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

Homeland Security

| AUDITOR INFORMATION | | | |
|---|---|---|---|
| **Name of auditor:** | Thomas Eisenschmidt | **Organization:** | Creative Corrections, LLC |
| **Email** (b) (6), (b) (7)(C) | [redacted] | **Telephone number:** | 315-730-(b) (6), (b |

| AGENCY INFORMATION | |
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| **Name of agency:** | U.S. Immigration and Customs Enforcement (ICE) |

| FIELD OFFICE INFORMATION | |
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| **Name of Field Office:** | Detroit Field Office |
| **Field Office Director:** | James Jacobs |
| **ERO PREA Field Coordinator:** | AFOD (b) (6), (b) (7)(C) |
| **Field Office HQ physical address:** | 333 Mt. Elliot St., Detroit, MI 48207 |
| **Mailing address:** *(if different from above)* | |

| INFORMATION ABOUT THE FACILITY BEING AUDITED | | | |
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| **Basic Information About the Facility** | | | |
| **Name of facility:** | Northeast Ohio Correctional Center | | |
| **Physical address:** | 2240 Hubbard Rd., Youngstown, Ohio 44505 | | |
| **Mailing address:** *(if different from above)* | | | |
| **Telephone number:** | 330-746-3777 | | |
| **Facility type:** | IGSA | | |
| **Facility Leadership** | | | |
| **Name of Official/Officer in Charge:** | (b) (6), (b) (7)(C) | **Title:** | Warden |
| **Email address:** | (b) (6), (b) (7)(C) [redacted] | **Telephone number:** | 330-240-(b) (6), (b |
| **Facility PSA Compliance Manager** | | | |
| **Name of PSA Compliance Manager:** | (b) (6), (b) (7)(C) | **Title:** | Assistant Warden |
| **Email address:** | (b) (6), (b) (7)(C) [redacted] | **Telephone number:** | 719-469-(b) (6), (b |

## AUDIT FINDINGS

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

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

The Prison Rape Elimination Act (PREA) on-site audit of the Northeast Ohio Correctional Center (NEOCC) in Youngstown, Ohio was conducted on May 21-23, 2019 by Thomas C. Eisenschmidt, certified Department of Justice (DOJ) PREA Auditor contracted through Creative Corrections, LLC of Beaumont, Texas. The Auditor was provided guidance during the audit report writing and review process by the ICE PREA Program Manager, (b) (6), (b) (7)(C) a DOJ and DHS certified PREA Auditor. The Program's Manager role is to provide oversight to the ICE PREA audit process and liaison with the ICE External Reviews and Analysis Unit (ERAU).

This was the first PREA audit for NEOCC under the Department of Homeland Security PREA standards. The facility is operated by CoreCivic and is an intergovernmental service facility operated by CoreCivic. This private corporation contracts for the care and custody of United States Marshall inmates, Ohio State Department of Rehabilitation and Correction inmates, and U.S. Immigration and Customs Enforcement (ICE) detainees at NEOCC. The detention facility only houses adult males to hold, process and prepare individuals pending the results of a judicial removal review. The purpose of the audit was to determine compliance with the Department of Homeland Security (DHS) PREA standards. The audit period was May 21, 2018 through May 23, 2019.

The point of contact established for NEOCC was through the External Reviews and Analysis Unit (ERAU) Team Lead (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) provided the completed Pre-Audit Questionnaire (PAQ) along with supporting documents on the secure ERAU SharePoint website approximately 27 days prior to the on-site portion of the audit. Pre-audit preparation included a thorough review of all documentation and supporting materials provided by the facility along with the data included in the completed PAQ. In addition, an on-line search was conducted of public records pertaining to the operation of the NEOCC. The documentation received included agency and facility policies with corresponding attachments, procedures, Memoranda of Understanding (MOU), forms, training records and curricula, facility schematic, and other PREA-related materials provided to demonstrate compliance with the PREA standards. The documentation submitted to the Auditor was complete and accurate. The documentation that was supplied assisted the Auditor in completing a comprehensive pre-audit review of the facility and its policies.

An entry briefing, led by the ERAU Team Lead, was conducted shortly after arrival at the facility on day one of the on-site review. Those in attendance at the entry-brief were:

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| (b) (6), (b) (7)(C) | ERAU Team Lead |
| (b) (6), (b) (7)(C) | Prevention of Sexual Assault (PSA) Compliance Manager |
| (b) (6), (b) (7)(C) | Unit Manager - CoreCivic |
| (b) (6), (b) (7)(C) | Deportation Officer (DO) - ICE |

Immediately following the entry-briefing, a tour of the facility was conducted. All areas of the facility, accessible to detainees, were toured by the auditor to include detainee processing, medical, six population housing units (B-2, B-4, B-5, B-6, B-7, B-8), commissary, barber shop, law library, sally port, and outdoor recreation. The Auditor also toured the master control, visitation, and the main lobby. There are no dining facilities at NEOCC, and detainees dine in their living units. The facility has 396 security employees, of which 196 are male and 200 females.

The detainee count on the first day of the on-site audit was 292. Over the preceding year, the average detainee population was 270 and the average time in custody was 18.16 days. The Auditor spoke freely with detainees and staff during the tour. Cross-gender announcements were noted upon entry to all housing units. Those announcements were made in English and Spanish. (b) (7)(E) [redacted] PREA posters and notices were checked and found in each housing unit and in areas of the facility detainees have access to. Posters were large and bright, attracting immediate attention. They were available in both English and Spanish. Notices guaranteeing privacy of PREA reporting hotlines were present in each unit. Detainees have access to phones in their living areas. Audit notices were posted throughout the facility including the lobby area. They were available in both English and Spanish. The Auditor received no letters of concern from either detainees or from third person parties.

Immediately following the tour, the Auditor interviewed staff and detainees. All detainee interviews were conducted in a secure, private setting with interpretation services available and utilized. Random detainees and staff were selected by the Auditor utilizing detainee and staff rosters provided by the PSA Compliance Manager. In all, 21 detainee interviews were conducted. These included 1 disclosing prior victimization, and 20 random detainees. There were no detainees in the facility who had identified as transgender or intersex. All housing units were represented by the detainees interviewed and those interviewed came from six different countries of origin. Of the 21 detainees interviewed, all but one required interpretive service provided by Language Services Associates. The facility's Grievance Officer indicated that there were no grievances filed by detainees regarding sexual abuse within the past 12 months.

The Auditor also conducted a comprehensive records review on the second and third days of the on-site audit. This included a sample of 20 employee training files, 10 medical/mental health specialized training records, 12 employee background checks, 2 ICE employee background checks, 10 contractor/volunteer training files, 20 detainee records demonstrating initial intake and the 30-day reassessment if housed at NEOCC beyond 30 days, an additional reassessment between their 60-90 day at the facility, and the one investigative file for the only case in the last 12 months.

In addition, the Auditor interviewed a total of 28 staff, including 16 designee staff: Warden, PSA Compliance Manager, Medical Staff, Mental Health Staff, Intake Staff, Classification, Risk Assessment, Human Resources, Grievance Staff, Facility Investigator, Training, contractors/volunteers (5), and 12 random staff representing all three shifts and various posts. The Auditor did attempt to make contact with the Youngstown Police Department on three occasions but was unsuccessful. The Auditor spoke with the Rape Crisis and Counseling Center and a representative of St. Elizabeth Hospital.

There were two sexual abuse allegations made at NEOCC during the last 12 months. The detainee on detainee allegation made on 11-1-2018 was not investigated by NEOCC but was investigated by an ICE Fact Finder, a SDOO, who was assigned through the Administrative Inquiry Unit, Enforcement and Removal Operations (ERO). The SDDO had not completed specialized investigator training. The ERO Fact Finder determined the

incident was not criminal and concluded the allegation was unsubstantiated. The second allegation, detainee on detainee, was made on 3-20-2019. The facility conducted an investigation and determined the allegation was unfounded. OPR conducted an investigation and concluded the incident was unsubstantiated. The investigators involved in the 3-20-2019 incident were trained.

On May 23, 2019, an exit briefing was held in the facility conference room. In attendance were:

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| (b) (6), (b) (7)(C) | ERAU Team Lead |
| (b) (6), (b) (7)(C) | PSA Compliance Manager |
| (b) (6), (b) (7)(C) | Unit Manager - CoreCivic |
| (b) (6), (b) (7)(C) | DO ICE |

The Auditor discussed observations made during the on-site audit and gave preliminary findings of the audit. The Auditor informed those in attendance that the Auditor found staff to look and act professional during the visit and their interaction with residents was remarkable. Those interviewed were well versed on how to respond to any sexual assault if it became necessary It was apparent during the tour that line staff were aware of the executive staff and the security line supervisors were observed actively involved in the routine day-to-day operations. During the Warden's interview, he stressed the high priority PREA plays in the day to day operations at NEOCC and it was obvious during the 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: 2**
§115.31 Staff training
§115.35 Specialized training: Medical and Mental Health care

**Number of Standards Met: 32**
§115.11 Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator
§115.13 Detainee supervision and monitoring
§115.15 Limits to cross-gender viewing and searches
§115.17 Hiring and promotion decisions
§115.18 Upgrades to facilities and technologies
§115.21 Evidence protocols and forensic medical examinations
§115.22 Policies to ensure investigation of allegations and appropriate agency oversight
§115.32 Other training
§115.33 Detainee education
§115.41 Assessment for risk of victimization and abusiveness
§115.42 Use of assessment information
§115.43 Protective custody
§115.51 Detainee reporting
§115.53 Detainee access to outside confidential support services
§115.54 Third-party reporting
§115.61 Staff reporting duties
§115.62 Protection duties
§115.63 Reporting to other confinement facilities
§115.64 Responder duties
§115.65 Coordinated response
§115.66 Protection of detainees from contact with alleged abusers
§115.68 Post-allegation protective custody
§115.72 Evidentiary standard for administrative investigations
§115.73 Reporting to detainees
§115.76 Disciplinary sanctions for staff
§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
§115.87 Data collection
§115.201 Scope of audits.

**Number of Standards Not Met: 6**
§115.16 Accommodating detainees with disabilities and detainees who are limited English proficient
§115.34 Specialized training: Investigations
§115.52 Grievances
§115.67 Agency protection against retaliation
§115.71 Criminal and Administrative Investigations
§115.86 Sexual abuse incident reviews

**Number of Standards Not Applicable: 1**
§115.14 Juvenile and family detainees

**Standards that Does Not Meet:**

**115.16 Subpart (b)** of the standard requires the agency and each facility take steps to ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient. This includes steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. NEOCC does not provide meaningful access to all limited English proficient detainees. Documentation provided to detainees is available in Spanish and English. There were six detainees interviewed while at the facility that spoke a language other than English or Spanish. Both staff and detainees confirmed these detainees are not provided sexual safety information in a format that they understood. Detainees at NEOCC are provided, either in Spanish or English, the following: the Admission and Orientation Handbook, a CoreCivic Welcome Sheet, ICE Abuse and Assault Awareness pamphlet, and an ICE National Detainee Handbook. These documents or information sheets are not provided in formats accessible to every detainee. Although the PREA video is only available in Spanish and English, every detainee is required to sign that they have seen it to demonstrate compliance with subpart (c) of the standard even though it is in a language they do not understand. Reporting information is only available in Spanish and English. Interviews with detainees that speak other than those two languages were not aware of sexual abuse reporting means.

**115.34 Subpart (a) requires** in addition to the general training provided to all facility staff and employees pursuant to 115.31, the agency or facility shall provide specialized training on sexual abuse and effective cross-agency coordination to agency or facility investigators, respectively, who

conduct investigations into allegations of sexual abuse at immigration detention facilities. All investigations into alleged sexual abuse must be conducted by qualified investigators. The documentation provided to the Auditor indicates the investigator from OPR who conducted the 11-1-2018 detainee allegation was not trained to conduct investigations as required by the standard.

**115.52(Entire)** Subparts (a)-(f) require: The facility shall permit a detainee to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint and shall not impose a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse. The facility shall implement written procedures for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse. The facility shall issue a decision on the grievance within five days of receipt and shall respond to an appeal of the grievance decision within 30 days. Facilities shall send all grievances related to sexual abuse and the facility's decisions with respect to such grievances to the appropriate ICE Field Office Director at the end of the grievance process. To prepare a grievance, a detainee may obtain assistance from another detainee, the housing officer or other facility staff, family members, or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties.

Policy 14-2-DHS states the facility does not allow detainees to utilize the grievance process for allege sexual abuse/assault. This was also confirmed in interviews with the Warden and PSA Compliance Manager.

**§115.67:** The allegation made on 11-1-2018 was not handled by NEOCC as a PREA incident. That incident was reported to OPR by the detainee through the OIG hotline. OPR conducted an investigation and determined the allegation was unsubstantiated. There was absolutely no communication during any course of the investigation between OPR and NEOCC. This lack of communication resulted in no retaliation monitoring by the facility as required by the standard. The facility did not provide documentation that retaliation monitoring was conducted for the other incident reported on 3-20-2019.

**115.71 Subpart (f):** Policy 14-2-DHS section N 1 (iii) requires when outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. The facility investigator confirmed he remains as a liaison with the Youngstown PD and OPR during the criminal investigation and would stay informed until the case is completed. The allegation made on 11-1-2018 was not handled by the facility as a PREA incident. That incident was reported to OPR who conducted an investigation and determined the allegation was unsubstantiated. There was absolutely no communication during any course of the investigation between OPR and NEOCC. This lack of communication resulted in no incident review being conducted by the facility and no documented retaliation monitoring by the facility.

**115.86 Subpart (a)** of this standard requires the agency conduct an incident review at the conclusion of every investigation of sexual abuse and where the allegation was not determined unfounded prepare a written report recommending changes in policy or practice could better prevent, detect or respond to sexual abuse. NEOCC had an investigation of sexual abuse conducted by OPR regarding an alleged incident on 11-1-2018 at the facility. The incident was found to be unsubstantiated by OPR. Facility did not conduct an incident review as required.

| SUMMARY OF AUDIT FINDINGS | |
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| **Number of standards exceeded:** | 2 |
| **Number of standards met:** | 32 |
| **Number of standards not met:** | 6 |
| **Number of standards N/A:** | 1 |

## PROVISIONS

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

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

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

**Notes:**

(c) Policy 14-2-DHS (Sexual Abuse Prevention and Response) dated June 19, 2017 is NEOCC's written policy mandating zero tolerance toward all forms of sexual abuse and outlining the facility's approach to preventing, detecting, and responding to such conduct. The interview with Christopher LaRose, Warden confirmed the DHS Security approved this policy. The policy provides for staff, contractors, visitors and detainees defined prohibited acts, and specific procedures for preventing, specifics on reporting, and specifics on responding.
(d) The PSA Compliance Manager is designated by the Warden. He also serves as the facility point of contact for the CoreCivic Facility Support Center (FSC) PREA Coordinator and the ICE PSA Coordinator. The Warden appointed an upper level supervisor to the position. The interview with the facility PSA Compliance Manager confirmed he is responsible for all PREA related duties and has sufficient time and authority to oversee facility efforts to comply with sexual abuse prevention and intervention policies and procedures.

### §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)(b)(c) Policy 14-2 DHS, section C (1) on page 8 requires the facility, in conjunction with FSC, develop comprehensive detainee supervision guidelines to determine and meet the facility's detainee supervision needs against sexual abuse. The Warden and PSA Compliance Manager confirmed that when assessing NEOCC needs for staffing, the numbers are determined based on: generally accepted detention and correctional practices, judicial findings of inadequacy, physical layout, composition of the detainee population, prevalence of substantiated and unsubstantiated incidents of sexual abuse, findings and recommendations of sexual abuse incident review reports, and any other relevant factors are taken into account. The Warden and PSA Compliance Manager also stated the location of video monitoring equipment was and continues to be considered as a determining element when assessing adequate levels of staffing. The Auditor was provided the 2019, 2018, 2017 supervision guideline reviews for NEOCC. In each annual review, all of the above elements were listed as being taken into consideration. These reviews are required by Policy 14-2 DHS, section C (3) on page 8.
(d) Policy 14-2 DHS, section C (4) on page 9 requires NEOCC supervisors conduct frequent unannounced security inspections to identify and deter sexual abuse of detainees. The supervisory inspections are implemented on night, afternoon, and day shifts. This policy and policy 9-7 (Security and Control) prohibits staff from alerting others that security inspections are occurring, unless such announcement is related to the legitimate operational functions of the facility. Supervisors confirmed they are required to tour the facility on each shift and document their inspections. They indicated rounds are made at different times and at different locations including all housing units. The Auditor reviewed a sampling of log entries in the housing unit logbooks and found supervisor signatures on each shift that was reviewed.

### §115.14 – Juvenile and family detainees.

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

**Notes:**

The Warden indicated that NEOCC has no juvenile or family detainees and stated that they are never placed at this facility. The PAQ also noted juveniles are not placed at this facility. The auditor's observations determined the standard 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) Policy 14-2 DHS, section G on page 13 mandates cross-gender pat-down searches of male detainees by female staff 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. This same prohibition is found in CoreCivic policy 9-5 (Security and Control) dated December 18, 2016 section B (1)(2) on page 3. Both policies further require if a cross-gender pat-down search is conducted it be documented. The PSA Compliance Manager confirmed that NEOCC has not performed any cross-gender searches but if one were performed it would be documented in a log book maintained in the shift supervisor office. Both female and male security staff interviewed indicated cross-gender pat-down searches have not been performed on any ICE detainees. Random detainees questioned by the Auditor also confirmed none of them had ever been pat searched by a female staff member. Female staff interviewed also confirmed that they had not conducted cross-gender pat-down searches of any detainees.

(c) NEOCC does not have female detainees. This subpart of the standard does not apply.

(e)(f) As noted earlier NEOCC is an adult male detainee facility with no juveniles. Policy 14-2 DHS, section G (4) on page 13 prohibits strip searches or visual body cavity searches by staff of the opposite gender except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners. The PSA Compliance Manager, Shift Supervisor, and Medical Practitioner each indicated strips searches or visual body cavity searches have not been performed on any detainee at NEOCC. The Supervisor and PSA Compliance Manager both confirmed if a strip search or visual body cavity search were ever conducted the search be would be documented including the reason for it.

(g) Policy 14-2-DHS, section G (6)(12) on page 13 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. It also requires staff of the opposite gender to announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing. The Auditor confirmed during random interviews with staff, that female staff announce their presence upon entering in to the detainee living areas. The Auditor also observed female staff announcing their presence prior to entering the detainee housing areas. Detainees are required to dress and undress in their cells and each cell had a sink and toilet. Showers provide privacy from viewing due to the "PREA" shower curtains. According to staff these curtains are referred as "PREA" curtains as they provide privacy to those showering from mid-thigh to shoulders while allowing staff viewing to determine the number of detainees and activity in the shower. Most of the random interviews with detainees confirmed that female staff make announcements prior to entering.

(h) NEOCC is an adult male facility with no families.

(i) Policy 14-2-DHS, section G (7) on page 13 prohibits staff at NEOCC from searching or physically examining a detainee for the sole purpose of determining the detainee's genital characteristics. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a medical examination that all detainees must undergo as part of a broader medical examination conducted in private by a medical practitioner. Interviews with random security staff confirmed that they are not allowed to search any detainee to determine their genital characteristics.

(j) Policy 14-2-DHS, section G (8) on page 13 requires all pat-down 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. Random staff interviews confirmed that the training each receives includes specifics on conducting pat-down searches of transgender and intersex detainees in a professional and respectful manner. The Auditor reviewed the training each security staff member receives, and the curriculum (Search Procedures and Safety, Security, and Contraband Institution Searches) that includes subject matter on routine pat-down searches, cross-gender pat-down searches and pat-down searches of transgender and intersex detainees. Each staff member is also provided a handout detailing the process of conducting these searches. All staff received this training in 2018.

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

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

**Notes:**

(a) Policy 14-2-DHS, section J (1)(2)(3) on page 14 requires NEOCC take appropriate steps to ensure that detainees with disabilities (those who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. Interviews with the classification/intake staff confirmed communication with detainees who are deaf or hard of hearing is accomplished through the written materials provided to them or through individualized help depending on their needs. Detainees who are blind would be accommodated through in person help. Detainees with limited reading skills would receive in person help from staff. They also stated that detainees with intellectual/ psychiatric issues, depending on their degree of disability, would receive individual attention from the unit management staff and/or mental health staff. At the time of the site review NEOCC had no blind, deaf, and/or intellectual, psychiatric, or speech disabled detainees available to interview.

(b)This subpart of the standard requires the agency and each facility take steps to ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient. This includes steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. NEOCC does not provide meaningful access to all limited English proficient detainees. Documentation provided to detainees is available in Spanish and English. There were six detainees that communicated in other languages than English and Spanish interviewed while at the facility. Both staff and detainees confirmed these detainees are not provided this information in format that they understood.

**Does Not Meet:** The facility does not provide PREA information in a format the detainee understands. The facility needs to provide PREA information to all detainees in a language and format they understand. Intake staff informed the auditor that they provide all detainees the Admission and Orientation Handbook, the CoreCivic Welcome Sheet, the ICE Sexual Abuse and Assault Awareness pamphlet, and the ICE National Detainee Handbook. These documents are provided in Spanish and English only. The Auditor found signed documents by detainees in nine detainee files, who were provided documents to sign, who could neither read nor write English or Spanish. Interviews with the nine random detainees also confirmed they received this information and signed for documents they didn't understand or could not read. The nine detainees interviewed that did not speak or understand English or Spanish, informed the Auditor that they were not aware of the reporting methods for sexual abuse. The facility needs to provide sexual abuse reporting instructions to all detainees, including detainees that are LEP and have disabilities, in a manner they understand.

(c) Policy 14-2-DHS, section (J)(2)(C) requires NEOCC provide interpretation services to detainees. It cannot be another detainee unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines it is appropriate and consistent with policy. Policy 14-2 also states 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. Interviews conducted with unit management staff and security staff confirmed the use of the language line for interpretive services as well as the prohibition of utilizing minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser as interpreters. The one reported case utilized a bilingual staff member (Correction Counselor) to interpret.

### §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)(e)(f) Policy 14-2-DHS, section B 2 (a) requires the facility, 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. This policy requires new hires, staff awaiting promotions, and staff on an annual basis complete and submit the Self-Declaration of Sexual

Abuse/Sexual Harassment form 14-2-A. The individual directly responds to questions about misconduct as required in the standard and as verification of the employee's fulfillment of his/her continuing affirmative duty to disclose any sexual misconduct. The form is collected by the training office at the annual PREA training and retained in the employee's personnel file. The auditor found these completed forms (14-2A) in the 20 files that were reviewed. The interview with the Human Resources (HR) staff person confirmed that all new hires and current staff are required by policy to disclose all misconduct noted above and have a continuing affirmative duty to disclose any sexual misconduct. She further stated that material omissions regarding conduct as outlined in subpart (a) of the standard or giving false information is grounds for termination or withdrawal of an offer for employment and that unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer.

(c)(d) Policy 14-2-DHS, section 2 (C) on page 5 requires NEOCC prior to hiring any employees who may have contact with detainees, perform a criminal background records check consistent with federal, state, and local law and make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse as defined by this policy. The interview with the HR staff confirmed that individuals seeking employment, contractors, and employees receive a background check prior to allowed contact with any detainee. She further stated that background checks are conducted by ICE on all NEOCC Employees. These checks include credit history, motor vehicle history, all police contacts, and National Crime Information Center and (NCIC) checks. All employees receive a five-year background recheck. The five-year background check is completed by ICE. The facility has been working with ICE detainees for over two years. The five-year background checks for these employees, according to the facility HR staff will not come up for another two and a half years. Background investigations are currently up to date. The Auditor reviewed background checks on two ICE employees and found pre-hire background checks completed and current five-year checks completed.

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

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

**Notes:**

(a) Policy 14-2-DHS, section I (1)(2) on page 14 requires that when CoreCivic designs or acquires any new facility or plans any substantial expansion or modification of existing facilities, they consider the effect of the design, acquisition, expansion, or modification on the company's ability to protect detainees from sexual abuse. Such considerations shall be documented on 7-1 B PREA Physical Plant Considerations form. The Warden confirmed that NEOCC has not undergone any expansion or modification in the last three years.

(b) Policy 14-2-DHS policy further requires whenever installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, CoreCivic will consider how such technology may enhance the ability to protect detainees from sexual abuse. (b) (7)(E) [redacted]

### §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)(e) Policy 14-2-DHS, section N (V) on page 27 requires sexual abuse investigations follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocols must be developmentally appropriate, be adapted from or otherwise based on the most recent edition of the DOJ's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011. The facility has a MOU with the Youngstown Police Department to conduct criminal investigations at NEOCC requiring they adhere to the requirements of subparts a-e of the standard. The MOU was initiated in March 2019 and has no sunset date. The Auditor did make three attempts to speak with the Police Department but was unable to make contact.

(b)(d) Policy 14-2-DHS, section N (V) on page 27 requires the investigating entity attempt to make available to the victim a victim advocate from a rape crisis center. The investigating entity may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a non-governmental entity that provides similar victim services. NEOCC has an MOU with the Compass Family & Community Services-Rape Crisis and Counseling center. The Auditor spoke with a staff member from the Center who indicated that they provide valuable expertise and support in the areas of crisis intervention and counseling to address sexual abuse victim needs. She also indicated their agency is allowed to be with the alleged victim for support during the forensic exam and investigatory interviews. The MOU was entered into in 2014 and has no sunset date.

(c) Policy 14-2-DHS, section N (V) on page 27 requires victims of sexual abuse have access to forensic medical examinations, whether onsite or at an outside facility, without financial cost, where evidentiary or medically appropriate. A Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) shall perform such examinations where possible. If SAFEs or SANEs cannot be made available, other qualified medical practitioners can perform the examination. The investigating entity shall document its efforts to provide SAFEs or SANEs. NEOCC does not perform forensic exams at the facility. Detainees needing this type of exam are sent to St. Joseph Hospital in Youngstown. The Auditor interviewed a supervisory staff member from the emergency room at the hospital. She confirmed detainees are sent to the hospital and are seen by a SANE practitioner. The Warden and Medical staff at NEOCC both confirmed detainee victims would never be charged for medical services related to victimization.

### §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:**

(a)(b) Policy 14-2-DHS, section N (1) require the facility administrator ensures that an administrative investigation and a referral for a criminal investigation, where appropriate, be completed for all allegations of sexual abuse. Criminal investigations are conducted by federal, state, or local law enforcement, DHS OIG and/or OPR according to policy. The Warden and facility investigator confirmed that every allegation of sexual abuse made must be investigated. This protocol is also outlined in the MOU with the Youngstown Police Department (PD) outlining the roles and responsibilities of both the facility and the investigating entity in performing sexual abuse investigations. The facility had one allegation within the audit period. The

case was not handled by the facility as a PREA incident. OPR conducted an investigation and determined the incident was unsubstantiated. The Warden also confirmed that investigative reports are retained by NEOCC for a minimum of 10 years.

(c) CoreCivic's website (www.corecivic.com/the-prison-rape-elimination-act-of-2003-prea) and the ICE website (www.ice.gov/prea) provides the investigative protocols available to the public.

(d)(e)(f) Policy 14-2-DHS, section D (V) on page 21 requires all allegations of sexual abuse or assault be immediately and effectively reported to ICE/ERO and the appropriate law enforcement agency (Youngstown PD). In turn, ICE/ERO will report the allegation as a significant incident and refer the allegation for investigation. The Warden confirmed this procedure and stated that he would immediately report any sexual abuse incident immediately to the ICE Field Office Director who would then notify the Joint Intake Center, the ICE OPR and/or the DHS OIG. The Warden also confirmed that investigative reports are retained by NEOCC for a minimum of 10 years.

### §115.31 – Staff training.

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

**Notes:**

(a)(b) Policy 14-2-DHS, section 3 (a) on page 6 requires training on the facility's Sexual Abuse or Assault Prevention and Intervention Program be included in training for all new employees and also be included in annual refresher training thereafter. The auditor reviewed both the classroom and e-learning curriculum provided to staff at NEOCC. The information provided includes: the zero-tolerance policies for all forms of sexual abuse, definitions and examples of prohibited and illegal sexual behavior, right of detainees and staff to be free from sexual abuse, and from retaliation for reporting on prohibited and illegal sexual behavior, recognition of situations where sexual abuse may occur, recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing and responding to such occurrences, how to avoid inappropriate relationships with detainees, how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees, procedures for reporting knowledge or suspicion of sexual abuse, and the requirement to limit reporting of sexual abuse to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes. Although the standard requirement for PREA refresher training is every two years. The facility requires refresher training annually. Documentation provided the Auditor indicated staff was trained within one year of the May 6, 2014 date required by the standard. It was clear from the interviews with random staff, file review, and discussions with the facility training staff the emphasis NEOCC places on staff training. The Auditor also confirmed, except for those staff on long term absence, all staff received the mandated PREA training for 2018.

(c) Policy 14-2-DHS, section 3 (d) on page 6 requires employees confirm, by either electronic or manual signature, their understanding of this received training. Signed documentation will be maintained in the employee's training file. The auditor reviewed 20 employee training records and found signatures acknowledging they received this required training. The employee training records also included completed written exams required at the conclusion of this training. The employee must receive a passing score of 80% or retake the course. Random staff interviews confirmed each received the required PREA training and passed the exam. All staff carries a small credit card sized document outlining the training information and their first responder duties.

The facility exceeds the requirements of the standard by requiring training annually and by providing staff an information card that is carried outlining PREA information and their first responder duties.

### §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) Policy 14-2-DHS, section D (i)(ii)(iii)(iv) on page 7 requires all volunteers and contractors who have contact with detainees be trained on their responsibilities under the facility's sexual abuse prevention, detection, intervention, and response policies and procedures. The training is based on the services they provide and their level of contact with detainees. However, all volunteers and contractors who have any contact with detainees must be notified of the facility's zero-tolerance policy and informed how to report such incidents and those volunteers who have contact with detainees on a recurring basis shall be provided a copy of the policy prior to admission to the facility to begin their assignment or task. The policy further states that volunteers and contractors, having contact with detainees, sign form 14-2A-DHS (Policy Acknowledgement) verifying each reviewed and understood the contents of this policy. These completed forms are maintained by the PSA Compliance Manager, Human Resources and the training department. A newly signed 14-2A-DHS Policy Acknowledgement form will be required for any future revisions of this policy as determined by the FSC General Counsel or designee. The auditor interviewed three contractors and two volunteers. All confirmed receiving PREA training and signing this document. The Auditor also reviewed 10 random contractor/volunteer training files and found the signed 14-2A-DHS Policy Acknowledgment form as required.

### §115.33 – Detainee education.

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

**Notes:**

(a)(d)(e) Policy 14-2-DHS, section F (1) on page 12 requires each detainee upon admission at NEOCC be notified of the facility's zero tolerance policy on sexual abuse and assault through the orientation program and detainee handbook. Detainees will be provided with information (orally and in writing) about the facility's Sexual Abuse and Assault Prevention Intervention (SAAPI) Program. Such information shall include, at a minimum: the facility's zero tolerance policy for all forms of sexual abuse or assault; the name of the facility PSA Compliance Manager, and information about how to contact him/her; prevention and intervention strategies; definitions and examples of detainee-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, JIC, and the ICE OPR investigation processes; information about self-protection and indicators of sexual abuse and assault; prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainee's immigration proceedings; and the right of the detainee who has been subjected to sexual abuse to receive treatment and counseling. Section 2 of this same policy further requires NEOCC to post on each of the detainee living units: the DHS-prescribed sexual abuse and assault awareness notice the name of the 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). If no such organizations exist, the facility shall make available the same information about the national organizations. The Auditor

observed bulletin board notifications in Spanish and English on each of the housing units containing PREA information which provides PREA information to detainees. Detainees are provided the DHS "Sexual Assault Awareness Information" pamphlet in Spanish/English upon arrival at the facility. The CoreCivic Admission and Orientation Detainee Handbook on page 18, provided to each detainee, informs detainees of the mailing address and the 24-hour crisis line telephone number.

(b) This section of the standard requires detainees be provided the detainee notification, orientation, and instruction in formats accessible to all detainees, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to detainees who have limited reading skills. The facility is not in compliance with this standard subsection. Detainees at NEOCC are provided the following information in Spanish or English: The Admission and Orientation Handbook, a CoreCivic Welcome Sheet, ICE Sexual Abuse and Assault Awareness pamphlet, and an ICE National Detainee Handbook. These documents or information sheets are not provided in formats accessible to every detainee. Both staff and detainee interviews confirmed this. Also, policy 14-2-DHS, section F (4) requires every detainee watch the facility PREA video and sign that it was reviewed. Although the ICE video is only available in Spanish and English, every detainee is required to sign that they have seen it to demonstrate compliance with subpart (c) of the standard even though it is in a language they do not understand.

(c)(f) Intake staff informed the Auditor that they provide all detainees the Admission and Orientation Handbook, the CoreCivic Welcome Sheet, the ICE Sexual Abuse and Assault Awareness pamphlet, and the ICE National Detainee Handbook. These documents are provided in Spanish and English only. Although, the Auditor found signed documents by detainees in nine detainee files, neither read nor write English or Spanish. Interviews with the nine random detainees also confirmed they received this information and signed for documents they didn't understand or could not read.

**Recommendation:** The policy 14-2-DHS section F (4) requires every detainee to watch the PREA video and sign that it was viewed. Although the video is only available in Spanish and English every detainee is required to sign that they have seen it regardless if the detainee understands English and/or Spanish. As noted previously in 115.16, the Auditor suggests this practice be changed, so that detainees are provided the information in a language they understand and then sign the form they have received the education in a manner they understood.

### §115.34 – Specialized training: Investigations.

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

**Notes:**

(a) Policy 14-2-DHS, section 3 B (ii) requires the agency 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. The training provided to these investigators includes: 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. As noted earlier in the report, the investigation of the 11-01-2018 allegation was conducted by an untrained ICE Fact Finder. The incident alleged on 3-20-2019 was reviewed and conducted by a trained OPR investigator.

**Does Not Meet:** The 11-2-2018 investigation was completed by an ICE Fact Finder that had not completed the specialized training. Through email documentation and the review of the training rosters the Auditor confirmed the ICE Fact Finder who conducted the sexual abuse investigation was not trained. The name of this ICE Fact Finder, provided to the Auditor, was not found on the list of trained investigators ICE provided to Auditors. Pursuant to standard 115.31, in addition to the general training provided to all agency staff, the agency must provide specialized training on sexual abuse and effective cross-agency coordination to agency investigators, respectively, who conduct investigations into allegations of sexual abuse at immigration detention facilities. All investigations into alleged sexual abuse must be conducted by qualified investigators.

(b) NEOCC has one primary Investigator and three backup investigators. The Auditor interviewed the primary Investigator. He detailed the training he received as required under subpart (a) of the standard. The Auditor reviewed the curriculum of the training the investigators received. The information provided in the course outline included the curriculum requirements of the standard. The Auditor also reviewed each training file of the facility's four trained investigative staff. Each of the files contained successful completion documents for the course.

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

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

**Notes:**

(a)(b)(c) Medical staff and Mental Health staff at NEOCC are CoreCivic employees. Policy 14-2-DHS section 3 b (iv) requires that in addition to the general PREA training provided to all employees, all full and part-time qualified Health Care Professionals and qualified Mental Health Professionals working at NEOCC receive specialized training in how to detect and assess signs of sexual abuse and assault, how to preserve physical evidence of sexual abuse and assault and how to respond effectively and professionally to victims of sexual abuse and assault. Interviews with the facility medical and mental health staff confirmed that each is required to receive the training and described the training as required in subpart (a) of the standard. The interview with the training staff and review of training records for these staff confirmed all medical and mental health staff currently working at NEOCC have received this training (PREA Medical and Mental Health Specialty Training – (E-Learning). This specialized training has no refresher requirement by standard language. CoreCivic requires medical and mental health staff take it annually. The auditor reviewed 10 medical/mental health staff training records. The facility exceeds the standard by providing specialized training to healthcare staff and conducting it yearly.

### §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) Policy 14-2-DHS section D (1-4) on page 9 requires all detainees be screened upon arrival at the facility for potential risk of sexual victimization or sexually abusive behavior and shall be housed to prevent sexual abuse or assault, taking necessary steps to mitigate any such danger. Each new detainee shall be kept separate from the general population until he has been classified and may be housed accordingly. The initial classification process and initial housing assignment should be completed within 12 hours of admission to the facility. The screening involves the use of the Sexual Abuse Screening Tool (form 14-2B-DHS) taking into account whether the detainee has a mental, physical, or developmental disability; age of the detainee; physical build and appearance of the detainee; whether the detainee has previously been incarcerated or detained; 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, bisexual, transgender, intersex, or gender nonconforming; whether the detainee has self-identified as having previously experienced sexual victimization; and the detainee's own concerns about his physical safety. The Auditor observed an intake and risk assessment while on site. The interview with the Classification/Intake Assessment staff confirmed most detainees are assessed immediately (within an hour of their arrival at NEOCC for potential risk of sexual victimization or sexually abusive behavior and stated the screening considers prior acts of sexual abuse or assault, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse or assault in assessing detainees for risk of being sexually abusive. Twenty random detainee interviews confirmed that their risk assessment was completed on the day they arrived at NEOCC.

(e) Policy 14-2-DHS section D (10) on page 10 requires the facility 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/Intake staff member confirmed that each detainee receives this additional assessment between their 60-90 day at NEOCC. As noted earlier the average stay at the facility is 73 days. She indicated the facility typically performs the second assessment between days 60-70. The auditor, during the random detainee file review, found the second assessment performed on those detainees at the facility beyond 60 days. The auditor reviewed 20 detainee files.

(f) Policy 14-2-DHS section D (5) on page 9 prohibits detainees from being disciplined for refusing to answer, or for not disclosing complete information in response to questions asked during the assessment. The Classification staff member confirmed to the Auditor that detainees are never disciplined for refusing to answer any question asked of them during the assessment. The staff utilizes all available information including the responses to the assessment tool when assessing each detainee's potential risk and potential abusiveness. (g) Policy 14-2-DHS section D (8) on page 10 requires that appropriate controls of the assessment information, given in response to the questions asked, be provided and available only to those staff with a need to know (classification staff, intake staff, supervisors, and investigators). The Intake/Classification staff person indicated strict control of accessibility to these files are in place. Case files are locked with a need to know access only.

**§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) Policy 14-2-DHS section E (1) on page 10 requires NEOCC to use the information from the risk assessment (form 14-28-DHS) in their considerations of housing, recreation, work program and other activities. The Classification staff member confirmed that detainees do not have work programs because of their status and short time at NEOCC. She did indicate housing unit assignments and voluntary work assignments are individually determined based on the safety of each detainee and information received from the risk form.

(b) Policy 14-2-DHS section E (2) on page 10 requires the facility when deciding whether to house a transgender or intersex detainee in a male housing unit/area or female housing unit/area, or when making other housing and programming assignments for such detainees, consider the transgender or intersex detainee's gender self-identification and an assessment of the effect of placement and consider on a case-by-case basis whether such a placement would ensure the detainee's health and safety. The facility shall consult a medical or mental health professional as soon as practicable on this assessment. The facility has not detained anyone declaring to be transgender or intersex. The Warden and Unit Management staff person confirmed that transgender placement at NEOCC would be considered on a case by case basis as described by policy taking into account medical and mental health assessment and the concerns voiced by the detainee and never on the detainee's identity documents or physical anatomy of the detainee. They also stated that the NEOCC current policy requires placement and programming assignments for each transgender or intersex detainee be reassessed at least twice each year if they remained that long at NEOCC. These reassessments would take place if the facility received a detainee identifying as transgender or intersex. The facility houses only male detainees.

(c)The PSA Compliance Manager confirmed that if operationally feasible, transgender and intersex detainees would be given the opportunity to shower separately from other detainees. Shower opportunities would be determined based on the housing location, count time and needs of the detainee and operational issues (count times, medication times, program times, etc.) for the facility.

**§115.43 – Protective custody.**

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

**Notes:**

(a)(b)(c)(e) Policy 14-2-DHS section 3 (a) on page 11 prohibits the use of administrative segregation to protect detainees at high risk for sexual abuse and assault except in those instances where reasonable efforts have been made to provide appropriate housing. It further states segregation placement is for the least amount of time practicable, not ordinarily exceeding a period of 30 days, only when no other viable housing options exist. The Warden confirmed to the Auditor that DHS approved policy 14-2-DHS. The Auditor accepted the Warden's confirmation for documentation of the policy review. He further stated that any high-risk detainee placements in segregation must be reported to the Field Office Director (FOD) within 72 hours and if appropriate custodial options are not available at the facility, the facility will consult with the ICE FOD to determine if ICE can provide additional assistance. He also confirmed that detainees placed in administrative segregation for protective custody will be provided access to programs, visitation, counsel and other services available to the general population detainees to the extent possible. The segregation supervisor also indicated detainees would be provided access to programs, visitation, counsel and other services available to the general population or document the reason it was not provided. The Auditor confirmed through interviews no detainees were ever placed in segregation at NEOOC to protect a detainee at high risk for sexual abuse and assault.

(d) Policy 14-2-DHS section 3 d (ii) requires a supervisory staff member shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is warranted. An identical review must be completed after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days and every 10 days thereafter. The Auditor confirmed through interviews with the Warden and PSA Compliance Manager no detainees were ever placed in segregation at NEOOC to protect a detainee at high risk for sexual abuse and assault therefore no reviews were conducted.

**§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) Policy 14-2-DHS section K (1) on page 17 requires and describes the multiple ways detainees at NEOCC may privately report sexual abuse, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents to include: submitting a request to meet with the Health Services staff and/or reporting to a Health Services staff member during sick call, calling the facility's 24 hour toll-free notification telephone number, verbally telling any employee, including the facility Chaplain, forwarding a letter, sealed and marked "confidential", to the Warden or any other employee, calling or writing someone outside the facility who can notify facility staff, contacting their respective consular office, and/or forwarding a letter to the FSC PREA Coordinator. The policy further indicates notification to the DHS OIG as the way for detainees to report sexual abuse to an entity not part of the agency. The CoreCivic detainee handbook, and posters observed throughout the facility inform detainees of various means to report sexual abuse including to their consular or DHS OIG. This information is only provided in Spanish and English. As noted earlier there were six detainees at NEOCC who could not read or understand either of these languages. The Auditor did test the DHS OIG reporting telephone line and reviewed the telephone weekly line checks performed by the DO. The Auditor made telephone contact with the DHS OIG hotline telephone number provided to detainees. The Auditor spoke with the individual answering the phone from the OIG Office who explained the reporting process to the Auditor. She indicated detainees could report sexual abuse incidents confidentially and anonymously. She also verified that the DHS OIG is a public agency separate from DHS. Interviews with detainees that speak other than English and Spanish were not aware of sexual abuse reporting means.

Recommendation: Nine detainees interviewed, that did not speak or understand English or Spanish, informed the Auditor that they were not aware of the reporting methods for sexual abuse. English and Spanish proficient detainees interviewed were aware of reporting means. As noted previously in 115.16, the facility needs to provide sexual abuse reporting instructions to all detainees, not only LEP and Spanish language proficient detainees.

(c) Policy 14-2-DHS section K (2) (i) on page 18 requires NEOCC staff accept reports made verbally, in writing, anonymously, and from third parties, and promptly document any verbal reports. Each of the 12 random staff interviewed confirmed they must immediately report any allegation they become aware of and put in writing any allegation verbally received. The one allegation was made verbally to the facility Case Manager who verbally reported it to the shift supervisor and then submitted a written report. This document became part of the case file.

### §115.52 – Grievances.

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

**Notes:**

Subparts (a)-(f) require: The facility shall permit a detainee to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint and shall not impose a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse. The facility shall implement written procedures for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse. The facility shall issue a decision on the grievance within five days of receipt and shall respond to an appeal of the grievance decision within 30 days. Facilities shall send all grievances related to sexual abuse and the facility's decisions with respect to such grievances to the appropriate ICE FOD at the end of the grievance process. To prepare a grievance, a detainee may obtain assistance from another detainee, the housing officer or other facility staff, family members, or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties.

**Does Not Meet:** Policy 14-2-DHS states the facility does not allow detainees to utilize the grievance process for allege sexual abuse/assault. This was also confirmed in interviews with the Warden and PSA Compliance Manager. NEOCC must develop a grievance process that addresses the requirement of subparts (a-f) of the standard. The facility shall permit a detainee to file a formal grievance related to sexual abuse at any time, after, or in lieu of lodging an informal grievance or compliant.

### §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) Policy 14-2-DHS section 2 (a-e) on pages 25, 26 requires CoreCivic to maintain or attempt to enter into 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, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, shall be allowed for support during a forensic exam and investigatory interviews. NEOCC has an MOU with Compass Family & Community Services-Rape Crisis and Counseling to provide support in areas of crisis intervention, counseling, and support during the investigation and prosecution. The Auditor spoke with a staff member from the Compass Family & Community Services-Rape Crisis and Counseling Center who verified the relationship between NEOCC and their center. She indicated the Center and NEOCC have an MOU that was entered into in 2014 and has no sunset date. She also indicated that Compass Family & Community Services-Rape Crisis and Counseling has a relationship with the Youngstown Police Department and are allowed, if requested by the detainee, to remain during the forensic exam and questioning. The CoreCivic Admission and Orientation Detainee Handbook on page 18, provided to each detainee, informs detainees of the mailing address and the 24-hour crisis line telephone number. It also informs them that communication with this advocacy group are subject to monitoring and the centers responsibility to report to authorities under the state law. The contact information was available on the bulletin boards in each of the housing units. Twelve of the 20 detainees interviewed were aware that the facility provides information about legal advocacy and confidential emotional support for detainee victims. This included Spanish and English-speaking detainees.

### §115.54 – Third-party reporting

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

**Notes:**

Policy 14-2-DHS section K 1 (k) requires each CoreCivic facility to establish a method to receive third-party reports of sexual abuse and shall post this information on the facility PREA link found on their website. The Auditor reviewed the CoreCivic web page www.corecivic.com/the-prison-rape-elimination-act-of-2003-prea) and the ICE web page (www.ICE.gov/PREA). CoreCivic home page has an email address and phone number to report unethical treatment and the ICE home page has reporting links to both their office and OIG. Some detainees during their interviews indicated their awareness to have family and/or friends report sexual abuse on their behalf. The Auditor observed signage in the visiting room and the visitor processing area alerting detainee visitors about how to file an allegation on behalf of a detainee. The Auditor prior to the on-site audit reviewed the facility's and agency's websites.

**§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) Policy 14-2-DHS section 2 (b) on page 17 requires each employee at NEOCC to immediately report: any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility in accordance with this policy, whether or not the area is under CoreCivic's management authority; retaliation against detainees or employees who have reported such an incident; and any employee neglect or violation of responsibilities that may have contributed to an incident or retaliation. Section (f) of this same policy provides staff a means to privately report without going through their chain of command by allowing them to write directly to the Warden by marking the letter confidential. The Auditor interviewed 12 staff members, and each confirmed their responsibility to report any knowledge, suspicion, or information regarding an incident of sexual abuse, retaliation or staff failure to perform their duties he/she becomes aware of to their immediate supervisor. Staff was also aware of their ability to write directly to the Warden if it became necessary. Staff interviewed indicated reporting obligations and confidentiality are presented in the annual PREA training they receive.

(c) Policy 14-2-DHS section K 2 (d) on page 17 requires staff not reveal any information related to a sexual abuse to anyone other than to the extent necessary, and as specified to make treatment, investigation, and other security and management decisions. Interviews with 12 random staff confirmed that information he/she becomes aware of is to remain confidential except when disclosing to a supervisor or in the course of the investigation to an investigator.

(d) As previously noted, NEOCC is an adult male facility with no juveniles. Policy 14-2-DHS section K 2 (H) on page 17 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. The Warden confirmed that, although it has not yet happened at NEOCC, if an alleged victim was designated as a vulnerable adult, he would contact corporate legal office to determine which Ohio agency to report and he would be responsible for the necessary reporting.

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

Policy 14-2-DHS section K 2 (d) on page 17 requires that when staff become aware a detainee is subject to a substantial risk of imminent sexual abuse, immediate action shall be taken to protect the detainee. The random staff interviewed confirmed if they become aware a detainee is at substantial risk of sexual abuse, their first response would be the safety of the detainee at risk. Their first course of action would be to seek out the detainee, isolate him, and notify their supervisor. The Warden confirmed detainee safety would be his paramount concern. He confirmed his options would depend on the situation but initially the detainee would be placed in medical housing; he immediately would ensure an investigation was conducted. He further stated the facility has not reported any incidents of detainees at substantial risk in the last three years.

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

(a)(b)(c) Policy 14-2-DHS section 2 (f) on page 23, the policy requires when facility staff becomes aware of any allegation of sexual abuse that took place while the alleged victim was at another facility, the facility is to contact the facility head or appropriate office of the facility where the alleged abuse took place as soon as possible, but no later than 72 hours after receiving the allegation information. All such contacts and notifications shall be documented on the 5-1 B Notice to Administration; including the allegation, any details learned from the facility where the alleged abuse took place, and the facility's response to the allegation. The interview with the Warden and PSA Compliance Manager confirmed that any allegation made at NEOCC occurring at another facility would require the facility to notify that institution within 72 hours and document the notification and contact. The PSA Compliance Manager confirmed that the facility has had no incidents of a detainee reporting he was sexually assaulted while at another facility.

(d) Section f (vi) on page 23 of this same policy requires, if an allegation is received from another facility, alleging to have occurred at NEOOC, the facility must ensure the allegation is investigated. The Warden confirmed that as with any allegation of sexual assault he would immediately report the alleged incident to the FOD and ensure the facility investigates the allegation. The PSA Compliance Manager stated that upon receiving a notification of any allegation, reported by another facility having occurred at NEOCC; the allegation would be immediately referred to the facility investigator and the Youngstown PD for investigation.

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

(a)(b) Policy 14-2-DHS section 2 (a) on page 19 requires every employee at NEOCC act as a first responder. Everyone is trained that upon learning of an allegation that a detainee was sexually abused, he/she must report to his or her supervisor and be required to, separate the alleged victim and abuser, preserve and protect the crime scene, if the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim and abuser do not to take any actions that could destroy physical evidence. The policy further 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. The random security staff interviewed detailed their responsibilities as required under subpart (a) of the standard. The staff also carries a small card outlining their specific responsibilities as required by the standard as well. The Auditor also interviewed five non-security staff, and all confirmed if a detainee reported an allegation to them, they would request the detainee victim not take any actions that could destroy physical evidence and contact the closest security staff member.

**§115.65 – Coordinated response.**
**Outcome:** Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
**Notes:**

(a)(b) Policy 14-2-DHS section L (1) on page 18 establishes a Sexual Assault Response Team (SART) at NEOCC comprised of the PSA Compliance Manager, security representative, Victim Services Coordinator, a member of the medical staff and a member of the mental health staff. This is

NEOCCs' institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to any incident of sexual abuse. The 14-2-DHS policy provides a checklist (14-2C-DHS: Sexual Abuse Incident Checklist) that is completed after an alleged incident documenting whether the policy and plan was followed by staff. The Auditor interviewed members of the SART team who described their responsibilities as a team member when responding to incidents of sexual abuse. The Auditor reviewed the case file and found Form 14-C - Sexual Abuse Incident Check Sheet completed. This is the coordinated response team checklist filled out for each allegation made.

(c)(d) Policy 14-2-DHS section 2 (c) on page 20 requires if a victim of sexual abuse is transferred between any type of facility, 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. This practice was confirmed by the Warden during his interview. He also stated NEOCC has had no incidents of victims being transferred to another facility in the last 12 months.

### §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:**

Policy 14-2-DHS sections 2 (a) and 3 (a) requires any staff, contractor, or volunteer suspected of perpetrating sexual abuse be removed from all duties requiring detainee contact pending the outcome of an investigation. The Warden confirmed he would remove anyone suspected of sexual abuse from the facility and from contact with any detainee. He also stated that no one has been removed from NEOCC for violation of the facility zero tolerance policy. This was also confirmed during the HR staff interview. The Auditor also verified that there were no sexual abuse allegations made against any staff member, contractor or volunteer within the last 12 months.

### §115.67 – Agency protection against retaliation.

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

**Notes:**

(a)(b)(c) Policy 14-2-DHS section 3 (a)(b) on page 23 prohibits staff, contractors, and volunteers, and other 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 activity as a result of force, coercion, threats, or fear of force. For at least 90 days following any 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 facility shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. The policy designates the PSA Compliance Manager to ensure the designated staff conducts retaliation monitoring, following a report of sexual abuse, to protect against potential retaliation against detainees or employees. HR staff monitors staff retaliation and according to the HR person, she meets at least monthly and monitors that person's work evaluations, work hours, and time off. The Case Manager monitors detainee retaliation. The Case Manager confirmed her monitoring includes periodic status checks, at least monthly, of the detainee and review of relevant documentation including any disciplinary reports and housing or program changes. Monitoring for both staff and detainees is documented on form 14-2D-DHS: Retaliation Monitoring Report. The Case Manager and the HR staff member indicated that monitoring would continue beyond 90 days if the initial monitoring indicates a continuing need. Any retaliation would be brought to the attention of the PSA Compliance Manager who would report it to the Warden. The allegation made on 11-1-2018 was not handled by NEOCC as a PREA incident. That incident was reported to OPR by the detainee through the OIG hotline. OPR conducted an investigation and determined the allegation was unsubstantiated. There was absolutely no communication during any course of the investigation between OPR and NEOCC. This lack of communication resulted in no retaliation monitoring as required of the agency by the standard. The facility did not provide documentation that retaliation monitoring was conducted for the other incident reported on 3-20-2019.

**Does Not Meet:** There was no retaliation monitoring conducted by the facility on an incident. The facility must for 90 days, monitor to see if there are facts that may suggest possible retaliation by detainees or staff.

### §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)(d) As noted in standard 115.42 the use of administrative segregation for housing placement to protect detainee victims is prohibited except in those instances where reasonable efforts have been made to provide a supportive environment that represents the least restrictive housing option possible. The Warden confirmed that he would utilize the medical unit to house any victim of sexual assault and only use administrative segregation if no other option is available. If the segregation option was used, he stated that he would be required to notify the FOD if the detainee victim remained in segregation longer than 72 hours. He indicated he has not ever used protective custody to protect a detainee.

(b)(c) Policy 14-2-DHS section C (3)(iii) on page 23 requires detainee victims of sexual abuse shall not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances or at the request of the detainee. The Auditor spoke with the segregation supervisor who confirmed detainee victims are not placed in segregation and if they were the five-day facility policy would be followed. The Unit Team staff member confirmed any detainee victim who is in protective custody after having been subjected to sexual abuse shall not be returned to the general population until the completion of a proper reassessment.

### §115.71 – Criminal and administrative investigations.

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

**Notes:**

(a) The standard requires if the facility has responsibility for investigating allegations of sexual abuse, all investigations into alleged sexual abuse must be prompt, thorough, objective, and conducted by specially trained, qualified investigators. The facility utilizes a trained investigator. The Auditor verified his training. However, the facility does not complete prompt, thorough, and objective investigations; as the facility failed to conduct an investigation on the allegation reported on 11-1-2018 as required by policy.

(b) The standard requires upon conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the Youngstown PD. An administrative investigation was not conducted after consultation with the appropriate investigative office within DHS after the 11-1-2018 allegation.

(c) Policy 14-2-DHS section N 1 (ii) requires administrative investigations 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 (5) years; and Coordination and sequencing of administrative and criminal investigations to ensure that a criminal investigation is not compromised by an internal administrative investigation. A review of the only case file for the last 12 months demonstrated case file composition following requirements (i-vii) of this subpart.

(e) Standard requires the departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. The Auditor was informed by the Warden and facility Investigator that the departure of the alleged abuser or victim from the employment or control of NEOCC and/or the agency would not be a basis for terminating an investigation.

(f) Policy 14-2-DHS section N 1 (iii) requires when outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. The facility Investigator confirmed he remains a liaison with the Youngstown PD and OPR during the criminal investigation and would stay informed until the case is completed. The allegation made on 11-1-2018 was not handled by the facility as a PREA incident. That incident was reported to OPR, an ICE Fact Finder who conducted an investigation and determined the allegation was unsubstantiated. There was absolutely no communication during any course of the investigation between OPR and NEOCC. This lack of communication resulted in no Incident Review being conducted by the facility and no documented retaliation monitoring by the facility. The review of the 3-20-2019 investigation showed the incident was referred to the Youngstown PD. The Youngstown Police Department determined it was not criminal and did not investigate. The facility investigator completed an administrative investigation and determined it unfounded. OPR opened an investigation and closed the investigation on April 4, 2019 and found the incident unsubstantiated. The information provided by the PSA Compliance Manager did not demonstrate the facility remained informed of the OPR investigation. The incident review only references the facility investigation.

**Does Not Meet:** The facility did not stay informed of the progress of the investigations when outside agencies conducted the investigations. The facility needs to endeavor to remain informed about the progress of an investigation conducted by an outside agency. If the agency is conducting the investigation, they should inform the facility that the allegation is being investigated to ensure the facility is aware and may follow-up on the progress of the 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:**

Policy 14-2-DHS section I v (i) on page 28 requires any sexual abuse administrative investigation in which the facility is the primary investigating entity, the facility shall utilize a preponderance of the evidence standard for determining whether sexual abuse has taken place. The facility Investigator confirmed this determination threshold during his interview.

### §115.73 – Reporting to detainees.

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

**Notes:**

Policy 14-2-DHS section N 3 (1) on page 28 requires if the alleged detainee victim is still in immigration detention, or where otherwise feasible, following an investigation into his 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. The facility Investigator and Warden both confirmed detainees are informed of investigation outcomes regardless of who does it. The detainee is provided the decision, in person by the facility investigator and provided a written response utilizing Form 14-2E. The Auditor reviewed the investigative file from 2019 and found the notification as required by policy.

### §115.76 – Disciplinary sanctions for staff.

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

**Notes:**

(a)(b) Policy 14-2-DHS section O 2 (b) on page 30 requires employees be subject to disciplinary sanctions up to and including termination for violating CoreCivic's sexual abuse policies. Termination is the presumptive disciplinary sanction for staff that have engaged in, attempted, or threatened to engage in sexual abuse. The Warden and PSA Compliance Manager confirmed termination as the presumptive discipline for staff that have engaged in, attempted, or threatened to engage in sexual abuse.

(c)(d) Policy 14-2-DHS section O 2 (d) requires termination for violations of CoreCivic sexual abuse policies, or resignations by employees who would have been terminated if not for their resignation, be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. The Warden confirmed he is responsible for the reporting of such incidents to the local Youngstown PD and any licensing bodies as required.

The facility did not have any allegations involving staff during this audit period.

### §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) Policy 14-2-DHS section O 3(a)(b) requires contractors and volunteers suspected of perpetrating sexual abuse be removed from all duties requiring detainee contact pending the outcome of an investigation. It further requires any contractor or volunteer who has engaged in sexual abuse or assault shall be prohibited from contact with detainees. The facility shall take appropriate remedial measures; and shall consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse or assault; but have violated other provisions within these standards. Incidents of substantiated sexual abuse by a contractor or volunteer shall be reported to law enforcement agencies, unless the activity was clearly not criminal. The Warden confirmed that any contractor or volunteer suspected of perpetrating sexual abuse would be removed from all duties and if the allegation was substantiated would be reported to licensing bodies by his office. The auditor spoke with three contractors and two volunteers who confirmed they were aware of the corrective action for violation of the facility zero tolerance policy. The facility did not have any allegations involving a contractor or volunteer during this 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) Policy 14-2-DHS section O 1 on page 28 (a) states that in addition to the forms of sexual abuse and/or assault defined in Section 14-2.3 Definitions, all other sexual conduct - including consensual sexual conduct - between detainees is prohibited and subject to disciplinary sanctions. Detainees shall be subjected to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse or assault. Section 1 a (ii) requires sanctions 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.

(c) CoreCivic policy, Resident Rules and Discipline-(15-100) dated December 18, 2016 on page 12 details the NEOCC disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedure.

(d) Policy 14-2-DHS section O 1a (iii) on page 29 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. The Warden confirmed that contributing factors in the case would become evident in the investigative process. These mitigating factors would be discussed prior to a misconduct report being issued.

(e) Policy 14-2-DHS section O 1b (v) on page 29 prohibits a detainee from being disciplined for sexual conduct with an employee unless the employee did not consent to such contact.

(f) Policy 14-2-DHS section O 1 c (ii) requires 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 auditor interviewed both the Warden and PSA Compliance Manager about sanctions for detainees. Both confirmed any sexual contact, including consensual sexual conduct between detainees, will subject the detainee to a misconduct report and the progressive levels of the discipline process. Both also indicated the detainee's mental disabilities, or any mental illness would factor into the disciplinary outcome and detainees making a report in good faith would not be disciplined.

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

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

**Notes:**

(a)(b)(c) Policy 14-2-DHS section D (9) on page 10 requires if the risk screening in 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. If the detainee is referred to medical, the detainee must be seen within two working days from the assessment. If the detainee is referred to mental health the follow-up must be no later than 72 hours from the assessment. Both the medical and mental health practitioners confirmed the policy and the time frames for the detainee to be seen by medical and mental health. The Auditor interviewed one detainee who indicated prior victimization upon arrival. He indicated he was referred and seen by mental health within 48 hours of his arrival. The Auditor reviewed his medical record and confirmed he was seen within the 72-hour requirement.

### §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) Policy 14-2-DHS section M 1 on page 24 requires detainee victims of sexual abuse and assault must be provided 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. Section M (i) on page 24 requires emergency medical treatment 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 medical and mental health staff interviews confirmed that detainees receive medical/mental health services immediately upon an allegation being made in accordance with professional standards of care, at no charge regardless if the victim participates in the investigation.

### §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) Policy 14-2-DHS section M1 (c) on page 24 requires the facility to offer a medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse or assault while in immigration detention. The policy also requires the evaluation and treatment of the victim; including follow-up services, treatment plans, and, when necessary, referrals for continued care consistent with the community level of care. Both the medical and mental health staff interviews confirmed, that detainee treatment is immediate, based on their professional opinion, and consistent with community level of care, including additional follow up if necessary.

(d) NEOCC is an adult male facility. This subpart does not apply.

(e) Policy 14-2-DHS section M 1 (g) on page 24 requires that detainee victims of sexual abuse shall be offered tests for sexually transmitted infections as medically appropriate. The facility medical practitioner confirmed that the facility could perform these blood tests, but they are typically performed upon transfer to the outside hospital.

(f) Policy 14-2-DHS section M 1 (i) on page 24 requires medical treatment services 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. This was confirmed by the medical and mental health practitioner interviews.

(g) Policy 14-2-DHS section M 1 (h) requires NEOCC attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

The PSA Compliance Manager, Medical Practitioner and the Mental Health Practitioner indicated that where appropriate, detainee victims of sexual abuse are offered follow up treatment and services, related medical services, crisis intervention, mental health referrals, and tests for sexually transmitted diseases. There have been no detainees sexually abused during the previous 12 months requiring ongoing medical or mental health care.

### §115.86 – Sexual abuse incident reviews.

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

**Notes:**

(a)(b) Policy 14-2-DHS section P (2) on page 30 requires a sexual abuse and assault incident review be conducted at the conclusion of every sexual abuse investigation and where the allegation was not determined to be unfounded and prepare a written report within 30 days of the investigation conclusion recommending whether a change in policy or practice could better prevent, detect, or respond to sexual abuse. This review is conducted by the facility Sexual Abuse Review Team (SART). The team is comprised of the Facility Administrator, upper level management with input from line supervisors, investigators, medical and mental health practitioners. The facility shall implement any SART recommendations for improvement or document the reasons for not doing so. The review is also required to determine whether the incident 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 facility also conducts an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention, and response efforts. The policy and confirmed through interviews with the Warden and the PSA Compliance Manager an incident review would be conducted aft the completion of any sexual abuse investigation within 30 days. There were two PREA incidents alleged at NEOCC during the 12-month audit period; November 1, 2018 and March 20, 2019. According to documentation provided to the Auditor the first incident was reviewed by the facility PSA Compliance Manager, at the time of the allegation, and a determination was made no investigation was required due to the allegation information being so vague and non-specific and did not meet the PREA definition. This was also supported through an email chain but OPR made a determination that the incident rose to the level of a PREA allegation and conducted an investigation. OPR determined the incident was not criminal and concluded the allegation was unsubstantiated. Based on information (documents and emails) the facility was unaware of the OPR investigation and never conducted an incident review as required by policy. The Auditor believes the lack of communication between NEOCC, ERO, and OPR about the November 1, 2018 PREA incident, was the contributing factor for a review not being conducted as required by policy and the standard. The 3-20-2019 allegation did result in an incident review completed on that incident. A written report utilizing the Sexual Abuse or Assault Inceident Review form was completed on April 17, 2019 with no recommendations, Interviews with the current PSA Compliance Manager and Supervisors confirmed their knowledge of the requirement of incident reviews as required by policy and stated had the facility been aware that OPR conducted an investigation, NEOCC would have conducted an incident review as required by policy and standard The PSA Compliance Manager confirmed he reviews the incident reviews and provides the Warden a copy of the incident review along with any recommendations, if made. If the Warden refused to adopt the recommendations, he would need to document his reasons for the refusal. The facility does not meet the standard as it did not complete an incident review on the November 1, 2018 allegation within the 30 days of the completion of that investigation as required by policy and standard.

**Does Not Meet:** The facility did not complete incident reviews on all incidents. NEOCC must follow the DHS approved facility policy and standard requirements of conducting an incident review upon the completion of a sexual abuse allegation investigation. Better communication should be established between OPR, ERO and the facility. OPR should have informed the facility that someone in that office determined the allegation was PREA based.

(c) Policy 14-2-DHS section P (2) on page 30 requires NEOCC conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention, and response efforts. If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the Facility Administrator and ICE FOD, or his or her designee, for transmission to the ICE PSA Coordinator. The Auditor reviewed the annual review for 2018 and found it met the standard requirements.

### §115.87 – Data collection.

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

**Notes:**

(a) Policy 14-2-DHS section 3 (a) on page 32 requires all case records associated with claims of sexual abuse, including incident reports, investigative reports, detainee information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling be retained in accordance with CoreCivic Policy 1-15 Retention of Records. The PSA Compliance Manager confirmed the facility maintains these documents under double lock in the records office with access on a need to know basis only.

**§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 the entire facility and able to question staff and detainees about sexual safety during the site visit.

(e) The Auditor was able to revisit areas of the facility and to view all relevant documentation as requested.

(i) Formal interviews with staff, contractors, and detainees were conducted in a private confidential setting.

(j) Audit notices were posted and observed throughout the facility in English and Spanish.

Auditor received no detainee correspondences.

**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.

November 16, 2019
**Auditor's Signature & Date**

(b) (6), (b) (7)(C) November 16, 2019
**ICE PREA Program Manager's Signature & Date**

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

Homeland Security

| AUDITOR INFORMATION | | | |
|---|---|---|---|
| **Name of auditor:** | Thomas Eisenschmidt | **Organization:** | Creative Corrections, LLC |
| **Email address:** | (b) (6), (b) (7)(C) | **Telephone number:** | 315-730-(b) (6), (b) |

| AGENCY INFORMATION | |
|---|---|
| **Name of agency:** | U.S. Immigration and Customs Enforcement (ICE) |

| FIELD OFFICE INFORMATION | |
|---|---|
| **Name of Field Office:** | Detroit Field Office |
| **Field Office Director:** | James Jacob |
| **ERO PREA Field Coordinator:** | AFOD (b) (6), (b) (7)(C) |
| **Field Office HQ physical address:** | 333 Mt. Elliot St., Detroit, MI 48207 |
| **Mailing address:** *(if different from above)* | |

| INFORMATION ABOUT THE FACILITY BEING AUDITED | | | |
|---|---|---|---|
| **Basic Information About the Facility** | | | |
| **Name of facility:** | Northeast Ohio Correctional Center | | |
| **Physical address:** | 2240 Hubbard Rd., Youngstown, Ohio 44505 | | |
| **Mailing address:** *(if different from above)* | | | |
| **Telephone number:** | 330-746-3777 | | |
| **Facility type:** | IGSA | | |
| **Facility Leadership** | | | |
| **Name of Officer in Charge:** | (b) (6), (b) (7)(C) | **Title:** | Warden |
| **Email address:** | (b) (6), (b) (7)(C) | **Telephone number:** | 330-240-(b) (6), (b) |
| **Facility PSA Compliance Manager** | | | |
| **Name of PSA Compliance Manager:** | (b) (6), (b) (7)(C) | **Title:** | Assistant Warden |
| **Email address:** | (b) (6), (b) (7)(C) | **Telephone number:** | 719-469-(b) (6), (b) |

## FINAL DETERMINATION

### SUMMARY OF AUDIT FINDINGS:

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

The Prison Rape Elimination Act (PREA) on-site audit of the Northeast Ohio Correctional Center (NEOCC) in Youngstown, Ohio was conducted on May 21-23, 2019 by Thomas C. Eisenschmidt, certified Department of Justice (DOJ) and Department of Homeland Security (DHS) PREA Auditor, contracted through Creative Corrections, LLC of Beaumont, Texas. The Auditor was provided guidance and review during the audit report writing and review process by the ICE PREA Program Manager, (b) (6), (b) (7)(C) a DOJ and DHS certified PREA Auditor. 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.

This was the first DHS PREA audit for NEOCC under the DHS PREA Standards. CoreCivic operates the facility contracted for the care and custody of United States Marshall inmates, Ohio State Department of Rehabilitation and Correction inmates, and U.S. Immigration and Customs Enforcement (ICE) detainees. As of February,29, 2020, CoreCivic no longer contracts with ICE for the confinement of detainees at NEOCC. The purpose of the audit was to determine compliance with the DHS PREA standards. The audit period was May 21, 2018, through May 23, 2019.

During the initial audit, the Auditor found NEOCC met 35 standards, had two standards (115.31 and 115.35) that exceeded, had one standard (115.14) that was non-applicable, and six non-compliant standards (115.16, 115.34, 115.52, 115.67, 115.71 and 115.86).

On January 6, 2020, the Auditor, received the ICE PREA Corrective Action Plan (CAP) from the External Reviews and Analysis Unit (ERAU) Team Lead, (b) (6), (b) (7)(C) for NEOCC. The Enforcement and Removal Operations (ERO) developed the CAP with the facility, and the plan addressed the six standards that did not meet compliance during the PREA audit site visit and documentation review. The Auditor reviewed the CAP and concurred with most of the recommendations for achieving compliance with the deficient standards and provided recommendations for compliance for the remaining non-compliant standards. The Auditor reviewed additional documentation on 4-13-2020 and found three of the six standards (115.16, 115.52, and 115.67) to be compliant in all material ways. The remaining three (115.34, 115.71 and 115.86) did not demonstrate compliance with the standard.

The facility was unable to achieve full compliance on the CAP before the 180-regulatory period ended due to outstanding DHS agency-level deficiencies.

## PROVISIONS

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

(b)This subpart of the standard requires the agency and each facility to take steps to ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient (LEP). This includes steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. NEOCC does not provide meaningful access to all LEP detainees. The documentation provided to detainees is available in Spanish and English. Six detainees interviewed communicated in other languages different than English and Spanish. Both staff and detainee interviews confirmed the detainees were not provided this information in a format that they understood.

**Did Not Meet:** The facility does not provide PREA information in a format the detainee understands. The facility needs to provide PREA information to all detainees in a language and format they understand. Intake staff informed the auditor that they provide all detainees the Admission and Orientation Handbook, the CoreCivic Welcome Sheet, the ICE Sexual Abuse and Assault Awareness pamphlet, and the ICE National Detainee Handbook. These documents are provided in Spanish and English only. The Auditor found signed documents by detainees in nine detainee files, who were provided documents to sign, who could neither read nor write English or Spanish. Interviews with the nine random detainees also confirmed they received this information and signed for documents they didn't understand or could not read. The nine detainees interviewed that did not speak or understand English or Spanish, informed the Auditor that they were not aware of the reporting methods for sexual abuse. The facility needs to provide sexual abuse reporting instructions to all detainees, including detainees that are LEP and have disabilities, in a manner they understand.

**CORRECTIVE ACTION COMPLETED:** The facility educated and reinforced, to intake staff, the policy of utilizing Language Line interpretive services for all detainees who are LEP to ensure that each detainee has meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. The Facility also provided 24 random examples of non-English (Spanish, Punjabi, Korean, Bengali, and Tamil) speaking detainees being provided this information in language that each could understand demonstrating the facility is fully compliant, with subpart (b) in all material ways.

(c) Policy 14-2-DHS, section (J)(2)(C) requires NEOCC provide interpretation services to detainees. It cannot be another detainee unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines it is appropriate and consistent with policy. Policy 14-2 also states 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. Interviews conducted with unit management staff and security staff confirmed the use of the language line for interpretive services, as well as, the prohibition of utilizing minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser as interpreters. The one reported case utilized a bilingual staff member (Correction Counselor) to interpret.

### §115. 34 - Specialized training: Investigations

**Outcome:** Does not Meet Standard

**Notes:**

(a) Policy 14-2-DHS, section 3 B (ii) requires the agency 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. The training provided to these investigators includes 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 investigation of the 11-01-2018 allegation was conducted by an untrained employee from OPR.

**Does Not Meet:** The 11-2-2018 investigation was completed by an employee from OPR that had not completed the specialized training. Through email documentation and the review of the training rosters, the Auditor confirmed the employee who conducted the sexual abuse investigation was not trained. The name of this employee, provided to the Auditor, was not found on the list of trained investigators ICE provided to Auditors. Pursuant to standard 115.31, in addition to the general training provided to all agency staff, the agency must provide specialized training on sexual abuse and effective cross-agency coordination to agency investigators, respectively, who conduct investigations into allegations of sexual abuse at immigration detention facilities. All investigations into alleged sexual abuse must be conducted by qualified investigators.

**CORRECTIVE ACTION NOT COMPLETED**: The agency (ICE) did not address the non-compliance. The agency did not provide a process of assigning trained investigators to a PREA investigation. The agency also failed to provide training to all employees responsible for conducting a PREA investigation. Documentation of training for ICE investigators and OPR agents assigned to the NEOCC region was not provided and; therefore, this standard was not complied with.

(b) NEOCC has one primary Investigator and three backup investigators. The Auditor interviewed the primary investigator. He detailed the training he received as required under subpart (a) of the standard. The Auditor reviewed the curriculum of the training the investigators received. The information provided in the course outline included the curriculum requirements of the standard. The Auditor also reviewed each training file of the facility's four trained investigative staff. Each of the files contained successful completed training documents for the course.

**§115. 52 - Grievances**

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

**Notes:**

Subparts (a)-(f) require that the facility shall permit a detainee to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint and shall not impose a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse. The facility shall implement written procedures for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse. The facility shall issue a decision on the grievance within 5 days of receipt and shall respond to an appeal of the grievance decision within 30 days. Facilities shall send all grievances related to sexual abuse and the facility's decisions with respect to such grievances to the appropriate ICE FOD at the end of the grievance process. To prepare a grievance, a detainee may obtain assistance from another detainee, the housing officer, or other facility staff, family members, or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties. Policy 14-2-DHS states the facility does not allow detainees to utilize the grievance process for allege sexual abuse/assault. This was also confirmed in interviews with the Warden and PSA Compliance Manager.

**Does Not Meet:** Policy 14-2-DHS states the facility does not allow detainees to utilize the grievance process for allege sexual abuse/assault. This was also confirmed in interviews with the Warden and PSA Compliance Manager. NEOCC must develop a grievance process that addresses the requirement of subparts (a-f) of the standard. The facility shall permit a detainee to file a formal grievance related to sexual abuse at any time, after, or in lieu of lodging an informal grievance or compliant.

**CORRECTIVE ACTION COMPLETED:** During the CAP process, NEOCC revised policy 14.2 and implemented the changes on July 5, 2019, allowing detainees to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint. The facility did not receive a sexual abuse allegation through the grievance process during the CAP period. The amended policy addresses each requirement of the standard.

**§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) Policy 14-2-DHS section 3 (a)(b) on page 23 prohibits staff, contractors, and volunteers, and other 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 activity as a result of force, coercion, threats, or fear of force. For at least 90 days following any 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 facility shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. The policy designates the PSA Compliance Manager to ensure the designated staff conducts retaliation monitoring, following a report of sexual abuse, to protect against potential retaliation against detainees or employees. Human Resource staff monitor staff retaliation and according to the HR Administrator, she meets at least monthly and monitors that person's work evaluations, work hours, and time off. The Case Manager monitors detainee retaliation. The Case Manager confirmed her monitoring includes periodic status checks, at least monthly, of the detainee and review of relevant documentation including any disciplinary reports and housing or program changes. Monitoring for both staff and detainees is documented on form 14-2D-DHS: Retaliation Monitoring Report. The Case Manager and the HR Administrator indicated that monitoring would continue beyond 90 days if the initial monitoring indicated a continuing need. Any retaliation would be brought to the attention of the PSA Compliance Manager who would report it to the Warden. The allegation made on 11-1-2018 was not handled by NEOCC as a PREA incident. That incident was reported to OPR by the detainee through the OIG hotline. OPR conducted an investigation and determined the allegation was unsubstantiated. There was absolutely no communication during any course of the investigation between OPR and NEOCC. This lack of communication resulted in no retaliation monitoring occurring as required of the facility by the standard. Furthermore, the facility did not provide documentation that retaliation monitoring was conducted for the other incident reported on 3-20-2019.

**Does Not Meet:** There was no retaliation monitoring conducted by the facility on any incident. The facility must for 90 days, monitor to see if there are facts that may suggest possible retaliation by detainees or staff.

**CORRECTIVE ACTION COMPLETED:** NEOCC provided written documentation to the Auditor over the CAP period that staff responsible for retaliation monitoring were trained on duties as outlined in the standard and policy on monitoring. The facility had no incidents of sexual abuse during the CAP period to provide written documentation for retaliation monitoring. However, the Auditor believes the facility complies with this standard in all material ways.

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

**Outcome:** Does not Meet Standard

**Notes:**

(a) The standard requires if the facility has responsibility for investigating allegations of sexual abuse, all investigations into alleged sexual abuse must be prompt, thorough, objective, and conducted by specially trained, qualified investigators. The facility utilizes a trained investigator. The Auditor verified his training. However, the facility does not provide complete prompt, thorough, and objective investigations, as the facility failed to conduct the investigation on the allegation reported on 11-1-2018 as required by policy. This incident was reported to OPR by the detainee through the OIG hotline. OPR conducted the investigation and determined the allegation was unsubstantiated. There was absolutely no communication during any course of the investigation between OPR and NEOCC. This lack of communication resulted in the facility not conducting the administrative investigation as required by the standard.

(b) The standard requires upon conclusion of a criminal investigation where the allegation was substantiated; an administrative investigation shall be conducted. Upon completion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the proper investigative office within DHS and the Youngstown Police Department. An administrative investigation was not performed after consultation with the appropriate investigative office within DHS after the 11-1-2018 allegation.

(c) Policy 14-2-DHS section N 1 (ii) requires administrative investigations 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 alleged 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 (5) years; and coordination and sequencing of administrative and criminal investigations to ensure that a criminal investigation is not compromised by an internal administrative investigation. A review of the only case file for the last 12 months demonstrated case file composition following requirements (i-vii) of this subpart.

(e) The standard requires the departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. The Warden and facility's Investigator informed the Auditor that the departure of the alleged abuser or victim from the employment or control of NEOCC and/or the agency would not be a basis for terminating an investigation.

(f) Policy 14-2-DHS section N 1 (iii) requires when outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. The facility's Investigator confirmed he is the liaison with the Youngstown Police Department and OPR during the criminal investigation and would stay informed until the case is completed. The facility did not handle the allegation made on 11-1-2018 as a PREA incident. That incident was reported through the OIG hotline to OPR, who conducted the investigation and determined the allegation was unsubstantiated. There was no communication during any course of the investigation between OPR and NEOCC. This lack of communication resulted in no administrative investigation, incident review and retaliation monitoring being conducted by the facility. The review of the 3-20-2019 investigation showed the incident was referred to the Youngstown PD.

**Does Not Meet:** The facility did not stay informed of the progress of the investigations when outside agencies conducted the investigations. The facility needs to endeavor to remain informed about the progress of an investigation conducted by an outside agency. If the agency is conducting the investigation, they should inform the facility that the allegation is being investigated to ensure the facility is aware and may follow-up on the progress of the investigation.

**CORRECTIVE ACTION NOT COMPLETED:** The agency (ICE) did not address the non-compliance. The agency must notify the facility of investigations received that are not reported through the facility for the facility to stay informed on the investigation initiated. The agency (ICE) did not provide examples of notification to the facility or a written process to ensure communication from the agency to the facility. The agency did not provide a means of assigning trained investigators to a PREA investigation and therefore, this standard remains non-compliant.

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

**Outcome:** Does not Meet Standard

**Notes:**

(a)(b) Policy 14-2-DHS section P (2) on page 30 requires a sexual abuse and assault incident review be 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 investigation conclusion recommending whether a change in policy or practice could better prevent, detect, or respond to sexual abuse. This review is conducted by the facility Sexual Abuse Review Team (SART). The team is comprised of the Facility Administrator, upper-level management with input from line supervisors, investigators, and medical and mental health practitioners. The facility shall implement any SART recommendations for improvement or document the reasons for not doing so. The review is also required to determine whether the incident 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 facility also conducts an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention, and response efforts. The interviews with the Warden and the PSA Compliance Manager confirmed an incident review would be conducted after the completion of any sexual abuse investigation within 30 days. There were two PREA incidents alleged at

NEOCC during the 12-month audit period; November 1, 2018, and March 20, 2019. According to the documentation provided to the Auditor, the first incident was reviewed by the facility PSA Compliance Manager, at the time of the allegation, and a determination was made that no investigation was required due to the allegation information being so vague, non-specific, and not meeting the PREA definition of sexual abuse. However, email documentation supported that upon receipt of the allegation through the OIG hotline, OPR decided that the incident rose to the level of a PREA allegation and subsequently conducted an investigation. OPR determined the incident was not criminal and concluded the allegation was unsubstantiated, but based on the information (documents and emails), the facility was unaware of the OPR investigation and never conducted an incident review as required by policy. The Auditor believes the lack of communication between NEOCC, ERO, and OPR about the November 1, 2018 PREA incident, was the contributing factor for a review not being completed as required by policy and the standard. The second allegation on 3-20-2019 did result in an incident review being completed for that incident. Interviews with the current PSA Compliance Manager and Supervisors confirmed their knowledge of the requirement of incident reviews as required by policy and stated had the facility been aware that OPR conducted the investigation, NEOCC would have completed an incident review as required by policy and standard. The PSA Compliance Manager confirmed he reviews the after-incident reviews and provides the Warden a copy of the review along with any recommendations, if made. If the Warden refused to adopt the recommendations, he would need to document his reasons for the refusal. The facility does not meet the standard as it did not complete an incident review on the November 1, 2018 allegation within the 30 days of the completion of that investigation as required by policy and standard.

**Does Not Meet:** The facility did not complete incident reviews on all incidents. NEOCC must follow the DHS approved facility policy and standard requirements of conducting an incident review upon the completion of a sexual abuse allegation investigation. Better communication should be established between OPR, ERO and the facility. OPR should have informed the facility that someone in that office determined the allegation was PREA based.

**CORRECTIVE ACTION NOT COMPLETED**: The agency (ICE) did not address the standards of non-compliance. The agency must address communication efforts with the facility to ensure the facility is aware investigations are in process. The agency did not provide any process/procedures on how ICE is to notify a facility when an allegation is reported by another source other than a facility report to ensure communication from the agency to the facility. The PSA Compliance Manager indicated to the Auditor that had the facility been aware of an investigation into an allegation of sexual abuse had been made, NEOCC would have conducted an incident review on the allegation per their policy and the standard requirement. He also provided the Auditor with an example of an incident review conducted on an allegation outside the audit time frame.

**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.

*Thomas Eisenschmidt* July 8, 2020
**Auditor's Signature & Date**

(b) (6), (b) (7)(C) July 8, 2020
**Assistant Program Manager's Signature & Date**

(b) (6), (b) (7)(C) July 8, 2020
**Program Manager's Auditor's Signature & Date**