

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



# Homeland Security

## AUDITOR INFORMATION

<b>Name of Auditor:</b>	Thomas Eisenschmidt	<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)

## PROGRAM MANAGER INFORMATION

<b>Name of PM:</b>	(b) (6), (b) (7)(C)	<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>	Detroit Field Office
<b>Field Office Director:</b>	Robert Lynch
<b>ERO PREA Field Coordinator:</b>	(b) (6), (b) (7)(C), Supervisory Detention and Deportation Officer (SDDO)
<b>Field Office HQ physical address:</b>	333 Mt. Elliott, Detroit, MI 48207
<b>Mailing address: (if different from above)</b>	

## INFORMATION ABOUT THE FACILITY BEING AUDITED

### Basic Information About the Facility

<b>Name of facility:</b>	Monroe County Detention – Dorm (MCD-D)
<b>Physical address:</b>	7000 E. Dunbar Rd., Monroe, MI 48161
<b>Mailing address: (if different from above)</b>	
<b>Telephone number:</b>	734-240-8008
<b>Facility type:</b>	IGSA

### Facility Leadership

<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Jail Administrator
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	734-240-(b) (6), (b) (7)(C)

### Facility PSA Compliance Manager

<b>Name of PSA Compliance Manager:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Jail Administrator
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	734-240-(b) (6), (b) (7)(C)

## FINAL DETERMINATION

### SUMMARY OF AUDIT FINDINGS:

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

During the audit, the Auditor found MCD-D met 29 standards, had 1 standard that exceeded (115.31), had 2 standards (115.14, 115.18) that were non-applicable, and 9 non-compliant standards (115.11, 115.21, 115.22, 115.35, 115.43, 115.51, 115.61, 115.65, and 115.76). As a result of the facility being out of compliance with 9 standards, the facility entered a 180-day corrective action period which began on February 7, 2023, through August 6, 2023. The purpose of the corrective action period is for the facility to develop and implement a Corrective Action Plan (CAP) to bring these standards into compliance.

The Assistant Program Manager (APM) and certified PREA Auditor, Sharon Shaver, completed the final CAP review process and report on behalf of the Auditor in his absence. On March 10, 2023, the Auditor/APM received notification of the facility's first CAP via email from the Office of Professional Responsibility's (OPR), External Reviews and Analysis Unit (ERAU) and reviewed the submission. Additional documentation and responses were provided by the facility and reviewed by the Auditor/APM on May 15, 2023; May 21, 2023; June 22, 2023; July 24, 2023; July 31, 2023; August 2, 2023; and an initial CAP call was held to discuss any questions about the CAP requirements on March 20, 2023. During the final review on August 2, 2023, the Auditor/APM determined that the facility demonstrated compliance with all 9 standards found non-compliant at the time of the site visit.

Number of Standards Met: 9

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

§115.21 Evidence protocols and forensic medical examinations

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

§115.35 Specialized training: Medical and Mental Health Care

§115.43 Protective custody

§115.51 Detainee reporting

§115.61 Staff reporting duties

§115.65 Coordinated response

§115.76 Disciplinary sanctions for staff

## PROVISIONS

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

### §115. 11 - Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator

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

#### Notes:

(c) The MCD-D J-100 policy requires the Monroe County Sheriff's Office (MCSO) have zero tolerance for incidence of rape, sexual assault, sexual misconduct, or sexual harassment, and make every effort to comply with applicable components of the Prison Rape Elimination Act of 2003. The MCSO will make every effort to comply with the federal guidelines as outlined in the ICE NDS 2019, standard 2.11, Sexual Abuse and Assault Prevention and Intervention (SAAPI). The J-100 policy further outlines MCD-D's approach for this zero-tolerance goal through training staff and detainee orientation on preventing, detecting and responding to such conduct. The formal and informal interviews with staff and four detainees confirmed their awareness of the MCD-D zero tolerance policy.

**Does Not Meet (c):** This subpart requires the agency review and approve the facility's written policy. MCD-D did not demonstrate it had presented its policy to ICE for approval and must provide the Auditor with the Agency approval for the J-100 policy.

**Corrective Action (c):** On March 10, 2023, the Auditor reviewed the January 19, 2023, agency approval of the J-100 policy provided by the facility. This evidence demonstrates compliance of the Agency's approval of their written policy and the facility is now fully compliant with this standard.

### §115. 21 - Evidence protocols and forensic medical examinations

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

#### Notes:

(a) The J-100 policy requires investigations conducted by the facility for allegations of sexual abuse and assault be handled in accordance with the Code of Federal Regulations, Title 6, Part 115.21, Evidence Protocol and Forensic Medical Examinations. The investigating entity shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The agency's Policy 11062.2 outlines the agency's evidence and investigation protocols. The Auditor training provided in November 2021 by ICE indicated that when a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility's incident review personnel in accordance with OPR policies and procedures. OPR does not perform sex assault crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or local law enforcement agency. The OPR will coordinate with the ICE ERO Field Office Director (FOD) and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred or accepted by DHS Office of Inspector General (OIG), OPR, or the local law enforcement agency, the agency would assign an administrative investigation to be conducted or review the facility's administrative investigation. As noted earlier, there are no juveniles at MCD-D and were no allegations of sexual abuse reported at MCD-D for the audit period. The interview with the Administrative Investigators confirmed their training and policy requirements ensure they follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for his administrative proceedings.

**Does Not Meet (a):** This subpart requires the protocol be developed in coordination with DHS. MCD-D did not demonstrate the J- 100 policy had been presented to ICE for approval. The facility must provide the Auditor with the required approval.

**Corrective Action (a):** On March 10, 2023, the Auditor reviewed the January 19, 2023, agency approval of the J-100 policy provided by the facility. This evidence demonstrates compliance of the Agency's coordination and approval of their evidence protocols, and the facility is now fully compliant with this standard.

#### **§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:**

(c) Standard subpart (c) requires the facility and agency post their investigative protocols on their web site. The Auditor found the agency protocols on their website at <https://www.ice.gov/detain/prea> but the MCSO web site (<https://www.co.monroe.mi.us/Directory.aspx?did=10>) did not have protocols posted.

**Does Not Meet (c):** The facility must post the required investigative protocols on their web site.

**Corrective Action (c):** On July 24, 2023, the Auditor/APM reviewed the facility's public website at <https://www.co.monroe.mi.us/834/PREA> and found the investigative protocols posted as required. The facility has demonstrated full compliance with 115.22.

#### **§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:**

(c) This subpart requires the agency to review and approve the facility's written policy. MCD-D did not demonstrate they had presented their policy to ICE for approval and must provide the Auditor with the approval for the J-100 policy.

**Does Not Meet (c):** This subpart requires the agency to review and approve the facility's policy 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. MCD-D did not demonstrate they had presented their policy to ICE for approval and must provide the Auditor with the approval for the J-100 policy.

**Corrective Action (c):** On March 10, 2023, the Auditor reviewed the January 19, 2023, agency approval of the J-100 policy which includes a requirement 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 facility has demonstrated compliance with the standard.

#### **§115. 43 - Protective custody**

**Outcome:** Choose an item.

**Notes:**

(a) The standard subpart requires that the management of the administrative segregation be developed in conjunction with the FOD. The J-100 policy, dealing with placement in administrative segregation was not approved by the AFOD.

**Does Not Meet (a):** This subpart requires the agency to review and approve the facility's written policy. MCD-D did not demonstrate they had presented their policy to ICE for approval and must provide the Auditor with the approval for the J-100 policy.

**Corrective Action (a):** On March 10, 2023, the Auditor reviewed the January 19, 2023, agency approval of the J-100 policy, specifically the requirement that the management of the administrative segregation unit be developed in conjunction with the FOD. The facility has demonstrated compliance with the standard.

#### **§115. 51 - Detainee reporting**

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

**Notes:**

(a)(b) The J-100 policy requires detainees be encouraged to immediately report pressure, threats, or incidents of sexual abuse and assault, as well as possible retaliation by other detainees or employees for reporting sexual abuse and staff neglect, or violation of responsibilities that may have contributed to such incidents. MCD-D provides detainees instructions on how to contact their consular official, the DHS OIG, and the ICE Detainee Reporting Information Line (DRIL). During the tour of the facility, the Auditor observed this reporting information along with the consular contact information prominently displayed on the television monitors in Spanish and English in each of the hold rooms and both housing units. This policy further requires detainees who are victims of sexual abuse have the option to privately report an incident to a designated employee, other than an immediate point-of-contact line Officer, by: submitting a request to meet with Health Services staff and/or reporting to a Health Services staff member during sick call; calling the facility 24-hour toll-free notification telephone number; verbally telling any employee, including a facility volunteer; forwarding a letter (including anonymously), sealed and marked "confidential," to the Facility Administrator or any other employee; calling or writing someone outside the facility who can notify facility staff or forwarding a letter to the Monroe County PSA Coordinator at the following address: 7000 E. Dunbar Rd. Monroe, MI 48161. ICE has also established the following external reporting methods: directly report to the DHS OIG anonymous complaint hotline toll-free telephone number at 1-800-323-8603;

Contact the ICE DRIL toll-free telephone number 1-888-351-4024 or 9116#; Tell an ICE/ERO staff member who visits the facility; Write a letter reporting the sexual misconduct to the ICE [OIC], ICE AFOD, or ICE FOD; File a written formal request to ICE; Contact ICE OPR JIC toll-free hotline number 1-877-246- 8253; By mail to DHS OIG, Office of Investigations Hotline; 245 Murray Drive, SW, Building 410/Mail Stop 0305, Washington, DC 20528. The Auditor tested the reporting lines to the DHS OIG during the site visit and found them to require a PIN. The four detainees, present during the site visit, interviewed confirmed their knowledge of the reporting opportunities available to them if needed to report sexual abuse allegations or staff misconduct.

**Does Not Meet (a)(b):** The facility must develop and implement a procedure to allow detainees to call the DHS OIG without the use of a PIN to remain anonymous. Evidence of this procedure, once implemented, must be presented to the Auditor for compliance review.

**Corrective Action (a)(b):** On May 21, 2023, the Auditor/APM reviewed the documentation provided by the facility which included step-by-step instructions for placing a call on the detainee phone to 518# for DHS Inspector General and 9116# for ICE ERO DRIL and a screenshot from the phone system database indicating that the call is free and privileged which means it is unmonitored/unrecorded. The auditor accepts this documentation as demonstration of compliance with this standard.

#### **§115. 61 - Staff reporting duties**

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

**Notes:**

(a)(b) The J-100 policy requires all staff to immediately report 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. Employees may report sexual abuse and assault of detainees, out of the chain of command, by forwarding a letter sealed and marked "Confidential," to the Jail Administrator. This standard subpart also requires the agency has reviewed and approved the staff reporting policy. As noted earlier in the report, the J-100 policy was not presented by the facility for approval by the agency.

**Does Not Meet (a):** This subpart requires the agency review and approve the facility's written policy. MCD-D did not demonstrate they had presented their policy for approval by ICE and must provide the Auditor with the approval for the J-100 policy.

**Corrective Action (a):** On March 10, 2023, the Auditor reviewed the January 19, 2023, agency approval of the J-100 policy, specifically the requirement that the agency has reviewed and approved the staff reporting policy. The facility has demonstrated compliance with the standard.

#### **§115. 65 - Coordinated response**

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

**Notes:**

(c)(d) Policy J-100 requires if a detainee victim of sexual abuse is transferred between facilities, "the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services." The interview with the HSA confirmed that transfers of any detainee victims, between DHS facilities, would require MCD-D informing the receiving facility of the incident and the victim's potential need for medical or social services unless prohibited by law. The policy does not allow for detainee victims transferred from a DHS Immigration facility to a facility not covered by the DHS PREA Standards, to request that the receiving facility not be notified of the incident and any potential need for medical or social services. The Jail Administrator and the PAQ confirmed that MCD-D had no instances of victim transfers between DHS or non-DHS facilities during the audit period. The Jail Administrator and HSA confirmed that, if they were to transfer a victim of sexual abuse, all proper notifications would be made in accordance with the policy.

**Does Not Meet (d):** The facility's written institutional coordinated response plan, Policy J-100, fails to allow for detainee victims transferred from a DHS Immigration facility to a facility not covered by the DHS PREA Standards to request that the receiving facility not be notified of the incident and any potential need for medical or social services. The facility must develop procedures that provide detainee victims transferred to a facility not covered by the DHS PREA Standards to request that the receiving facility not be notified of the incident and any potential need for medical or social services. These procedures must be included in the written institutional coordinated response plan and provided to the Auditor for compliance review. Additionally, documentation confirming affected staff have been made aware of the new procedures must be provided to the Auditor for compliance review.

**Corrective Action (d):** On July 31, 2023, the Auditor/APM reviewed the documents provided by the facility which included the required policy language to align with the requirements of provision (d). On August 2, 2023, the Auditor/APM reviewed

an email from the Assistant Jail Administrator dated August 1, 2023, to all Corrections Sergeants and Corrections Officers mandating they read the revised PREA policy which included the required language to align with the requirements of provisions (d) of this standard. Additionally, this correspondence identified the Jail Clinician as the responsible party for making notifications pertaining to 115.65(c)(d). The Auditor/APM accepted this documentation as sufficient notification to all affected staff of these policy changes and the facility has demonstrated full compliance with this standard.

**§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:**

(b) This standard subpart requires the agency review and approve facility policy and procedures regarding disciplinary and adverse actions for staff, up to and including removal from their positions and Federal Service, for violation of the facility zero tolerance policy. As noted above, the J-100 policy outlines MCD-D actions to violations with the policy but the facility provided no evidence they had submitted their policy for approval by the agency.

**Does Not Meet (b):** The MCD-D must ensure their J-100 PREA policy is reviewed and approved by the agency and provide documentation of this review to the Auditor.

**Corrective Action (b):** On March 10, 2023, the Auditor reviewed the January 19, 2023, agency approval of the J-100 policy, specifically the requirement that the agency reviewed and approved facility policy and procedures regarding disciplinary and adverse actions for staff, up to and including removal from their positions and Federal Service, for violation of the facility zero tolerance policy. The facility has demonstrated compliance with the 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.

Sharon R. Shaver  
**Auditor's Signature & Date**

August 14, 2023

(b) (6), (b) (7)(C)  
**Assistant Program Manager's Signature & Date**

August 14, 2023

(b) (6), (b) (7)(C)  
**Program Manager's Signature & Date**

August 15, 2023

# PREA Audit: Subpart A

## DHS Immigration Detention Facilities

### Audit Report



# Homeland Security

#### AUDIT DATES

<b>From:</b>	12/6/2022	<b>To:</b>	12/8/2022
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#### AUDITOR INFORMATION

<b>Name of auditor:</b>	Thomas Eisenschmidt	<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)

#### PROGRAM MANAGER INFORMATION

<b>Name of PM:</b>	(b) (6), (b) (7)(C)	<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>	Detroit Field Office
<b>Field Office Director:</b>	Robert Lynch
<b>ERO PREA Field Coordinator:</b>	(b) (6), (b) (7)(C), Supervisory Detention and Deportation Officer (SDDO)
<b>Field Office HQ physical address:</b>	333 Mt. Elliott, Detroit, MI 48207
<b>Mailing address: (if different from above)</b>	Click or tap here to enter text.

#### INFORMATION ABOUT THE FACILITY BEING AUDITED

##### Basic Information About the Facility

<b>Name of facility:</b>	Monroe County Detention – Dorm (MCD-D)
<b>Physical address:</b>	7000 E. Dunbar Rd, Monroe, MI 48161
<b>Mailing address: (if different from above)</b>	Click or tap here to enter text.
<b>Telephone number:</b>	734-240-8008
<b>Facility type:</b>	IGSA
<b>PREA Incorporation Date:</b>	2/19/2020

##### Facility Leadership

<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Jail Administrator
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	734-240-(b) (6), (b) (7)(C)
<b>Name of PSA Compliance Manager:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Jail Administrator
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	734-240-(b) (6), (b) (7)(C)

#### ICE HQ USE ONLY

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

## NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS

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

The U.S. Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of the MCD-D was conducted on December 6, 2022, through December 8, 2022, by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor, Thomas Eisenschmidt, employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by the ICE PREA Program Manager (PM), (b) (6), (b) (7)(C), and Assistant Program Manager (APM), (b) (6), (b) (7)(C), both DOJ and DHS certified PREA Auditors. The Program Manager's role is to provide oversight to the ICE PREA audit process and liaison with the ICE Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU) during the audit report review process. The purpose of the audit was to determine compliance with the DHS PREA Standards for the audit period of February 19, 2020, through December 8, 2022. This was the facility's first DHS PREA audit. MCD-D is a County operated facility, managed by the Monroe County Sheriff's Office. It provides custody for County inmates, US Marshals inmates and ICE male adult detainees, the latter while pending immigration review or deportation. According to the Pre-Audit Questionnaire (PAQ), the top three nationalities held at the MCD-D are from Mexico, Venezuela, and Haiti. The number of ICE adult detainees booked into the facility in the last 12 months was 401. The facility does not house females, juveniles, or family detainees. The facility is located in Monroe, Michigan.

On December 6, 2022, an entrance briefing was held in the MCD-D conference room. The ICE ERAU Team Lead, (b) (6), (b) (7)(C), opened the briefing and then turned it over to the Auditor. In attendance were:

### Monroe County Staff

(b) (6), (b) (7)(C), Jail Administrator, PSA Compliance Manager

(b) (6), (b) (7)(C), Lieutenant, Assistant Jail Administrator

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

### ICE

(b) (6), (b) (7)(C), Inspections and Compliance Specialist (ICS), ICE/OPR/ERAU - via conference line

### Creative Corrections

Thomas Eisenschmidt, Certified PREA Auditor

The Auditor introduced himself and then provided an overview of the audit process and the methodology to be used to demonstrate PREA compliance with those present. Approximately three weeks prior to the audit, ERAU Team Lead, (b) (6), (b) (7)(C), provided the Auditor with the facility's Pre-Audit Questionnaire (PAQ), agency and facility policies, and other pertinent documents through ERAU's SharePoint site. The main policy that provides facility direction for PREA is the J-100 policy, Prison Rape Elimination Act Compliance. All documentation provided prior to the audit, policies, and the PAQ were reviewed by the Auditor. A tentative daily schedule was provided by the Auditor for the interviews with staff and detainees. The Auditor explained the audit process is designed to not only assess compliance through written policies and procedures but also to determine whether such policies and procedures are reflected in the knowledge of staff at all levels and in daily practice. He further explained compliance with the PREA standards will be determined based on the review of policy and procedures, observations made during the facility tour, provided documentation review, and conducting both staff and detainee interviews.

On the first day of the audit and for the entire site visit, there were four detainees housed at the MCD-D. The detainee in-processing area consists of two multi-person cells. Each of these areas contains a phone, toilet and sitting area with no showers. There is also a medical unit and interview rooms in this area. The detainees remain in this area until the booking process (a vulnerability assessment and classification) by the intake Correction Officer is completed and then the detainee is placed in one of the two dormitories. Each of these dormitories is identical containing 45 bunk beds for a total of 90 inmates/detainees per dorm and (b) (7)(E). Each dorm has 9 toilets and 6 showers. The Auditor observed consulate contact information, Gabby's Ladder advocate contact number, the DHS-prescribed ICE Sexual Abuse Awareness (SAA) information pamphlet and the DHS ICE Zero Tolerance for Sexual Abuse poster with phone and other contact information in both of these areas. There are no medical beds or segregation cells at the MCD-D. There (b) (7)(E) at MCD-D and the Auditor reviewed each camera assigned to areas that monitored ICE detainees and found no privacy concerns. According to the PAQ and the interview with the PSA Compliance Manager, there are 20 County staff, 8 contracted staff, and 1 volunteer at MCD-D. They include the Jail Administrator, Assistant Jail Administrator, 18 Correction Officers and Sergeants, 6 contracted medical staff (Advanced Correctional HealthCare), 2 contracted mental health staff (Advanced Correctional HealthCare), and 1 religious volunteer.

At the conclusion of the tour, the Auditor was provided with staff rosters and randomly selected personnel from each 12-hour shift to participate in the formal interviews. There were 8 random staff and 10 specialized staff performing 15 specialized functions interviewed. Those specialized interviews included the Jail Administrator, Assistant Jail Administrator, Training Officer, Human



Resources staff, Retaliation Monitor staff member, Incident Review Team member, Intake/Classification staff (2), Non-security first responder, Criminal Investigator, Administrative Investigators (2), Grievance Coordinator, Deportation Officer (DO), and the Health Services Administrator (HSA). As previously noted, there were four detainees assigned to the facility at the time of the site visit and each was interviewed. There were no allegations of sexual abuse reported at MCD-D for the audit period.

On December 8, 2022, an exit briefing was held in the MCD-D Conference Room. The ICE ERAU Team Lead, (b) (6), (b) (7)(C), opened the briefing and then turned it over to the Auditor. In attendance were:

#### Monroe County Staff

(b) (6), (b) (7)(C), Jail Administrator, PSA Compliance Manager

(b) (6), (b) (7)(C), Lieutenant, Assistant Jail Administrator

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

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

#### ICE Staff

(b) (6), (b) (7)(C), ICE ERO Assistant Field Office Director (AFOD) - via conference line

(b) (6), (b) (7)(C), ICS, ICE/OPR/ERAU - via conference line

#### Creative Corrections

Thomas Eisenschmidt, Certified PREA Auditor

The Auditor spoke briefly about the staff and detainee knowledge of the zero-tolerance of sexual abuse at MCD-D. The Auditor informed those present that it was too early in the process to formalize an outcome of the audit and that he would need to review his findings and interviews conducted (staff and detainees) prior to making a final determination on compliance for the standards. The Auditor thanked ERAU, ERO and the Monroe staff for their cooperation during the site visit.

## SUMMARY OF AUDIT FINDINGS

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

**Number of Standards Exceeded: 1**

§115.31 Staff training

**Number of Standards Not Applicable: 2**

§115.14 Juvenile and family detainees

§115.18 Upgrades to facilities and technologies

**Number of Standards Met: 29**

§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

§115.32 Other training

§115.33 Detainee education

§115.34 Specialized training: Investigations

§115.41 Assessment for risk of victimization and abusiveness

§115.42 Use of assessment information

§115.52 Grievances

§115.53 Detainee access to outside confidential support services

§115.54 Third-party reporting

§115.62 Protection duties

§115.63 Reporting to other confinement facilities

§115.64 Responder duties

§115.66 Protection of detainees from contact with alleged abusers

§115.67 Agency protection against retaliation

§115.68 Post-allegation protective custody

§115.72 Evidentiary standard for administrative investigations

§115.71 Criminal and Administrative Investigations

§115.73 Reporting to detainees

§115.77 Corrective action for contractors and volunteers

§115.78 Disciplinary sanctions for detainees

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

§115.82 Access to emergency medical and mental health services

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

§115.86 Sexual abuse incident reviews

§115.87 Data collection

§115.201 Scope of audits

**Number of Standards Not Met: 9**

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

§115.21 Evidence protocols and forensic medical examinations

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

§115.35 Specialized training: Medical and Mental Health Care

§115.43 Protective custody

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§115.65 Coordinated response

§115.76 Disciplinary sanctions for staff

## PROVISIONS

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

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

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

**Notes:**

(c) The MCD-D J-100 policy requires the Monroe County Sheriff's Office (MCSO) have zero tolerance for incidence of rape, sexual assault, sexual misconduct, or sexual harassment, and make every effort to comply with applicable components of the Prison Rape Elimination Act of 2003. The MCSO will make every effort to comply with the federal guidelines as outlined in the ICE NDS 2019, standard 2.11, Sexual Abuse and Assault Prevention and Intervention (SAAPI). The J-100 policy further outlines MCD-D's approach for this zero-tolerance goal through training staff and detainee orientation on preventing, detecting and responding to such conduct. The formal and informal interviews with staff and four detainees confirmed their awareness of the MCD-D zero tolerance policy.

**Does Not Meet (c):** This subpart requires the agency review and approve the facility's written policy. MCD-D did not demonstrate it had presented its policy to ICE for approval and must provide the Auditor with the Agency approval for the J-100 policy.

(d) The Auditor determined compliance with this subpart of the standard based on review of the J-100 policy that requires the MCSO designate a PREA Compliance Manager that will ensure that MCD-D is in compliance with all material aspects of PREA. The interview with the PSA Compliance Manager confirmed that she serves as the facility point of contact for the ICE PSA Coordinator and has sufficient time and authority to oversee MCD-D efforts to comply with their sexual abuse prevention and intervention policy. A review of the facility organizational chart confirmed her position as Jail Administrator and PSA Compliance Manager is a direct report to the Sheriff.

### **§115.13 - Detainee supervision and monitoring.**

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

**Notes:**

(a)(c) The Auditor determined compliance with these subparts of the standard based on the interviews with the Jail Administrator who confirmed that detainee supervision at MCD-D involves Correction Officer staff and (b) (7)(E). She indicated that in determining proper levels of detainee supervision and determining their need for video monitoring, the facility administrative staff considers generally accepted detention and correctional practices, any audits and judicial findings of inadequacy found, the physical layout of the facility, the composition of the population housed at the facility, incidents of substantiated and unsubstantiated sexual abuse, recommendations of completed sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody. The Auditor also was provided and reviewed the facility staffing level for the medical staff. The interviews with the Jail Administrator and each of the shift supervisors confirmed that facility utilizes direct supervision, by staff along with video monitoring, for detainees. There were no allegations of sexual abuse during the audit period for review.

(b) The Auditor determined compliance with this standard subpart based on the interview with the Jail Administrator who confirmed each staff security post has specific post orders. The Auditor randomly reviewed some of the MCD-D post orders. These posts are signed by staff assuming the post. These post orders are reviewed annually by the supervisor and Jail Administrator. The Auditor observed the annual post orders review conducted in 2021.

(d) The Auditor determined compliance with this standard subpart based on review of the J-100 policy that requires staff, including supervisors, shall conduct frequent unannounced security inspections rounds to identify and deter sexual abuse of detainees. The occurrence of such rounds shall be documented in the applicable log as Security Checks/PREA Rounds. This practice shall be implemented on all shifts, to include nights as well as day and in all areas where detainees are permitted. The interviews with the supervisors confirmed the policy of these unannounced rounds. The rounds are electronically entered into the Zuercher system, the facility's electronic database. The Auditor reviewed random dates on this system and found unannounced rounds completed as required by standard and policy at random times and locations. The eight random security staff interviewed confirmed supervisors make frequent rounds in their areas and acknowledged their understanding of the policy restriction prohibiting them from alerting other staff that supervisors were making rounds.

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

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

**Notes:**

MCD-D does not accept juveniles or family detainees. This was confirmed in the PAQ and in interviews conducted with the Jail Administrator. The standard therefore is not applicable.

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

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

**Notes:**

(b)(d)(e)(f) The Auditor determined compliance with these standard subparts based on review of the J-100 policy that requires pat searches of male detainees by female staff shall not be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required, or, in exigent circumstances. All cross-gender pat searches of detainees will be documented in a logbook including details of the exigent circumstances. The policy further requires strip searches of detainees by staff of the opposite gender not be conducted except in exigent circumstances, or when performed by medical practitioners. Body cavity searches will only be conducted by a medical professional and take place in an area that affords privacy from other detainees and from facility staff. All strip searches and visual body cavity searches shall be documented in the electronic records keeper (Zuercher). The Jail Administrator confirmed the facility practice is consistent with J-100 policy on searching detainees and also confirmed all cross-gender searches, strip searches and body cavity searches, if performed, would be logged in Zuercher. The Facility reported no such searches during the audit period. The eight Correction Officers interviewed were aware of the requirements for conducting and documenting any cross-gender pat searches or strip searches if performed and the prohibition against conducting body cavity searches. Each was also aware that medical must conduct all necessary body cavity searches.

(c) This subsection is non-applicable. MCD-D is an adult male facility.

(g) The Auditor determined compliance with this subpart of the standard based on review of the J-100 policy, that requires detainees 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 policy further requires employees of the opposite gender must announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing. Female Correction Officers interviewed acknowledged their responsibility if they entered a male living unit to announce themselves prior to entering. The four detainees interviewed confirmed that the female staff announces themselves prior to entering their living area or shower area. The Auditor also observed opposite gender announcements being made during the site visit. The review of the camera system and observations during the site visit revealed no privacy concerns with the shower or toilet areas.

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

(i) The Auditor determined compliance with this subpart of the standard based on the J-100 policy that requires the facility not search or physically examine detainees for the sole purpose of determining the detainee's genital status. The policy further states if any detainee's genital status is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. The Training Officer confirmed that search training, received by each staff member, includes the prohibition of physically examining a detainee for the sole purpose of determining their genital characteristics. The eight random Correction Officers interviewed confirmed their awareness of this prohibition and that the search training they receive covers this restriction. They also stated that if it were necessary to determine a detainees' genital status, they follow the subpart (i) requirements for determination.

(j) The Auditor determined compliance with this subpart of the standard based on the J-100 policy, interviews with staff, and review of the searches curriculum that requires all detainee searches be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and policy, including officer safety. The Auditor reviewed the search training curriculum for security staff. This curriculum covered proper techniques for conducting pat searches, including searches of cross-gender, transgender, and intersex detainees in the least intrusive, professional, and respectful manner, and addressed each of the standard requirements. The Auditor reviewed eight security staff training files and found completed search training documentation in each of their files. The four detainees interviewed confirmed when they were searched, it was always in a professional manner.

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

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

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on review of the J-100 policy that requires MCD-D ensure that detainees with disabilities (including, but not limited to, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse. This policy further requires when necessary to ensure effective communication with detainees who are deaf or hard of hearing, or detainees who have intellectual, psychiatric, or speech disabilities, limited reading skills, or who are blind or have low vision, the facility shall attempt to accommodate the detainee by providing: Access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary; Access to written materials related to sexual abuse in formats or through methods that ensure effective communication and auxiliary aids such as readers, materials in Braille (if available), audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and notetakers. The MCD-D is also required by policy J-100, to provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to prevent, detect, and respond to sexual abuse. Interpretation services shall be provided by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that

such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse. During the site visit there were no detainee arrivals for the Auditor to observe the intake process. One of the intake Correction Officers detailed the detainee arrival and intake process. He indicated every detainee arriving at MCD-D receives the MCD-D Facility Handbook, available in Spanish and English, the DHS-prescribed SAA information pamphlet, and the ICE National Detainee Handbook. The detainee is required to sign he received these documents. The DHS-prescribed SAA information pamphlet is available in 15 languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Turkish, Ukrainian, and Vietnamese). The ICE National Detainee Handbook is available in 14 of the most prevalent languages encountered by ICE (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Turkish, Bengali, Romanian, Portuguese, and Vietnamese). The intake Correction Officer also detailed the facility handling of detainees with disabilities arriving at MCD-D. He indicated those who may have limited sight or may be blind would have the information presented to them verbally by the intake staff person. A detainee arriving with limited hearing or deaf is provided information in writing or by use of the TTY equipment. A detainee arriving at the facility with intellectual, or psychiatric disabilities would be referred to either medical or mental health, if the intake staff member was unable to effectively communicate with him. The intake Correction Officer also indicated that routinely MCD-D intake staff deals with LEP detainees and in cases where a staff member is not available to interpret for the detainee, the facility has a contracted language service provider (to include sign language) to assist the intake staff. The Auditor questioned the intake Officer about how a detainee would be handled who spoke a language not covered by the SAA pamphlet or Ice National Handbook languages. He stated the facility utilizes a manuscript that is read to the detainee through the contracted interpreter. The Auditor reviewed the materials issued to detainees, including the manuscript and their availability, during the site visit. The Auditor also reviewed 10 detainee detention files while on site. Each of these files contained signed acknowledgements for receipt of these materials demonstrating compliance with the standard and policy requirement. The interview with the four detainees confirmed they received this information in a language that they understood. Three of the four interviewed were LEP (Spanish).

#### **§115.17 - Hiring and promotion decisions.**

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

#### **Notes:**

(a)(b)(c)(e)(f) The Auditor determined compliance with these subparts of the standard based on review of Executive Order 10450 (Security Requirements for Government Employment), Office of Personal Management Section Part 731, and ICE Directives 6-7.0, ICE Personnel Security and Suitability Program Directive, and 6-8.0, ICE Suitability Screening Requirements for Contractor Personnel Directive and the J-100 policy which collectively require, to the extent permitted by law, to decline to hire or promote anyone who may have contact with detainees, and decline to enlist the services of any contractor, or volunteer, who may have contact with detainees, who has engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); has been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or has been civilly or administratively adjudicated to have engaged in the activity as outlined above. MCD-D will not hire or promote anyone who may have contact with detainees and will not enlist the services of any contractor or volunteer, who may have contact with detainees, who engaged in any of the above-mentioned misconduct. The J-100 policy also requires all applicants, employees, and contractors who may have direct contact with detainees be asked about previous misconduct, as outlined above, in written applications or interviews for hiring or promotions. The Unit Chief of the Office of Professional Responsibility (OPR) Personnel Security Operations (PSO) informed Auditors, who attended virtual training in November 2021, that candidate suitability for all applicants includes their obligation to disclose: any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity. The Auditor spoke with an HR staff person at the MCD-D who detailed the hiring procedure. The HR staff person indicated that MCD-D follows the ICE hiring guidelines for all employee candidates. When a vacancy occurs, the job is posted, and potential candidates submit an application. If the applicant meets the position criteria, an interview is scheduled where the individual is asked directly about any misconduct outlined in subpart (a) of the standard. If the candidate responds affirmatively to those questions dealing with any such conduct, the person does not go any further in the hiring process. He also stated that prior employment is verified. Once the interview is concluded and the applicant is successful to this point, a National Crime Information Center (NCIC) background is conducted. When that investigation is completed, and the candidate has no issues found during the background check, the candidate is provided a start date. He also stated that for promotions the employee is also questioned about any previous misconduct as well but there were no promotions during the audit period. The HR staff person informed the Auditor that material omissions of any subpart (a) incidents or providing false information during the hiring process would be the basis for termination or withdrawal of any offer of employment. He also stated that as a condition of employment and as outlined in policy, each employee has a continuing affirmative duty to disclose any misconduct outlined in subpart (a). The Auditor was also informed by this HR staff person that if an employer requested information on a former employee, dismissed for sexual abuse, that employer would be referred to the County Attorney for the release of any such information. The Auditor confirmed during the interview with the Jail Administrator that MCD-D is not an immigration-only detention facility; therefore, the required 5-year background recheck component of the subpart (c) is not applicable. As noted earlier in the report, eight random security staff were interviewed, and each was aware of this continuing affirmative duty to report. The Auditor also reviewed 10 employee files (to include one medical contracted staff) and found background approvals to hire the staff member as well as a current signed self-declaration that the employee had not engaged in behavior outlined in subpart (a) of the standard and as required by policy.

(d). The facility conducts the same hiring procedure for the contract staff as it does for the County Employees. The NCIC background is completed as part of the initial hiring process.

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

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

**Notes:**

This standard is not applicable as the Jail Administrator and PAQ confirmed that MCD-D did not expand the facility or add additional video equipment during the audit period.

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

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

**Notes:**

(a) The J-100 policy requires investigations conducted by the facility for allegations of sexual abuse and assault be handled in accordance with the Code of Federal Regulations, Title 6, Part 115.21, Evidence Protocol and Forensic Medical Examinations. The investigating entity shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The agency's Policy 11062.2 outlines the agency's evidence and investigation protocols. The Auditor training provided in November 2021 by ICE indicated that when a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility's incident review personnel in accordance with OPR policies and procedures. OPR does not perform sex assault crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or local law enforcement agency. The OPR will coordinate with the ICE ERO Field Office Director (FOD) and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred or accepted by DHS Office of Inspector General (OIG), OPR, or the local law enforcement agency, the agency would assign an administrative investigation to be conducted or review the facility's administrative investigation. As noted earlier, there are no juveniles at MCD-D and were no allegations of sexual abuse reported at MCD-D for the audit period. The interview with the Administrative Investigators confirmed their training and policy requirements ensure they follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for his administrative proceedings.

**Does Not Meet (a):** This subpart requires the protocol be developed in coordination with DHS. MCD-D did not demonstrate the J-100 policy had been presented to ICE for approval. The facility must provide the Auditor with the required approval.

(b)(c)(d) The Auditor determined compliance with these subparts of the standard based on the review of the J-100 policy that requires the MCSO maintain, or attempt to enter into, Memorandums of Understanding (MOU) or other agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support for immigrant victims of crimes. As requested by the victim, either the victim advocate, a qualified investigating entity staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. Policy J-100 further requires that MCD-D offer all victims of sexual abuse and assault access to forensic medical examinations, whether onsite or at an outside facility, without financial cost, where evidentiary or medically appropriate and only with the detainee's consent. These examinations shall be performed by a SAFE or SANE where possible. If SAFE or SANE practitioners cannot be made available, the examination can be performed by other qualified medical practitioners. The Jail Administrator confirmed that MCD-D has attempted to enter into an MOU with Gabby's Ladder Grief Center (GLGC). The facility also provided the Auditor with an email sent to this advocate dated October 29, 2022 requesting an MOU regarding service outlined in subpart (b), but has not yet received a response. The Auditor tried to contact the director for GLGC but never received a call back. Their facility website indicates Gabby's Grief Center provides guiding steps and loving support in a safe place to grieving children, teens, adults, and families as they move step-by-step through grief and find their way to healing. The Auditor observed this advocate contact information in the detainee housing unit on the televised 24-hour bulletin board channel. The interview with the HSA confirmed detainee victims of sexual assault would be transported to the Promedica Monroe Regional Hospital (PMRH) for any forensic examinations required. She also stated that this hospital has a SAFE/SANE Forensic Program and accepts patients from MCD-D. The Jail Administrator confirmed during an interview that, if requested, the detainee would be allowed a victim advocate present during the forensic exam or investigatory interviews. There were no allegations of sexual abuse made during the audit period.

(e) The Auditor determined compliance with this subpart of the standard based on the interview with the Jail Administrator who confirmed that criminal investigations, for sexual abuse allegations at the MCD-D, would be conducted by the Detective Bureau within the MCSO. The Auditor interviewed the Detective responsible for these investigations. He confirmed that in every allegation investigated he would comply with subparts (a) through (d) of the standard. There were no allegations of sexual abuse made during the audit period.

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

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

**Notes:**

(a)(b)(d) The Auditor determined compliance with these subparts of the standard based on review of the J-100 policy that requires MCD-D ensure that an administrative investigation and a referral for a criminal investigation, if potentially criminal behavior is involved, are completed for all allegations of sexual abuse or assault. This policy also requires documentation of each investigation by written report and shall include a description of the physical and testimonial evidence, the reasoning behind the credibility assessment and

investigation facts and findings. The MCD-D is required by this same policy to retain all reports and referrals of allegations for as long as the alleged perpetrator is detained or employed by the agency or facility, plus five (5) years. This same policy requires all allegations of sexual abuse reported be promptly reported to the Joint Intake Center (JIC), the ICE OPR or the DHS OIG, as well as the appropriate ICE FOD. The Jail Administrator and the PSA Compliance Manager confirmed all allegations of sexual abuse are reported to the ICE Deportation Officer (DO) or SDDO. The DO confirmed that once he is notified of any incident of sexual abuse, he makes all ICE notifications required by the standard. According to the auditor training received in November 2021, all allegations are to be reported to the JIC, where the allegation will be assessed to determine if it falls within the PREA purview. The PREA allegations are referred to OIG or OPR. OIG has the first right of refusal on all employee, volunteer, or contractor on detainee sexual abuse allegations. Once the allegation is reviewed and accepted by DHS OIG, the OPR would not investigate so there is no possible intervention. If refused by DHS OIG, the allegation is referred to OPR. All detainee-on-detainee allegations are referred to the OPR for assessing criminality. Once the allegation is reviewed and accepted by the OPR investigator, the investigation is conducted by OPR, who will decide on the investigative process. If OPR investigates the allegation, the investigation is conducted in accordance with OPR policies and procedures and coordination with law enforcement and facility staff. If allegations are not criminal in nature, the allegations are referred to the OPR field office or the ERO Administrative Investigative Inquiry Unit (AIU) for action, and the agency would assign an administrative investigation to be completed or conduct a review of the facility's administrative investigation. The Jail Administrator and Lieutenant conduct the administrative investigations at the MCD-D. During their interviews, both confirmed they would follow the investigative protocols outlined in the J-100 policy. The facility had no allegations of sexual abuse reported during the audit period.

(c) Standard subpart (c) requires the facility and agency post their investigative protocols on their web site. The Auditor found the agency protocols on their website at <https://www.ice.gov/detain/prea>) but the MCSO web site (<https://www.co.monroe.mi.us/Directory.aspx?did=10>) did not have protocols posted.

**Does Not Meet (c):** The facility must post the required investigative protocols on their web site.

(e)(f) The Auditor determined compliance with these subparts of the standard based on review of the J-100 policy that requires when a detainee, 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 JIC, the ICE OPR or the DHS OIG, as well as the appropriate ICE FOD. The interview with the Jail Administrator confirmed that any allegation of sexual abuse at the MCD-D, involving a detainee, a staff member, a contractor or a volunteer would be immediately reported to the facility assigned SDDO. The Auditor interviewed a DO assigned to MCD-D, who confirmed that once he is notified of any incident of sexual abuse, he makes all ICE notifications required by the standard. The facility had no allegations of sexual abuse reported during the audit period.

#### **§115.31 - Staff training.**

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

**Notes:**

(a)(b)(c) The Auditor determined compliance with this subpart of the standard based on the review of the J-100 policy that requires training on the facility's Sexual Abuse or Assault Prevention and Intervention Program shall be included in training for all new employees and shall also be included in annual refresher/in-service training thereafter. This training is required to include: the facility's zero-tolerance policies for all forms of sexual abuse; Definitions and examples of prohibited and illegal sexual behavior; The right of detainees and staff to be free from sexual abuse, and from retaliation for reporting sexual abuse; Recognition of situations where sexual abuse and/or assault may occur; How to avoid inappropriate relationships with detainees; Recognition of the physical, behavioral and emotional signs of sexual abuse and/or assault and ways to prevent and respond to such occurrences; The requirement to limit reporting of sexual abuse and assault to personnel with a need-to-know in order to make decisions concerning the detainee-victim's welfare, and for law enforcement/investigative purposes; The investigation process and how to ensure that evidence is not destroyed; Prevention, recognition and appropriate response to allegations or suspicions of sexual assault involving detainees with mental or physical disabilities; How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees and procedures for reporting knowledge or suspicion of sexual abuse and/or assault. The Auditor reviewed the facility's PREA Regional & Civilian Training 2022 PowerPoint and found that it included all topics required of this standard. The Auditor interviewed eight Correction officers, who confirmed receiving PREA training and that they receive it annually. They also detailed for the Auditor an overview of what the training entailed to include the elements required by subpart (a). The Auditor reviewed 10 staff training files (to include one contractor) and found completed PREA training acknowledgement documents in each file. The Auditor feels the facility exceeds the standard, as the standard requires refresher training every two years and the facility documentation and interviews confirmed training refresher is annual.

#### **§115.32 - Other training.**

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

**Notes:**

(a)(b)(c) The Auditor determined compliance with this subpart of the standard based on the review of the J-100 policy that requires the facility ensure that all volunteers and other contractors who have contact with detainees have been trained on their responsibilities under the facility's sexual abuse prevention, detection, intervention and response policies and procedures. According to the Jail Administrator, MCD-D has no contractors meeting the (d) subpart definition of contractor. The facility recognizes Advanced Correctional HealthCare staff as employees covered under 115.31 due to their presence at the facility and detainee contact. The facility has one volunteer (religious). The Auditor reviewed his training record and found a signed acknowledgement he received PREA

training. The Jail Administrator confirmed that if the MCD-D ever had contractors meeting the subpart (d) definition, they would receive the same training all staff receives.

### **§115.33 - Detainee education.**

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

#### **Notes:**

(a)(b)(c)(e)(f) The Auditor determined compliance with these standard subparts based on review of the J-100 policy that requires during the intake process, all detainees be notified of the facility zero tolerance policy on sexual abuse and assault and be provided with information about the facility's SAAPI Program. Such information shall include, at a minimum: The facility's zero tolerance policy for all forms of sexual abuse or assault; Definitions and examples of detainee-on-detainee sexual abuse and assault, staff-on-detainee sexual abuse and assault and coercive sexual activity; Explanation of methods for reporting sexual abuse or assault, including one or more staff members other than an immediate point-of-contact line officer, the DHS OIG, and the ICE OPR investigation processes; Information about self-protection and indicators of sexual abuse and assault; Prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainee's immigration proceedings and the right of a detainee who has been subjected to sexual abuse to receive treatment and counseling. This policy further requires MCD-D ensure that detainees with disabilities (including, but not limited to, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse. This policy also requires when necessary to ensure effective communication with detainees who are deaf or hard of hearing, or detainees who have intellectual, psychiatric, or speech disabilities, limited reading skills, or who are blind or have low vision, the facility shall attempt to accommodate the detainee by providing: Access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary; Access to written materials related to sexual abuse in formats or through methods that ensure effective communication and auxiliary aids such as readers, materials in Braille (if available), audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and notetakers. The MCD-D is also required by policy to provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to prevent, detect, and respond to sexual abuse. Interpretation services shall be provided by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse. During the site visit there were no detainee arrivals for the Auditor to observe the intake process. One of the intake Correction Officers detailed the detainee arrival process. He indicated every detainee arriving at MCD-D receives and signs for the MCD-D Facility Handbook, available in Spanish and English, the DHS-prescribed SAA information pamphlet, and the ICE National Detainee Handbook. The DHS-prescribed SAA information pamphlet is available in 15 languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Turkish, Ukrainian, and Vietnamese). The ICE National Detainee Handbook is available in 14 of the most prevalent languages encountered by ICE (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Turkish, Bengali, Romanian, Portuguese, and Vietnamese). This intake Correction Officer also detailed the facility's handling of detainees with disabilities upon arrival. He indicated those who have limited sight have the information presented to them verbally by the intake staff person. A detainee arriving with limited hearing or deaf is provided information in writing or by use of the TTY equipment. A detainee arriving at the facility with intellectual, or psychiatric disabilities would be referred to either medical or mental health, if the staff member was unable to effectively communicate with him. The intake Correction Officer indicated that routinely MCD-D deals with LEP detainees and in cases where a staff member is not available to interpret for the detainee, the facility has a contracted language service provider (to include sign language) to assist the intake staff. The Auditor questioned the intake Officer about how a detainee would be handled who spoke a language not covered by the SAA pamphlet or Ice National Handbook languages. He stated the facility utilizes a manuscript that is read to the detainee through the contracted interpreter. The Auditor reviewed the materials issued to detainees, including the manuscript and their availability, during the site visit. The manuscript was reviewed and found to provide the subpart (a) requirements. The Auditor reviewed 10 detainee detention files while on site. Each of these files contained signed acknowledgements for receipt of the orientation materials. The review of these detention files demonstrated compliance with the standard and policy requirement. The interview with the four detainees (three LEP) confirmed they received this information in a language that they understood.

(d) The Auditor determined compliance with this subpart of the standard based on the review of the J-100 policy that requires MCD-D post on each housing unit the DHS-prescribed sexual abuse and assault awareness notice with the name of the facility PSA Compliance Manager and information about local organization(s) that can assist detainees who have been victims of sexual abuse or assault, including mailing addresses and telephone numbers (toll-free hotline numbers where available). During the tour of the facility's two living areas, the Auditor observed the required signage with the PSA Compliance Manager's name and contact information for Gabby's Ladder Grief Center.

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

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

#### **Notes:**

(a)(b) The Auditor determined compliance with this subpart of the standard based on the review of the J-100 policy that requires the facility provide specialized training on sexual abuse and effective cross-agency coordination to facility investigators who conduct investigations into allegations of sexual abuse at immigration detention facilities. Agency Policy 11062.2 states, "OPR shall provide



specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as, Office of Detention Oversight staff, and other OPR staff, as appropriate.” The Auditor reviewed the ICE OPR Investigating Incidents of Sexual Abuse and Assault training curriculum and found the curriculum to cover in-depth investigative techniques, evidence collection, and all aspects to conduct an investigation of sexual abuse in a confinement setting. The agency also offers Fact Finders Training, which provides information needed to conduct the initial investigation at the facility to determine if a sexual abuse incident has taken place and whether to complete an administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP; LGBTI, and disabled detainees; and an overall view of the investigative process. The agency provides rosters of trained investigators and the specialized training curriculum on OPR’s SharePoint site for Auditors’ review; this documentation is in accordance with the standard’s requirements. The Auditor interviewed the Jail Administrator and Assistant Jail Administrator, both who conduct administrative investigations at MCD-D. Each demonstrated that they had participated in effective cross-agency coordination training. There were no allegations reported during the audit period.

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

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

##### **Notes:**

(a) This subpart is not applicable as the MCD-D medical unit is not staffed by DHS or agency employees.

(b) The Auditor determined compliance with this standard subpart after review of the J-100 policy that requires all full and part-time Qualified Health Care Professionals and Qualified Mental Health Professionals working at MCD-D receive specialized medical training on: How to detect and assess signs of sexual abuse; How to preserve physical evidence of sexual abuse; How to respond effectively and professionally to victims of sexual abuse; How and to whom to report allegations of sexual abuse and how to preserve physical evidence of sexual abuse. The MCD-D medical department is contracted through Advanced Correctional HealthCare. The interview with the HSA confirmed that she and her staff are required to take initial PREA training upon hiring with the MCD-D and annual training with MCD-D employees. The PREA training curriculum was reviewed by the Auditor and found to cover this specialized training. The Auditor feels the facility exceeds provision (b), as the standard requires this training once in a career and it is taken annually. The Auditor randomly picked one medical staff training record and found the required basic and specialized PREA training documented.

(c) This subpart requires the agency to review and approve the facility’s written policy. MCD-D did not demonstrate they had presented their policy to ICE for approval and must provide the Auditor with the approval for the J-100 policy.

**Does Not Meet (c):** This subpart requires the agency to review and approve the facility’s policy 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. MCD-D did not demonstrate they had presented their policy to ICE for approval and must provide the Auditor with the approval for the J-100 policy.

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

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

##### **Notes:**

(a)(b)(c)(d)(e)(f) The Auditor determined compliance with these standard subparts based on review of the J-100 policy that requires all detainees arriving at MCD-D be screened for potential risk of sexual victimization or sexually abusive behavior and shall be housed to prevent sexual abuse or assault, taking necessary steps to mitigate any such danger. The detainees shall be kept separate from the general population until classified and then may be housed accordingly. This classification process and initial housing assignment should be completed within 12 hours of admission to the facility. This policy further requires MCD-D consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization: Whether the detainee has a mental, physical, or developmental disability; the age of the detainee; the physical build and appearance of the detainee; whether the detainee has previously been incarcerated or detained; the nature of the detainee’s criminal history; whether the detainee has any convictions for sex offenses against an adult or child; whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming, whether the detainee has self-identified as having previously experienced sexual victimization; the detainee’s own concerns about his or her physical safety and any prior acts of sexual abuse or assault, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse or assault, as known to the facility, in assessing detainees for risk of being sexually abusive. According to the J-100 policy, the facility must reassess each detainee’s risk of victimization or abusiveness between 60 and 90 days from the date of the initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization. The classification and risk assessment are part of the booking process performed by the intake Correction Officer. The Auditor interviewed two of these staff members. They confirmed that the classification and vulnerability assessment are completed within the first two hours of arrival and never beyond 12 hours. The Auditor reviewed the assessment form and found it addressed the (c)(d) criteria. Each also confirmed that vulnerability is based on the criteria outlined in subparts (c) and (d) to the extent known. They also stated that detainees are never punished for refusing to answer any questions asked during the intake process. The Auditor questioned four detainees during the site visit and each confirmed that their classification process, including the vulnerability questioning, was completed within their first hour of arrival and they remained in the booking area until it was completed. The Zuercher record keeping time stamps the arrival time and classification times for every admission. The Auditor reviewed four random detainees’ admission times and found all were completed within two hours of arrival. None of the four detainees had been at MCD-D long enough to have a 60–90-day reassessment. There were no incidents of sexual abuse reported during the audit period requiring a reassessment.

(g) The Auditor determined compliance with this subpart of the standard based on the review of the J-100 policy that requires appropriate controls be implemented within the facility regarding the dissemination of responses to questions asked pursuant to screening for risk of victimization and abusiveness in order to ensure that sensitive information is not exploited by employees or other detainees to the detainee's detriment. The Jail Administrator indicated paper copies of these documents are maintained under double lock and restricted key. The electronic records are secured by password.

#### **§115.42 - Use of assessment information.**

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

#### **Notes:**

(a) The Auditor determined compliance with this subpart of the standard after a review of the J-100 policy that requires MCD-D use the information from the vulnerability assessment conducted at intake in the consideration of housing, recreation, work program, and other activities. As noted earlier, the facility has only two living units that are open dormitory. The intake Corrections Officer interviewed confirmed that the information from both the classification and vulnerability assessment is used to make individualized housing and activity assignments. The facility has no work assignments available for detainees. The Auditor reviewed 10 detainee detention files in which the initial assessment files are maintained and any reassessments would be kept. The file review demonstrated individualized determinations being conducted on each detainee and consideration of the information from the vulnerability assessment for placement decisions to ensure the detainees' safety.

(b)(c) The Auditor determined compliance with these subparts of the standard after a review of the J-100 policy that requires MCD-D not base housing and program placement decisions for transgender or intersex detainees solely on the identity documents or physical anatomy of the detainee. The facility shall consider the transgender or intersex detainee's gender self-identification and an assessment of the effect of the placement and shall consider on a case-by-case basis whether such a placement would ensure the detainee's health and safety. The policy further requires the facility consult with a medical and mental health professional as soon as practicable on this assessment. There were no transgender or intersex detainees present at during the site visit. The Jail Administrator and HSA confirmed in every instance of a transgender or intersex detainees arriving at MCD-D the medical and mental health staff would be consulted prior to any housing decisions being made. Both stated that placement and programming assignments for each transgender or intersex detainee would be reassessed at least twice each year as required by policy. The Jail Administrator and random staff interviews confirmed transgender and intersex detainees would be allowed to shower separately from other detainees, if necessary, at times convenient to facility operation. There were no transgender/intersex detainees housed at MCD-D during the audit period as well.

#### **§115.43 - Protective custody.**

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

#### **Notes:**

(a) The standard subpart requires that the management of the administrative segregation be developed in conjunction with the FOD. The J-100 policy, dealing with placement in administrative segregation was not approved by the AFOD.

**Does Not Meet (a):** This subpart requires the agency to review and approve the facility's written policy. MCD-D did not demonstrate they had presented their policy to ICE for approval and must provide the Auditor with the approval for the J-100 policy.

(b)(c)(d)(e) The J-100 policy requires MCD-D's use of administrative segregation to protect detainees at high risk for sexual abuse and assault be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, as a last resort. Detainees considered at risk for sexual victimization shall be placed in the least restrictive housing that is available and appropriate. If appropriate custodial options are not available at the facility, the facility shall contact the ICE FOD to determine if ICE can provide additional assistance. The policy further requires detainees be assigned to administrative segregation for protective custody only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days, and they shall have access to programs, privileges, education, and work opportunities to the extent possible. If access to programs, privileges, education, or work opportunities is restricted, the facility must document the opportunities that have been limited and the duration of the limitation. Whenever a detainee would be placed in administrative segregation the policy requires a supervisory staff member conduct a review of the detainee placement within 72 hours to determine whether segregation is still warranted and a supervisory staff member conduct, at a minimum, an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first thirty (30) days and every ten (10) days thereafter. MCD-D is also required by policy to notify the appropriate ICE FOD no later than 72 hours after the initial placement into segregation, whenever a detainee has been placed in segregation on the basis of a vulnerability to sexual abuse or assault. The Jail Administrator detailed the policy protocol for the use of administrative segregation for a vulnerable detainee as outlined in their policy and the standard. However, MCD-D has no segregation, no medical unit, and no cells. As noted earlier, the facility has two dormitory housing units. The Jail Administrator stated that if the facility has a detainee at risk of sexual assault, ICE ERO would be immediately notified, the detainee moved to the other housing unit and moved to another facility.

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

(a)(b) The J-100 policy requires detainees be encouraged to immediately report pressure, threats, or incidents of sexual abuse and assault, as well as possible retaliation by other detainees or employees for reporting sexual abuse and staff neglect, or violation of responsibilities that may have contributed to such incidents. MCD-D provides detainees instructions on how to contact their consular official, the DHS OIG, and the ICE Detainee Reporting Information Line (DRIL). During the tour of the facility, the Auditor observed this reporting information along with the consular contact information prominently displayed on the television monitors in Spanish and English in each of the hold rooms and both housing units. This policy further requires detainees who are victims of sexual abuse have the option to privately report an incident to a designated employee, other than an immediate point-of-contact line Officer, by: submitting a request to meet with Health Services staff and/or reporting to a Health Services staff member during sick call; calling the facility 24-hour toll-free notification telephone number; verbally telling any employee, including a facility volunteer; forwarding a letter (including anonymously), sealed and marked "confidential," to the Facility Administrator or any other employee; calling or writing someone outside the facility who can notify facility staff or forwarding a letter to the Monroe County PSA Coordinator at the following address: 7000 E. Dunbar Rd. Monroe, MI 48161. ICE has also established the following external reporting methods: directly report to the DHS OIG anonymous complaint hotline toll-free telephone number at 1-800-323-8603; Contact the ICE DRIL toll-free telephone number 1-888-351-4024 or 9116#; Tell an ICE/ERO staff member who visits the facility; Write a letter reporting the sexual misconduct to the ICE [OIC], ICE AFOD, or ICE FOD; File a written formal request to ICE; Contact ICE OPR JIC toll-free hotline number 1-877-246-8253; By mail to DHS OIG, Office of Investigations Hotline; 245 Murray Drive, SW, Building 410/Mail Stop 0305, Washington, DC 20528. The Auditor tested the reporting lines to the DHS OIG during the site visit and found them to require a PIN. The four detainees, present during the site visit, interviewed confirmed their knowledge of the reporting opportunities available to them if needed to report sexual abuse allegations or staff misconduct.

**Does Not Meet (a)(b):** The facility must develop and implement a procedure to allow detainees to call the DHS OIG without the use of a PIN to remain anonymous. Evidence of this procedure, once implemented, must be presented to the Auditor for compliance review.

(c) The Auditor determined compliance with this subpart of the standard based on the review of the J-100 policy that requires staff take all allegations of sexual abuse and assault seriously, including verbal, anonymous and third-party reports, and treat them as if the allegation is credible. Staff shall promptly document any verbal reports. The random staff interviews confirmed staff responsibility to accept all allegation of sexual abuse, report them to their supervisor and document all allegations made verbally. There were no allegations of sexual abuse made at MCD-D during the audit period.

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

(a)(b)(c)(d)(e)(f) The Auditor determined compliance with these subparts of the standard after a review of the J-100 policy that requires detainees be permitted to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint and the facility shall not impose a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse. The policy informs staff and detainees that in preparation of the grievance the detainee may obtain assistance from another detainee, the housing officer or other facility staff, family members, or legal representatives. It also requires facility staff to bring medical emergencies to the immediate attention of proper medical personnel for further assessment. The detainee is required to receive a decision on the grievance within 5 days of receipt and receive an appeal response within 30 days. The J-100 policy further requires MCD-D send all grievances related to sexual abuse and the facility's decisions with respect to such grievances to the appropriate ICE FOD at the end of the grievance process. The Assistant Jail Administrator handles the grievance process at the facility. He informed the Auditor that MCD-D would accept all grievances alleging sexual assault, following the facility policy, and handling the allegation as an emergency grievance. He also stated the facility imposes no time limit on when the submission of a sexual abuse allegation is made regardless of when it occurs and would ensure all medical emergencies are referred to the medical department immediately. He also confirmed he would notify the AFOD of the grievance allegation and grievance outcome. He stated sexual abuse grievances are responded to within two business days of receipt and appeal decisions are responded to within 30 days. The interviews with the eight random staff confirmed their knowledge of the grievance process including allowing another detainee, the housing officer or other facility staff, family members, or legal representatives to assist the detainee with the grievance. They were also aware that all medical emergencies are be taken to medical. Three of the four detainees interviewed were aware of using the grievance procedure to file a sexual abuse allegation. There were no grievances alleging sexual abuse during the audit period.

**§115.53 - Detainee access to outside confidential support services.****Outcome:** Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)**Notes:**

(a)(b)(c)(d) The Auditor determined compliance on these subparts of the standard after a review of the J-100 policy that requires MCSO maintain, or attempt to enter into, a MOU or other agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support for immigrant victims of crimes. MCD-D shall establish, in writing, procedures to include outside agencies in the facility sexual abuse prevention and intervention protocols, if such resources are available. This policy also requires detainees be provided access to outside victim advocates for emotional support services related to sexual abuse by giving detainees mailing addresses and telephone numbers, including toll-free

hotline numbers where available, of local, state, or national victim advocacy or rape crisis organizations. Such information shall be included in the MCD-D handbook. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible. Detainees shall be informed, prior to giving them access, of the extent to which such communications shall be monitored and the extent to which reports on abuse will be forwarded to authorities in accordance with mandatory reporting laws. The Auditor was provided a copy of the attempt to enter into an MOU with GLGC, a local advocate in Monroe. Contact information for this advocate was observed by the Auditor in each of the housing units as well as noted in the MCD-D detainee handbook. The Jail Administrator informed the Auditor that the GLGC does not accept allegations of sexual assault. As noted in standard 115.21, the Auditor attempted to contact the director for GLGC but never received a call back. Their facility website indicates Gabby's Grief Center provides guiding steps and loving support in a safe place to grieving children, teens, adults, and families as they move step-by-step through grief and find their way to healing. The Auditor observed this advocate contact information in the detainees housing unit 24 hour on the televised bulletin board channel. The interview with the four random detainees confirmed some basic knowledge of this advocate center.

**Recommendation:** The Auditor would like to have the facility elaborate on the services Gabby's Ladder provides in the MCD-D detainee handbook.

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

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

**Notes:**

The Auditor determined compliance with the standard after a review of the J-100 policy that requires MCD-D establish a method to receive third-party reports of sexual abuse and assault and shall post this information on the facility PREA link. The Auditor observed contact information to report concerns or problems, to facility administration, on behalf of any detainee in at the entrance lobby at MCD-D. A review of both the ICE web page <https://www.ice.gov/detain/prea> and MCSO web page (<https://www.co.monroe.mi.us/574/Jail-Information>) confirmed each has a means for the public to report incidents of sexual abuse/harassment on behalf of any detainees as well. The four random detainees interviewed indicated that they were aware that family members and friends could report sexual abuse on their behalf if needed. The facility had no third-party reports of sexual abuse during the audit period.

#### **§115.61 - Staff reporting duties.**

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

**Notes:**

(a)(b) The J-100 policy requires all staff to immediately report 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. Employees may report sexual abuse and assault of detainees, out of the chain of command, by forwarding a letter sealed and marked "Confidential," to the Jail Administrator. This standard subpart also requires the agency has reviewed and approved the staff reporting policy. As noted earlier in the report, the J-100 policy was not presented by the facility for approval by the agency.

**Does Not Meet (a):** This subpart requires the agency review and approve the facility's written policy. MCD-D did not demonstrate they had presented their policy for approval by ICE and must provide the Auditor with the approval for the J-100 policy.

(c) The J-100 policy requires, apart from reporting to designated supervisors or officials, employees shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, and as specified in this policy, to make treatment, investigation, and other security and management decisions. The Auditor interviewed eight random Correction Officers and each of these staff members confirmed their knowledge of the reporting requirements of the standard and the facility policy. Each was also aware of their requirement to keep information each became aware of confidential. They also informed the Auditor of their ability to report allegations of sexual abuse outside of their chain of command to the Jail Administrator if necessary. There were no investigative files for review as there were no allegations reported during the audit period.

(d) The Auditor determined compliance on this subpart of the standard after a review of the J-100 policy that requires 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 allegation shall be reported to the designated state or local services agency under applicable mandatory reporting laws. As noted earlier in the report, MCD-D does not accept juvenile detainees. During the interview with the Jail Administrator, the Auditor was informed that if MCD-D encountered a sexual abuse allegation involving a vulnerable adult the Monroe County's Attorney's Office would be contacted to determine any reporting obligations under the reporting laws of the State of Michigan. She also stated the MCSO Detective Bureau would be informed.

#### **§115.62 – Protection duties.**

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

**Notes:**

The Auditor determined compliance with the standard based on the review of the J-100 policy that requires when it is learned that a detainee is subject to substantial risk of imminent sexual abuse, immediate action shall be taken to protect the detainee. The interview questions for the Jail Administrator and the Correction Officers specifically deal with staff response to detainees at substantial risk of sexual abuse and what their response would be. Each of them stated that upon becoming aware that a detainee was subject to a substantial risk of imminent sexual abuse, they would take immediate action to mitigate the threat to the detainee, which would

initially require removing him from the area. There were no allegations of sexual assault made during the audit period or detainees at risk of imminent sexual abuse.

#### **§115.63 – Reporting to other confinement facilities.**

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

**Notes:**

(a)(b)(c)(d) The Auditor determined compliance on these subparts of the standard after a review of the J-100 policy that requires MCD-D, upon receiving an allegation that a detainee currently at the facility was sexually abused while housed at another facility, to contact the Jail Administrator or appropriate headquarters office of the facility where the alleged abuse took place as soon as possible, but no later than 72 hours after receiving the allegation. MCD-D is required to document that it has provided such notification to that Administrator. The policy further requires upon receiving notification from another agency or another facility that a detainee currently at their facility reported an incident/allegation of sexual abuse that occurred while the detainee was housed at MCD-D the facility shall record the name of the agency making the contact, and any information (names, dates, time) that may assist in determining whether an investigation was conducted. If the allegation was reported and investigated in accordance with MCD-D policy and/or referred for criminal investigation the facility shall document the allegation, the name and title of the person reporting the information, and that the allegation has already been addressed. If the allegation was not reported and/or investigated, facility staff shall initiate reporting and investigation procedures in accordance with the J-100 policy and notification made to the ICE FOD. The Jail Administrator confirmed that MCD-D did not receive any reports of sexual abuse from a detainee on arrival at their facility that occurred at another facility within the audit period. She also stated that MCD-D was never contacted by another facility informing them a detainee made an allegation of sexual abuse while placed at MCD-D. She also informed the Auditor if an allegation was reported from another facility occurring at the facility an investigation would be conducted and the AFOD notified. The interview with the DO confirmed that he makes all required notifications to ICE personnel as required by the standard.

#### **§115.64 – Responder duties.**

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

**Notes:**

(a) The Auditor determined compliance with this subpart of the standard after a review of the J-100 policy that requires any employee who discovers or learns of sexual abuse, or an allegation of sexual abuse, shall ensure that the following actions are accomplished: the alleged victim is kept safe, has no contact with the alleged perpetrator and is immediately escorted to the Health Services Department; and the Health Services Department is responsible for medical stabilization and assessment of the victim until transported to an outside medical provider, if medically indicated, for collection of evidence and any necessary medical treatment. That examination is to be performed by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) or by other qualified medical practitioners. If the abuse occurred within a time period that still allows for the collection of physical evidence, employees shall, to the best of their ability, ensure that the victim does not wash, shower, remove clothing without medical supervision, use the restroom facilities, eat, drink or brush his/her teeth. In order to preserve any evidence, the alleged perpetrator should not be allowed to wash, shower, brush his/her teeth, use the restroom facilities, change clothes, or eat or drink. The Auditor interviewed eight Correction Officers, and each was questioned about responding to allegations of sexual abuse. Each detailed the policy and subpart (a) requirements in their response. There were no allegations of sexual abuse made during the audit period.

(b) The Auditor determined compliance with this subpart of the standard after a review of the J-100 policy that requires if the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and notify security staff. During the site visit, the Auditor interviewed one non-security staff specifically about responding to allegations of sexual abuse. She indicated that when responding to any allegation of sexual abuse, her immediate response would be ensuring the detainee did not destroy any potential evidence and then immediately notify a security staff member. There were no allegations of sexual abuse reported to non-security staff during the audit period.

#### **§115.65 - Coordinated response.**

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

**Notes:**

(a)(b) The Auditor determined compliance on these subparts of the standard after a review of the J-100 policy and interview with the Jail Administrator. The interview confirmed that the institutional plan for the coordinated actions taken by staff in response to any sexual abuse allegations was the J-100 policy. The review of this policy confirmed it details the responsibilities for security staff, non-security staff, investigators, medical staff, and mental health practitioners for any sexual abuse allegation. The specialized staff interviews detailed their specific roles for sexual abuse allegations aligning with the requirement as outlined in this policy. There were no allegations of sexual abuse at MCD-D during the audit period.

(c)(d) Policy J-100 requires if a detainee victim of sexual abuse is transferred between facilities, "the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services." The interview with the HSA confirmed that transfers of any detainee victims, between DHS facilities, would require MCD-D informing the receiving facility of the incident and the victim's potential need for medical or social services unless prohibited by law. The policy does not allow for detainee victims transferred from a DHS Immigration facility to a facility not covered by the DHS PREA Standards, to request that the receiving facility not be notified of the incident and any potential need for medical or social services. The Jail Administrator and the PAQ confirmed that MCD-D had no instances of victim transfers between DHS or non-DHS facilities during the audit period. The Jail Administrator and HSA confirmed that, if they were to transfer a victim of sexual abuse, all proper notifications would be made in accordance with the policy.

**Does Not Meet (d):** The facility's written institutional coordinated response plan, Policy J-100, fails to allow for detainee victims transferred from a DHS Immigration facility to a facility not covered by the DHS PREA Standards to request that the receiving facility not be notified of the incident and any potential need for medical or social services. The facility must develop procedures that provide detainee victims transferred to a facility not covered by the DHS PREA Standards to request that the receiving facility not be notified of the incident and any potential need for medical or social services. These procedures must be included in the written institutional coordinated response plan and provided to the Auditor for compliance review. Additionally, documentation confirming affected staff have been made aware of the new procedures must be provided to the Auditor for compliance review.

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

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

**Notes:**

The Auditor determined compliance with this standard after review of the J-100 that requires employees, contractors, or volunteers suspected of being the alleged perpetrator of sexual abuse be removed from all duties requiring detainee contact pending the outcome of the investigation. The Jail Administrator confirmed that any staff member, volunteer, or contractor suspected of perpetrating sexual abuse would be immediately removed from all detainee contact pending the results of the investigation. There were no sexual abuse allegations made at MCD-D during the audit period.

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

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

**Notes:**

(a)(b)(c) The Auditor determined compliance with these subparts of the standard after review of the J-100 policy that prohibits staff, contractors, volunteers, and detainees 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 abuse as a result of force, coercion, threats, or fear of force. This policy further requires for at least 90 days, longer if needed, following a report of sexual abuse, the facility shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff and shall act promptly to remedy any such retaliation. Items the facility should monitor include any detainee disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The Assistant Jail Administrator detailed retaliation monitoring at MCD-D for the Auditor. He confirmed retaliation monitoring requires a face-to-face interview with the individual being monitored for a minimum period of 90 days, or longer if necessary. During the monitoring period, a review of the detainee's disciplinary history, sick call requests and housing or program changes or requests would be reviewed. When monitoring staff retaliation, this review would include performance reviews, time off refusals, or reassignment requests. The facility had no reported sexual abuse allegations made during the audit period.

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

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

**Notes:**

(a)(b)(c)(d) The Auditor based compliance on these subparts of the standard after review of the J-100 policy that requires the facility take care to place detainee victims of sexual abuse in a supportive environment that represents the least restrictive housing option possible. As noted in standard 115.43 the Jail Administrator detailed the policy protocol for the use of administrative segregation for a vulnerable detainee as outlined in their policy and the standard. It is the same for victims of sexual abuse. MCD-D has no segregation, no medical unit, and no cells. The facility has two dormitory housing units. The Jail Administrator stated that if the facility has a detainee victim of sexual abuse that needed secure housing/supportive environment the ICE ERO AFOD would be immediately contacted for assistance and briefing, the detainee moved to the other housing unit and then moved to another facility. There were no allegations of sexual abuse during the audit period.

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

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

**Notes:**

(a)(b) The Auditor based compliance with these subparts of the standard after review of the J-100 policy that requires the Jail Administrator ensure that an administrative investigation and a referral for a criminal investigation, where appropriate, are completed for all allegations of sexual abuse. The MCD-D Administrative Investigators were interviewed and confirmed the facility is required to report all allegations of sexual abuse to the MCSO Detective Bureau for potential criminal action and coordinate an administrative investigation with any criminal investigation and after consultation with investigative offices within DHS as well. Both these investigators detailed their investigative and policy protocols to include being properly trained ensuring their investigations are thorough, prompt and objective. MCD-D had no allegations of sexual abuse during the audit period.

(c)(e)(f) The Auditor based compliance with these subparts of the standard after review of the J-100 policy that requires the administrative investigation include: preservation of direct and circumstantial evidence, including any available physical DNA evidence and any available electronic monitoring data; interviewing alleged victims, suspected perpetrators, and witnesses; reviewing prior complaints and reports of sexual abuse or assault involving the suspected perpetrator; assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee and without requiring any detainee who alleged sexual abuse or assault to submit to a polygraph; an effort to determine whether actions or failures to act at the facility contributed to the abuse; documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings; retention of such reports for

as long as the alleged abuser is detained or employed by the agency or facility, plus five years; coordination and sequencing of administrative and criminal investigations to ensure that a criminal investigation is not compromised by an internal administrative investigation. The Administrative Investigators confirmed that they remain in contact with all outside agencies during any investigation, providing assistance as needed. They also confirmed that, by policy, the departure of the alleged abuser or victim from the facility or agency's employment or control would not provide a basis for terminating an investigation.

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

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

**Notes:**

The Auditor determined compliance with this standard after review of the J-100 policy that requires when an administrative investigation is undertaken, the facility shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse and assault are substantiated. Agency Policy 11062.2 states, "The OPR shall conduct either an OPR review or investigation, in accordance with OPR policies and procedures. Administrative investigations impose no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse." The interview with the two facility Administrative Investigators confirmed the evidence standard they utilize when determining the outcome of a sexual abuse case is the preponderance of evidence. There were no allegations of sexual abuse reported at MCD-D for the audit period.

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

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

**Notes:**

The Auditor determined compliance with the standard based on the review of the J-100 policy that requires, following an investigation into a detainee's allegation that he suffered sexual abuse at the facility, the detainee shall be notified of the result of the investigation and any responsive action taken. If the facility did not conduct the investigation, the relevant information shall be requested from the outside investigating agency or entity in order to inform the detainee. Interviews conducted with the Jail Administrator and the Administrative Investigators confirmed their requirement of detainee notification in all instances at the conclusion of sexual abuse allegations. The facility had no allegations of sexual abuse during the audit period.

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

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

**Notes:**

(a)(c)(d) The Auditor determined compliance with these subparts of the standard based on the review of the J-100 policy that requires employees be subject to disciplinary sanctions up to and including termination for violating Monroe County's sexual abuse policies. Termination is the presumptive disciplinary sanction for staff who have engaged in, attempted, or threatened to engage in sexual abuse. All terminations for violations of Monroe County's sexual abuse policies, or resignations by employees who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies, to the extent known. Both the Jail Administrator and the HR staff person at the MCD-D confirmed that removal from Monroe County service and Federal Service would be the presumed discipline for any employee who engaged in or attempted or threatened to engage in sexual abuse or failed to follow the zero-tolerance policy. These two also confirmed that all allegations of sexual abuse are immediately reported to the MCSO Detective Bureau and the MCD-D would notify any appropriate licensing bodies upon all substantiated allegations involving licensed staff. MCD-D had no allegations of sexual abuse during the audit period.

(b) This standard subpart requires the agency review and approve facility policy and procedures regarding disciplinary and adverse actions for staff, up to and including removal from their positions and Federal Service, for violation of the facility zero tolerance policy. As noted above, the J-100 policy outlines MCD-D actions to violations with the policy but the facility provided no evidence they had submitted their policy for approval by the agency.

**Does Not Meet (b):** The MCD-D must ensure their J-100 PREA policy is reviewed and approved by the agency and provide documentation of this review to the Auditor.

#### **§115.77 - Corrective action for contractors and volunteers.**

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

**Notes:**

(a)(b)(c) The Auditor determined compliance with these subparts of the standard based on the review of the J-100 policy that requires any contractor or volunteer who has engaged in sexual abuse or assault be prohibited from contact with detainees. The facility shall take appropriate remedial measures and shall consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse or assault but have violated other provisions within these standards. The policy further requires contractors and civilians suspected of perpetrating sexual abuse be removed from all duties requiring detainee contact pending the outcome of an investigation. According to the Jail Administrator, contractors and volunteers are treated no different than any employee and the presumptive discipline for anyone who engaged in or attempted or threatened to engage in sexual abuse or failed to follow the zero-tolerance policy would be removal from County service. She also stated that the MCSO Detective Bureau and licensing bodies would be notified in cases involving substantiated allegations involving contractors and volunteers. She also stated that consideration would be given to prohibit detainee contact for those contractors or volunteers who did not engage in sexual abuse but violated other provisions of the MCD-D policies. The facility had no allegations of sexual abuse during the audit period.

**§115.78 - Disciplinary sanctions for detainees.****Outcome:** Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)**Notes:**

(a)(b)(c)(d)(e)(f) The Auditor determined compliance with these subparts of the standard based on the review of the J-100 policy that requires detainees be subjected to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse or assault. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the detainee's disciplinary history, and the sanctions imposed for comparable offenses by other detainees with similar histories. The policy further requires if a detainee is mentally disabled or mentally ill, but competent, the disciplinary process shall consider whether the detainee's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. A detainee may be disciplined for sexual conduct with an employee only upon a finding that the employee did not consent to such contact. 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 Assistant Jail Administrator detailed this detainee disciplinary process for the Auditor as described in the J-100 policy. He stated detainee discipline is intended to encourage detainee conformance to MCD-D rules and regulations that includes a system allowing for progressive levels of reviews, appeals, procedures, and documented procedures. He also confirmed that prior to any disciplinary hearing the Hearing Officer would discuss the incident with Mental Health to determine the level of competency of the detainee and determine what impact it may have had on the detainees' behavior. There were no allegations of sexual abuse at the facility during the audit period.

**§115.81 - Medical and mental health assessments; history of sexual abuse.****Outcome:** Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)**Notes:**

(a)(b)(c) The Auditor determined compliance with these subparts of the standard based on the review of the J-100 policy that requires if screening, required by standard 115.41, 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 Auditor interviewed the intake Correction Officer and the HSA. Both individuals confirmed that upon arrival, detainees are questioned by both the intake officer and the Nurse about any history of perpetrated sexual abuse or victimization of sexual abuse. Each indicated a referral is made to mental health on any affirmative response to either question by the detainee. The interview with the HSA confirmed the detainee would be seen typically by the mental health practitioner within 48 hours of any referral. Additionally, the HSA confirmed when a medical referral is made, the detainee receives a health evaluation the same day, but not more than two working days. The HSA also confirmed that no detainees have arrived at MCD-D disclosing prior victimization or abusiveness during the audit period.

**§115.82 - Access to emergency medical and mental health services.****Outcome:** Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)**Notes:**

(a)(b) The Auditor determined compliance with these subparts of the standard based on the review of the J-100 policy that requires all detainee victims of sexual abuse and assault 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. This policy further requires all treatment services, both emergency and ongoing, be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The facility, by policy, is prohibited to provide forensic services to any detainee victim of sexual assault. The HSA confirmed her staff would stabilize the victim and prepare him for transport to the local hospital. She also stated that her staff can provide sexually transmitted infections prophylaxis if necessary and any medical and mental health services would be provided without cost and performed within professionally accepted standards of care. The facility PAQ and HSA confirmed there were no detainees sent out for a forensic examination during the audit period, and there were no allegations of sexual abuse reported.



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

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

**Notes:**

(a)(b)(c)(e)(f) The Auditor determined compliance with these subparts of the standard based on the review of the J-100 policy that requires MCD-D offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while in immigration detention. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. This policy further requires all treatment services, both emergency and ongoing, 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. Detainee victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate and the facility shall provide such victims with medical and mental health services consistent with the community level of care. The interview with the HSA detailed for the Auditor the treatment and services provided to victims of sexual abuse as outlined in the J-100 policy and the standard requirements. There were no allegations of sexual abuse reported during the audit period.

(d) This standard subpart does not apply as MCD-D is an adult male facility.

(g) The Auditor determined compliance with this subpart of the standard based on the J-100 policy and the interview with the HSA that confirmed the facility would 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. There were no allegations of sexual abuse at MCD-D during the audit period and the facility, according to the HSA, has not received any known abusers during the audit period.

**§115.86 - Sexual abuse incident reviews.**

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

**Notes:**

(a)(b) The Auditor determined compliance with these subparts of the standard based on the review of the J-100 policy that requires the Jail Administrator ensure that a post investigation review of a sexual abuse incident is conducted at the conclusion of every sexual abuse investigation and, where the allegation was not determined to be unfounded, prepare a written report within 30 days of the conclusion of the investigation forwarded to the Jail Administrator, the facility PSA Compliance Manager, and the agency PSA Coordinator. The MCD-D is required to have an incident review team comprised of upper-level facility management, line supervisors, investigators, and medical or mental health practitioners. The J-100 policy requires, during its review, this team 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 policy also requires the review team examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; assess the adequacy of staffing levels in that area during different shifts; assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and prepare a report of its findings, including but not necessarily limited to determinations and any recommendations for improvement. MCD-D is also required to implement the review teams recommendations for improvement or document its reasons for not doing so. The Auditor interviewed one of the staff that participates in the incident review. He detailed for the Auditor the review process as required by policy and the standard confirming the review is conducted at the conclusion of every investigation of sexual abuse within 30 days of the completed investigation. He also confirmed that copies of these reviews would be distributed to all parties required by the policy. There were no incidents of sexual abuse reported during the audit period.

(c) The Auditor determined compliance with this subpart of the standard based on the review of the J-100 policy that requires MCD-D 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 Jail Administrator, PSA Coordinator, and the ICE PSA Coordinator through the local ICE Field Office. As noted throughout the report, MCD-D had no incidents of sexual abuse for the audit period and therefore no investigations or incident reviews. The Auditor, while on site, reviewed a negative report for the audit period. The interview with the Jail Administrator confirmed the document was distributed as required by standard.

**§115.87 - Data collection.**

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

**Notes:**

(a) The Auditor determined compliance with this subpart of the standard based on the review of the J-100 policy that requires all case records associated with claims of sexual abuse, including incident reports, investigative reports, detainee information, case disposition, medical records and recommendations for post-release treatment and/or counseling shall be retained in accordance with Monroe County's Policy for Retention of Records. The Auditor observed the location where the staff secures these documents and found them under a double lock and restricted key.

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

- (d) The Auditor was allowed access to MCD-D and able to revisit areas of the facility as needed during the site visit.
- (e) The Auditor was provided with and allowed to view all relevant documentation as requested.
- (i) Formal interviews with staff and detainees were conducted in a private confidential setting.
- (j) The Auditor observed audit notices posted throughout the facility in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian, Creole, Bengali, Arabic, Russian, and Vietnamese. The Auditor received no staff, detainee, or other party correspondence.

**AUDITOR CERTIFICATION**

<b>SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)</b>	
<b>Number of standards exceeded:</b>	1
<b>Number of standards met:</b>	29
<b>Number of standards not met:</b>	9
<b>Number of standards N/A:</b>	2
<b>Number of standard outcomes not selected (out of 41):</b>	0

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

*Thomas Eisenschmidt*

1/27/2023

**Auditor's Signature & Date**

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

2/3/2023

**Program Manager's Signature & Date**

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

2/3/2023

**Assistant Program Manager's Signature & Date**