AUDITOR's name and a mailing address for detainees to mail confidential correspondence; however, the AUDITOR did not receive any correspondence from detainees.

#### RECOMMENDED CORRECTIVE ACTIONS

115.201 – No corrective action required.

#### **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.

Alberto Caton      October 17, 2018

**AUDITOR's Signature & Date**

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



**Homeland  
Security**

**AUDITOR INFORMATION**

<b>Name of auditor:</b>	Douglas K. Sproat, Jr.	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	409-866-(b) (6), (b) (7)(C)

**AGENCY INFORMATION**

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

<b>Name of Field Office:</b>	San Diego Field Office
<b>Field Office Director:</b>	Gregory J. Archambeault
<b>ERO PREA Field Coordinator:</b>	SDDO (b) (6), (b) (7)(C)
<b>Field Office HQ physical address:</b>	880 Front Street, Suite 3300, San Diego, CA 92101
<b>Mailing address: (if different from above)</b>	

**INFORMATION ABOUT THE FACILITY BEING AUDITED**

Basic Information About the Facility			
Name of facility:		Imperial Regional Detention Facility	
Physical address:		1572 Gateway Dr., Calexico, CA 92231	
Mailing address: (if different from above)			
Telephone number:		(760) 618-7200	
Facility type:		DIGSA	
Facility Leadership			
Name of Officer in Charge:		(b) (6), (b) (7)(C)	Title: Warden
Email [REDACTED]		(b) (6), (b) (7)(C)	Telephone number: (760) 618-(b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:		(b) (6), (b) (7)(C)	Title: PSA Compliance Manager
Email [REDACTED]		(b) (6), (b) (7)(C)	Telephone number: (760) 618-(b) (6), (b) (7)(C)

## FINAL DETERMINATION

### SUMMARY OF AUDIT FINDINGS:

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

For the PREA audit of Imperial Regional Detention Facility (IRDF) conducted June 26-28, 2018, IRDF exceeded 1 standard, met 35 standards, and did not meet 4 others. One standard did not apply.

The following standards "Did Not Meet" the threshold for compliance:

§115.51 – Detainee reporting

§115.65 – Coordinated response

§115.71 – Criminal and administrative investigations

§115.86 – Sexual abuse incident reviews

All of the above now meet the specific requirements of the standard. The facility is now fully compliant with the DHS PREA Standards. Further discussion of each determination is located below.

## PROVISIONS

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

### §115. 51 - Detainee reporting

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

**Notes:**

The original auditor found that 115.51(b) did not meet the standard because detainees were not informed that the DHS OIG is not part of the agency. The facility subsequently posted a notice on all detainee bulletin boards that DHS OIG is not a part of the agency and can receive and immediately forward reports, including anonymous reports, of sexual abuse to agency officials. A memo containing this information about the DHS OIG was also sent to staff. The facility's actions brought them into compliance, but the facility further indicated it would amend the IRDF Detainee Handbook to include this information. The IRDF has now also amended its handbook. The facility is fully compliant with this standard.

### §115. 65 - Coordinated response

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

**Notes:**

The original auditor found that 115.65(a) did not meet the standard. He indicated the facility's institutional response plan did not sufficiently detail who would take what actions in what order so that first responders, medical/mental health practitioners, investigators, and leadership would be able to work together with maximum effectiveness in response to an incident of sexual abuse. The facility has amended its Sexual Assault and Abuse Prevention and Intervention (SAAPI) Standard Operating Procedure (SOP) to include more details on the specific steps to be taken by staff during any allegation of sexual abuse and the sequence in which they should occur. The facility is now compliant with this standard.

### §115. 71 - Criminal and administrative investigations

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

**Notes:**

The original auditor found that 115.71(c) did not meet the standard. He determined that the facility did not have adequate written procedures for administrative investigations, including provisions requiring the investigative tasks prescribed by the standard provision. The facility has now amended its SAAPI SOP to detail all aspects of an administrative investigation. It details the circumstances triggering an investigation and then provides a step-by-step description of tasks to take place during such an investigation, including who is to do each task. Specifically, the SOP sets out the following steps:

- "1. Preservation of direct and circumstantial evidence, including any available physical DNA evidence and any available electronic monitoring data. IRDF will collect all direct and circumstantial evidence and will request the assistance from ICSO [Imperial County Sheriff's Office] when physical DNA evidence requires collection. All surveillance will be gathered by IRDF and will have it available for during investigation process.
2. Interviewing alleged victims, suspected perpetrators and witnesses. IRDF's PSACM [Prevention of Sexual Assault Compliance Manager] will be responsible to conduct an administrative investigation for all allegations of sexual assault or abuse. When initial evidence suggests that a legitimate case of sexual abuse or assault did indeed occur, the alleged perpetrator will not be interviewed during the administrative investigation. The PSACM will notify ICE via the COR [Contracting Officer Representative] and will contact ICSO, as ICSO has law enforcement jurisdiction, they will conduct the criminal investigation.
3. Reviewing prior complaints and reports of sexual abuse or assault involving the suspected perpetrator. The detention files for all detainees involved in an allegation of sexual abuse or assault will be reviewed.
4. Assessment of the credibility of an alleged victim, suspect or witness, without regard to individual's status as detainee, staff or employee and without requiring any detainee who alleged sexual abuse or assault to submit to a polygraph.
5. An effort to determine whether actions or failures to act at the IRDF contributed to the abuse. 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. The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. The IRDF will conduct sexual incident reviews within 30 days of allegations for all substantiated and unsubstantiated cases.
6. Documentation of each investigation by written report, which will include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. The PSACM will be responsible for gathering all evidence and create an incident report file that will contain the aforementioned information. The IRDF will use no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.
7. The IRDF will retain reports for as long as the alleged abuser is detained or employed by the facility, plus five years.
8. Coordination and sequencing of administrative and criminal investigations to ensure that a criminal investigation is not compromised by an internal administrative investigation. When ICSO investigates an alleged sexual abuse and assault, the IRDF will cooperate with ICSO and will attempt to remain informed about the progress of the investigation. The IRDF will also cooperate with any administrative or criminal investigative efforts arising from the incident.

The IRDF will use no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated. During an investigation, the alleged victim, abuser or witness will not be released from the facility until receiving approval from ICE. The departure of the alleged abuser or victim from the employment or control of the IRDF will not provide a basis for terminating an investigation. When the ICSO investigates an alleged sexual abuse and assault, the IRDF will cooperate with the ICSO and will attempt to



remain informed about the progress of the investigation. Where an alleged victim of sexual abuse or assault that occurred elsewhere in ICE/ERO custody is subsequently transferred to the IRDF, the IRDF will also cooperate with any administrative or criminal investigative efforts arising from the incident. Following an investigation conducted by the IRDF into detainee's allegations of sexual abuse, the IRDF will notify the Field Office Director via the COR of the result of the investigation and any responsive actions taken so that the information can be reported to ICE headquarters and to the detainee." The facility is now compliant with the standard.

#### **§115. 86 - Sexual abuse incident reviews**

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

**Notes:**

The original auditor found that 115.86(a) and 115.86(b) did not meet the standard. Under 115.86(a) the facility must conduct a sexual abuse incident review at the conclusion of every investigation into an allegation of sexual abuse; when investigations result in a finding of "substantiated" or "unsubstantiated" a written report is required within 30 days of the end of the investigation detailing recommendations from the review team about issues related to policies or practices that could be changed to improve prevention, detection, or response to sexual abuse. Under 115.86(b) the review team must consider whether a variety of specified issues or motives (such as sexual orientation/identification, race, gang affiliated, or groups dynamics) contributed to the incident, with such matters being included in the written report. The facility covers the specific requirements of both 115.86(a) and 115.86(b) in its revised SAAPI SOP. The facility has provided two memos addressed to the current Auditor among its Corrective Action Plan (CAP) supporting documents. Each memo is the same, dated April 23, 2019, with the subject being "§115.86: Protocol on Completing Sexual Abuse Incident Reviews." One memo is from the San Diego Assistant Field Office Director and the other is from the San Diego Acting Assistant Field Office Director. The memos confirm that IRDF will follow the provisions of 115.86 concerning the protocol for sexual abuse incident reviews. The memos specifically note that the written sexual abuse incident reports completed by IRDF will follow the requirements of 115.86(b), although the language in this part of the memo actually tracks subsection (a) instead of (b). Nevertheless, even if the memos fail to refer to the language of 115.86(b) this subsection is adequately covered in the revised SOP. These memos state that IRDF staff have already been "briefed on and have read and understand" the process of completing sexual abuse incident reviews, which of necessity would include both (a) and (b) in the opinion of the current Auditor. Additionally, a contact name and phone number for an ICE Prevention of Sexual Assault Coordinator is given for anyone having "any questions on the policies and procedures" or needing "clarification or...assistance" about this standard. The facility is now compliant with this standard.

#### **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.

#### **Auditor's Signature & Date**

Douglas K. Sproat, Jr.

May 23, 2019