

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



# Homeland Security

## AUDIT DATES

<b>From:</b>	6/27/2023	<b>To:</b>	6/28/2023
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## AUDITOR INFORMATION

<b>Name of auditor:</b>	James McClelland	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</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 #:</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>	Houston
<b>Field Office Director:</b>	Gabriel Martinez
<b>ERO PREA Field Coordinator:</b>	(b) (6), (b) (7)(C)
<b>Field Office HQ physical address:</b>	126 Northpoint Drive Houston, TX 77060

## INFORMATION ABOUT THE FACILITY BEING AUDITED

### Basic Information About the Facility

<b>Name of facility:</b>	Montgomery Hold Room
<b>Physical address:</b>	806 Hilbig Rd., Conroe, Texas 77301
<b>Telephone number:</b>	(936) 521-4900
<b>Facility type:</b>	ICE Holding Facility
<b>PREA Incorporation Date:</b>	N/A

### Facility Leadership

<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Officer In Charge (OIC)
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</b>	832-953- (b) (6), (b) (7)(C)
<b>Name of PSA Compliance Manager:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	ERO PREA Field Coordinator
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</b>	832-435- (b) (6), (b) (7)(C)

## 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 Montgomery Hold Room (MHR) was conducted on June 27-28, 2023, by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor James McClelland, employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by U.S. Immigration and Customs Enforcement (ICE) Assistant Program Manager (APM), (b) (6), (b) (7)(C), a DOJ and DHS certified PREA Auditor. The APM'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 June 27, 2020, through June 28, 2023. This was the facility's first DHS PREA audit. The MHR is an ICE Hold Room operated by ICE providing custody for ICE adult and Juvenile male and female detainees, while pending immigration review or deportation. The design capacity for this facility is 136 detainees; 9252 detainees were booked into the MHR in the last 12 months. The facility is located in Conroe, Texas (TX).

On June 27, 2023 an entrance briefing was held in the MHR 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:

### ICE Staff

(b) (6), (b) (7)(C), Assistant Field Office Director (AFOD)

(b) (6), (b) (7)(C), Supervisor Detention Deportation Officer (SDDO)

(b) (6), (b) (7)(C), Deportation Office/Contracting Officer Representative (DO/COR)

(b) (6), (b) (7)(C), Inspections and Compliance Specialist (ICS), OPR/ERAU

### Creative Corrections, LLC

James McClelland, 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. 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. Approximately four 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 policies, allegations spreadsheet and other pertinent documents through ERAU's SharePoint site. The main policies that provide facility direction for PREA at the MHR are Policy 11087.1, Operations of ERO Holding Facilities, and Policy 11062.2, Sexual Abuse and Assault Prevention and Intervention (SAAPI). All documentation, policies, and the PAQ were reviewed by the Auditor prior to the site visit. A tentative daily schedule was provided by the Team Lead for the interviews with staff and detainees if available on site. The Auditor received no correspondence from any detainees or staff or other interested parties prior to the audit or prior to the submission of the report.

The Auditor was able to interview three detainees being processed and available for interview during the site visit. The detainee in-processing/booking area is located on the first floor of the Montgomery ICE Processing Center (MIPC) building, 806 Hilbig Road, Conroe, TX. Detainees are brought to the MHR by ICE personnel from the Criminal Alien Program and Secure Communities (CAPSC). Part of the detainee processing is completed by CAPSC personnel and then turned over to the MHR ICE staff (22-Deportation Officers (DO) and 6-SDDO). The processing/booking area contains: six multiple occupancies holding cells, and four interview rooms. Four of these multiple occupancy holding cells has a toilet, and a place to sit while awaiting processing

and is (b) (7)(E) and two holding cells have showers. Although the facility submitted PAQ noted no showers available, the auditor observed one shower in each of the two female assigned hold rooms. Detainees arriving at the MHR remain at the facility for approximately four hours and are then either released from custody or remanded to an ICE Detention Facility. Detainees remain in this area until they are individually classified and receive a risk assessment by the DO, and then as noted above, are either released or remanded. The GEO Group, Inc. (GEO) provides 24-hour security of the area, on three 8-hour shifts with a total of 8 security officers assigned. According to the AFOD, the hold room is staffed by at least one male and one female security officer at all times. Detainees placed in any of the holding cells are supervised in accordance with the 11087.1 requirement by the assigned GEO staff. The MHR has no operational medical unit or medical staff nor any food facilities or food staff, however such services are provided by the adjacent MIPC when needed. The MHR is staffed 24-hours a day, 365 days a year. A total of seven ICE Staff and seven GEO staff interviews, were conducted during the audit. According to interviews with the AFOD and SDDO, only ICE and GEO staff have contact with detainees at MHR. There are no volunteers at the MHR. The Auditor conducted specialized interviews with the AFOD, SDDO, PSA Compliance Manager and three Intake DO's. Interviews were conducted in the interview room located within the facility intake area. No staff refused to be interviewed. All staff interviewed were aware of the agency's zero-tolerance policy, their responsibilities to protect detainees from sexual abuse, and their duties as first responders as part of a coordinated response.

On June 28, 2023, an exit briefing was held in the MHR 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:

ICE Staff

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

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

(b) (6), (b) (7)(C), DO/COR

(b) (6), (b) (7)(C), ICS, OPR/ERAU

Creative Corrections, LLC

James McClelland, Certified PREA Auditor

The Auditor spoke briefly about the ICE and GEO staff and their knowledge of the Agency's zero-tolerance policy. The Auditor informed those present that he was impressed with the staff and overall operation of the MHR, but it was too early in the process to formalize an outcome of the audit and that he would need to triangulate his findings and results of the interviews conducted prior to making a final determination on compliance for the standards. The Auditor thanked the ERAU and ERO 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**

§115.151 - Detainee reporting

### **Number of Standards Met: 28**

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

§115.113 - Detainee supervision and monitoring

§115.114 - Juvenile and family detainees

§115.115 - Limits to cross-gender viewing and searches

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

§115.117 - Hiring and promotion decisions

§115.121 - Evidence protocol and forensic medical examinations

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

§115.131 - Employee, contractor, and volunteer training

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

§115.134 - Specialized training: Investigations

§115.141 - Assessment for risk of victimization and abusiveness

§115.154 - Third-party reporting

§115.161 - Staff reporting duties

§115.162 - Agency protection duties

§115.163 - Reporting to other confinement facilities

§115.164 - Responder duties

§115.165 - Coordinated response

§115.166 - Protection of detainees from contact with alleged abusers

§115.167 - Agency protection against retaliation

§115.171 - Criminal and administrative investigations

§115.172 - Evidentiary standards for administrative investigations

§115.176 - Disciplinary sanctions for staff

§115.177 - Corrective action for contractors and volunteers

§115.182 - Access to emergency medical services

§115.186 - Sexual abuse incident reviews

§115.187 - Data collection

§115.201 - Scope of Audits

### **Number of Standards Not Met: 0**

### **Number of Standards Not Applicable: 1**

§115.118 - Upgrades to facilities and technologies

### **Hold Room Risk Rating**

§115.193 – Audit of standards – Not Low Risk

## PROVISIONS

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

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

**Outcome:** Meets Standard

**Notes:**

(a) The Auditor determined compliance with this standard based on Policy 11062.2 that requires, "ICE has a zero-tolerance policy for all forms of sexual abuse or assault. It is ICE policy to provide effective safeguards against sexual abuse and assault-of all individuals in ICE custody, including with respect to screening, staff training, detainee education, response and intervention, medical and mental health care, reporting, investigation, and monitoring and oversight, as outlined in this Directive, in the requirements of PBNDS2011 Standard 2.11, and in other related detention standards and ICE policies." The Auditor conducted formal interviews with seven ERO staff and seven GEO staff assigned to MHR. Each was aware of the agency policy against sexual abuse. The interviews conducted with three detainees present during the site visit confirmed their awareness to the agency zero tolerance policy as well. The Auditor observed the agency zero tolerance information posted in each of the six holding rooms during the tour and feels that the zero-tolerance policy for sexual abuse has been implemented at the facility.

**Corrective Action:**

No corrective action needed.

### **§115.113 - Detainee supervision and monitoring**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c) Auditor determined compliance with these standard subparts based on Policy 11087.1 that requires, "The FOD shall ensure that each holding facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse and assault. In so doing, the FOD shall take into consideration: the physical layout of each holding facility; the composition of the detainee population; the prevalence of substantiated and unsubstantiated incidents of sexual abuse and assault; the findings and recommendations of sexual abuse and assault incident review reports; and any other relevant factors, including but not limited to, the length of time detainees spend in custody at the holding facility. FODs shall ensure that detainees placed into holding facilities are: Accounted for and continuously monitored and that holding facilities are emptied upon the conclusion of daily operations in those field office locations operating on a daily schedule. Absent exceptional circumstances, no detainee should be housed in a holding facility for longer than 12 hours. Monitored for any apparent indications of a mental or physical condition or signs of hostility that may require closer supervision or emergency medical care. Subject to direct

supervision, which shall include (b) (7)(E) least every 15 minutes. All physical hold room checks shall be logged, including the time of each check and any important observations. When detainees in a holding facility are placed in rooms not originally designed for holding detainees (e.g., interview rooms or offices), the FOD shall ensure that the detainees remain under constant direct supervision.” The Auditor was provided the staffing levels for three shifts, 5:00 a.m. to 1:00 p.m., 1:00 p.m. to 9:00 p.m. and 9:00 p.m. to 5:00 a.m., at the MHR. The Auditor also was provided and reviewed the facility Holding Facility Self-Assessment Tool (HFSAT) dated January 2023. This self-assessment tool is used annually to determine hold rooms conform to the 11087.1 policy and standard requirements and assigned staff supervision guidelines. The staffing levels, supplemented by the (b) (7)(E) in the facility, appear to provide adequate detainee supervision at the MHR.

**Corrective Action:**

No corrective action needed.

**§115.114 - Juvenile and family detainees**

**Outcome:** Meets Standard

**Notes:**

(a)(b) The MHR provided a written directive, Policy 11087.1, states in part that, “The FOD shall ensure that unaccompanied minors, elderly detainees, or family units are not placed in hold rooms, unless they have demonstrated or threatened violent behavior, have a history of criminal activity, or pose an escape risk. The FOD shall ensure minors are detained in the least restrictive setting appropriate to his or her age and special needs, provide that such settings are consistent with the need to protect the minor’s well-being and that of others, as well as with any laws, regulations, or legal requirements. Unaccompanied minors will generally be held separate from adults. The unaccompanied minor may temporarily remain with a non-parental adult family member where a) The family relationship has been vetted to the extent feasible, b) The agency determines that remaining with the non-parental adult family member is appropriate, under the totality of the circumstances.”

The MHR presented a memorandum dated May 9, 2023, authored by the AFOD stating that the MHR has had no juvenile admissions during the audit period. However, on June 27, 2023, while onsite, the auditor observed one juvenile booked into the facility solely for the purpose of obtaining biometrics and being served charging documents. According to the AFOD, the juvenile had previously stated he was over 18 years of age but it was then determined during the intake process that the detainee was in fact a juvenile. The Auditor observed the juvenile being housed out of sight and sound of any adults in an unsecured hold room and with direct one on one staff supervision. The Juvenile remained within the hold room for approximately four hours before being transferred out of the MHR.

During the interview, the AFOD further stated that if a need arose to place a juvenile in a hold room, they would ensure the juvenile was placed out of sight and sound of any adults. Each random staff member interviewed stated that if they were to come into contact with unaccompanied minors, they would ensure the juvenile was placed out of sight and sound from all adult detainees who are not vetted family members. Additionally, the AFOD stated that MHR has had no instances where a juveniles was allowed to temporarily remain with a non-parental adult family member during the audit period.

There were zero allegations of sexual abuse reported at MHR during the audit period.

**Corrective Action:**

No corrective action needed.

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

**Outcome:** Meets Standard

**Notes:**

(b)(c)(d)(e)(f) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, "the FOD ensure that all pat-down searches are conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and ICE policy, including consideration of officer safety. Where operationally feasible, an officer of the same gender as the detainee will perform the pat down search. Every detainee shall undergo a pat down search for weapons and contraband before being placed in a hold room. A pat down search shall be performed even if another agency or other ERO personnel report completing one prior to the detainee's arrival at the ERO facility or transfer of custody." This policy further requires "the FOD ensure when the pat down search indicates the need for a more thorough search, an extended search (i.e., strip search) is conducted in accordance with ICE policies and procedures, including that all strip searches and visual body cavity searches are documented; cross-gender strip searches or cross-gender visual body cavity searches are not conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners; and visual body cavity searches of minors are conducted by a medical practitioner and not by law enforcement personnel." Policy 11087.1 also requires "the FOD ensure that detainees are permitted to shower (where showers are available), perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine hold room checks, or is otherwise appropriate in connection with a medical exam or monitored bowel movement under medical supervision. The FOD will also ensure that ERO personnel of the opposite gender announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing. The FOD shall also ensure that ERO personnel do not search or physically examine a detainee for the sole purpose of determining the detainee's gender. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records (if available), or, if necessary, learning that information as part of a broader medical examination conducted in private, by a medical practitioner." While onsite, the auditor observed a total of five male detainee pat searches. Each search was conducted by a male GEO security staff member and conducted professionally and in a least intrusive manner. During interviews with the GEO security staff, the search training was discussed. Each staff member detailed their search training and the respectful and professional procedures to be followed whenever conducting searches. All indicated that they are never allowed to strip search or perform a body cavity search on a detainee. They also indicated their training included the requirement that all cross-gender pat searches only be conducted after reasonable diligence to find a staff of the same gender for a male detainee, and under exigent circumstances for a female detainee. These interviews further indicated that these searches are allowed under those circumstances, but they are rarely conducted and would be documented, including documenting the circumstances and conditions requiring the search. They also indicated that there is always a male and female security staff member assigned to each shift. They confirmed that if they were to enter into one of the holding rooms in which there were cross-gender detainees present, they would announce themselves prior to entering. There are (b) (7)(E) that are viewed by the staff at their duty station. These



holding rooms have a toilet, with a half door to provide privacy. (b) (7)(E)

The AFOD confirmed that all GEO staff and ICE staff are trained within the search guidelines of ICE and policy. The Auditor reviewed the ICE search training curriculum from the SharePoint, utilized by both ICE and GEO, and found the training met the standard requirements. The Auditor was also provided copies of search training records for ICE staff and GEO staff regularly assigned to the hold room.

**Corrective Action:**

No corrective action needed.

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

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on policy 11087.1 that requires, “The FOD shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to participate in and benefit from processes and procedures in connection with placement in an ERO holding facility, consistent with established statutory, regulatory, DHS and ICE policy requirements. The FOD shall take reasonable steps to ensure meaningful access to detainees who are limited English proficient, consistent with established regulatory and DHS and ICE policy requirements. In matters relating to allegations of sexual abuse or assault, ensure the provision of in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and 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 or assault, and detainees who have a significant relationship with the alleged abuser, is not appropriate in matters relating to allegations of sexual abuse or assault.” During the site visit at MHR the Auditor observed the intake process for two new arrival detainees which included the use of the ERO Language Service. The DO's interviewed indicated that the majority of detainees encountered at MHR are limited English proficient (LEP). The male and female detainees are separated and placed in one of the six hold rooms. While onsite the auditor observed the assigned GEO security staff distributing the ICE Sexual Abuse Awareness Information (SAA) pamphlet in both English and Spanish. These GEO security staff members further explained that this SAA document is available in 15 languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Turkish, Ukrainian, and Vietnamese) and is provided to all detainees upon arrival. MHR staff interviewed indicated it maintains and provides detainees with the ICE National Detainee Handbook 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). If the DO performing the intake is not fluent in the language spoken and understood by the detainee being processed, they would utilize the ERO Language Service, that provides interpretive and translation services, to provide interpreter assistance. The DOs also informed the Auditor that if the detainee speaks a language not covered by either of these documents, they utilize this same services provider to access an interpreter to provide sexual safety and reporting information found in the SAA pamphlet. The DOs also detailed to the Auditor the handling of any detainee arriving at the MHR with a disability. They indicated that any detainee arriving at MHR who may have limited sight or who are blind would have the information presented to them verbally by the DO. A detainee arriving with limited hearing or who is deaf would be provided



information in writing utilizing the ERO Language Service, that provides translation services. A detainee arriving with intellectual, or psychiatric disabilities would be referred to the SDDO who would obtain the necessary communication resources, determined on a case-by-case basis, if the DO was unable to effectively communicate with the detainee. The Auditor was also informed by these DOs that the use of other detainees as interpreters is covered in policy 11062.2 and is allowed if requested by the detainee victim and approved by the agency. They also confirmed that the use of minors, those witnessing the alleged assault or those detainees with a relationship with the alleged abuser is not appropriate.

**Corrective Action:**

No corrective action needed.

**§115.117 - Hiring and promotion decisions**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d)(e)(f) The Auditor determined compliance with these standard subparts based on Federal Statute 731.202 (b), Executive Order 10450, ICE Personnel Security and Suitability Program Directive 6-7.0, and ICE Suitability Screening Requirements for Contractor Personnel Directive 6-8.0, which require, “the facility and agency, to the extent permitted by law, to refuse to hire or promote anyone who may have contact with detainees, and decline to enlist the services of any contractor or volunteer who may have contact with detainees, who has been found to have engaged, been convicted of engaging, or civilly or administratively adjudicated to have engaged in sexual abuse as defined in the standard.” These documents collectively require anyone entering into or remaining in government service undergo a thorough background examination for suitability and reinvestigations every 5 years. The background investigation, depending on the type of work, is thorough to include education checks, criminal records check, neighbor, and residence checks, financial checks, and prior employment checks. The policy documents outline misconduct and criminal misconduct being grounds for unsuitability, including material omissions or making false or misleading statements in the application. The Unit Chief of OPR Personnel Security Division (PSD) informed Auditors, who attended virtual training in November 2021, that detailed candidate suitability for all applicants includes their obligation to disclose any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity. Based on information provided in an email by the OPR PSD (A) Division Chief, information on substantiated allegations of sexual abuse involving a former employee would be provided to prospective employers upon request, unless prohibited by law. In an interview with the AFOD, he stated that during their hiring process and his promotion he was specifically questioned about this type of misconduct. The Auditor did not review records since the facility retains no personnel files on site. Based on the memorandum dated November 8, 2021, issued by the ICE Acting Deputy Director, Employee Obligation to Report Corruption and Misconduct, ICE employees are obligated to report criminal and other allegations of employee and contractor misconduct, specifically including “sexual assaults, sexual harassment, or non-sexual harassment of [...] detainees.” Interviews with the MHR ICE staff confirmed their awareness of the agency’s requirement to disclose any misconduct outlined in subpart (a) of this standard. Review of documentation provided by ICE’s PSD Unit Chief confirmed that the five ICE and two GEO staff selected had their employee

background investigations performed prior to them reporting to work. Documentation also confirmed the due dates for the updated five-year background checks were in compliance with the standard requirements.

**Corrective Action:**

No corrective action needed.

**§115.118 - Upgrades to facilities and technologies**

**Outcome:** Not Applicable

**Notes:**

This standard is not applicable as the AFOD and PAQ confirmed that MHR did not expand or add additional video equipment during the audit period.

**Corrective Action:**

No corrective action needed.

**§115.121 - Evidence protocol and forensic medical examinations**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d)(e) The Auditor determined compliance with these standard subparts based on policies 11087.1 and 11062.2, that require “The FOD ensures that the facility complies with the investigation mandates established by PBNDS 2011 Standard 2.11, as well as other relevant detention standards and contractual requirements, including by, when feasible, securing and preserving the crime scene and safeguarding information and evidence consistent with established evidence protocols; conducting a prompt, thorough, and objective investigation by qualified investigators; arranging for the victim to undergo a forensic medical examination, where appropriate; and ensuring that the presence of the victim’s outside or internal victim advocate, as requested by the victim, is allowed for support during forensic exams and investigatory interviews. Where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the FOD shall arrange for or refer an alleged victim detainee to a medical facility to undergo a forensic medical examination by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel. If, in connection with an allegation of sexual abuse or assault, the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available, consistent with security needs. If the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, the facility requests the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, the facility ensures that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.” MHR is a 24-hour hold facility with the typical stay approximately 4 hours. The detainee is either released from custody or remanded to an ICE detention facility. The AFOD and PSA Compliance Manager stated that if an allegation of sexual assault is made at the facility, a criminal referral would be made to the Conroe Police Department (CPD) with a significant incident report completed by the ICE staff and submitted to the FOD, OPR, and DHS Office of Inspector General

(OIG). As noted earlier in the report there are no medical services provided at MHR. The detainee would be sent to the HCA Houston Healthcare in Conroe, TX where a forensic examination, if required, would be performed by a SANE, SAFE, or other qualified health care personnel. The Auditor verified through conversation with a representative of Sexual Assault & Abuse Free Environment (SAAFE) in Huntsville, TX that victim advocacy services would be provided by an onsite advocate from SAAFE. The AFOD indicated the alleged detainee victim would be subsequently moved to an ICE detention facility where the detainee would be afforded victim advocate services, and medical and crisis intervention services, if detained after returning from the offsite local hospital. The AFOD interview confirmed that if OPR elects not to investigate the allegation and the CPD does not conduct a criminal investigation, MHR would ensure an administrative investigation is completed by a trained investigator. If the detainee is released from ICE custody the investigation would continue. MHR provided the Auditor with documentation indicating they have an MOU, that includes the CPD following the requirements of paragraphs (a) through (d) of this standard section. The facility had no allegations reported during the audit period.

**Corrective Action:**

No corrective action needed.

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

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, “the FOD shall: ensure that the appropriate law enforcement agency having jurisdiction for the investigation has been notified by the facility administrator of the alleged sexual abuse or assault. The FOD shall notify the appropriate law enforcement agency directly if necessary; Notify ERO’s Assistant Director for Field Operations telephonically within two hours of the alleged sexual abuse or assault or as soon as practical thereafter, according to procedures outlined in the June 8, 2006 Memorandum from (b) (6), (b) (7)(C), Acting Director, Office of Detention and Removal Operations, regarding “Protocol on Reporting and Tracking of Assaults” (Torres Memorandum); Notify the ICE Joint Intake Center (JIC) telephonically within two hours of the alleged sexual abuse or assault, and in writing within 24 hours via the ICE [Significant Event Notification] SEN Notification Database, according to procedures outlined in the Torres Memorandum. The JIC shall notify the DHS Office of Inspector General (OIG). All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise.” As noted in standard 115.121 the notification process was explained by the AFOD. It was explained that the initial reports would be to the CPD with a SEN notification completed by the MHR ERO staff to the DHS OIG, JIC, Assistant Director for Field Operations, and PSA Coordinator all within the time frames required and outlined in the 11062.2 policy. A review of the ICE website (<http://www.ice.gov/PREA>) confirms the investigation protocols are available to the public. There were no sexual abuse allegations during the audit period.

(e) The Auditor determined compliance with this standard subpart based on Policy 11062.2 which states, “The OPR shall coordinate with appropriate ICE entities and federal, state, or local law enforcement to facilitate necessary immigration processes that ensure availability of victims, witnesses, and alleged abusers for investigative interviews and administrative or criminal procedures, and provide federal, state, or local law

enforcement with information about U nonimmigrant visa certification.” On July 1, 2022, the ICE PREA PM interviewed the Acting Section Chief of the OPR Directorate Oversight, and he confirmed that OPR Special Agents would provide the detainee victim of sexual abuse, that is criminal in nature, with timely access to U nonimmigrant status information. The OPR Acting Section Chief further stated that if an OPR investigation determined that a detainee was a victim of sexual abuse while in ICE custody, the assigned Special Agent would provide an affidavit documenting such in support of the detainees U nonimmigration visa application.

**Corrective Action:**

No corrective action needed.

**§115.131 - Employee, contractor, and volunteer training**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c) The Auditor determined compliance to these standard subparts based on Policy 11062.2, that requires, “ICE personnel who may have contact with individuals in ICE custody, including all ERO officers and HSI special agents, shall receive training on, among other items ICE’s zero-tolerance policy for all forms of sexual abuse and assault; The right of detainees and staff to be free from sexual abuse or assault; Definitions and examples of prohibited and illegal behavior; Dynamics of sexual abuse and assault in confinement; Prohibitions on retaliation against individuals who report sexual abuse or assault; Recognition of physical, behavioral, and emotional signs of sexual abuse or assault, situations in which sexual abuse or assault may occur, and ways of preventing and responding to such occurrences, including Common reactions of sexual abuse and assault victims; How to detect and respond to signs of threatened and actual sexual abuse or assault; Prevention, recognition, and appropriate response to allegations or suspicions of sexual abuse and assault involving detainees with mental or physical disabilities; How to communicate effectively and professionally with victims and individuals reporting sexual abuse or assault; How to avoid inappropriate relationships with detainees; Accommodating LEP individuals and individuals with mental or physical disabilities; Communicating effectively and professionally with lesbian, gay, bisexual, transgender, intersex, or gender nonconforming individuals, and members of other vulnerable populations; Procedures for fulfilling notification and reporting requirements under this Directive; The investigation process and the requirement to limit reporting of sexual abuse or assault to personnel with a need-to-know in order to make decisions concerning the victim’s welfare and for law enforcement or investigative purposes.” According to the AFOD and GEO PREA Compliance Manager all MHR staff received PREA training during their initial employment training and annually. The Auditor was provided current documentation that all 20 ICE staff and five GEO staff assigned to MHR staff received PREA training. During the interviews with the ICE DOs, and the GEO staff, each confirmed the subject matter of the training as required by the standard. The Auditor also reviewed the ICE PREA Employee Training provided on the ERAU SharePoint and confirmed that all required topics are included. The MHR does not employ other contractors or have volunteers at the facility.

**Corrective Action:**

No corrective action needed.

### **§115.132 - Notification to detainees of the agency's zero-tolerance policy**

**Outcome:** Meets Standard

**Notes:**

The Auditor determined compliance with the standard based on Policy 11087.1 that requires, "The FOD shall ensure that key information regarding ICE's zero-tolerance policy for sexual abuse and assault is visible or continuously and readily available to detainees (e.g., through posters, detainee handbooks, or other written formats)." During the site visit at MHR the Auditor observe the intake process for three detainees. Two of the DOs detailed the intake process for the Auditor. The male and females are separated and placed in one of the six hold rooms. Prior to entering each hold room, GEO security staff distribute the ICE Sexual Abuse Awareness Information (SAA) pamphlet in both English and Spanish. The DOs further explained that this SAA document is an available in 15 languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Turkish, Ukrainian, and Vietnamese) and is provided to all detainee upon arrival processing. MHR indicated it maintains and provides detainees with the ICE National Detainee Handbook 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). While onsite, the SDDO and one DO showed the Auditor how they can access both the SAA pamphlet and the ICE National Detainee Handbook. Additionally, each of the three detainees interviewed by the auditor possessed the ICE National Detainee Handbook and in their preferred language. If the DO performing the intake is not fluent in the language spoken and understood by the detainee being processed, the ERO Language Service, that provides interpretive and translation services, is utilized to provide interpreter assistance. These DOs also informed the Auditor that if the detainee speaks a language not covered by either of these documents, they utilize this same services provider to access an interpreter to provide sexual safety and reporting information found in the SAA pamphlet. These intake DOs also detailed to the Auditor the handling of any detainee arriving at the MHR with a disability. They indicated that any detainee arriving at MHR who may have limited sight or who may be blind would have the information presented to them verbally by the ICE intake DO. A detainee arriving with limited hearing or who is deaf would be provided information in writing. A detainee arriving with intellectual, or psychiatric disabilities would be referred to the SDDO who would obtain the necessary communication resources if the DO was unable to effectively communicate with the detainee. As noted earlier zero tolerance posters with reporting information are located in each of the hold rooms. The Auditor interviewed three detainees who indicated that they received information on the zero-tolerance policy and were aware of methods to report any incidents.

**Corrective Action:**

No corrective action needed.

### **§115.134 - Specialized training: Investigations**

**Outcome:** Meets Standard

**Notes:**

(a)(b) The Auditor determined compliance with these standard subparts based on Policy 11062.2 that requires, "OPR 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 training should cover, at a minimum, interviewing sexual abuse and assault victims, sexual abuse and assault

evidence collection in confinement settings, the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process.” The lesson plan for this specialized training is the ICE OPR Investigations Incidents of Sexual Abuse and Assault, which covers in depth investigative techniques, evidence collections, and covers all aspects to conducting an investigation of sexual abuse in a confinement setting. The agency also offers another level of training, the PREA Fact Finders Training, which provides information needed to conduct the initial investigation at the facility to determine if an incident has taken place or to complete the administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP detainees; best practices for interacting with Lesbian, Gay, Bi-sexual, Transgender, Intersex (LGBTI), and disabled detainees; and an overall view of the investigative process. Both these trainings and documented evidence of training for ICE staff were available on the ERAU SharePoint for review by the Auditor. There were no allegations of sexual abuse at the MHR for the audit period.

**Corrective Action:**

No corrective action needed.

**§115.141 - Assessment for risk of victimization and abusiveness**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d)(e) The Auditor determined compliance with these standard subparts based on Policy 11087.1 that requires the MHR FOD “to ensure that before placing detainees together in a hold room, there shall be consideration of whether a detainee may be at a high risk of being sexually abused or assaulted, and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee. The FOD shall ensure that detainees who may be held overnight with other detainees are assessed to determine their risk of being either sexually abused or assaulted or sexually abusive, to include being asked about their concerns for their physical safety. The FOD shall ensure that the following criteria are considered in assessing detainees for risk of sexual victimization, to the extent that the information is available: 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; Whether the detainee has self-identified as Lesbian, Gay, Bisexual, Transgender or Intersex (LGBTI) or gender nonconforming; Whether the detainee has self-identified as previously experiencing sexual victimization; and the detainee's own concerns about his or her physical safety.” This policy further requires “the FOD implement appropriate controls on the dissemination of any sensitive information regarding a detainee provided pursuant to screening procedures. For detainees identified as being at high risk for victimization, the FOD shall provide heightened protection, including continuous direct sight and sound supervision, single-housing, or placement in a hold room actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is feasible.” As noted earlier, detainees are held for a short period of time at MHR. The typical amount of time is three hours. The Auditor interviewed one three ICE DO's who performs the intake screening utilizing the Risk Classification Assessment (RCA) form on every detainee arriving at the MHR. The assessment is a computerized program that addresses specific vulnerabilities including whether the detainee has any concerns for their safety, concerns based on their sexual orientation, any instances of prior persecution or torture, a victim of sexual abuse or a violent crime. If the DO believes, after completing the RCA and reviewing information he/she has available and interviewing the detainee



about their own safety concerns, that the individual may be at high risk of being victimized or has an abuse history, they are placed on direct supervision by the GEO staff, alone in a separate hold room. As previously noted, each of the (b) (7)(E) which can also be monitored. The interviews with the intake DOs confirmed that during the intake process, a DO and SDDO are present during processing and the shift SDDO must review each RCA document. Interviews conducted with the ICE ERO staff and the GEO security staff confirmed information obtained during the intake process is not shared with anyone except on a need-to-know basis. Paper copies of the RCA form are kept secured under lock and key and the computer files are password protected and assessable by only those individuals with a need for this information.

**Corrective Action:**

No corrective action needed.

**§115.151 - Detainee reporting**

**Outcome:** Exceeds Standard

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires the “FOD ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse or assault, retaliation for reporting sexual abuse or assault, or staff neglect or violations of responsibilities that may have contributed to such incidents to ERO personnel. The FOD shall implement procedures for personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports. The FOD is also required to ensure that detainees are provided with instructions on how they can contact the DHS Office of the Inspector General (OIG) or, as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse or assault to agency officials to confidentially and, if desired, anonymously, report these incidents.” As noted in 115.116, the Auditor interviewed an intake DO, who confirmed during the detainee intake process that the detainees are informed of the sexual abuse reporting information in their native language, through use of an interpreter when the detainee is LEP. During the onsite tour of the intake area, where detainees are held, the Auditor observed telephones and postings in English and Spanish providing telephone numbers for the DHS OIG, Detention Reporting and Information Line (DRIL), and consulate offices. In addition the auditor observed a one page flyer at each hold room phone that provided detailed instructions for a detainee to make anonymous phone calls by simply dialing a one digit number. The Auditor noted one of these numbers is a direct line to the assigned GEO PSA Compliance Manager. As a result of this facility making available a one digit anonymous PREA call opportunity to all detainees and to eight different reporting lines, the auditor found the MHR exceeded the standard requirement. The Auditor tested the DHS OIG telephone line on two of the six telephones maintained for detainees in the hold room area without the use of a PIN and found them operational. The auditor also tested the one digit call to the facility PSA Compliance Manager and was able to place an anonymous PREA test call. The interviews with the five GEO staff and two ICE DO's staff confirmed that each would accept any allegation of sexual assault no matter how it was received and that all verbal allegations would be put in writing. There were no allegations reported during the audit period.

**Corrective Action:**

No corrective action needed.

### **§115.154 - Third-party reporting**

**Outcome:** Meets Standard

**Notes:**

The Auditor determined compliance with this standard based on Policy 11087.1, that requires the “FOD implement procedures for personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports.” The Auditor observed third party reporting information to the DRIL and to the DHS OIG posted in each of the hold rooms in Spanish and English during the site visit tour. The interviews conducted with the five GEO security staff and two ICE staff confirmed this policy requirement to accept all third-party reports of sexual abuse and document those received verbally in writing. The Agency website, <http://www.ice.gov/PREA>, has information on reporting allegations of sexual abuse and/or assault available for making third party reports by the public. As noted earlier in the report, the three detainees interviewed were aware of how to report allegations of sexual abuse including third party reporting. There were no allegations of sexual abuse reported during the audit period.

**Corrective Action:**

No corrective action needed.

### **§115.161 - Staff reporting duties**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, “All ICE employees immediately report to a supervisor or a designated official any knowledge, suspicion, or information regarding an incident of sexual abuse or assault of an individual in ICE custody, retaliation against detainees or staff who reported or participated in an investigation, about such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. ICE employees shall not reveal any information related to a sexual abuse or assault allegation to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff, or to make medical treatment, investigation, law enforcement, or other security and management decisions.” The interview conducted with the ICE and GEO staff at MHR confirmed their responsibility to immediately report all incidents of sexual assault, sexual abuse, retaliation, and staff neglect in duties that may have contributed to any sexual abuse or sexual assault. These staff also informed the Auditor about their responsibility to immediately report all allegations of sexual abuse to their supervisors and document the known facts to them in writing as soon as possible but prior to the end of their shift as well as their obligation not to disclose any information that they become aware of except on a need-to-know basis. The MHR staff were also knowledgeable of their ability to report outside their chain of command, as provided in their training if necessary. There were no allegations reported at the facility during the audit period.

(d) The Auditor determined compliance with this standard subpart based on Policy 11062.2, that requires, “If the alleged victim is under the age of 18 or determined, after consultation with the relevant OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under a State or local vulnerable persons statute, report the allegation to the designated State or local services agency as necessary under applicable mandatory reporting laws; and document his or her efforts taken under this section.” The interview with the AFOD acknowledged his reporting obligations under this subpart. He indicated if a vulnerable adult was ever the victim of sexual abuse at the MHR,

he would contact the relevant ICE OPLA OCC office and report the allegation. He also confirmed her requirement to report the allegations to the designated State or local services agency as required by mandatory reporting laws and policy of the State of Texas. MHR had no incidents involving a vulnerable adult, as there were no allegations reported at the facility during the audit period.

**Corrective Action:**

No corrective action needed.

**§115.162 - Agency protection duties**

**Outcome:** Meets Standard

**Notes:**

The Auditor determined compliance with this standard based on Policy 11062.2 that requires, “If an ICE employee has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse or assault, he or she shall take immediate action to protect the detainee.” The interviews conducted with the MHR ICE and GEO staff confirmed that in every instance where it was believed a detainee may be subject to substantial risk of sexual abuse their first response would be to locate and secure the detainee in a safe location and notify their supervisor. They also confirmed MHR had no instances where a detainee was at substantial risk of sexual abuse during the audit period.

**Corrective Action:**

No corrective action needed.

**§115.163 - Reporting to other confinement facilities**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, “If the alleged assault occurred at a different facility from the one where it was reported, ensure that the administrator at the facility where the assault is alleged to have occurred is notified as soon as possible, but no later than 72 hours after receiving the allegation, and document such notification.” The interviews with both the PSA Compliance Manager and AFOD confirmed that anytime the MHR received information on any allegation occurring at another facility, the SDDO would be notified and would make notification to the appropriate agency office or facility administrator, within 72 hours by phone call and email, of the alleged incident. The AFOD and PSA Compliance Manager also confirmed that MHR had no such reported incidents during the audit period, but the facility would follow the policy notification if they were ever notified of any such incident.

(d) The Auditor determined compliance with this subpart based on Policy 11062.2, that requires the FOD to “notify the JIC telephonically within two hours of the alleged sexual abuse or assault.” During an interview, the AFOD confirmed that if the MHR received an allegation of sexual abuse, that occurred at MHR, from another facility, the incident would be referred for investigation under the procedural guidelines outlined in policy 11062.2. The MHR received no reports from another facility of an allegation occurring at this facility during the audit period.

**Corrective Action:**

No corrective action needed.

### **§115.164 - Responder duties**

**Outcome:** Meets Standard

**Notes:**

(a)(b) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, “The FOD shall ensure that upon learning of an allegation that a detainee was sexually abused or assaulted, the responder, or his or her supervisor: separates the alleged victim and abuser; preserves and protects, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence; if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, requests the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, ensures that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.” The Auditor interviewed the available ICE and GEO staff at MHR who confirmed their response to any allegation of sexual abuse. Their responses coincided with the subpart (a) requirements of separating the alleged victim and abuser; preserving and protecting, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence; if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, requesting the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if the sexual abuse or assault occurred within a time period that still allows for the collection of physical evidence, ensuring that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. These ERO staff were well trained and informed on ensuring the safety and well-being of detainee victims of sexual assault.

**Corrective Action:**

No corrective action needed.

### **§115.165 - Coordinated response**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, “The FOD ensure a coordinated, multidisciplinary team approach to respond to allegations of sexual abuse and assault occurring in holding facilities, or in the course of transit to or from holding facilities, as well as to allegations made by a detainee at a holding facility of sexual abuse or assault that occurred elsewhere in ICE custody. If a victim is transferred between detention facilities or holding facilities, or to any non-ICE facility, ensure that, as permitted by law, the receiving facility is informed of the incident and the victim’s potential need for medical or mental health care or victim services.” The Auditor was provided and reviewed an ERO Assistant Director's broadcast notifying ERO Field Offices that when sexual abuse victims are transferred to a facility not covered by DHS PREA Standards Subpart A or B from a DHS holding facility, the agency shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services,

unless the victim requests otherwise. The AFOD confirmed that his notification of all sexual abuse allegations would be through the SEN procedures to include notifications to the OIG, JIC, Assistant Director for Field Operations, PSA Coordinator, and the CPD about a possible criminal investigation. The AFOD also stated that any transfer of a detainee sexual assault victim would be in compliance with policy and the ERO Assistant Director's broadcast. The facility had no allegations of sexual abuse during the audit period.

**Corrective Action:**

No corrective action needed.

**§115.166 - Protection of detainees from contact with alleged abusers**

**Outcome:** Meets Standard

**Notes:**

The Auditor determined compliance with the standard based on Policy 11062.2 that requires, “that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring detainee contact pending the outcome of an investigation.” The AFOD confirmed that currently there are no contractors or volunteers at the MHR. He also stated that any ERO staff member alleged to have committed sexual abuse would be removed from all detainee contact until the conclusion of the investigation. The MHR had no allegations of sexual abuse during the audit period.

**Corrective Action:**

No corrective action needed.

**§115.167 - Agency protection against retaliation**

**Outcome:** Meets Standard

**Notes:**

The Auditor determined compliance with the standard based on Policy 11062.2 that requires, “employees not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse or assault, or for participating in sexual activity as a result of force, coercion, threats, or fear of force.” The AFOD informed the Auditor that any form of retaliation against staff or detainee who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual activity as a result of force, coercion, threats, or fear of force would not be tolerated. The ICE DOs and GEO staff interviews confirmed their knowledge with this policy prohibition of retaliation against any person, including a detainee. There were no allegations of sexual abuse reported during the audit period.

**Corrective Action:**

No corrective action needed.

**§115.171 - Criminal and administrative investigations**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, the “FOD shall, conduct a prompt, thorough, and objective investigation by qualified investigators. The FOD is

also required to ensure that the facility complies with the investigation mandates established by the PBNDS 2.11, as well as other relevant detention standards. Upon conclusion of a criminal investigation where the allegation was substantiated, or in instances where no criminal investigation has been completed, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Substantiated allegation means an allegation that was investigated and determined to have occurred. Unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. The ICE OPR will typically be the appropriate investigative office within DHS, as well as the DHS OIG in cases where the DHS OIG is investigating. The facility shall develop written procedures for administrative investigations, including provisions requiring; preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data, interviewing alleged victims, suspected perpetrators, and witnesses, reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator, assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph, an effort to determine whether actions or failures to act at the facility contributed to the abuse, documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings, and retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years." The policy also requires that the OPR coordinate with the FOD or SAC and facility staff to, "...ensure evidence is appropriately secured and preserved pending an investigation by federal, state, or local law enforcement, DHS, OIG, and/or OPR." The AFOD detailed the investigative process at the MHR for the Auditor. He stated that upon the facility receiving any allegation of sexual abuse the detainee would be separated and secured pending movement. Notifications would be made to the CPD, FOD, OPR, and DHS OIG of the significant incident at the facility. As noted earlier in the report detainees remain at MHR in ICE custody for about three hours and are either released or transferred to an ICE detention facility. The AFOD further stated that ICE OPR would have first refusal for conducting the sexual abuse investigation. If OPR elects not to investigate the allegation and refers it back to the facility, the facility would ensure that an administrative investigation would be completed by a specially trained SDDO. There were no allegation of sexual abuse during the audit period.

(d) The Auditor determined compliance with the standard based on Policy 11062.2, that requires, "An investigation may not be terminated solely due to the departure of the alleged abuser or victim from the employment or control of ICE." The AFOD informed the Auditor that an investigation of sexual abuse is completed regardless of whether the detainee or staff member has left the control of the Agency. The facility had no allegations of sexual abuse during the audit period.

(e) The Auditor determined compliance with the standard based on Policy 11062.2, that requires, "When outside agencies investigate sexual abuse or assault, cooperate with law enforcement agencies, OPR, and other outside investigators and endeavor to remain informed about the progress of the investigation, and ensure that detention facilities do the same." The AFOD and SDDO confirmed that MHR would cooperate with all investigative agencies and remain informed and cooperate to the extent possible with all investigative entities. The facility had no allegations of sexual abuse during the audit period.



**Corrective Action:**

No corrective action needed.

**§115.172 - Evidentiary standards for administrative investigations**

**Outcome:** Meets Standard

**Notes:**

The Auditor determined compliance with the standard based on Policy 11062.2, that requires, “Administrative Investigations impose no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse or assault, and may not be terminated solely due to the departure of the alleged abuser or victim from the employment or control of ICE.” The interview with the AFOD and PAQ review, confirmed three trained OPR investigators assigned MHR. The AFOD also confirmed that a preponderance of the evidence is the standard utilized when substantiating allegations of sexual abuse. There were no allegations of sexual abuse reported at MHR during the audit period.

**Corrective Action:**

No corrective action needed.

**§115.176 - Disciplinary sanctions for staff**

**Outcome:** Meets Standard

**Notes:**

(a) The Auditor determined compliance with the standard based on Policy 111062.2 that requires, “Upon receiving a notification from a FOD, or Special Agent in Charge (SAC), of the removal or resignation in lieu of removal of staff violating agency or facility sexual abuse and assault policies, the OPR will report that information to the appropriate law enforcement agencies unless the activity was clearly not criminal and make reasonable efforts to report that information to any relevant licensing bodies, to the extent known.” The auditor also interviewed the AFOD who stated that any staff member would be subject to disciplinary or adverse action up to and including removal from their position and the Federal service for substantiated allegations of sexual abuse or violating agency sexual abuse policies. He also stated that no staff member at the MHR has been disciplined for any violation of the zero-tolerance policy and that there were no allegations of sexual abuse reported during the audit period.

(c)(d) The Auditor determined compliance with these standard subparts based on Policy 11062.2, that requires, “Upon receiving notification from a FOD or SAC of the removal or resignation in lieu of removal of staff, for violating agency or facility sexual abuse and assault policies, the OPR will report that information to appropriate law enforcement agencies, unless the activity was clearly not criminal; and make reasonable efforts to report that information to any relevant licensing bodies, to the extent known.” The AFOD confirmed that all sexual abuse allegations are reported to the CPD, and every effort would be made to notify any licensing agencies in all cases of substantiated allegations as required by policy.

**Corrective Action:**

No corrective action needed.

### **§115.177 - Corrective action for contractors and volunteers**

**Outcome:** Meets Standard

**Notes:**

(a)(b) The Auditor determined compliance with these standard subparts based on Policy 11062.2 that requires, “an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring detainee contact pending the outcome of an investigation.” The AFOD confirmed MHR currently has no contract staff or volunteers. He further stated that if they do have any in the future, that any contractor or volunteer, who is the subject of an allegation of sexual abuse, would be removed from all duties involving detainee contact until the outcome of the investigation. He also stated that all sexual abuse allegations are reported to the CPD, and every effort would be made to notify any licensing agencies in all cases of substantiated allegations.

**Corrective Action:**

No corrective action needed.

### **§115.182 - Access to emergency medical services**

**Outcome:** Meets Standard

**Notes:**

(a)(b) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, ” The FOD shall ensure that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care.” Policy 11062.2 requires, “that such treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation.” As noted earlier in the report, MHR has no medical staff assigned to the hold room but could call on MIPC medical staff in an emergency. According to the AFOD, detainees requiring medical services would be sent to HCA Houston Healthcare . The interview with a Hospital representative confirmed detainee victims of sexual assault would be accepted at their facility. The AFOD confirmed that all medical treatment would be at no cost to the detainee. There were no allegations at the facility during the audit period.

**Corrective Action:**

No corrective action needed.

### **§115.186 - Sexual abuse incident reviews**

**Outcome:** Meets Standard

**Notes:**

(a) The Auditor determined compliance with these standard subparts based on Policy 11087.1, that requires, “The FOD shall conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault occurring at a holding facility and, unless the allegation was determined to be unfounded, prepare a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse and assault. Such review shall ordinarily occur within 30 days of ERO's receipt of the investigation results from the investigating authority. The FOD shall implement the

recommendations for improvement, or shall document its reasons for not doing so, in a written justification. Both the report and justification shall be forwarded to the ICE PSA Coordinator.” The AFOD and PSA Compliance Manager both stated that at the conclusion of every allegation of sexual abuse an incident review would be completed in accordance with the agency 11087.1 policy. There were no allegations at the facility during the audit period.

**Corrective Action:**

No corrective action needed.

**§115.187 - Data collection**

**Outcome:** Meets Standard

**Notes:**

(a) The Auditor determined compliance with this standard subpart based on Policy 11062.2, that requires, “Data collected pursuant to this Directive shall be securely retained in accordance with agency record retention policies and the agency protocol regarding investigation of allegations. All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise.” The AFOD and the PSA Compliance Manager confirmed that all case records, supporting documentation and confidential information that is maintained by MHR under double lock with restricted access to keys. The Auditor was shown the area where these records and documents are maintained. The facility had no allegations of sexual abuse during the audit period.

**Corrective Action:**

No corrective action needed.

**§115.193 – Audits of standards.**

**Outcome:** Low Risk

**Notes:**

This is the first audit for the MHR. The physical layout of the facility and the staff supervision, including the [REDACTED], provide a safe environment for detainees and staff. The length of stay for detainees at this facility is approximately four hours, and detainees are rarely held at the facility overnight. The facility had no allegations of sexual abuse reported within the audit period. The Auditor determined this facility qualifies for low risk.

**Corrective Action:**

No corrective action needed.

**§115.201 - Scope of Audits**

**Outcome:** Meets Standard

**Notes:**

(d)(e)(i)(j) The Auditor was provided full access to the MHR without restriction. Necessary documentation, including while onsite, was provided in a timely manner. The Auditor was able to conduct all interviews in a private setting, without interruption. Space for interviews was provided allowing for private interviews and

access to a phone for interpretive services. Audit notices in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese were observed by the Auditor posted in the Hold Room advising detainees they were permitted to send confidential information or correspondence to the Auditor; however, the Auditor did not receive any correspondence from any detainee or staff.

**Corrective Action:**

No corrective action needed.

**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.

*James McClelland*

8/4/2023

**Auditor's Signature & Date**

8/6/2023

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

**Program Manager's Signature & Date**

8/4/2023

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

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