

PREA Audit: Subpart A DHS Immigration Detention Facilities Audit Report



Homeland Security

AUDIT DATES

From:	3/22/2022	To:	3/24/2022
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AUDITOR INFORMATION

Name of auditor:	Ron Kidwell	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	571-406-(b) (6), (b) (7)(C)

PROGRAM MANAGER INFORMATION

Name of PM:	(b) (6), (b) (7)(C)	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	772-579-(b) (6), (b) (7)(C)

AGENCY INFORMATION

Name of agency:	U.S. Immigration and Customs Enforcement (ICE)
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FIELD OFFICE INFORMATION

Name of Field Office:	Salt Lake City Field Office
Field Office Director:	(b) (6), (b) (7)(C)
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	2975 Decker Lake Dr. #100, West Valley City, Utah 84119-6096
Mailing address: (if different from above)	Click or tap here to enter text.

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

Name of facility:	Nye County Detention Center
Physical address:	1521 E. Siri Ln. Pahrump, NV 89060
Mailing address: (if different from above)	Click or tap here to enter text.
Telephone number:	775 751-7027
Facility type:	IGSA
PREA Incorporation Date:	5/30/2019

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Captain
Email address:	(b) (6), (b) (7)(C)	Telephone number:	775-751-(b) (6), (b) (7)(C)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Captain
Email address:	(b) (6), (b) (7)(C)	Telephone number:	775-751-(b) (6), (b) (7)(C)

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

NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS

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

The U.S. Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of the Nye County Detention Center (NCDC) operated by the Nye County Sheriff's Office (NCSO) was conducted on March 22-24, 2022, by U.S. Department of Justice (DOJ) and (DHS) certified PREA Auditor Ron Kidwell for Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by the ICE PREA Program Manager (PM), (b) (6), (b) (7)(C) and Assistant ICE Program Manager (APM), (b) (6), (b) (7)(C) both DOJ and DHS certified PREA Auditors. The Program Manager's role is to provide oversight to the ICE PREA audit process and liaison with the ICE, Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU) during the audit report review process. The purpose of the audit was to determine compliance with the DHS PREA standards during the audit period of March 2021 through March 2022. Nye County is 18,159 sq. miles, Nevada's largest county by area and is the third largest county in the contiguous U.S. The NCSO is run by a duly elected Sheriff that must run for re-election every four years. The Sheriff is the NCSO head, responsible for enforcing both civil and criminal laws. The Sheriff's Office also operates the county detention center where sworn deputy sheriffs are responsible for detainee and inmate safety and security. The facility was constructed in 1999 on the same block as the existing Pahrump Justice Court Complex. The facility is a two-story building surrounded by a security fencing perimeter with a secure Sallyport. The building is part of a county complex that includes the Pahrump Township Justice Courthouse, Nye County Treasurer's Office, and the juvenile detention center. Also, located within the secure perimeter is the Sheriff's Office training facility.

The facility's inmate housing capacity is 225. DHS ICE contracts with NCDC to hold up to 75 detainees. At this facility, ICE detainees are housed with county inmates. The detainees wear yellow identification wrist bands to identify those that are ICE detainees. NCDC does not accept or hold any female ICE detainees. The detention center consists of 11 two-story housing units. All 11 housing units make up a horseshoe design with 2 deputies stationed in the walkway/common area. There is also a control center located in the center of the housing area that controls all security doors and camera observation. This control room is staffed by a detention technician which is only authorized to operate the control centers located within the facility. These detention technicians are sheriff's office employees who are not sworn law enforcement but may have contact with detainees. They are trained in PREA and first responder responsibilities.

This is the first DHS PREA audit conducted for NCDC to determine compliance with the DHS PREA standards. Team Lead (b) (6), (b) (7)(C) from OPR ERAU provided the completed Pre-Audit Questionnaire (PAQ), along with supporting documents and policies for the NCDC on the secure ERAU SharePoint website approximately three weeks prior to the on-site phase of the audit. The provided information included policies, memorandums of understanding (MOUs), training records and curricula, facility schematics, and a multitude of other related documentation and materials to determine compliance with the DHS PREA standards.

The Auditor completed the review of all the documentation that was provided by the Team Lead and NCDC in the FY22 Facility Document folder found on the SharePoint platform. The documentation is supposed to help support how a facility is establishing a baseline for its actual practice for zero tolerance for sexual abuse. On March 9, 2022, the Auditor emailed the Team Lead with a request to identify specialized staff for interview purposes. The Auditor also identified possible gaps or issues that needed to be followed up on and in some cases requested additional information. The request was captured on an easy to review document called an Issue Log. The log is used to outline requests for response to questions that need to be clarified during the audit process. The Auditor submitted his Issue Log to the Team Lead on March 11, 2022, containing 28 requests for additional information. This information was provided to the Auditor during the on-site phase and only several requests were met. However, the Team Lead did try multiple times to obtain this information, prior to the on-site phase. Therefore, the Auditor did not review the information provided until after returning from the on-site audit phase.

On March 9, 2022, the Auditor contacted the victim advocacy group that the NCDC had identified as their victim advocate. The Nevada Outreach Training Organization (NO TO) located in Pahrump, Nevada, is a volunteer crisis center that provides services for elder abuse, domestic/sexual violence, and forensic interviews for children who have experienced sexual/physical abuse. When conducting an interview with their representative, she informed the Auditor that they run a 24-hour hotline that would refer individuals to the Las Vegas Rape Crisis Center.

On March 22, 2022, at approximately 8:00 a.m., the Auditor met the ERAU team at the facility and proceeded to the Training Room where the in-briefing was conducted by the ERAU Team Lead (b) (6), (b) (7)(C) Those in attendance where:

(b) (6), (b) (7)(C) ICE/ERO Supervisory Deportation and Detention Officer (SDDO)
(b) (6), (b) (7)(C) NCSO Captain, NCDC Officer in Charge (OIC)/Prevention of Sexual Assault (PSA) Compliance Manager
(b) (6), (b) (7)(C) ICE/OPR/ERAU Section Chief (SC)
(b) (6), (b) (7)(C) NCSO Detention Lieutenant
(b) (6), (b) (7)(C) ICE/OPR/ERAU Inspections and Compliance Specialist (ICS)
Ron Kidwell, Certified DOJ/DHS Auditor, Creative Corrections, LLC

The meeting was designed to create a positive working relationship, place names with faces, and prepare for the next three days. Soon after the conclusion of the meeting the Auditor began the facility tour accompanied by the Lieutenant, ERAU Section Chief, and

ERAU Team Lead. The tour covered the entire facility over the next two hours. The Auditor observed 11 housing pods, a booking area that was currently being renovated and under construction, classroom, law library, two medical isolation cells, recreation yard, sallyport, laundry room, storage room, control rooms, and reception area. The Auditor did not observe the kitchen area because only trustees are allowed to work in the kitchen and the NCDC does not allow detainees to become trustees. During the tour, the Auditor looked at camera placements for possible blind spots and detainee to officer ratio in accordance with the housing pod's capacity occupancy. The Auditor looked at how the toilets and shower areas were configured and if detainees are able to change clothes, shower, and use the restroom without being viewed by opposite-gender staff. The Auditor documented that PREA Posters and PREA Audit Notices were displayed on the perimeter walls in each housing pod. However, PREA Posters were not placed in the public reception area. The Auditor also spoke to several detainees regarding how they would report a sexual abuse.

PREA Audit Notices in English and 11 other languages were sent to the NCDC prior to the on-site visit. The PREA Audit Notice communicates to staff and detainees that the facility will be undergoing an audit for compliance with DHS/ICE standards to prevent, detect, and respond to sexual abuse in a confinement setting. The notice also spells out how confidential information is to be handled and where that confidential information can be reported. The Auditor received one correspondence from a detainee that is currently being housed at this facility. The Auditor conducted an interview with this detainee. No other correspondence was received by either staff, or any other individual during this audit phase. The Auditor noted the number of phones in each housing pod and that the advocacy information along with the outside reporting entity contact information was readily available in the housing areas. The Auditor also conducted a test call to the outside entity in an attempt to prove the effectiveness of the facility's practice. Finally, the Auditor did not observe the processing of a detainee when initially brought to the facility by the ICE ERO or transported by NCSO deputies. This opportunity did not present itself during the Auditor's time at the on-site audit.

Immediately following the facility tour, the Auditor interviewed staff as well as detainees at the facility. Staff interviews were either conducted in a private classroom or the interviewee's office, both located on the first floor of the facility. During the interview process, six random staff were interviewed. These interviews included five deputy sheriffs and one detention technician. The staff were randomly selected by the Auditor using the daily duty roster provided by the ICE ERO SDDO. The Auditor chose staff from both day and night shifts, working different assignments, and with different levels of experience. The Auditor also made sure interviews were conducted with the appropriate number of female staff that corresponded with the daily duty roster. The Auditor also conducted 11 specialized staff interviews. This process continued over the next two days. Over the three-day period, the Auditor conducted 37 interviews with staff and detainees. Listed below is the sample of specialized staff positions that were interviewed:

- Captain /OIC
- PSA Compliance Manager
- Administrative/Human Resources Staff
- Investigative Staff
- Medical and Mental Health Care Staff
- Training Supervisor
- Grievance Coordinator
- Intake Staff
- Intermediate or Higher-Level Staff

The selection of specialized staff also included several individuals who held multiple roles and responsibilities covered by the protocols. For example, the OIC is responsible for monitoring retaliation and is part of the Incident Review Team.

During the audit, 13 random detainees were chosen to be interviewed. At the time of this audit there were approximately 49 detainees housed at this facility. The Auditor chose the names at random by going down the detainee roster by housing location. Age, institutional experience, and housing assignments were taken into consideration when making these selections.

Lastly, the Auditor interviewed two detainees with disabilities, one detainee that reported sexual abuse, and four detainees that were limited English proficient (LEP) utilizing the agency language line services. The Auditor requested access to an outside line so that he could utilize the Creative Corrections Language Line service, but the staff member advised the Auditor that based on the phone access in the location where the interviews were being conducted it was not possible to give him access to an outside line to place the call and told the Auditor that he would have to use the agency language line services. The NCDC reported that no lesbian, gay, bisexual, transgender or intersex (LGBTI) detainees were currently being housed at their facility.

At the conclusion of the second day of the audit, the Auditor had five interviews remaining to conduct and the review of all the documentation files. The Auditor requested that the NCDC point of contact (POC) Detention Lieutenant provide the Auditor with a predetermined list of investigations, detainee files, and employee files selected by the Auditor for the following day. The files were provided to the Auditor for review.

Those files consisted of 20 detainee files, 12 employee files, and 3 investigative files. The detainee files provided were of those detainees that were interviewed during the audit. The employee files were selected randomly.

There were seven allegations of sexual abuse reported during the audit period (2 inmate-on-detainee; 3 staff-on-detainee; and 2 detainee-on-detainee) according to the Allegations Spreadsheet provided by the Team Lead. Based on review of the Allegations Spreadsheet, all allegations were investigated and closed, with four unfounded, one substantiated, and one unsubstantiated. The

Auditor selected three investigative files for review. Of the three investigative files reviewed, two were allegations involving staff-on-detainee abuse and one allegation involving inmate-on-detainee abuse. The final dispositions of these cases were as follows; the inmate-on-detainee case was substantiated, one staff-on-detainee case was unsubstantiated, and one staff-on-detainee case was unfounded. Lastly, the NCSO detectives were contacted in all three cases to determine if criminal activity occurred.

The facility provided two governing policies related to and covering procedures for their Sexual Abuse and Assault Prevention and Intervention (SAAPI) program which are part of the NCSO Policy Procedures Manual: Policy NCDC 022, Prisoner Search; and Policy NCDC 0047, PREA. These policies will be referenced throughout this report as NCSO Policy 022 and NCSO Policy 0047. It should be noted that the policies do not contain any reference to management of detainees, only inmates.

The facility's Operations Captain is the acting Commander of the NCDC (OIC) and designated as the PSA Compliance Manager. Due to the multiple roles held by the incumbent in this position the Auditor will utilize OIC throughout the report when referring to interviews conducted and responsibilities related to this person.

On Thursday, March 24, 2022, an exit briefing was held at approximately 1:30 p.m. in the Training Room to discuss the audit findings. ERAU Team Lead (b) (6), (b) (7)(C) opened the meeting and then turned it over to the Auditor for an overview of the findings. The following individuals were in attendance:

(b) (6), (b) (7)(C) ICE/ERO Assistant Field Office Director (AFOD)
(b) (6), (b) (7)(C) ICE/ERO, SDDO
(b) (6), (b) (7)(C) NCSO Captain, NCDC OIC/PSA Compliance Manager
(b) (6), (b) (7)(C) ICE/OPR/ERAU, SC
(b) (6), (b) (7)(C) NCSO Detention Lieutenant
(b) (6), (b) (7)(C) NCSO Sergeant
(b) (6), (b) (7)(C) ICE/OPR/ERAU, ICS
Ron Kidwell, Certified DOJ/DHS Auditor, Creative Corrections, LLC

The Auditor thanked everyone present and the entire staff at the NCDC for their cooperation, professionalism, and hospitality during the audit. The Auditor reported that the facility had not provided specialized PREA training to their medical personnel in accordance with DHS standard 115.35. In addition, the facility needed to create a policy and procedure to address the need to reassess all detainees within 60-90 days from the initial classification risk screening in accordance with DHS standard 115.41. The Auditor advised those in attendance that he would be unable to provide them with the audit findings until performing a triangulation of all information collected (policy, interviews, observations) to determine if each standard is met before making a final decision.

SUMMARY OF AUDIT FINDINGS

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

Number of Standards Exceeded: 0

Number of Standards Met: 13

§115.18 Upgrades to facilities and technologies
§115.31 Employee, contractor, and volunteer training
§115.34 Specialized training: Investigations
§115.51 Detainee reporting
§115.54 Third-party reporting
§115.62 Protection duties
§115.63 Reporting to other confinement facilities
§115.71 Criminal and administrative investigations
§115.72 Evidentiary standard for administrative investigations
§115.78 Disciplinary sanctions for detainees
§115.82 Access to emergency medical services
§115.83 Ongoing medical and mental health care for sexual abuse victims and abusers
§115.87 Data collection

Number of Standards Not Met: 27

§115.11 Zero-tolerance of sexual abuse
§115.13 Detainee supervision and monitoring
§115.15 Limits to cross-gender viewing and searches
§115.16 Accommodating detainees with disabilities and detainees who are limited English proficient
§115.17 Hiring and promotion decisions
§115.21 Evidence protocol and forensic medical examinations
§115.22 Policies to ensure investigation of allegations and appropriate agency oversight
§115.32 Other Training
§115.33 Detainee education
§115.35 Specialized training: Medical and mental health care
§115.41 Assessment for risk of victimization and abusiveness
§115.42 Use of Assessment Information
§115.43 Protective Custody
§115.52 Grievances
§115.53 Detainee access to outside confidential support services
§115.61 Staff reporting duties
§115.64 Responder duties
§115.65 Coordinated response
§115.66 Protection of detainees from contact with alleged abusers
§115.67 Agency protection against retaliation
§115.68 Post-allegation protective custody
§115.73 Reporting to detainees
§115.76 Disciplinary sanctions for staff
§115.77 Corrective action for contractors and volunteers
§115.81 Medical and mental health screening; history of sexual abuse
§115.86 Sexual abuse incident reviews
§115.201 Scope of audits

Number of Standards Not Applicable: 1

§115.14 Juveniles and family detainees

PROVISIONS

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

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(c)(d) NCSO Policy 0047 is the NCDC's written SAAPI policy that states in part, "The Nye County Sheriff's Office is committed to zero tolerance of any form of sexual abuse and sexual harassment in facilities it operates directly or with which it holds contracts for the confinement of inmates. The purpose of this policy is to describe NCSO's mandate of zero tolerance toward all forms of sexual abuse and harassment, and to outline NCSO's approach to preventing, detecting, and responding to sexual abuse at the NCDC. NCSO mandates zero tolerance toward all forms of sexual abuse, assault, and harassment are never an acceptable consequence of detention. Sexual abuse of an inmate and sexual harassment of an inmate are prohibited."

This policy also outlines how NCDC will implement the NCSO's approach to preventing, detecting, and responding to sexual abuse such as employing/designating a PREA Coordinator with enough time and authority to oversee the jail's efforts to comply with PREA standards. To make best efforts to comply with facility staffing plan and to have supervisors conduct unannounced rounds among many other strategies. In addition, the policy provides the definitions of sexual abuse, sexual harassment, and voyeurism. The policy also addresses sanctions for those who violate the PREA policy with discipline up to and including termination. Finally, the NCSO PREA policy in its entirety incorporates the necessary fundamentals needed to describe NCSO's approach to detecting, preventing, and responding to allegations of sexual abuse. The facility did not provide any evidence that the NCSO Policy 0047 was reviewed and approved by ICE.

NCSO Policy 0047 identifies the NCSO Operations Captain as being designated as the NCDC PSA Compliance Manager. The PSA Compliance Manager confirmed during his interview that he is facility's point of contact for the ICE PSA Compliance Manager and stated that he has sufficient time and, as the NCDC's OIC, authority to oversee facility efforts to comply with facility sexual abuse prevention and intervention policies and procedures.

Does Not Meet (c): The facility presented no evidence that the written SAAPI policy was presented to ICE for review and approval. To become compliant, the facility must present the facility's SAAPI policy to ICE for review and approval and provide documentation to the Auditor for compliance review.

Recommendation (c): The Auditor recommends that the SAAPI policy be updated to include reference to detainees, where appropriate, so it is clear that the policy extends to ICE detainees held at NCDC.

§115.13 - Detainee supervision and monitoring.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c) NCSO Policy 0047 states in part, "the NCSO will adopt and implement the following measures to prevent and detect sexual abuse in its facility. In the process of creating and revising a staffing plan to provide for adequate levels of staffing and video monitoring to protect inmates against sexual abuse, NCSO shall ensure that the following factors are taken into consideration:

- Generally accepted detention and correctional practices.
- Any judicial findings of inadequacy.
- Any findings of inadequacy from federal investigative agencies.
- Any findings of inadequacy from internal or external oversight bodies.
- All components of the facility's physical plant.
- The composition of the inmate population.
- The number and placement of supervisory staff.
- Programs occurring on a specific shift.
- Any applicable State or local laws, regulations, or standards.
- The prevalence of substantiated and unsubstantiated incidents of sexual abuse.
- Any other relevant factors.

NCSO shall make its best efforts to comply with the staffing and video monitoring plan and, in circumstances where it is not complied with, shall document, and justify all deviations." The policy also states in part that, "At least once every year, and in collaboration with the PREA Coordinator, NCSO shall conduct an assessment to determine whether adjustments are needed to the staffing plan and the deployment of video monitoring systems and other technologies."

During the on-site tour, this Auditor observed staff to detainee ratios in each housing block and the number of supervisors present working alongside staff. The Auditor also observed camera placement and entered each control room where video monitoring was

being conducted.

During the interview with the OIC, he was asked if the facility had a comprehensive detainee supervision guideline and if the guideline includes consideration of measures to protect detainees from sexual abuse, and if video monitoring is part of the plan and if the detainee guideline is documented. The OIC confirmed "yes" to all the above questions. The OIC also confirmed that when reviewing the staffing levels on an annual basis that they consider all the above matters. The OIC explained that there are three levels of supervision with oversight regarding staffing levels to ensure adequate staff is made available to compensate for those deputies that are on leave or training. The Auditor conducted the required interview with the PSA Compliance Manager regarding this standard and because the PSA Compliance Manager is the OIC at this facility, the OIC just reconfirmed what he had already answered the above. Although the OIC stated during his interview that the facility has comprehensive detainee supervision guidelines, the facility was unable to produce documented guidelines for the Auditor's review. The Auditor requested during the pre-audit phase and during the on-site visit that the facility provide a comprehensive detainee supervision guideline and evidence of an annual review of this detainee supervision guideline. At this time, no documents have been produced.

Does Not Meet (b)(c): The NCDC has not provided evidence that a developed and documented comprehensive detainee supervision guideline exists and that those guidelines are reviewed at least annually. A comprehensive detainee supervision guideline must be developed and documented and be reviewed at least annually. These guidelines should identify the number of staff assigned to the detention center, identify the number of supervisors and all other positions needed to carry out the day-to-day operations at the detention center. Additionally, the supervision guidelines need to identify the minimum staff needed to supervise the maximum number of detainees safely and securely. In determining the adequate levels of detainee supervisions and determining the need for video monitoring, the facility shall also take into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of each facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody. The annual review of the comprehensive detainee supervision guideline must be documented, codifying the who, what, when, and how this review occurred.

(d) NCSO Policy 0047 states in part, "Supervisors shall conduct and document unannounced rounds covering all shifts, and all areas of the facility, to identify and deter staff sexual abuse or harassment. NCSO policy prohibits staff members who are aware of these rounds from alerting other staff as to when or where these rounds are occurring, unless related to the legitimate operational needs of the facility. Logs shall be conducted for these rounds documenting any concerns they locate. Any concerns shall be forwarded up the chain of command to the Detention Lieutenant immediately."

The Auditor conducted an interview with a first-line or higher-level supervisor and asked if he conducted unannounced rounds at different times to include day and night shifts. The Supervisor confirmed that he did and that it is documented. The NCDC provided documentation of multiple examples of documented unannounced rounds and a copy of a monthly duty roster of both confinement deputies and detention technicians' schedules.

§115.14 - Juvenile and family detainees.

Outcome: Not Applicable (provide explanation in notes)

Notes:

(a)(b)(c)(d) NCSO Policy 0047 states in part that, "Youthful inmates will be dealt with in accordance with NCDC Policy #0073." The completed PAQ indicates no juvenile detainees have been held at NCDC and during conversations with staff and the OIC, they confirmed that the facility does not house or accept juvenile or female ICE detainees. During the on-site portion of this audit, there was no indication or evidence that juvenile detainees are housed at this facility. During the policy and document request it was asked that the facility create a memo for the Auditor stating that the facility does not house juvenile detainees or families. Currently no memo has been drafted or provided by the facility to the Auditor. In addition, this request was once again made as part of the Issue Log that was provided to the Team Lead by the Auditor on March 11, 2022. To date, the facility has not provided this requested document. This unfulfilled request is noted in 115.201.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(b)(d) NCSO Policy 0047 and 0022 were reviewed by the Auditor and there is no specific guidance provided regarding pat-down searches of male detainees. NCSO 0022 states, "If a same gender deputy is working in the facility in which a [pat-down] search is being conducted he/she should conduct the search, although when a same gender deputy is not available in the assignment post and one is not available from patrol, cross gender [pat-down] searches are authorized." The facility has no prohibition for cross-gender pat searches, barring exigent circumstances, and staff interviews confirmed that female deputies conduct pat searches of male detainees and they are not documented.

Does Not Meet (b)(d): Neither NCSO Policy 047 and NCSO Policy 0022 address or provide guidance regarding cross-gender pat-down searches of male detainees and the appropriate circumstances when a cross-gender search can be conducted. Furthermore, staff interviews confirmed cross-gender pat searches are conducted and not documented. To become compliant, the facility must develop procedures and practices that prevent cross-gender pat-down searches of male detainees unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances. Additionally, these

procedures and practices must include subpart (d) requirement for all cross-gender pat searches to be documented. All NCDC staff must be trained on these procedures and practices (in conjunction with subpart (j) below). Documentation of the procedures, practice, and training must be presented for compliance review.

(c) The facility does not house female detainees; therefore, this provision is not applicable.

(e)(f) NCSO Policy 0047 states in part that, "The facility shall not conduct cross-gender strip searches (meaning a search that requires a person to remove or arrange clothing so as to permit a visual inspection of their breasts, buttocks, or genitalia) or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners. The facility shall document all cross-gender strip searches and body cavity searches of inmates." NCSO Policy 0022 states, "[Strip] searches are to be conducted with maximum courtesy, maximum respect for the person's dignity, and minimum physical discomfort to the person being searched." The policy further states, "[strip] searches shall not be conducted by a non-like gender Deputy except as authorized by this policy." Then states, "cross gender [strip] searches may be assisted under exigent circumstances." The policy requires that cross-gender strip searches, or female assisted strip searches be documented in a report. The OIC confirmed during his interview that there have been no instances of cross-gender strip searches or assisted strip searches of detainees within the audit period. The Auditor interviewed a female deputy who indicated that she has not performed nor assisted with a strip search of a male detainee. NCSO Policy 0022 directs body cavity searches "will only be performed by a licensed physician under a court order" and anytime one is conducted "a report must be completed." The OIC confirmed during his interview that there have been no body cavity searches of detainees within the audit period.

(g) NCSO Policy 0047 states in part, "The facility shall enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Staff members of the opposite gender shall announce their presence when entering an inmate housing unit." The Auditor observed full length shower curtains and half walls surrounding the toilet areas in the majority of the housing units. There are several bottom tier cells where the location of the toilet area could be viewed. (b) (7)(E)

The main control post is not a gender specific post and opposite gender staff can view into these cells.

The random staff were also asked if they announce their presence when entering a housing unit of the opposite gender and if detainees can dress, shower and use the bathroom without being viewed by staff of the opposite gender. All six staff members confirmed that "yes" they announce their presence every time and "yes" detainees have a level of privacy without being viewed by staff of the opposite gender.

When conducting detainee interviews, they were asked if they or other detainees are ever naked in full view of staff of the opposite gender; fourteen detainees stated that they were not and six stated that they are unsure because of the two-way windows on the pod walls. Detainees were asked if they are able to dress, shower, and use the bathroom without being seen by staff of the opposite gender and 19 detainees said yes; one stated he believed he can be seen exiting the shower.

Does Not Meet (g): The Auditor identified four camera views that were not pixelated or blacked out inside the two single occupancy isolation medical cells. These cameras must be corrected so that staff of the opposite gender are not able to view detainees while in a state of undress or using the bathroom. To become compliant, the facility must implement procedures to prevent cross-gender viewing of detainees in these cells. Additionally, there were several bottom tier cells where detainees could be viewed by opposite gender staff while using the toilet, which is out of compliance with this subpart. To become compliant the facility must implement procedures that enable detainees to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender.

(h) This facility is not a Family Residential Facility; therefore this provision is not applicable.

(i) NCSO Policy 0047 states, "No staff member shall conduct a search of a transgender or intersex inmate solely for the purpose of determining genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner." NCSO Policy 0022 does not address searches of transgender or intersex detainees. The facility reported no instances where a pat-down or strip search occurred transgender or intersex detainee was and no examples where exigent circumstances occurred where the incident needed to be documented. The Auditor requested search logs to indicate any searches of this nature and was provided copies of search log reports to indicate how searches are documented; however, this report did not indicate any activity related to a search of a transgender or intersex person. The OIC confirmed during his interview that no searches of this nature occurred during the audit period.

When asked if staff can search transgender detainees for the sole purpose of identifying the detainee's gender, all five deputies interviewed stated that they could not. The detention technician stated she is prohibited from conducting any type of search of a detainee. Finally, when conducting the interview with medical staff, the nurse confirmed the practice of not searching transgender detainees for the sole purpose of identifying one's gender.

(j) NCSO Policy 0022 states in part, "The purpose of this policy is to establish proper procedures and methods necessary to ensure adequate prisoner searches that comply with the constitutions and laws of the United States and State of Nevada." The PREA Refresher training for staff states "Searches can be traumatizing and need to be done professionally and respectfully." NCSO Policy 0047 states, "Security staff employees shall be trained in how to conduct cross-gender pat-down searches, and how to conduct searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs." However, the training curriculum provided to the Auditor did not include guidance on conducting transgender and intersex detainee searches. The Auditor did not witness a pat-down search while on-site. Staff interviews revealed that female officers conduct searches of male detainee

The Auditor interviewed six random staff members from both day and night shifts. When asked if the facility trains staff on how to conduct a cross-gender pat down searches and searches of transgender detainees, all five deputies indicated that they were trained in the law enforcement academy. The one detention technician indicated she does not search detainees. When interviewing the training supervisor, she confirmed that all deputies receive training on conducting all types of searches in the law enforcement academy. The Nye County Sheriff's Office Offender Search training curriculum was provided for the Auditor's review; the curriculum addressed all types of searches to include cross-gender searches. However, the Auditor could not locate any training specific to conducting transgender or intersex pat-down searches.

Does Not Meet (j): The training curriculum provided to the Auditor did not include guidance on conducting transgender and intersex detainee searches. The facility must train staff in proper procedures for conducting pat-down searches of transgender and intersex detainees and provide documented evidence the training has occurred.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) NCSO Policy 0047 states in part that "Inmates with disabilities have an equal opportunity to benefit from all aspects of NCSO's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include effective communication with inmates who are deaf or hard of hearing – providing access to interpreters who can interpret effectively, accurately, and impartially. All written materials are provided in formats and through methods that ensure effective communication with inmates with disabilities. Inmates who have limited English proficiency will have meaningful access to all aspects of this agencies efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who have limited English proficiency, including by providing interpreters who can interpret effectively, accurately, and impartially."

The NCDC provided the facility handbook in English and Spanish, and five additional languages. The Auditor received a copy of these translations, but the language was not identified on the document. The facility indicated on the PAQ that the top three nationalities of facility population is Mexican, Chinese, and French. The Auditor reviewed the facility handbook in English and observed the explanation of methods for reporting sexual abuse, prohibition against retaliation, and the right of a detainee that has been subjected to sexual abuse to receive treatment and counseling. The facility handbook provides the contact information for the DHS Office of the Inspector General (OIG) as the detainee outside entity reporting agency regarding allegations of sexual abuse. However, there is no information present in the facility handbook that addresses prevention and intervention strategies, or definition or examples of detainee-on-detainee sexual abuse, staff on detainee sexual abuse, or coercive sexual activity. Finally, there is no information about self-protection and indicators of sexual abuse. During the on-site review, the Auditor observed the ICE Zero-Tolerance poster and the ICE Detention Reporting and Information Line (DRIL) poster placed on the perimeter walls of the housing blocks. These posters state the "Report Sexual Assault Now" message in six languages other than English and Spanish.

The PREA video shown during intake, on the housing block monitors, and on the tablet is displayed in both English and Spanish; however, any LEP detainee that speaks/understands a language other than Spanish will not be able to understand the educational video; nor are those detainees able to comprehend the information provided on the tablet. The Auditor did not receive or observe any evidence that suggests the NCDC makes available to the detainees ICE National Detainee Handbooks, which are available in 14 languages (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, and Vietnamese), or the DHS-prescribed SAAPPI pamphlets, which are available in 9 languages (Arabic, English, French, Haitian Creole, Chinese, Portuguese, Punjabi, and Spanish). The facility has not demonstrated that they ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse, for those who speak languages other than English and Spanish. The OIC was interviewed and asked if his facility has established procedures to provide detainees with disabilities and detainees who are limited English proficient the ability to participate in or benefit from all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. The OIC stated that his staff has access to the ERO Language Services Resource Flyer and they can also utilize their issued guardian handheld device to assist in interpretation. The ERO Language Services Resource Flyer provides access to a website and a 24-hour language line for translation and interpretation services. He indicated that his staff is aware of the services available for those detainees that need assistance. Of the five sworn staff interviewed, all confirmed that the facility does not utilize detainee or inmate interpreters, and staff is able to use the language line services or they can use their google guardian handheld device to assist in interpreting other languages.

The facility handbook states that interpreter services, sign language, TTYs, and oral translators are available upon request. The Auditor also interviewed two disabled detainees. One detainee had a mobility disability, and the other detainee was visually impaired. Both detainees were asked if they needed help communicating with staff or understanding written material. The detainee with a visual

disability stated that he needed assistance with reading materials and the facility provided a plastic magnifying card, the other stated he needed no assistance. In addition, the Auditor interviewed five detainees by utilizing an interpreter through the agency's language line. Those detainees were asked if the facility provided information about sexual abuse that they were able to understand and if not, did the facility use an interpreter to explain this information to them during intake. Three detainees indicated that the facility had provided information in a language they understood, and two detainees stated the facility did not. The Auditor observed PREA information on the monitors in Spanish, the handbook in Spanish, and the PREA information provided through the tablet in Spanish. The two detainees that stated they had not received the information in a language they could understand were both Spanish speaking detainees. Both detainees also acknowledged receiving the information through the tablet format.

Does Not Meet (b): Any LEP detainee that speaks a language other than Spanish will not be able to understand the educational video shown during intake. Also, those detainees will not be able to comprehend the information provided on the tablet. The Auditor did not receive or observe any evidence that suggests the NCDC makes available to the detainees ICE National Detainee Handbooks or DHS-prescribed SAAPI pamphlets, available in multiple languages, that are provided by ICE. The facility has not demonstrated they have taken steps to provide 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 LEP. To become compliant, the facility must have the DHS-prescribed SAAPI pamphlet in all available languages for distribution to detainees, as needed; the ICE National Detainee Handbook in all available languages for distribution to detainees, as needed. Additionally, the facility must develop procedures and processes that ensure detainees who are LEP have access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse, and provide to the Auditor for compliance review. Additionally, documentation must be provided to the Auditor demonstrating delivery of the SAAPI to LEP detainees who speak/understand languages other than Spanish for review, quantity and type to be determined during CAP.

(c) NCSO Policy 0047 states in part, "NCSO personnel shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegations." This standard requires the facility to provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and the agency determines that such interpretation is appropriate and consistent with DHS policy. The facility's policy and practice is not in alignment with the requirements of this standard by allowing the exception of detainees to be used as interpreters in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegations.

Does Not Meet (c): The facility's policy and practice is not in alignment with the requirements of this standard by allowing the exception of detainees to be used as interpreters in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an inmate's safety, the performance of first responder duties, or the investigation of a detainee's allegations. To become compliant, the facility must align their policy and practice with requirements of DHS standard §115.16 (c), specifically regarding the use of detainee interpreters, and provide to the Auditor for compliance review.

§115.17 - Hiring and promotion decisions.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) NCSO Policy 0047 states in part that, "NCSO will not hire or promote anyone who may have contact with inmates, or retain the services of any contractor who may have contact with inmates, who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; or has been convicted of, or civilly or administratively adjudicated for, engaging or attempting to engage in sexual activity in the community facilitated by force, threats of force, or coercion, or if the victim did not consent or was unable to consent."

The acting Unit Chief of OPR Personnel Security Operations (PSO) informed Auditors who attended virtual training in November 2021, about candidate suitability for all applicants to include their obligation to disclose: any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity.

(b)(c)(d)(e) NCSO Policy 0047 states, "NCSO shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to retain the services of any contractor, who may have contact with inmates. Before hiring new employees, who may have contact with inmates, NCSO shall; perform a criminal background records check; and make its best efforts 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." The policy also states, "NCSO shall also perform a criminal background records check before retaining the services of any contractor who may have contact with inmates. NCSO shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees. NCSO shall ask all applicants and employees who may have direct contact with inmates about previous misconduct described in this section, in written applications and/or interviews for hiring or promotion; and interviews or written self-evaluations conducted as part of reviews of current employees."

Additionally, NCSO Policy 0047 states, "Current employees have a continuing affirmative duty to disclose any of the misconduct described in [DHS standard 115.17, subpart (a)]. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination. Unless prohibited by law, NCSO shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work."

The Auditor conducted a file review on 12 randomly selected individuals including civilian staff, contractors, and security staff. All 12 files indicated an initial criminal history was conducted. Additionally, the Auditor submitted a Background Investigation for Employees and Contractors form to the PSO requesting verification of background investigations on the two ERO officers assigned to the NCDC. The PSO responded via email confirming the officers were current on their five-year background investigations. When interviewing the Human Resources (HR) staff member, the Auditor was given access to view three staff members online personal history questionnaire where the sexual abuse questions are captured on the initial application during the hiring process. When interviewing the HR staff member, he was asked if the facility performs background checks on all newly hired employees who have contact with detainees including those contractors who also have contact with detainees. The HR staff member stated "yes" they utilize a system called the "Peace Officer Background Investigation Tracking System" (POBITS) for all new hire background investigations and within that initial application questions are asked about prior sexual misconduct and any prior convictions. After the completion of the initial application, a complete law enforcement background investigation is conducted by the NCSO. The HR staff member also stated that any contractor that has contact with detainees would be run through the National Crime Information Center (NCIC).

As stated above, the facility provided evidence that newly hired staff are asked the sexual misconduct questions during their background investigation. When asked if these questions were again asked or documented when considering promoting staff; the HR staff member stated that they were. However, the facility is not documenting that these misconduct questions are asked prior to staff promotions or during any annual review of current employees so the Auditor could not confirm the practice. The HR staff member was asked if the facility conducts background check on all staff members that have contact with detainees. The HR staff member indicated that they conduct background checks through the NCIC system. He also confirmed that staff has a duty to disclose any such conduct regarding sexual abuse. He stated that the duty to report is spelled out in policy and staff will be disciplined for not following policy. The HR staff member also confirmed that a complete background investigation is conducted on all new hire staff to include contacting previous employers. The HR staff member indicated that when the new hire worked for any law enforcement or corrections organization, their background investigators will travel to the previous employer and review personnel files and Internal Affairs files onsite, which would include review of any sexual misconduct investigation; However, the NCDC did not make available any evidence that this practice is performed. The facility has not demonstrated that they have made best efforts to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse.

Does Not Meet (b): The facility has not provided any example or documentation as proof that the sexual misconduct questions are asked when considering the promotion of staff either in a written form, evaluations or during interviews. This documentation was asked for by the Auditor on March 11, 2022, in the Issue Log provided to the facility through the Team Lead. To date this information has not been received. The facility has not shown or provided evidence that efforts are made to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse. The facility must implement a procedure and practice that asks applicants directly about previous misconduct described in subpart (a) of this standard; and document that this is occurring. Additionally, these same misconduct questions must be asked in any written self evaluations conducted as part of reviews of current employees. The facility must also implement a procedure and practice of making their best effort to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse.

(f) The HR staff member indicated during her interview that the NCDC would provide other law enforcement agencies or corrections agencies information regarding substantiated allegations of sexual abuse involving a former employee, if they receive a signed release of information request by the former employee.

§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) The NCDC reported no completion of any substantial expansion or modification of the existing facility within the audit period on the PAQ. However, when the Auditor arrived at the facility, the Auditor observed the booking area of this facility is currently under the first stage of renovation. During the interview with the OIC he explained that the renovations taking place in the booking area is intended to provide detainee privacy around the toilet areas and upgrade the technology to provide the PREA information in a more efficient manner.

(b) The NCDC also provided a memorandum explaining the facility just underwent a complete upgrade of their camera monitoring system to include new servers and additional cameras to eliminate blind spots in the facility. (b) (7)(E)

During the interview with the OIC it was explained that additional cameras had been installed to cover blind spots and that sexual safety was the driving force behind the video technology upgrade.

§115.21 - Evidence protocols and forensic medical examinations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(c) NCDC Policy 0447 states that " a forensic medical exam will be utilized as appropriate for usable physical evidence in accordance with NCSO policy and accepted medical practices. Investigators will ensure that all physical and biological evidence (including DNA) was preserved in accordance with NCSO policy." The OIC was interviewed and indicated that they use a uniform evidence protocol that is followed through by the NCSO investigators. However, the Auditor never received a copy of the NCSO uniform evidence protocol or confirmation that the protocol was developed in coordination with DHS.

Agency policy 11062.2, Sexual Abuse and Assault Prevention and Intervention, outlines the agency's evidence and investigation protocols. Per policy 11062.2, when a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility's incident review personnel in accordance with OPR policies and procedures. OPR does not perform sexual assault crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or local law enforcement agency. The OPR will coordinate with the ICE ERO Field Office Director (FOD) and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred or accepted by DHS OIG, OPR, or the local law enforcement agency, the ERO AFOD would assign an administrative investigation to be conducted.

NCSO Policy 0047 also states in part that, "inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Treatment services shall be provided to the victim without financial cost to the victim and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident." The Auditor confirmed the above policy practice through interviews with medical staff and file reviews.

NCSO Policy 0047 further states, "If the incident involves an ICE Detainee ICE will be notified and the investigation coordinated with them. Investigators will ensure that all physical and biological evidence (including DNA) was preserved in accordance with NCSO Policy. A forensic medical exam will be utilized as appropriate for usable physical evidence in accordance with NCSO policy and accepted medical practices. All electronic footage to include (cameras, visitation video, audio recordings) will be preserved in accordance with NCSO Policy. Investigators will interview the alleged victims, suspected perpetrators and witnesses." The Auditor also contacted University Hospital of Southern Nevada listed by the NCDC as where the SANE exam would be performed and spoke to a representative from the Emergency Services Forensic Unit. The nurse informed the Auditor that the hospital employs SANE nurses and conducts medical forensic examinations (FME). When asked if they would conduct those examinations for detainees of the NCDC, she stated "yes they would." She also confirmed that those services are offered 24 hours a day, 365 days a year. Medical staff confirmed that the detainee's consent is required for the FME.

The Auditor interviewed one detainee who had made an allegation of sexual abuse and due to the nature of the allegation, a forensic medical examination (FME) was not warranted. One of the case files reviewed included documentation that a SANE exam was conducted at the University Hospital Center in Las Vegas, Nevada but this detainee was no longer at the facility to interview. Based on information in the case file, the victim was provided an advocate during the FME through the hospital resources.

Does Not Meet (a): The NCDC policy does not address a uniform evidence protocol that would maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The facility must develop, in coordination with DHS, a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Additionally, facility investigators must be trained on these protocols and evidence provided of the training to the Auditor for compliance review.

(b)(d) NCSO Policy 0047 states in part that "staff shall attempt to make available to the victim an advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocacy services, NCSO shall make available a qualified staff member from a community-based organization, or a qualified agency staff member to provide these services. When requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany the victim throughout the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals."

The NCDC listed the Nevada Outreach Training Organization (NO TO) as their rape crisis advocate. The Auditor contacted this advocacy center and spoke to a representative. The Auditor was informed that the NO TO provides a 24-hour hotline, ongoing counseling if necessary and accompany the alleged victim during the court proceedings, if requested. However, if the detainee requested to be accompanied by an advocate during the medical forensic examination, the NO TO would make contact with "Signs of Hope" previously named Las Vegas Rape Crisis Center to provide the advocacy during the medical forensic examination. The Auditor contacted Signs of Hope and spoke to the Advocacy Coordinator and posed that procedural question. The Advocacy Coordinator confirmed that is the practice due to the distance between Nye County and the City of Las Vegas. The Advocacy Coordinator explained that it is not feasible to provide all the necessary services from NO TO because the hospital that provides the SANE services is a significant distance from the facility; therefore, the Signs of Hope provide the medical forensic examination advocacy if requested by the detainee.

When the Auditor interviewed the detainee that reported sexual abuse, he was asked if the facility provided him with any information about how to contact someone from the community regarding emotional support or counseling. The detainee responded that they had not provided him with any information. He indicated that he made his own request through the tablet to speak with mental health professionals and received that service. The case file review did not indicate that emotional support or counseling was offered at the time of the incident. The OIC was interviewed by the Auditor and indicated that access to the victim advocate would be provided if the detainee requested it.

(e) The NCSO is the chief law enforcement entity in Nye County and is responsible for all criminal investigations. The NCDC provided a memorandum which states in part that; "NCSO conducts its own law enforcement investigations into allegations of sexual abuse." The NCDC will request assistance from a NCSO detective who is not assigned to the detention facility and not part of the assigned detention staff. The detective responds and initiates an investigation. The detective is part of the NCSO but is seen as an outside entity because of their role, job responsibilities, different NCSO division and separate supervisors. According to the Training Supervisor, the NCSO requires all investigators to be trained in investigating sexual abuse allegations in a confinement setting whether or not they are assigned specifically to work at the NCDC. The OIC confirmed that the investigators are knowledgeable about the requirements of §115.21 subpart (a) through (d) and will follow all subparts of the standard, which was further confirmed through an interview with a NCSO investigator; however, no documentation was provided to indicate that the facility has requested that the investigating agency follow the requirements of subparts (a) through (d) of this standard.

Does Not Meet (e): The facility did not provide documentation to indicate that the facility has requested that the investigating agency follow the requirements of subparts (a) through (d) of this standard. To become compliant, the NCDC must document the request that NCSO follow subparts (a) through (d) of this standard when conducting sexual abuse investigations.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(d)(e)(f) NCSO Policy 0047 states in part that "Investigations shall be conducted in accordance with NCSO Policy and shall be investigated by a general assignment investigator and internal affairs investigator. Upon conclusion of the criminal investigation if the conclusion is it was unsubstantiated, detention staff will review the investigation and determine whether an administrative disciplinary investigation is necessary or appropriate. If deemed to be appropriate the investigation will begin. A log documenting the unsubstantiated investigation and findings of administrative issues will be done and the criminal investigator conducting the investigation will complete a criminal report. Upon conclusion of the criminal investigation if the conclusion is it was substantiated, an administrative disciplinary investigation will be conducted in accordance with NCDC policy. All continued investigations that involve any ICE Detainee will be coordinated through ICE. Following an investigation conducted by the facility into a detainees allegation of sexual abuse and assault, NCSO personnel shall notify ICE, JIC and OPR of the results of the investigation and any responsive actions taken so that the information can be reported to ICE Headquarters and to the inmate." The OIC explained that if a sexual abuse allegation was made alleging staff or contractors, the NCSO Internal Affairs (IA) would conduct the administrative investigation. All other allegations would be investigated criminally by NCSO, and if no evidence of a crime was committed, that information would be forwarded to ICE to conduct an administrative investigation.

The policy further states that "If the incident involves an ICE Detainee, ICE will be notified and the investigation coordinated with them. Investigators will interview the alleged victims, suspected perpetrators and witnesses. Investigators will review all prior complaints and reports of sexual abuse and assault involving the suspected perpetrator and will utilize those in determining responsibility. Investigators will assess the credibility of an alleged victim, suspect or witness without regard to their status as an inmate, staff member or employee and without requiring any inmate who alleges sexual abuse and assault to submit to a polygraph in accordance with NRS and Policy. Investigators will make an effort to determine whether actions or failures to act at the facility contributed to the abuse, and if so, notify the chain of command immediately. Investigators will document their investigative actions in a written report which shall include a description of all evidence (physical and testimonial), the reasoning behind the credibility assessments and investigative facts and findings. Criminal investigators will do so in a criminal report and administrative investigators will do so in the applicable administrative reports (i.e., IA report, logs etc.). All reports of PREA investigations will be maintained for a minimum of five years beyond the time period that the inmate is released from detention."

The agency's policy 11062.2 outlines the evidence and investigation protocols. All investigations are to be reported to the JIC, which routes allegations for assessment to determine which allegations fall within the PREA purview. The PREA allegations are then referred to DHS OIG or OPR. DHS OIG has the first right of refusal on all employee, volunteer, or contractor on detainee sexual abuse allegations. Once the allegation is reviewed and accepted by DHS OIG, the OPR would not investigate so there is no possible intervention. If refused, the allegation is referred to OPR. All detainee-on-detainee allegations are referred to the OPR for assessing criminality. Once the allegation is reviewed and accepted by the OPR investigator, the investigation is conducted by OPR, who will decide on the investigative process. If OPR investigates the allegation, the investigation is conducted in accordance with OPR policies and procedures and coordination with law enforcement and facility staff. If allegations are not criminal in nature, the allegations are referred to the OPR field office or the ERO Administrative Inquiry Unit (AIU) for investigation, and the ERO AFOD would assign an administrative investigation to be completed.

The OIC confirmed during his interview that the facility will "cooperate and provide all information required" during an ICE OPR

investigation. The OIC also indicated that he would immediately notify ICE when there is an incident alleging sexual abuse of an ICE detainee.

During the interview with the investigative staff member who was the acting Captain of NCDC Administrative Services, he explained that in every sexual abuse allegation a "general assignment detective" is contacted via dispatch and responds to the facility to conduct an investigation. If it appears criminal activity has occurred, then the detective will continue with the case until final disposition. If the evidence doesn't establish that probable cause exists, and the allegation involves a NCSO employee, volunteer, or contractor then an Internal Affairs investigator responds and conducts an administrative investigation. If there is an allegation of inmate/detainee on detainee or detainee on inmate, the criminal investigation is forwarded to the OPR for investigation.

The Auditor reviewed three investigations involving allegations of sexual abuse. The NCSO conducted a criminal investigation in all three allegations. Both physical and circumstantial evidence was collected, the alleged victim, aggressor, and witnesses were interviewed, and the investigative procedure was followed. The ICE Joint Intake Center (JIC) was notified by the facility in each incident and documented. It appears to the Auditor, based on interviews with the OIC and the NCSO investigator, that the NCSO conducts criminal investigations into all sexual abuse allegations and if staff is involved in the allegation, then the NCSO IA Unit will conduct an administrative investigation. When there is a detainee-on-detainee allegation or inmate-on-detainee allegation, the OIC stated the administrative investigative duties are turned over to ICE OPR. However, the Auditor's review of the three cases found that in each of case, an ICE management inquiry was conducted with the information provided by the NCSO criminal investigation and a final disposition finding was established by ICE. Management inquiries are not the same as an administrative investigation; therefore, there is no evidence that an administrative investigation was conducted for these three cases, either by the facility, the NCSO, or ICE.

Does Not Meet (a): The three cases reviewed by the Auditor indicated an ICE management inquiry was conducted but there was no evidence that an administrative investigation occurred. The facility must develop protocols that ensure all allegations are referred for either a criminal or administrative investigation to an appropriate investigative authority. NCDC staff must be trained on these protocols and the training must be documented for compliance review.

(c) NCDC does not have their own website but are a part of the NCSO's website. The NCSO website is www.nyecountysheriffsoffice.com and the ICE website is www.ice.gov. The Auditor has found no evidence to support that the NCDC has posted its investigative protocols on the NCSO's website. The Auditor also requested this information in the Issue Log provided to the facility on March 11, 2022, but it was never supplied.

Does Not Meet (c): The facility has not posted its investigative protocols regarding allegations of sexual abuse made by ICE detainees on its public website. To become compliant, the facility must post its protocols on its website, if it has one, or otherwise make the protocol available to the public.

§115.31 - Staff training.

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

Notes:

(a)(b)(c) NCSO Policy 0047 states in part that "All employees who may have contact with inmates shall be trained on its zero-tolerance policy for sexual abuse, sexual harassment and retaliation; How to fulfill their responsibilities regarding prevention, detection, reporting, and response to sexual abuse and sexual harassment; inmates' right to be free from sexual abuse and sexual harassment; the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment; the dynamics of sexual abuse and sexual harassment in confinement; the common reactions of sexual abuse and sexual harassment victims; how to detect and respond to signs of threatened and actual sexual abuse; how to avoid inappropriate relationships with inmates; how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities."

The policy further states, "All current employees shall receive this training, and NCSO shall provide each employee with refresher training [once every two years] to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. According to interviews with the OIC and the Training Supervisor, the policy actually reads that the refresher training occurs twice per year, but the intent and actual practice is that it occurs every other year. In years in which an employee does not receive training, the facility shall provide refresher training on current sexual abuse and sexual harassment policies disseminated through staff briefings." The Training Supervisor indicated that medical staff receive the same training as the facility staff. When interviewing two medical staff members they both indicated that they had received the PREA training; the Auditor observed one of the medical staff members on the training roster provided for Auditor's review.

Recommendation (b): The Auditor recommends that the NCDC make appropriate corrections to NCSO Policy 0047 as it relates to employees receiving refresher training twice a year and in years in which an employee does not receive refresher training. The statement is contradictory to the policy statement that the NCSO shall provide each employee with refresher training twice per year.

The NCDC provided the PREA training curricula in a PowerPoint format which included all the required elements of training along with electronic signature pages identifying those deputies assigned at the NCDC have received the training in 2021. Attendees included patrol deputies, detention deputies, and detention technicians. The Auditor also received test scores for deputies that received the refresher PREA training. All this information was confirmed and provided by the Training Supervisor during the on-site audit phase

and during the interview.

During the interviews, six random staff members were asked if they had received PREA training and when it occurred. All six staff members indicated that they had received the training. The staff members stated that they received the training in both the law enforcement academy and through PowerDMS. Several staff members also stated that they also receive PREA training annually.

§115.32 - Other training.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) NCSO Policy 0047 states in part that, "NCSO is committed to communicating to the inmates at its jail, to its employees, and to contractors and volunteers, the following information through the training, education and orientation programs described in this section, NCSO's zero tolerance policy, NCSO's policies to prevent, detect, and respond to sexual abuse and sexual harassment, and other rights and obligations under this policy." The policy also states that "the NCSO shall ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under NCSO's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with inmates, but all volunteers and contractors who have contact with inmates shall be notified of NCSO's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents. NCSO shall maintain documentation confirming that volunteers and contractors understand the training they have received."

The NCDC provided a PowerPoint presentation slide that contained information regarding their zero-tolerance policy and the ways to report sexual abuse along with how to detect, respond to and prevent sexual abuse. The Training Supervisor was asked during his interview if contractors and volunteers that have contact with detainees are provided with the agency's zero-tolerance policy and how to report sexual abuse. The Training Supervisor indicated that volunteers receive the same training as the facility staff.

(c) NCSO Policy 0047 states that "the NCSO shall maintain documentation confirming that volunteers and contractors understand the training they have received." The facility has not provided documentation to demonstrate that contractors and volunteers have received the training outlined in NCSO Policy 0047 and required by this standard. The Auditor requested this documentation prior to the on-site audit on March 11, 2022. No documentation was provided to the Auditor to confirm that volunteers receive training nor that other contractors who provide services on a non-reoccurring basis have been notified of the zero-tolerance policy.

Does Not Meet (c): NCDC has not provided evidence that the necessary PREA training is being provided to other contractors or volunteers and documented by written confirmation. To meet compliance, the facility must implement a procedure and practice to ensure that all volunteers and other contractors who have contact with detainees have been trained on their responsibilities under the agency's and facility's SAAPI policies; and receive and maintain written confirmation of this training.

§115.33 - Detainee education.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c) NCSO Policy 0047 states in part that "during the intake process, inmates shall receive information explaining NCSO's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. Within 30 days of intake, NCSO shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and NCSO's policies and procedures for responding to such incidents. NCSO will provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. NCSO shall maintain documentation of inmate participation in these education sessions. In addition to providing such education, NCSO shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats."

The NCDC provided a memorandum stating that the PREA orientation is presented in video format both in English and Spanish on a television monitor in the Intake area. This process was observed by the Auditor during the on-site facility tour and the Auditor requested a copy of the video transcript to verify that it contained the six topics outlined in provision (a) of this standard. This transcript was not provided by the facility. The NCDC is currently renovating their Intake area and was utilizing a housing unit to process detainees upon arrival. The video is also available through a tablet that the facility provides to detainees (also used to submit facility requests, medical sick call requests, commissary purchases, and email with family members). In order to access these functions, the detainee must watch the video either in English or Spanish and electronically acknowledge watching the video. For those detainees that speak/understand languages other than English and Spanish, the NCDC provides the facility handbook in five other languages most commonly encountered at the facility; the Auditor received a copy of these translations, but the language was not identified on the document. The Auditor reviewed the handbook in English and observed the explanation of methods for reporting sexual abuse, prohibition against retaliation, and the right of a detainee that has been subjected to sexual abuse to receive treatment and counseling. However, there is no information present in the NCDC Handbook that addresses prevention and intervention strategies, or definitions or examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse, or coercive sexual activity. Finally, there is no information about self-protection and indicators of sexual abuse. All the necessary contact information regarding the DHS OIG was present in the NCDC handbook. The facility handbook does not contain all elements required to satisfy subpart (a) of this standard, and neither was the Auditor able to confirm that the video included all of the required elements.

The NCDC handbook states that “to ensure effective communication with inmates and their visitors who are deaf or hard of hearing, we provide appropriate auxiliary aids and services free of charge, such as: qualified sign language interpreters and oral translators, TTY’s, note takers, computer-assisted real time transcription services, written materials, telephone handset amplifiers, assistive listening devices and systems, telephones compatible with hearing aids, closed caption decoders or TVs with built in captioning, and open and closed captioning of Sheriff’s Office programs. Ask a Detention Deputy if you need assistance.” When interviewing the OIC, he confirmed these practices and stated those detainees with vision disability would either listen to the educational video or a deputy would read the information to the detainee; if a detainee has limited reading skills, the deputy would read the SAAPI information to the individual and discuss it to ensure the detainee understood.

When conducting interviews with 20 detainees, they were asked if they had received information about the NCDC rules about sexual abuse and how to report sexual abuse. Of the 20, 17 detainees indicated that they had received the information and 3 stated they had not. Five detainees stated they received the information through the tablet, four stated that they had to watch a video, three indicated they received a booklet and two informed the Auditor that the information is posted on the walls. All four LEP detainees answered that they received the information in a format that they understood, which was in Spanish. The intake deputy confirmed all the above listed ways and protocols that a detainee receives the PREA educational information during intake.

The facility only provides the video orientation in English and Spanish. For those individuals that may speak other languages, a facility handbook in five different languages is offered. However, the information provided in the facility handbook is not sufficient to address the topics outlined in subpart (a). Furthermore, the facility is not using the ICE National Detainee Handbook, available in 14 languages (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Turkish, Bengali, Romanian, Portuguese, and Vietnamese) or the DHS-prescribed SAAPI pamphlet, available in 9 languages (Arabic, English, French, Haitian Creole, Chinese, Portuguese, Punjabi, and Spanish) during orientation.

There is no documentation placed in the detainee files that acknowledges the detainee viewed the orientation video playing on the monitor or receipt of the ICE National Detainee Handbook or DHS-prescribed SAAPI pamphlet during the intake process. When asked to review this documentation of detainee participation in the intake process orientation, the facility presented the Auditor with an electronic list of all detainee’s acknowledging through electronic signature that they reviewed the detainee PREA educational video through the tablet process. There is no evidence that was provided indicating that the detainee acknowledges receipt of the sexual abuse orientation at intake, as required in subpart (a) and (c) of this standard.

Does Not Meet (a)(b)(c): The facility did not provide a written transcript of the detainee orientation for the Auditor’s review as requested; and therefore, the Auditor cannot determine if the video is compliant with subpart (a) without review of this document; nor does the facility handbook contain all of the required elements of subpart (a). Additionally, the facility is not documenting that the orientation is occurring during intake as required in subpart (c). The facility’s SAAPI policy allows 30 days for the comprehensive education to be delivered which is not in alignment with subpart (a) of this standard which requires education on these six topics to be delivered during intake. To become compliant, the facility must ensure that during the intake process, the detainee orientation program notifies and informs detainees about the agency’s and the facility’s zero-tolerance policies for all forms of sexual abuse, and must include instruction on the topics listed in subpart (a) 1-5. This orientation must be delivered during intake and documentation of detainee participation in the process must be maintained. To become compliant with subpart (b), the facility must develop procedures and processes that ensure detainees who are LEP, particularly those who speak/understand languages other than Spanish, have access to all aspects of the agency’s and facility’s efforts to prevent, detect, and respond to sexual abuse. The revised orientation procedures must be presented to the Auditor for compliance review. Additionally, examples of detainee participation in the new process, to include LEP detainees, must be presented for compliance review; quantity and specifics to be determined during development of the CAP.

(d)(e) The Auditor observed the DHS Sexual Abuse & Assault Awareness pamphlet and the DHS zero-tolerance posters with contact information for the facility PREA Compliance Manager posted in all the housing units. The NO TO sexual abuse advocacy flyers were posted in the housing units. However, the facility did not have available the DHS-prescribed SAAPI pamphlet, in all available languages, for distribution to detainees, as needed.

Does Not Meet (e): The facility did not have available the DHS-prescribed SAAPI pamphlet provided by ICE, in all available languages, for distribution to detainees, as needed. To become compliant, the facility must make available and distribute the DHS-prescribed SAAPI pamphlet.

(f) The Auditor observed no ICE National Detainee Handbook distributed to detainees during intake, and there is no documented evidence that the facility is making available the ICE National Detainee Handbook to detainees.

Does Not Meet (f): There is no documented evidence that the facility is making available the ICE National Detainee Handbook to detainees. To become compliant, the facility must make the ICE National Detainee Handbook available to detainees.

§115.34 - Specialized training: Investigations.

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

Notes:

(a)(b) Based on interviews with the OIC and the NCSO Investigator, NCDC does not conduct investigations into sexual abuse allegations. As previously determined, investigations will be conducted by either the NCSO, or ICE OPR. Agency policy 11062.2, states in part, "OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault. The training should cover, at a minimum, interviewing sexual abuse and assault victims, sexual abuse and assault evidence collection in confinement settings, the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process."

The Auditor reviewed the lesson plan, ICE OPR Investigations Incidents of Sexual Abuse and Assault, which covers in depth investigative techniques, evidence collections, and covers all aspects to conducting an investigation of sexual abuse in a confinement setting. The agency provides the lesson plan and rosters of trained ICE/ERO/OPR investigators on OPR's SharePoint site for Auditor's review; this documentation is in accordance with the standard's requirements. Because no administrative investigations were conducted on the three allegations reviewed, there were no specific investigators for the Auditor to verify had the specialized training; therefore, the Auditor has based compliance on the agency's policy which requires agency investigators to have specialized training.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) The medical and mental health practitioners at the facility are not agency employees; therefore, these provisions are not applicable.

(c) NCSO Policy 0047 states in part that "NCSO shall ensure that all full and part-time medical and mental health care practitioners who work regularly in its facility have been trained in how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment. NCSO shall document, through employee signature or electronic verification, that employees have received and understand the training. In the case of medical and mental health practitioners, it shall maintain documentation that they have received the specialized training described in this section."

When interviewing the Training Supervisor, she was asked if additional specialized PREA training is provided to full and part-time medical and mental health professionals. The Training Supervisor indicated that the medical staff has not received any specialized training regarding PREA and their job positions they need to take the classes. When conducting the interviews with the two medical staff, both indicated that they had not received any additional specialized training associated with PREA. The training they received was the initial training that all staff receive. The medical staff members were also asked if they conducted FMEs and both stated they do not and this examination is conducted at the hospital. The NCDC did not provide specialized training records from the medical staff or a curriculum for any specialized training. Again, this information was requested through the issue log provided to the Team Lead on March 11, 2022, and forwarded to the NCDC. The Auditor was not provided with documentation to indicate the agency review and approval of the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse.

Does Not Meet (c): The facility was unable to provide documentation to demonstrate that the medical and mental health staff have received specialized training as outlined in subpart (b) of this standard. The Auditor was not provided with documentation to indicate the agency review and approval of the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse. To become compliant, the facility must provide documentation of agency review and approval of the policies and procedures for medical and mental health training; additionally, the medical and mental health staff must complete the training and produce documented training records or certificates for review. Additionally, the facility must provide documentation that the agency has reviewed and approved the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse.

§115.41 - Assessment for risk of victimization and abusiveness.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(d) NCSO Policy 0047 states in part that "all inmates shall be assessed during an intake screening and upon transfer from another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates during their medical assessment. Intake screening shall ordinarily take place within 12 hours of arrival at the facility." In addition, the NCDC handbook states that "your booking Deputy will be responsible for initial classification. You will be classified as Maximum, Medium, Minimum, Protective Custody, based on your criminal history, current charges, and past behavior in this facility. Minimum, Medium, Maximum, and Protective Custody classifications are all general population with no restriction to privileges." NCSO Policy 0047 further states, "Such assessments shall be conducted using an objective screening instrument. The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: Whether the inmate has a mental, physical, or developmental disability; The age of the inmate; The physical build of the inmate; Whether the inmate has previously been incarcerated; Whether the inmate's criminal history is exclusively nonviolent; Whether the inmate has prior convictions for sex offenses against an adult or child; Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; Whether the inmate has previously experienced sexual victimization; The inmate's perception of his or her own vulnerability to sexual abuse or sexual harassment; and whether the inmate is detained solely for civil immigration purposes." The policy further states, "The initial screening

shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to NCSO, in assessing inmates for risk of being sexually abusive.”

The facility handbook states that “your booking Deputy will be responsible for initial classification. You will be classified as Maximum, Medium, Minimum, Protective Custody, based on your criminal history, current charges, and past behavior in this facility. Minimum, Medium, Maximum, and Protective Custody classifications are all general population with no restriction to privileges.” The intake officer confirmed this is the current procedure for how housing assignments are made, and that housing assignments are accomplished immediately during the booking process, and within 12 hours.

The facility provided a completed risk screening assessment for the Auditor’s review. The form was provided and completed by medical personnel. This form appears to be part of the detainee medical file and questions asked during the initial medical screening. Given the information that was provided, and interviews conducted, these questions are part of a medical assessment and not for risk screening purposes. The Auditor interviewed a medical staff member using the DHS interview protocols for staff who perform risk screening. The medical staff informed the Auditor that they ask sexual abuse questions upon arrival to the facility and all detainees are screened within the first 12 hours. The medical staff member then indicated that they do not know how to determine who could be a sexual aggressor. The questions listed on the initial medical screening form do not address questions that could help identify and determine who may be a sexual aggressor. In addition, medical staff is not privy to any criminal history or prior convictions of sexual abuse. The Auditor then interviewed the intake officer identified as the person that conducts the risk screening. The intake officer confirmed that the risk screening is conducted by medical staff upon arrival.

When the detainees were asked if they recall being asked questions concerning ever being a victim of sexual abuse or questions about their sexual orientation or gender identification, 11 detainees stated that they had and 9 stated that they had not been asked those questions. Of the 11 who said they were asked screening questions; 4 detainees identified the nurse as the individual asking the questions.

Does Not Meet (a)(c)(d): The facility’s current practice does not assess detainees during intake to identify those likely to be sexual aggressors. Medical personnel do not have access to detainees’ prior convictions, violent offenses or prior institutional violence or sexual abuse. The facility has no procedure in place that combines the information collected by medical and by intake staff in a manner that provides a proper screening. To become compliant, the facility must develop and implement procedures and practice that ensures detainees are assessed at intake to identify those likely to be sexual aggressors or sexual abuse victims and shall house detainees to prevent sexual abuse, taking necessary steps to mitigate any such danger. Additionally, the facility must develop a procedure and practice to include consideration of all elements in subparts (c)(d) during the initial screening of detainees in order to properly identify sexual aggressors or sexual abuse victims. Facility staff must be trained on the procedures and the training must be documented for compliance review.

(e) NCSO Policy 0047 states, “Any inmate who appears at risk from the initial screening, shall be reassessed by the Detention Lieutenant within 30 days to determine inmate’s risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening. An inmate’s risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate’s risk of sexual victimization or abusiveness.” When conducting interviews, the medical staff indicated that the detainees are not reassessed according to the policy. The Auditor requested documentation of reassessments from those files reviewed during the documentation review. After consultation with NCDC staff, it was determined that reassessments are not being conducted.

Based on policy review, detainee file reviews, and staff interviews, the facility is not reassessing each detainee’s risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional relevant information or following an incident of abuse or victimization. NCSO Policy 0047 requires a reassessment within 30 days from the initial screening, which is not consistent with the DHS 115.41 (e) requirement of between 60 and 90 days. There is no documentation or evidence of any reassessment in the detainees’ files, including those who reported sexual abuse. When the auditor interviewed the intake officer, he did not know if detainees are reassessed within 60 to 90 days in accordance with DHS PREA policy.

Does Not Meet (e): The facility does not conduct risk screening reassessments of all detainees between 60 and 90 days of initial assessment. To become compliant, the facility must implement a procedure and practice for reassessing each detainee’s risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any time warranted based upon receipt of additional, relevant information or following an incident of abuse or victimization.

(f) NCSO Policy 0047 states, “Inmates may not be disciplined for refusing to answer, or for not disclosing complete information related to, this policy.” The OIC was interviewed and stated that detainees are never disciplined for not answering or not disclosing complete information in response to questions asked by staff regarding risk assessment. The intake officer and medical staff were also asked this question and they reiterated that detainees are not disciplined for not answering these questions.

(g) NCSO Policy 0047 states, “Personnel shall not disseminate responses to questions asked pursuant to this policy in order to ensure sensitive information is not exploited to the inmate’s detriment by staff or other inmates.” The OIC indicated that the information is kept on a computer and only those with a need-to-know has access to this information.

§115.42 - Use of assessment information.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) NCSO Policy 0047 states in part that "NCSO personnel shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Personnel shall make individualized determinations about how to ensure the safety of each inmate." Because the facility showed no evidence that they identify possible abusers in 115.41, there is no indication that any information related to risk screening is used for housing assignments, programs, or educational classes for any detainee. During the interview, the OIC was asked how the facility determines housing and programming assignments for detainees. Based on the interviews, the assignments are made based on bed availability and there is no process in place to utilize the information from 115.41 in making any of the decisions required in subpart (a).

Does Not Meet (a): Because the facility does not conduct risk screening for risk of sexual abuse aggressors as identified in 115.41, there is no mechanism in place to separate or make safe those individuals that have been identified as potential sexual abuse victims from those individuals that may be potential sexual abuse aggressors. Furthermore, based on an interview with the intake officer, detainees are classified and housed based on their security classification based on criminal history, current charges, and past behavior in this facility, and does not take into consideration risk screening information. The facility must develop a procedure that uses the information from the risk assessment under 115.41 to inform assignment of detainees to housing, recreation and other activities, and voluntary work.

(b)(c) NCSO Policy 0047 states in part that "In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. A shift supervisor shall be contacted for help in making this decision. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate. A transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates."

During the interview, the OIC was asked how the facility determines housing and programming assignments for transgender and intersex detainees and he indicated that they would be asked where they wanted to be housed, how they identify, and concerns and needs of the facility. He was also asked how often housing and programming assignments are reassessed for transgender and intersex detainees. He explained that they would be reassessed upon an incident that may occur; however, because the facility does not reassess detainees, there is no evidence that they conduct any reassessments on transgender or intersex detainees twice a year. The OIC confirmed that transgender and intersex detainees' views with respect to their own safety is given serious consideration and that transgender and intersex detainees are given the opportunity to shower separately from other inmates and detainees, although he was unable to explain a procedure for this. When conducting the on-site facility tour, the Auditor observed that all shower stalls were separated into single stalls with full length shower curtains. The NCDC reported that there were no transgender or intersex detainees housed at their facility at the time of the on-site visit; and therefore, the Auditor was unable to provide that perspective through an interview with a detainee.

Does Not Meet (b)(c): The facility policy does not specify that medical or mental health professional be consulted as soon as practicable when determining the housing assignment for a transgender or intersex detainee as outlined in 115.42(b), nor was this able to be confirmed through interviews. The facility provided nothing to indicate that transgender and intersex detainees will be reassessed at least twice per year to review any threats to safety experienced by the detainee. To become compliant, the facility must develop a procedure and practice that requires the facility to consult with a medical or mental health professional as soon as practicable on assessments for transgender and intersex detainees; and a procedure and practice for reassessing transgender and intersex detainees at least twice per year. NCDC staff must be trained on these procedures and this training must be documented for compliance review.

§115.43 - Protective custody.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c) NCSO Policy 0047 states in part that "inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless a supervisor has assessed all available alternatives and has determined that there is no available alternative means of separation from likely abusers. If the facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment. Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the fullest extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, it shall document the opportunities that have been limited; the duration of the limitation; and the reasons for such limitations". The policy additionally states, "The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged. Such an assignment shall not ordinarily exceed a period of 30 days. If an involuntary segregated housing assignment is made pursuant to this section, the facility shall clearly document the basis for the facility's concern for the inmate's safety and the reason why no alternative means of separation can be arranged. Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population".

During the OIC's interview, he was asked if the NCDL policy prohibits the housing of a detainee that is at high risk of sexual abuse in segregated housing, unless no other means of safely housing the detainee is available to which he stated "yes" but that has never happened. He further stated that a detainee at high risk of sexual victimization would be placed in segregation only until other alternative means of separation is arranged, but there has never been a case where that has been necessary. He further explained that it would not be necessary because the facility has a housing unit that only houses inmates/detainees that are in need of protective custody and that is where the detainee would be placed before ever being segregated. At the time of the on-site facility tour, the Auditor did not observe or see any evidence that a detainee was being segregated due to the high risk of being sexually victimized. The facility reported no instances of having to separate a detainee due to a high risk of sexual victimization during this audit period.

(d) NCSO Policy 0047 does not address or provide any information related to regular review of all vulnerable detainees placed in administrative segregation for their protection.

Does Not Meet (d): The facility policy does not address or provide guidance on the regular review of all vulnerable detainees placed in administrative segregation. To become compliant, the facility must implement written procedures for the regular review of all vulnerable detainees placed in administrative segregation for their protection according to the requirements of subpart (d).

(e) NCSO Policy 0047 does not address or provide any information related to the facility making notification to the appropriate ICE Field Office Director no later than 72 hours after the placement of a detainee in administrative segregation on the basis of being sexually abused or assaulted.

Does Not Meet (e): The facility policy does not address the requirement to make notification to ICE officials within 72 hours of placing a detainee in segregation based on his vulnerability of being sexually abused in the facility. To become compliant, the facility must implement written procedures, as indicated in subpart (a) of this standard, that addresses the required notifications in subpart (e).

§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)(c) NCSO Policy 0047 states in part that "the NCSO shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse or sexual harassment, and staff neglect that may have contributed to such incidents. Inmates may report concerns by phone, tablet or in person to staff. NCSO provides inmates the ability to report sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Staff shall accept reports made verbally, in writing, and anonymously. Staff shall promptly document any verbal reports."

When conducting the on-site facility tour, the Auditor observed the DHS ICE zero-tolerance posters on the poster board wall of each housing unit. This informational poster contained contact numbers for both the ICE DRIL and DHS OIG. The poster also stated that the detainee may remain anonymous when making a report if they chose. Also, while conducting the tour the Auditor attempted to contact the DHS OIG through a phone located in a housing unit. The Auditor's first attempt was unsuccessful. However, when interviewing a detainee that had reported sexual abuse in the facility, he advised the Auditor that he reported a sexual abuse by contacting the DHS OIG. The Auditor went back to a housing unit phone and once again attempted to contact the DHS OIG. This time a successful call went through, and the DHS OIG informed the Auditor that detainees can report sexual abuse allegations and that information is sent to ICE OPR for follow-up. Utilizing the DHS OIG is the facility's way for detainees to report sexual abuse to an outside public or private entity that is not part of the agency and can receive and immediately forward the allegations to agency officials.

When interviewing the 20 detainees, 16 identified being able to make sexual abuse allegations by using the tablet, verbally to any staff member, by using the phone, and through a third party; while 4 detainees indicated that they did not know how to report. More specifically, three detainees could identify three ways to report, five detainees knew two ways to report, seven detainees knew one way to report, and again four detainees did not know how to report. Lastly, when interviewing the PSA Compliance Manager, he explained that detainees could report to any staff member, the tablet, rape crisis center, PREA Compliance Manager, DHS OIG, and by a third party.

During interviews with six random staff members, the Auditor was told that detainees can make reports through using the tablet, telling a staff member, calling the hotline number for the DHS OIG, or through a third party. The Auditor asked the six random staff members if detainees can make sexual abuse allegations verbally, in writing, anonymously, and from third parties? They were also asked if a detainee makes a verbal sexual abuse allegation, how long after the allegation is it documented. All six staff members stated "yes," detainees can report in those manners and that the documentation would be either as soon as possible or immediately.

Review of the three investigative files revealed that one case was reported verbally to staff, one case was reported to the DHS OIG hotline, and the last case was reported through the grievance process at another facility. The allegation reported verbally to staff was promptly documented by the staff member. All three investigations were initiated within 24 hours of being notified of the incident.

§115.52 - Grievances.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) NCSO Policy 0047 states in part that "there is no time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse. Staff shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and such grievance is not referred to a staff member who is the subject of the complaint. When the individual(s) suspected of sexual abuse is a member of the staff, contractors, or volunteers, they shall be removed from all duties that involve detainee contact pending the outcome of the investigation. A final decision shall be issued on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal. A detainee who alleges to be the victim of sexual abuse shall be notified of the results of an investigation into an allegation of sexual abuse and any responsive action taken. NCSO staff may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. Supervisor shall notify the inmate in writing of any such extension and provide a date by which a decision shall be made. At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level. Staff may discipline an inmate for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith." The facility inmate handbook that is provided to all detainees explains the procedure and ability to report a sexual abuse allegation through the grievance process by way of the tablet. These facility handbooks are available in seven different languages. During the interview with the Grievance Coordinator, he was asked if a sexual abuse allegation would be accepted through the grievance process. The Grievance Coordinator indicated that no, once the allegation had been received an investigation into the allegation would begin and the grievance procedure would stop.

Does Not Meet (a): The facility's policy allows for grievances to be filed related to sexual abuse but staff interviews determined that sexual abuse allegations would not be accepted through the grievance process. To become compliant, the facility must put into practice the use of the grievance process in accordance with DHS PREA standard 115.52 and train staff on these procedures.

(c)(d)(e) NCSO Policy 0047 states "Detainees may file an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse. After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, NCSO personnel shall, immediately forward the grievance (or any portion of it that alleges the substantial risk of imminent sexual abuse) to a supervisor at which immediate corrective action may be taken; provide an initial response within 48 hours; and issue a final decision within five (5) calendar days. The initial response and final decision shall document the determination of whether the inmate is at substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance." The Grievance Coordinator also acknowledged that there are a different set of procedures for responding to time sensitive grievances related to sexual abuse but was unable to explain what those were and did not have written procedures to provide to the Auditor. The Grievance Coordinator stated that if he received a grievance alleging sexual abuse, he would immediately notify medical staff. Medical staff indicated that all detainees that allege being sexually abused receive timely access to emergency medical treatment.

Does Not Meet (d)(e): NCSO Policy 0047 does not address or contain the language that facility staff shall bring medical emergencies to the immediate attention of proper medical personnel for further assessment as outlined in subpart (d). In addition, the policy does not address the need to respond to an appeal of a sexual abuse alleged grievance within 30 days as required in subpart (e). To become compliant, the facility must develop written procedures or modify the existing grievance procedures to incorporate the requirements of subparts (d) and (e) and update the detainee handbook with the amended procedures. Lastly, the facility's procedures shall include sending all grievances related to sexual abuse and the facility's decisions to the appropriate ICE Field Office Director at the end of the grievance process as outlined in subpart (e).

(f) NCSO Policy 0047 states, "Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates. If a third-party file such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. If the inmate declines to have the request processed on his or her behalf, staff shall document the inmate's decision." When six staff members were interviewed, all six indicated that detainees can use a third-party entity to assist and report sexual abuse on behalf of the detainee. Interviews with detainees revealed that 13 detainees were aware of third-party reporting and 7 were not familiar with this reporting mechanism.

§115.53 - Detainee access to outside confidential support services.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(d) NCSO Policy 0047 states in part that "the facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers, where available, of local, State, or national victim advocacy or rape crisis organizations, and for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible."

The facility utilizes NO TO Abuse through the Nevada Outreach Training Organization for rape crisis counseling. This organization

provides counseling services and services for victims of sexual abuse. The Auditor observed fliers for this organization posted on the walls of the housing units. Also, contact information for NO TO Abuse can be found in the facility detainee handbook. The Auditor contacted NO TO Abuse and confirmed that they provide a 24-hour hotline, and advocacy for the NCSO. The NCDC provided a memorandum stating that the NCSO has not entered into an MOU with the NO TO Abuse, and based on the Auditor's interview with the OIC, he stated it is not necessary because of their mutual county affiliation; however, based on the requirements of subpart (a) of this standard, the facility must attempt to enter into memoranda of understanding or other agreement with community service providers.

During the interviews with 20 detainees, 7 acknowledged being aware of outside community services for victims of sexual abuse. When the OIC was asked how the facility informs detainees, prior to giving them access to outside resources of the extent to which such communications are monitored, he responded that the facility's handbook and tablet state that communication between detainees and outside organizations are kept confidential and are not recorded.

Does Not Meet (a): The facility has not attempted to enter into memoranda of understanding or other agreement with the NO TO Abuse, or other community service providers. To become compliant, the facility must attempt to enter into memoranda of understanding or other agreement with the NO TO Abuse, or other community service providers, and provide documentation of this attempt to the Auditor for compliance review.

§115.54 - Third-party reporting.

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

Notes:

NCSO Policy 0047 states in part that "NCSO accepts third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate. Staff shall accept reports made verbally, in writing, and anonymously from third parties and shall promptly document any verbal reports. Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates. If a third-party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. If the inmate declines to have the request processed on his or her behalf, staff shall document the inmate's decision." None of the three allegations reviewed by the Auditor were reported by a third party.

The NCSO website instructs the public that PREA complaints can be made by calling a phone number that is provided or sending an email with the email address provided on the website.

Recommendation: The Auditor recommended that the facility place information about how to make a third-party report in their jail entrance area where video visitation takes place.

§115.61 - Staff reporting duties.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(d) NCSO Policy 0047 states in part that, "reporting of sexual abuse and assault to personnel with a need to know in order to make decisions concerning the detainee-victim's welfare, and for law enforcement/investigative purposes only. Any staff member who has knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment; retaliation against inmates or staff who reported such an incident; and any staff neglect that may have contributed to such incident or retaliation, shall immediately report such incident or retaliation, in the manner specified by NCSO policy. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone except as specified by NCSO policy. NCSO personnel will report any PREA allegation relating to ICE detainees as required by NCSO Policy. NCSO provides a method for staff to privately report sexual abuse and sexual harassment of inmates."

During the interview, six random staff members were asked if they were required to report any knowledge, suspicion, or information regarding an incident of sexual abuse and all six staff members answered yes. When asked how they would report it, all six staff members indicated they would notify their direct supervisor. When asked how staff could report a sexual abuse allegation about a detainee privately, three staff members stated they would circumvent the chain of command, two indicated they would notify their supervisor, and one indicated they would use the PREA hotline. When asked about maintaining confidentiality, all six staff members indicated that only those with a need-to-know would have access to the information. Of the three investigative files reviewed, one case involved verbally reporting to staff. The allegation verbally received by staff was immediately reported according to the facility's protocols to initiate an investigation. When interviewing the OIC, it was discovered that staff are made aware of their duty to report during their initial PREA training and in-service training, and that staff can report directly to the sheriff due to her "open door policy" and make reports on Blue Team. Blue Team is a report writing system that is integrated into IAPRO, software available to law enforcement to manage investigations that is confidential and only those granted access can view. Lastly, when conducting the interview with the OIC, it was indicated and documented in the PAQ that the facility does not house juvenile detainees. When asked about the facility's responsibility to report sexual abuse allegations made by vulnerable adults, the OIC stated that contact would be made with Adult Protective Services in accordance with Nevada mandatory reporting laws. The facility provided no documentation to

indicate that the facility has presented the facility's reporting policies and procedures to ICE for approval.

Does Not Meet (a): To become compliant, the facility must present their staff reporting duties policy and procedures to ICE for review and approval. Documentation must be provided to the Auditor for compliance review.

§115.62 - Protection duties.

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

Notes:

NCSO Policy 0047 states in part that, "When NCSO personnel learns that an inmate is subject to a substantial risk of imminent sexual abuse, they shall take immediate action to protect the inmate."

Interviews conducted with the five deputies indicated that they would separate the parties involved or remove the at-risk victim from that situation right away and begin to assess the situation. The facility reported one incident of sexual abuse that was substantiated, and the investigation indicates that the victim and abuser were immediately separated. When interviewing the OIC, he indicated that staff would immediately remove the at-risk detainee from that situation and if necessary, reassign detainees or inmates housing assignments based on the information gained through the investigation.

§115.63 - Reporting to other confinement facilities.

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

Notes:

(a)(b)(c) NCSO Policy 0047 states in part that "upon NCSO staff receiving an allegation that an inmate was sexually abused while confined at another facility, the PREA Coordinator shall notify the head of the facility or agency where the alleged abuse occurred. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. Captain shall document that it has provided such notification in the jail management system."

The OIC was interviewed and asked about the procedures if they receive a report of an alleged sexual abuse that occurred at another facility, and he indicated that notification would be made to the facility's PREA Coordinator immediately, but at least within 72 hours.

(d) NCSO Policy 0045 does not address the procedures to follow when the NCDC receives a sexual abuse allegation from another correctional facility and the NCDC's responsibility to investigate the allegation and to report to the appropriate ICE FOD. The OIC explained during his interview that if NCDC receives a report of sexual abuse from another facility that allegedly occurred at NCDC, they investigate it like any other sexual abuse allegation. The facility reported one instance of receiving a notification of alleged sexual abuse that occurred at the facility involving a detainee. This allegation was investigated criminally by NCSO, forwarded to ICE and reviewed by the Auditor.

Recommendation (d): The NCDC policy does not address the procedures to follow when the facility receives a sexual abuse allegation from another correctional facility and the NCDC's responsibility to investigate the allegation and the need to report the allegation to the appropriate ICE Field Office Director. The Auditor recommends that the facility incorporate the necessary language into NCSO Policy 0047, so the policy both reflects their current practice and is consistent with the standard's requirement.

§115.64 - Responder duties.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) NCSO Policy 0047 states in part that, "when a security staff first-responder learns that an inmate has been sexually abused, they shall take immediate action to protect the inmate. This includes, separating the inmate from the alleged perpetrator; preserve and protect any crime scene until appropriate steps can be taken to collect evidence; and if the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim and ensure that the alleged abuser not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall immediately notify the appropriate medical and mental health practitioners. When the first staff responder is not a security staff member, they shall request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff."

The OIC confirmed that all NCDC staff are trained in first responder duties. During interviews, the Auditor asked six random staff members (five deputies and one detention technician) about their responsibilities if they were first on the scene of an alleged sexual abuse. All five deputies interviewed indicated that they would immediately separate the involved parties and notify their supervisor. However, no deputy stated that they would secure the scene or preserve the evidence. The detention technician was also asked this question and indicated that she would immediately notify a supervisor of the situation. Based on the staff interviews, it appears that staff is unfamiliar with the appropriate steps to take if they are a first responder to an incident of sexual abuse.

Does Not Meet (a)(b): To meet this standard, the facility must provide refresher training to all NCDC staff regarding the responsibilities of all first responders to an alleged sexual abuse. The training should be specific to the duties of first responders and their responsibility to separate the alleged victim and abuser, secure the scene and preserve the evidence. This training should be documented and provided to the Auditor for compliance review.

§115.65 - Coordinated response.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) NCSO Policy 0047 states in part that, "in the event of a complaint actions shall be coordinated among staff first responders, medical and mental health practitioners, investigators, and facility leadership." The OIC was interviewed and indicated that their response plan is the criminal and IA investigators coordinating with the University Medical Center of Las Vegas. Medical staff indicated during interviews that detainees that have been sexually assaulted would immediately receive timely access to emergency medical treatment. The facility was unable to provide the Auditor with a written institutional plan to coordinate actions taken by staff first responders, medical and mental health professionals, investigators, and facility leadership. The written coordinated response plan was requested by the Auditor through the issue log provided to the Team Lead and presented to the NCDC on March 11, 2022, and was requested again during the on-site visit. No documented coordinated response plan has been presented for the Auditor's review.

Does Not Meet (a)(b): The NCDC has not provided a written institutional plan to coordinate actions taken by first responders, medical and mental health professionals, investigators, and facility leadership. The written coordinated response plan was requested by the Auditor through the issue log provided to the Team Lead and presented to the NCDC on March 11, 2022. To achieve compliance, the facility must develop a written response plan identifying the protocols for all staff that are involved in the coordinated response. The plan must use a coordinated, multidisciplinary team approach to responding to sexual abuse. All facility staff must receive training on this coordinate response plan and training must be documented.

(c)(d) The NCDC provided a memo stating that they had not had an incident where a victim of sexual abuse was transferred during the audit period. All NCDC's detainees go to ICE for release or deportation. Based on the interview with the OIC, if a victim was transferred, ICE would have already been notified of their status and the Transportation Sergeant would follow up with an email to ICE when the transfer occurred. Facility staff did not provide the Auditor with evidence to support any facility procedures that comply with subparts (c)(d).

Does Not Meet (c)(d): The information conveyed by facility staff and review of the documentation provided did not support any procedures in place for complying with these subparts. To become compliant with (c), the facility must have procedures in place to inform the receiving facility of a sexual abuse incident and the victim's potential need for medical or social services when a detainee victim is transferred between DHS immigration detention facilities. To become compliant with (d), the facility must have procedures in place to inform the receiving facility of a sexual abuse incident and the victim's potential need for medical or social services when a detainee is transferred to a non-DHS facility, unless the victim requests otherwise. These notifications must be documented and made available for compliance review.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

NCSO Policy 0047 states in part that "when the individual(s) suspected of sexual abuse is a member of the staff, contractors, or volunteers, they shall be removed from all duties that involve detainee contact pending the outcome of the investigation."

During the interview with the OIC, it was asked what actions would be taken if staff, contractors, or volunteers were suspected of detainee sexual abuse. The OIC indicated that contractors would have their contract suspended, preventing any further contact. Volunteers would no longer be allowed entry into the facility and staff would be placed on administrative leave until the completion of the investigation. The Auditor's review of the case file involving a staff member found that the investigation was conducted on the same day and closed unfounded on the same day the incident was reported; therefore the staff member was not removed from contact with detainees. The second allegation regarding a staff member was made by a detainee that was being housed in a different facility when the allegation was made, but had previously been housed at the NCDC. Therefore, the staff member was not removed from his/her duties during the investigation.

Does Not Meet: In the two allegations reported that involved staff, there was no documentation to indicate that the staff members were removed from detainee contact duties during the investigation. To become compliant, the facility must implement procedures that ensure staff, contractors, and volunteers suspected of perpetrating sexual abuse are removed from all duties requiring detainee contact pending the outcome of an investigation and document this action. Documentation of implementation of these procedures must be presented to the Auditor for compliance review, along with any examples to demonstrate compliance with this standard for any allegations reported during the CAP period.

§115.67 - Agency protection against retaliation.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c) NCSO Policy 0047 states in part that "NCSO policy is to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff. Staff shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. For at least 90 days following a report of sexual abuse, staff shall monitor the conduct and treatment of inmates or staff who reported sexual abuse, and of inmates who were reported to have suffered

sexual abuse, to see if there are changes that may suggest possible retaliation by inmates or staff and shall act promptly to remedy any such retaliation. Staff shall continue such monitoring beyond 90 days if the initial monitoring indicates an ongoing need. Monitoring shall include periodic in-person conversations with inmates and/or staff; review of disciplinary incidents involving inmates; review of housing or program changes; and review of negative performance reviews or reassignments of staff. Any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the same requirements that are discussed in this policy”.

The facility provided a memo that indicates that they had no instances where monitoring for retaliation was necessary. However, there were seven allegations reported during the audit period and monitoring should begin immediately following the allegation, continuing for 90 days, or longer, if a need is indicated. The three investigative files reviewed by the Auditor contained no information regarding retaliation monitoring and the facility has not provided any evidence that this practice is being conducted. During the interview with the OIC, he indicated that the way the facility protects both detainees and staff from retaliation for reporting sexual abuse would be absolute swift consequences through discipline and monitoring of the victims of retaliation. He also stated that staff would immediately be placed on administrative leave and detainees would face in-house disciplinary charges. The detainee interviewed by the Auditor that reported sexual abuse was asked if anything negative has happened to him as a result of reporting a sexual abuse allegation. The detainee stated that he had filed a retaliation allegation and that two IA detectives interviewed him. He also stated that he was informed that the retaliation allegation was unfounded. The facility provided the Auditor a copy of a notification to the detainee that his allegation of retaliation was investigated by the NCSO IA investigators and closed unfounded when the Auditor inquired about this retaliation allegation.

Does Not Meet (c): The facility is found non-compliant with this standard because no retaliation monitoring has been conducted within the audit period, although there were seven allegations reported. To become compliant, the facility must implement procedures and practice to ensure that retaliation monitoring is conducted for at least 90 days for any person 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. Designated staff must be trained on the requirement to monitor for retaliation in accordance with this standard, and this training must be documented. This monitoring shall begin immediately following the allegation, continuing for 90 days, or longer, if a need is indicated. Documentation of this monitoring for any allegations within the CAP period shall be maintained and presented for compliance review.

§115.68 - Post-allegation protective custody.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b) NCSO Policy 0047 states in part that “inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless a supervisor has assessed all available alternatives and has determined that there is no available alternative means of separation from likely abusers. If the facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment. Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the fullest extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, it shall document the opportunities that have been limited; the duration of the limitation; and the reasons for such limitations.” The current policy does not prohibit holding of detainee victims in segregation for longer than five days. Based on the Auditor’s interview with the OIC, the facility does not place detainee victims in segregation. However, the facility must have a procedure in place to ensure compliance with subparts (a)(b) of this standard in the event that it was necessary to place a detainee victim in segregation.

Does Not Meet (b): The facility’s policy does not address that a detainee victim cannot be placed in administrative segregation housing unit for longer than five days. To become compliant, procedures must be implemented to provide guidance to staff that detainees cannot be placed in administrative segregation housing for longer than five days, except in highly unusual circumstances or at the request of the detainee. NCDC staff must be trained on these procedures and training shall be documented for compliance review.

(c)(d) NCSO Policy 0047 states in part that “detainees who are placed in administrative segregation after being subjected to sexual abuse will be reassessed before they are returned to general population.” The NCDC provided the Auditor with a memo stating that; “the Nye County Detention Center has had no Detainee’s that required segregation for protection from sexual abuse. Nye County Detention Center has not had any detainee that has been found as a victim of sexual abuse.” The facility also provided a blank copy of an ICE Form I-886 Administrative Segregation order as evidence of a procedural document that would be completed and forwarded to ICE officials whenever a detainee victim has been placed in administrative segregation.

During the Auditor’s interview with the OIC, he stated that no detainee victim has ever been placed in segregation because they have a protective custody housing unit, the unit is available for those detainees that need additional protection without segregating them from the population. The OIC indicated there has been no need to segregate any detainee victim. He also indicated that ICE would be notified via email if a detainee victim is placed in protective custody for 72 hours.

Recommendation (d): The Auditor recommends adding instructions on how and when to notify the appropriate ICE FOD whenever a detainee victim has been held in administrative segregation for 72 hours to the policy.

§115.71 - Criminal and administrative investigations.

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

Notes:

(a) The OIC explained that all allegations are investigated criminally by NCSO. The OIC added if a sexual abuse allegation was made alleging staff or contractors, the NCSO Internal Affairs (IA) would conduct the administrative investigation; all other allegations would be forwarded to ICE to conduct an administrative investigation, if no evidence of a crime was committed.

(b)(c) The NCDC utilizes the NCSO (outside entity) to conduct investigations. There are no facility investigators at the NCDC and the facility does not have procedures addressing administrative investigations. The OIC explained that all administrative investigations involving ICE detainees would be handled by ICE; however, the Auditor's review of three case files did not support the procedures were followed as explained and there are no written procedures providing NCDC staff guidance on these procedures. In the cases reviewed by the Auditor, there was documentation that a criminal investigation was conducted by NCSO, but no indication of any administrative investigation which further supports the need for written procedures that specifically include subpart (c) 2 of this standard.

The NCSO Investigator stated that IA is responsible for conducting administrative investigations involving staff members, and there were two allegations reviewed by the Auditor involving staff. The NCSO conducted a criminal investigation into an inmate on detainee allegation that was substantiated. The Auditor saw evidence of a criminal investigation in all three cases, but nothing to support an administrative investigation was conducted in either of the three cases. The ICE JIC was notified in each incident and documented. In each of these situations, an ICE management inquiry was conducted with the information provided by the NCSO criminal investigation and a final disposition was established by ICE.

Recommendation (a)(b)(c): The NCSO conducted a criminal investigation that was substantiated and the NCDC has provided no proof that an administrative investigation was conducted for this case. In addition, in the other two sexual abuse allegation cases against staff where a criminal investigation was conducted, no evidence was made available to determine if the facility reviewed the completed criminal investigation to decide whether an administrative investigation was appropriate. All three cases appear to have been forwarded to ICE, but the Auditor found that only a management inquiry was conducted. The facility or agency should conduct an administrative investigation on the three cases reviewed by the Auditor, and any other cases that occurred within the audit period, but has not received an administrative investigation. The facility does not have clear procedures outlining investigation referral procedures (see §115.22). The Auditor recommends the facility develop written procedures that outline responsibilities for coordination of investigations between NCDC and NCSO, and NCDC and ICE.

(e) The facility policy does not address the departure of the alleged abuser or victim from employment or control of the facility shall not provide a basis for terminating an investigation. It appears that this is the practice; however, there is no evidence that there is a policy in place. The OIC confirmed that an investigation will continue regardless of the inmates or staff's availability. The NCDC does not have a written policy to address the coordination and sequencing of the two types of investigations in accordance with this standard.

Recommendation (e): The facility policy does not address the departure of the alleged abuser or victim from employment or control of the facility shall not provide a basis for terminating an investigation. The Auditor recommends that the facility incorporate language into the policy to provide guidance to staff for complying with this provision.

(f) Based on the Auditor's review of NCSO Policy 0047 and three closed allegation files, the NCSO, as the external investigating entity, receives cooperation from the facility during the investigation and remains informed about 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:

ICE Policy 11062.2 states, "Administrative investigations imposes no standard higher than the preponderance of the evidence to substantiate an allegation of sexual abuse or assault." Additionally the ICE OPR Investigations Incidents of Sexual Abuse and Assault training required for investigators includes the evidentiary standard for administrative investigations. Of the cases reviewed by the Auditor, no documentation of administrative investigations were provided for the Auditor to confirm this practice.

The Auditor based the compliance determination on ICE policy explaining the level of evidence needed to substantiate an administrative investigation and the training required for ICE/ERO/OPR investigators.

§115.73 - Reporting to detainees.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

NCSO Policy 0047 states in part that, "A detainee who alleges to be the victim of sexual abuse shall be notified of the results of an investigation into an allegation of sexual abuse and any responsive action taken."

The OIC was interviewed and asked if the facility makes notification to the detainee victim of the findings of the investigation and any responsive action taken. The OIC stated that notification is made to the detainee through the tablet. The detainee who was interviewed by the Auditor who reported sexual abuse indicated that he was made aware of the findings of his allegation by an ICE

officer. The facility was unable to provide documentation that the detainees were notified of the result of the investigation and any responsive action taken related to the allegations of sexual abuse in the three allegations reviewed by the Auditor. The Auditor completed a PREA Audit: Notification of PREA Investigation Result to Detainee – ICE Facilities form for the alleged victims, which was submitted to ERO for purposes of obtaining verification that the detainees were provided notification of the results of the investigation. ERO has not provided a response to this request for information.

Does Not Meet: The facility or agency did not provide documentation to indicate that detainees were notified of the result of the investigation and responsive action taken following an investigation into the three allegations of sexual abuse that were reviewed by the Auditor. To become compliant, the facility must implement a procedure and practice of making these notifications according to requirements of this standard. Notifications must be made or attempted to be made to the victims in the cases that occurred within the audit period, and for any other closed cases that occur within the CAP period, with documentation provided to the Auditor for compliance review.

§115.76 - Disciplinary sanctions for staff.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c)(d) NCSO Policy 0047 states in part that “staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse. Disciplinary sanctions for violations of NCSO policies relating to sexual abuse or sexual harassment shall be commensurate with the nature and circumstances of the acts committed, the staff member’s disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.”

The facility did not provide the Auditor evidence that they submitted their policies and procedures regarding disciplinary and adverse actions for staff to ICE for review and approval. The OIC was interviewed and indicated that sworn staff that violate the NCDC’s sexual abuse policy would be terminated and that if it occurred then the State of Nevada, the Commission on Peace Officers would be contacted by email. The NCSO is a law enforcement entity capable of conducting their own criminal investigation into sexual abuse by staff. The NCDC provided blank copies of two NCSO forms used in administrative or criminal investigations to make notification to their staff of their administrative rights and their current position and authority during the investigation. The first form is an Administrative Leave/Relief of Duty acknowledgement, and the second form is notification of formal Final Discipline. The NCDC reported no instances where staff were disciplined or terminated based on violating the NCDC’s sexual misconduct (PREA) policy.

Does Not Meet (b): The facility did not provide the Auditor evidence that they submitted their policies and procedures regarding disciplinary and adverse actions for staff to ICE for review and approval. To become compliant, the facility must present their policies and procedures regarding the disciplinary or adverse actions for staff to the agency for review and approval in accordance with subpart (b) of this standard. This approval must be documented and presented for compliance review.

§115.77 - Corrective action for contractors and volunteers.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(c) NCSO Policy 0047 states in part, “any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The Detention Lieutenant shall take appropriate remedial measures and shall consider whether to prohibit further contact with inmates, in the case of any other violation of NCSO’s sexual abuse or sexual harassment policies by a contractor or volunteer.” The OIC was not aware of any licensing bodies that would be notified by his facility of substantiated allegations for contractors or volunteers. Any criminal acts would be investigated by the NCSO and the employer for the contracted staff or volunteer would be responsible for notifying any relevant licensing bodies.

(b) The facility’s NCSO Policy 0047 does not require contractors and volunteers suspected of perpetrating sexual abuse be removed from all duties requiring detainee contact pending the outcome of an investigation. During the Auditor’s interview with the OIC, he indicated that investigations into allegations against contractors or volunteers would follow the same procedures as staff investigations but was unable to ascertain if a contractor or volunteer would be removed from all duties requiring detainee contact pending the outcome of any investigation. The NCDC has not provided any evidence that this particular provision of the standard is common practice given the interview response. The NCDC provided a memo stating that there were no instances of contractor or volunteer sexual misconduct during the audit period

Does Not Meet (b): The facility’s NCSO Policy 0047 does not require contractors and volunteers suspected of perpetrating sexual abuse be removed from all duties requiring detainee contact pending the outcome of an investigation. Furthermore, the Auditor was unable to ascertain this as a practice during interview with the OIC. The NCDC has not provided any evidence that provision (b) of the standard is common practice given the interview response. The facility must implement a procedure for removing contractors and volunteers suspected of perpetrating sexual abuse from all duties requiring detainee contact pending the outcome of an investigation. Additionally, the facility shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. These procedures must be presented to the Auditor for compliance review.

§115.78 - Disciplinary sanctions for detainees.

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

Notes:

(a)(b)(c)(d)(e)(f) NCSO Policy 0047 states in part that "inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on- inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. The disciplinary process shall consider whether an inmate's mental disability or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. If there is therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse available, the shift supervisor shall consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits. The facility may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident, even if an investigation does not establish evidence sufficient enough to substantiate the allegation."

The OIC explained the facility's due process associated with their disciplinary process. The OIC was interviewed and explained that the facility would not discipline a detainee for sexual contact with a staff member unless the staff member did not consent to the contact; he also explained that the facility would not discipline a detainee if a report was made in good faith, if the investigation did not establish enough evidence to substantiate the allegation. In the substantiated case of sexual abuse reviewed by the Auditor, the abuser was an inmate and outside the purview of this standard.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c) NCSO Policy 0047 states in part that "if the screening required in above indicates that an inmate has experienced prior sexual victimization, whether in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments. Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18." The facility's policy indicates that a follow-up medical or mental health meeting will take place within 14 days of the risk screening. However, DHS PREA standards require meetings with medical staff take place within 2 working days and mental health meetings within 72 hours after the referral. In addition, the Auditor has not received any evidence of referrals to medical or mental health professionals.

The Auditor interviewed the intake officer who was identified as the person responsible for conducting risk screening. The intake officer confirmed that if a detainee discloses that they were previous victims of sexual abuse they will be referred to medical for further evaluation and referral. When interviewing the medical staff, the Auditor was informed that they screen for prior sexual victimization but were unable to provide clear information on whether or not the detainee would be referred to a mental health practitioner for an evaluation. The Auditor requested from the facility information about when a referral for medical and/or mental health follow-up is initiated based on a prior sexual abuse and how soon after screening is a medical or mental health assessment conducted; this information was never provided to the Auditor.

The NCDC provided a memo stating that they had no victims or perpetrators that required a mental health follow-up.

Does Not Meet (a)(b)(c): The facility has not demonstrated compliance with any of the requirements in (a)(b)(c). To become compliant the facility must develop procedures and update their policies to reflect their current procedures and practice, that ensure appropriate referrals to qualified medical or mental health practitioners occur immediately when identified during the screening pursuant to 115.41 to have experienced prior sexual victimization or perpetrated sexual abuse. Additionally, procedures and processes must include when a referral for medical follow-up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of the assessment; when a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral.

§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) NCSO Policy 0047 states in part that "inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Treatment services shall be provided to the victim without

financial cost to the victim and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.”

The NCDC provided a memo stating that they have not had any victims or perpetrators that required emergency medical/mental health services that were charged for services. All medical treatment involving sexual abuse allegations are at no cost to the detainee. During the interview with the medical staff member, she indicated that detainees that have been sexually assaulted would receive timely access to emergency medical treatment and crisis intervention services at the local hospital center. She also indicated that detainees that have been sexually assaulted would receive timely information about access to emergency contraception and sexually transmitted prophylaxis at the hospital. She stated that all these services to include necessary follow-up appointments would be at no cost to the detainee.

The allegations reported in the three case files reviewed by the Auditor did not rise to the level of emergency medical intervention.

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

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

Notes:

(a)(b)(c)(e)(f)(g) NCSO Policy 0047 states in part that “the facility shall offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been sexually abused in a prison, jail, lockup, community corrections facility, or juvenile justice facility. Medical shall attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The facility shall provide such victims with medical and mental health services consistent with the community level of care.” The policy further states, “Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections, as medically appropriate. Ongoing treatment services shall be provided to the victim without financial cost to the victim and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.”

The interview with medical staff indicated that any additional tests or treatment would be handled by the attending physician and that the medical staff at the facility would provide the necessary continuity of care. The medical staff member also stated that the Facility Doctor would be consulted regarding all continued medical care and treatment. The medical staff member stated that the medical and mental health services offered at the facility is consistent with that of the community. The medical staff member indicated that they would provide the continuity of care for detainee victims of sexual assault as specified by the attending physicians at the hospital and the NCDC doctor.

(d) NCDC does not house female detainees, so this provision is not applicable.

§115.86 - Sexual abuse incident reviews.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b)(c) The Auditor’s review of NCSO Policy 0047 found that the provisions of this standard are not addressed. After conducting interviews with the OIC, the Auditor concluded that no incident review has been conducted, nor reports prepared, nor any annual reports prepared after every sexual abuse incident.. The facility explained that the NCDC has just recently established a procedure to conduct incident reviews by using an existing team referred to as the Training Tribunal; however, no incident reviews have been conducted.

Does Not Meet (a)(b)(c): No incident reviews have been conducted in accordance with DHS PREA Standard 115.86. To become compliant, the facility must implement procedures and practices that ensure a sexual abuse incident review is conducted at the conclusion of every investigation of sexual abuse. Additionally, if the allegation was determined to be substantiated or unsubstantiated, the facility must prepare a report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates a change in policy or practice that could better prevent, detect, or respond to sexual abuse.

The review team shall consider whether the incident was motivated by race, ethnicity, gender identity, LGBTQ status, transgender or intersex identification, or gang affiliation; or was otherwise caused by other group dynamics at the facility. The facility must implement the recommendations for improvement or document its reasons for not doing so in a written response. Both the report and response must be forwarded to the agency PSA Coordinator. Each facility shall also conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention, and response efforts. The results and findings of the annual review shall be provided to the facility administrator, FOD, and agency PSA Coordinator.

Furthermore, for compliance review, each of the sexual abuse cases that occurred within the audit period must have an incident review conducted in accordance with the provisions of this standard; additionally, any new sexual abuse cases that are closed during the CAP period must also have an incident review conducted in accordance with the provisions of this standard.

§115.87 - Data collection.

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

Notes:

(a) NCSO Policy 0047 states in part that "due to the very sensitive nature of information about victims and their medical condition, including infectious disease testing, staff must be particularly vigilant about maintaining confidentiality and releasing information only for legitimate need-to-know reason. NCSO shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. NCSO shall aggregate the incident-based sexual abuse data at least annually. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Homeland Security. NCSO shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. NCSO shall also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates. Upon request, NCSO shall provide all such data from the previous calendar year to the Department of Homeland Security no later than June 30."

The PSA Compliance Manager was asked where the data collection is kept on all sexual abuse allegations for the NCDC and he explained that the NCDC uses IAPRO to store that data on a secure web based site. The Auditor is familiar with this system and its technology is utilized by law enforcement throughout the U.S. to assist in maintaining, diagnosing and extracting information regarding administrative investigations.

§115.201 - Scope of audits.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(d) The Auditor was provided full access to and observed all areas of the NCDC without restriction.

(e) The Auditor was not provided relevant documentation to complete a thorough audit of the facility prior to the on-site visit. The auditor did receive some additional information during the visit; however, he did not receive all requested documents or copies of relevant materials necessary to make compliance determinations.

Does Not Meet (e): To meet this standard the facility must provide all documentation requestion during the CAP period.

(i) The auditor was permitted to interview staff and detainees in a private area.

(j) Audit notices were posted in the NCDC which explained that detainees, staff, or any other interested party were permitted to send the Auditor confidential correspondence through the Creative Corrections, LLC mailing address. The Auditor received one correspondence from an ICE detainee pertaining to the NCDC PREA Audit.

AUDITOR CERTIFICATION

Update Audit Findings Outcome Counts by Clicking Button:

Update Outcome Summary

SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)	
Number of standards exceeded:	0
Number of standards met:	13
Number of standards not met:	27
Number of standards N/A:	1
Number of standard outcomes not selected (out of 41):	0

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

Ron Kidwell

5/25/2022

Auditor's Signature & Date

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

5/25/2022

Assistant Program Manager's Signature & Date

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

5/25/2022

Program Manager's Signature & Date

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



**Homeland
Security**

115AUDITOR INFORMATION			
Name of Auditor:	Ron Kidwell	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	409-866-(b) (6), (b) (7)(C)
PROGRAM MANAGER INFORMATION			
Name of PM:	(b) (6), (b) (7)(C)	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	409-866-(b) (6), (b) (7)(C)
AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		
FIELD OFFICE INFORMATION			
Name of Field Office:	Salt Lake City Field Office		
Field Office Director:	Michael Bernacke		
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)		
Field Office HQ physical address:	2975 Decker Lake Dr. #100, West Valley City, Utah 84119-6096		
Mailing address: (if different from above)			
INFORMATION ABOUT THE FACILITY BEING AUDITED			
Basic Information About the Facility			
Name of facility:	Nye County Detention Center		
Physical address:	1521 E. Siri Ln., Pahrump, NV 89060		
Mailing address: (if different from above)			
Telephone number:	775-751-7027		
Facility type:	IGSA		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Captain
Email address:	(b) (6), (b) (7)(C)	Telephone number:	775-751-(b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Captain
Email address:	(b) (6), (b) (7)(C)	Telephone number:	775-751-(b) (6), (b) (7)(C)

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS:

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

During the audit, the Auditor found NCDC met 13 standards, had one standard (115.114) that was non-applicable, and 27 non-compliant standards. As a result, the facility was placed under a 180-day Corrective Action Plan (CAP) period of May 25, 2022, through November 21, 2022, to address the non-compliant standards. Over the entirety of the CAP period, the NCDC came into compliance with a total of 14 of the 27 outstanding DHS PREA standards. NCDC remains non-compliant with 13 DHS PREA standards.

Number of Standards Met: 14

§115.11 Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator
§115.13 Detainee supervision and monitoring
§115.32 Other Training
§115.35 Specialized training: Medical and mental health care
§115.43 Protective Custody
§115.53 Detainee access to outside confidential support services
§115.61 Staff reporting duties
§115.64 Responder duties
§115.66 Protection of detainees from contact with alleged abusers
§115.73 Reporting to detainees
§115.76 Disciplinary sanctions for staff
§115.77 Corrective action for contractors and volunteers
§115.81 Medical and mental health screening; history of sexual abuse
§115.201 Scope of audits

Number of Standards Not Met: 13

§115.15 Limits to cross-gender viewing and searches
§115.16 Accommodating detainees with disabilities and detainees who are limited English proficient
§115.17 Hiring and promotion decisions
§115.21 Evidence protocol and forensic medical examinations
§115.22 Policies to ensure investigation of allegations and appropriate agency oversight
§115.33 Detainee education
§115.41 Assessment for risk of victimization and abusiveness
§115.42 Use of Assessment Information
§115.52 Grievances
§115.65 Coordinated response
§115.67 Agency protection against retaliation
§115.68 Post-allegation protective custody
§115.86 Sexual abuse incident reviews

PROVISIONS

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

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

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

Notes:

(c)(d) NCSO Policy 0047 is the NCDC's written SAAPI policy that states in part, "The Nye County Sheriff's Office is committed to zero tolerance of any form of sexual abuse and sexual harassment in facilities it operates directly or with which it holds contracts for the confinement of inmates. The purpose of this policy is to describe NCSO's mandate of zero tolerance toward all forms of sexual abuse and harassment, and to outline NCSO's approach to preventing, detecting, and responding to sexual abuse at the NCDC. NCSO mandates zero tolerance toward all forms of sexual abuse, assault, and harassment are never an acceptable consequence of detention. Sexual abuse of an inmate and sexual harassment of an inmate are prohibited."

This policy also outlines how NCDC will implement the NCSO's approach to preventing, detecting, and responding to sexual abuse such as employing/designating a PREA Coordinator with enough time and authority to oversee the jail's efforts to comply with PREA standards. To make best efforts to comply with facility staffing plan and to have supervisors conduct unannounced rounds among many other strategies. In addition, the policy provides the definitions of sexual abuse, sexual harassment, and voyeurism. The policy also addresses sanctions for those who violate the PREA policy with discipline up to and including termination. Finally, the NCSO PREA policy in its entirety incorporates the necessary fundamentals needed to describe NCSO's approach to detecting, preventing, and responding to allegations of sexual abuse. The facility did not provide any evidence that the NCSO Policy 0047 was reviewed and approved by ICE.

NCSO Policy 0047 identifies the NCSO Operations Captain as being designated as the NCDC PSA Compliance Manager. The PSA Compliance Manager confirmed during his interview that he is facility's point of contact for the ICE PSA Compliance Manager and stated that he has sufficient time and, as the NCDC's OIC, authority to oversee facility efforts to comply with facility sexual abuse prevention and intervention policies and procedures.

Does Not Meet (c): The facility presented no evidence that the written SAAPI policy was presented to ICE for review and approval. To become compliant, the facility must present the facility's SAAPI policy to ICE for review and approval and provide documentation to the Auditor for compliance review.

Corrective Action Taken (c): On July 18, 2022, the Auditor reviewed the memorandum, dated June 29, 2022, issued by the Salt Lake City Field Office, Las Vegas Sub-Office AFOD that the Nye County Policy NCDC 0047-PREA had been reviewed and approved. The Auditor accepted the corrective action made and the facility has demonstrated compliance with subpart (c) of this standard.

§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) NCSO Policy 0047 states in part, "the NCSO will adopt and implement the following measures to prevent and detect sexual abuse in its facility. In the process of creating and revising a staffing plan to provide for adequate levels of staffing and video monitoring to protect inmates against sexual abuse, NCSO shall ensure that the following factors are taken into consideration:

- Generally accepted detention and correctional practices.
- Any judicial findings of inadequacy.
- Any findings of inadequacy from federal investigative agencies.
- Any findings of inadequacy from internal or external oversight bodies.
- All components of the facility's physical plant.
- The composition of the inmate population.
- The number and placement of supervisory staff.
- Programs occurring on a specific shift.
- Any applicable State or local laws, regulations, or standards.
- The prevalence of substantiated and unsubstantiated incidents of sexual abuse.
- Any other relevant factors.

NCSO shall make its best efforts to comply with the staffing and video monitoring plan and, in circumstances where it is not complied with, shall document, and justify all deviations.” The policy also states in part that, “At least once every year, and in collaboration with the PREA Coordinator, NCSO shall conduct an assessment to determine whether adjustments are needed to the staffing plan and the deployment of video monitoring systems and other technologies.”

During the interview with the OIC, he was asked if the facility had a comprehensive detainee supervision guideline and if the guideline includes consideration of measures to protect detainees from sexual abuse, and if video monitoring is part of the plan and if the detainee guideline is documented. The OIC confirmed “yes” to all the above questions. The OIC also confirmed that when reviewing the staffing levels on an annual basis that they consider all the above matters. The OIC explained that there are three levels of supervision with oversight regarding staffing levels to ensure adequate staff is made available to compensate for those deputies that are on leave or training. The Auditor conducted the required interview with the PSA Compliance Manager regarding this standard and because the PSA Compliance Manager is the OIC at this facility, the OIC just reconfirmed what he had already answered the above. Although the OIC stated during his interview that the facility has comprehensive detainee supervision guidelines, the facility was unable to produce documented guidelines for the Auditor’s review. The Auditor requested during the pre-audit phase and during the on-site visit that the facility provide a comprehensive detainee supervision guideline and evidence of an annual review of this detainee supervision guideline. At this time, no documents have been produced.

Does Not Meet (b)(c): The NCDC has not provided evidence that a developed and documented comprehensive detainee supervision guideline exists and that those guidelines are reviewed at least annually. A comprehensive detainee supervision guideline must be developed and documented and be reviewed at least annually. These guidelines should identify the number of staff assigned to the detention center, identify the number of supervisors and all other positions needed to carry out the day-to-day operations at the detention center. Additionally, the supervision guidelines need to identify the minimum staff needed to supervise the maximum number of detainees safely and securely. In determining the adequate levels of detainee supervisions and determining the need for video monitoring, the facility shall also take into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of each facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody. The annual review of the comprehensive detainee supervision guideline must be documented, codifying the who, what, when, and how this review occurred.

Corrective Action Taken (b)(c): On October 1, 2022, the Auditor reviewed the documentation provided by the facility uploaded on September 27, 2022, Policy NCDC 0013 (Booking Deputy), Policy NCDC 0032 (Booking Procedures), Policy NCDC 0069, (Booking Tech), Policy NCDC 0016 (Booking Sergeant), Policy NCDC 0012 (Housing Deputy), and a copy of the Nye County Sheriff Organizational Chart. The deputy post order policies are addressing the detainee supervision guidelines associated with those affected positions. In addition, the organizational chart identifies the number of specific deputy positions, vacancies, and titles of those deputies assigned to the NCDC. Policy 0047 requires the facility to conduct a yearly assessment to determine whether adjustments are needed to the staffing plan and the deployment of video monitoring systems and other technologies. The Auditor is satisfied that the comprehensive detainee supervision guidelines presented on September 27, 2022 documents the first annual review for this audit purpose. This information was accepted by the Auditor as comprehensive supervision guidelines; however, there was no documentation indicating that the elements required under 115.13(c) were taken into consideration during development. The Auditor requested that NCDC provide a memorandum from the OIC/PSA stating that the elements required under 115.13 (c) were taken into consideration when developing the current detainee supervision guidelines. On November 9, 2022, the Auditor reviewed the documentation uploaded on November 8, 2022, consisting of a memorandum, dated October 11, 2022, authored by the OIC stating that while developing the staffing plan many things were taken into consideration, including but not limited to all the elements required under 115.13 (c). Those elements are listed in the memorandum and signed by the OIC. The Auditor accepted the corrective action, and the facility has demonstrated compliance with subpart (b) and (c) of this standard.

§115. 15 - Limits to cross-gender viewing and searches

Outcome: Does not Meet Standard

Notes:

(b)(d) NCSO Policy 0047 and 0022 were reviewed by the Auditor and there is no specific guidance provided regarding pat-down searches of male detainees. NCSO 0022 states, “If a same gender deputy is working in the facility in which a [pat-down] search is being conducted he/she should conduct the search, although when a same gender deputy is not available in the assignment post and one is not available from patrol, cross gender [pat-down] searches are authorized.” The facility has no prohibition for cross-gender pat searches, barring exigent circumstances, and staff interviews confirmed that female deputies conduct pat searches of male detainees, and they are not documented.

Does Not Meet (b)(d): Neither NCSO Policy 047 and NCSO Policy 0022 address or provide guidance regarding cross-gender pat-down searches of male detainees and the appropriate circumstances when a cross-gender search can be conducted. Furthermore, staff interviews confirmed cross-gender pat searches are conducted and not documented. To become compliant, the facility must develop procedures and practices that prevent cross-gender pat-down searches of male detainees unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances. Additionally, these procedures and practices must include subpart (d) requirement for all cross-gender pat searches to be documented. All NCDC staff must be trained on these procedures and practices (in conjunction with subpart (j) below). Documentation of the procedures, practice, and training must be presented for compliance review.

Corrective Action Taken (b)(d): On October 1, 2022, the Auditor reviewed the documentation provided by the facility uploaded on September 27, 2022, consisting of Policy NCDC 0022 which states that, "Cross gender pat-down searches of male ICE detainees shall not be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances." The policy further states that all cross-gender searches shall be documented in their Jail Management System (JMS) using the Guardian handheld device. The Auditor accepted the revised policy language and requested that a sample of appropriately documented cross-gender searches be provided. Additionally, the facility was required to make available the new procedure to all NCDC security staff and have them acknowledge reading and understanding the new policy once the Sheriff approves the policy. On December 3, 2022, the Auditor reviewed the facility's response and the facility advised that the policy was approved and distributed. However, no evidence was provided that all staff reviewed and acknowledged the changes. In addition, the facility provided no documented opposite gender searches for review as requested. Provisions (b)(d) remain non-compliant.

(g) NCSO Policy 0047 states in part, "The facility shall enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Staff members of the opposite gender shall announce their presence when entering an inmate housing unit." The Auditor observed full length shower curtains and half walls surrounding the toilet areas in the majority of the housing units. There are several bottom tier cells where the location of the toilet area could be viewed. (b) (7)(E)

The main control post is not a gender specific post and opposite gender staff can view into these cells.

The random staff were also asked if they announce their presence when entering a housing unit of the opposite gender and if detainees can dress, shower, and use the bathroom without being viewed by staff of the opposite gender. All six staff members confirmed that "yes" they announce their presence every time and "yes" detainees have a level of privacy without being viewed by staff of the opposite gender.

When conducting detainee interviews, they were asked if they or other detainees are ever naked in full view of staff of the opposite gender; fourteen detainees stated that they were not and six stated that they are unsure because of the two-way windows on the pod walls. Detainees were asked if they are able to dress, shower, and use the bathroom without being seen by staff of the opposite gender and 19 detainees said yes; one stated he believed he can be seen exiting the shower.

Does Not Meet (g): The Auditor identified four camera views that were not pixelated or blacked out inside the two single occupancy isolation medical cells. These cameras must be corrected so that staff of the opposite gender are not able to view detainees while in a state of undress or using the bathroom. To become compliant, the facility must implement procedures to prevent cross-gender viewing of detainees in these cells. Additionally, there were several bottom tier cells where detainees could be viewed by opposite gender staff while using the toilet, which is out of compliance with this subpart. To become compliant the facility must implement procedures that enable detainees to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender.

Corrective Action Taken (g): Documentation provided by the facility was reviewed on August 24, 2022, which included a digital photograph of what appeared to be an isolation cell with appropriate pixelation of the toilet area which was accepted as partial compliance for the CAP related to the four single occupancy isolation medical cells. However, the Auditor requested the facility provide written verification, such as a memorandum, signed as an official statement that pixelation has been completed on the camera view for all four single occupancy medical cells. On October 1, 2022, the Auditor reviewed the memorandum provided by the Lieutenant indicating that camera views pertaining to the medical cells has been pixelated and personally double checked for pixelization. The Auditor accepts this documentation as proof the four medical isolation cells have been appropriately pixelated.

On November 9, 2022, the Auditor reviewed the facility's response dated October 18, 2022, which indicated they were working on finding a way or a company to add etching to the windows to prevent opposite gender viewing in the bottom tier cells. By the end of the CAP period, no evidence was provided to indicate that procedures were instituted to address the viewing of detainees on the bottom tier cells while using the toilet. Provision (g) remains non-compliant.

(j) NCSO Policy 0022 states in part, "The purpose of this policy is to establish proper procedures and methods necessary to ensure adequate prisoner searches that comply with the constitutions and laws of the United States and State of Nevada." The PREA Refresher training for staff states "Searches can be traumatizing and need to be done professionally and respectfully." NCSO Policy 0047 states, "Security staff employees shall be trained in how to conduct cross-gender pat-down searches, and how to conduct searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs." However, the training curriculum provided to the Auditor did not include guidance on conducting transgender and intersex detainee searches. The Auditor did not witness a pat-down search while on-site. Staff interviews revealed that female officers conduct searches of male detainee

The Auditor interviewed six random staff members from both day and night shifts. When asked if the facility trains staff on how to conduct a cross-gender pat down searches and searches of transgender detainees, all five deputies indicated that they were trained in the law enforcement academy. The one detention technician indicated she does not search detainees. When interviewing the training supervisor, she confirmed that all deputies receive training on conducting all types of searches in the law enforcement academy. The Nye County Sheriff's Office Offender Search training curriculum was provided for the Auditor's review; the curriculum addressed all types of searches to include cross-gender searches. However, the Auditor could not locate any training specific to conducting transgender or intersex pat-down searches.

Does Not Meet (j): The training curriculum provided to the Auditor did not include guidance on conducting transgender and intersex detainee searches. The facility must train staff in proper procedures for conducting pat-down searches of transgender and intersex detainees and provide documented evidence the training has occurred.

Corrective Action Taken (j): On December 3, 2022, the Auditor reviewed the facility's response which indicated they have obtained training related to the pat-searching of transgender or intersex detainees which has been approved by the Sheriff; however, the training projected completion date was December 20, 2022, which was beyond the CAP period end date. No documentation was provided to indicated staff were trained on conducting transgender and intersex detainee searches. Therefore, the facility remains non-compliant with provision (j).

The Auditor's review of the facility's responses for provisions (b)(d)(g)(j), the facility has not demonstrated full compliance with this standard.

§115. 16 - Accommodating detainees with disabilities and detainees who are limited English proficient

Outcome: Does not Meet Standard

Notes:

(a)(b) NCSO Policy 0047 states in part that "Inmates with disabilities have an equal opportunity to benefit from all aspects of NCSO's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include effective communication with inmates who are deaf or hard of hearing – providing access to interpreters who can interpret effectively, accurately, and impartially. All written materials are provided in formats and through methods that ensure effective communication with inmates with disabilities. Inmates who have limited English proficiency will have meaningful access to all aspects of this agencies efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who have limited English proficiency, including by providing interpreters who can interpret effectively, accurately, and impartially."

The NCDC provided the facility handbook in English and Spanish, and five additional languages. The Auditor received a copy of these translations, but the language was not identified on the document. The facility indicated on the PAQ that the top three nationalities of facility population is Mexican, Chinese, and French. The Auditor reviewed the facility handbook in English and observed the explanation of methods for reporting sexual abuse, prohibition against retaliation, and the right of a detainee that has been subjected to sexual abuse to receive treatment and counseling. The facility handbook provides the contact information for the DHS Office of the Inspector General (OIG) as the detainee outside entity reporting agency regarding allegations of sexual abuse. However, there is no information present in the facility handbook that addresses prevention and intervention strategies, or definition or examples of detainee-on-detainee sexual abuse, staff on detainee sexual abuse, or coercive sexual activity. Finally, there is no information about self-protection and indicators of sexual abuse. During the on-site review, the Auditor observed the ICE Zero-Tolerance poster and the ICE Detention Reporting and Information Line (DRIL) poster placed on the perimeter walls of the housing blocks. These posters state the "Report Sexual Assault Now" message in six languages other than English and Spanish.

The PREA video shown during intake, on the housing block monitors, and on the tablet is displayed in both English and Spanish; however, any LEP detainee that speaks/understands a language other than Spanish will not be able to understand the educational video; nor are those detainees able to comprehend the information provided on the tablet. The Auditor did not receive or observe any evidence that suggests the NCDC makes available to the detainees ICE National Detainee Handbooks, which are available in 14 languages (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, and Vietnamese), or the DHS-prescribed SAAPPI pamphlets, which are available in 9 languages (Arabic, English, French, Haitian Creole, Chinese, Portuguese, Punjabi, and Spanish). The facility has not demonstrated that they ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse, for those who speak languages other than English and Spanish. The OIC was interviewed and asked if his facility has established procedures to provide detainees with disabilities and detainees who are limited English proficient the ability to participate in or benefit from all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. The OIC stated that his staff has access to the ERO Language Services Resource Flyer and they can also utilize their issued guardian handheld device to assist in interpretation. The ERO Language Services Resource Flyer provides access to a website and a 24-hour language line for translation and interpretation services. He indicated that his staff is aware of the services available for those detainees that need assistance. Of the five sworn staff interviewed, all confirmed that the facility does not utilize detainee or inmate interpreters, and staff is able to use the language line services or they can use their google guardian handheld device to assist in interpreting other languages.

The facility handbook states that interpreter services, sign language, TTYs, and oral translators are available upon request. The Auditor also interviewed two disabled detainees. One detainee had a mobility disability, and the other detainee was visually impaired. Both detainees were asked if they needed help communicating with staff or understanding written material. The detainee with a visual disability stated that he needed assistance with reading materials and the facility provided a plastic magnifying card, the other stated he needed no assistance. In addition, the Auditor interviewed five detainees by utilizing an interpreter through the agency's language line. Those detainees were asked if the facility provided information about sexual abuse that they were able to understand and if not, did the facility use an interpreter to explain this information to them during intake. Three detainees indicated that the facility had provided information in a language they understood, and two detainees stated the facility did not. The Auditor observed PREA information on the monitors in Spanish, the handbook in Spanish, and the PREA information provided through the tablet in Spanish. The two detainees that stated they had not received the information in a language they could understand were both Spanish speaking detainees. Both detainees also acknowledged receiving the information through the tablet format.

Does Not Meet (b): Any LEP detainee that speaks a language other than Spanish will not be able to understand the educational video shown during intake. Also, those detainees will not be able to comprehend the information provided on the tablet. The Auditor did not receive or observe any evidence that suggests the NCDC makes available to the detainees ICE National Detainee Handbooks or DHS-prescribed SAAPPI pamphlets, available in multiple languages, that are provided by ICE. The facility has not demonstrated they have taken steps to provide 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 LEP. To become compliant, the facility must have the DHS-prescribed SAAPPI pamphlet in all available languages for distribution to detainees, as needed; the ICE National Detainee Handbook in all available languages for distribution to detainees, as needed. Additionally, the facility must develop procedures and processes that ensure detainees who are LEP have access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse, and provide to the Auditor for compliance review. Additionally, documentation must be provided to the Auditor demonstrating delivery of the SAAPPI to LEP detainees who speak/understand languages other than Spanish for review, quantity, and type to be determined during CAP.

Corrective Action Taken (b): On November 9, 2022, the Auditor reviewed the documentation uploaded on November 8, 2022, that consisted of the facility's tablet screenshots. The screenshot of the tablet indicates that the facility has uploaded the ICE National Detainee Handbook in English, Spanish, Vietnamese, Turkish, Russian, Romanian, Punjabi, Portuguese, Hindi, Haitian Creole, French, Chinese, Bengali, and Arabic. In addition, the facility provided evidence that the SAAPPI pamphlet is also available to detainees in Vietnamese, Ukrainian, Turkish, Russian, Romanian, Bengali, Chinese, Punjabi, Portuguese, Hindi, Haitian Creole, French, Arabic, Spanish, and English. However, the facility provided no new evidence regarding the NCDC policy that states "any need to communicate with an ICE [detainee] will be conducted utilizing the ICE Language Line information and not the general Sheriff's Office account and/or procedure." The Auditor requested the procedure and process that staff are to use to access interpreter services for ICE detainees and 10 examples of delivery of the SAAPPI information to LEP detainees for review. By the end of the CAP period, the facility provided no evidence of the procedure and process that staff are to use to access interpreter services for ICE detainees, or examples of delivery of the SAAPPI to LEP detainees. Therefore, this standard remains non-compliant.

(c) NCSO Policy 0047 states in part, "NCSO personnel shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could

compromise an inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegations." This standard requires the facility to provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and the agency determines that such interpretation is appropriate and consistent with DHS policy. The facility's policy and practice are not in alignment with the requirements of this standard by allowing the exception of detainees to be used as interpreters in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegations.

Does Not Meet (c): The facility's policy and practice are not in alignment with the requirements of this standard by allowing the exception of detainees to be used as interpreters in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an inmate's safety, the performance of first responder duties, or the investigation of a detainee's allegations. To become compliant, the facility must align their policy and practice with requirements of DHS standard §115.16 (c), specifically regarding the use of detainee interpreters, and provide to the Auditor for compliance review.

Corrective Action Taken (c): On December 3, 2022, the Auditor reviewed the documentation uploaded on November 16, 2022. The facility provided a revised version of policy 0047 that contains the appropriate language to address DHS 115.16 (c). Therefore, the facility has demonstrated compliance with provision (c), and no further action is required for this deficiency.

§115. 17 - Hiring and promotion decisions

Outcome: Does not Meet Standard

Notes:

(b)(c)(d)(e) NCSO Policy 0047 states, "NCSO shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to retain the services of any contractor, who may have contact with inmates. Before hiring new employees, who may have contact with inmates, NCSO shall; perform a criminal background records check; and make its best efforts 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." The policy also states, "NCSO shall also perform a criminal background record check before retaining the services of any contractor who may have contact with inmates. NCSO shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees. NCSO shall ask all applicants and employees who may have direct contact with inmates about previous misconduct described in this section, in written applications and/or interviews for hiring or promotion; and interviews or written self-evaluations conducted as part of reviews of current employees."

As stated above, the facility provided evidence that newly hired staff are asked the sexual misconduct questions during their background investigation. When asked if these questions were again asked or documented when considering promoting staff; the HR staff member stated that they were. However, the facility is not documenting that these misconduct questions are asked prior to staff promotions or during any annual review of current employees so the Auditor could not confirm the practice. The HR staff member was asked if the facility conducts background check on all staff members that have contact with detainees. The HR staff member indicated that they conduct background checks through the NCIC system. He also confirmed that staff has a duty to disclose any such conduct regarding sexual abuse. He stated that the duty to report is spelled out in policy and staff will be disciplined for not following policy. The HR staff member also confirmed that a complete background investigation is conducted on all new hire staff to include contacting previous employers. The HR staff member indicated that when the new hire worked for any law enforcement or corrections organization, their background investigators will travel to the previous employer and review personnel files and Internal Affairs files onsite, which would include review of any sexual misconduct investigation; However, the NCDC did not make available any evidence that this practice is performed. The facility has not demonstrated that they have made best efforts to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse.

Does Not Meet (b): The facility has not provided any example or documentation as proof that the sexual misconduct questions are asked when considering the promotion of staff either in a written form, evaluations or during interviews. This documentation was asked for by the Auditor on March 11, 2022, in the Issue Log provided to the facility through the Team Lead. To date this information has not been received. The facility has not shown or provided evidence that efforts are made to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse. The facility must implement a procedure and practice that asks applicants directly about previous misconduct described in subpart (a) of this standard; and document that this is occurring. Additionally, these same misconduct questions must be asked in any written self-evaluations conducted as part of reviews of current employees. The

facility must also implement a procedure and practice of making their best effort to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse.

Corrective Action Taken (b): The Auditor reviewed documentation and responses provided by the facility on July 24, 2022, August 24, 2022, October 2, 2022, November 9, 2022, and December 3, 2022. The facility provided three new hire questionnaires dated September 23, 2022. In addition, the facility responded there were no instances of a promotion during the corrective action period. The Auditor accepts the lack of examples of sexual misconduct questions being asked during the promotional processes, given none occurred during this CAP period. However, the facility provided no evidence that a procedure had been instituted to ask the sexual misconduct questions in the promotional process, (such as a memorandum or policy update) which was requested by the Auditor. The Auditor also asked for a brief synopsis on how the misconduct questions are being conducted with new hires. During the August 24, 2022, review, the Auditor evaluated three completed PREA affidavits occurring after the PREA audit where prior employers were contacted to obtain information on substantiated allegations of sexual abuse. The Auditor requested a brief synopsis on how this procedure is conducted (phone call, mail, etc.). As of the CAP period end date, neither of these requests have been provided. The facility remains non-compliant with this standard.

§115. 21 - Evidence protocols and forensic medical examinations

Outcome: Does not Meet Standard

Notes:

(a)(c) NCDC Policy 0447 states that "a forensic medical exam will be utilized as appropriate for usable physical evidence in accordance with NCSO policy and accepted medical practices. Investigators will ensure that all physical and biological evidence (including DNA) was preserved in accordance with NCSO policy." The OIC was interviewed and indicated that they use a uniform evidence protocol that is followed through by the NCSO investigators. However, the Auditor never received a copy of the NCSO uniform evidence protocol or confirmation that the protocol was developed in coordination with DHS.

Agency policy 11062.2, Sexual Abuse and Assault Prevention and Intervention, outlines the agency's evidence and investigation protocols. Per policy 11062.2, when a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility's incident review personnel in accordance with OPR policies and procedures. OPR does not perform sexual assault crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or local law enforcement agency. The OPR will coordinate with the ICE ERO Field Office Director (FOD) and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred or accepted by DHS OIG, OPR, or the local law enforcement agency, the ERO AFOD would assign an administrative investigation to be conducted.

NCSO Policy 0047 also states in part that, "inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Treatment services shall be provided to the victim without financial cost to the victim and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident." The Auditor confirmed the above policy practice through interviews with medical staff and file reviews.

NCSO Policy 0047 further states, "If the incident involves an ICE Detainee ICE will be notified and the investigation coordinated with them. Investigators will ensure that all physical and biological evidence (including DNA) was preserved in accordance with NCSO Policy. A forensic medical exam will be utilized as appropriate for usable physical evidence in accordance with NCSO policy and accepted medical practices. All electronic footage to include (cameras, visitation video, audio recordings) will be preserved in accordance with NCSO Policy. Investigators will interview the alleged victims, suspected perpetrators, and witnesses." The Auditor also contacted University Hospital of Southern Nevada listed by the NCDC as where the SANE exam would be performed and spoke to a representative from the Emergency Services Forensic Unit. The nurse informed the Auditor that the hospital employs SANE nurses and conducts medical forensic examinations (FME). When asked if they would conduct those examinations for detainees of the NCDC, she stated "yes they would." She also confirmed that those services are offered 24 hours a day, 365 days a year. Medical staff confirmed that the detainee's consent is required for the FME.

The Auditor interviewed one detainee who had made an allegation of sexual abuse and due to the nature of the allegation, a forensic medical examination (FME) was not warranted. One of the case files reviewed included documentation that a SANE exam was conducted at the University Hospital Center in Las Vegas, Nevada but this detainee was no longer at the facility to interview. Based on information in the case file, the victim was provided an advocate during the FME through the

hospital resources.

Does Not Meet (a): The NCDC policy does not address a uniform evidence protocol that would maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The facility must develop, in coordination with DHS, a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Additionally, facility investigators must be trained on these protocols and evidence provided of the training to the Auditor for compliance review.

Corrective Action Taken (a): On July 24, 2022, and again on October 2, 2022, the Auditor reviewed policy 3026, Sexual Assault Investigations. A memorandum dated September 15, 2022, by an SDDO from the Salt Lake City Field Office, Las Vegas Sub-Office acknowledged NCSO Policy 3026 meets the standards defined in the National Detention Standards and approves of its implementation regarding ICE detainees. The NCDC also provided a power-point curricula outlining a uniform evidence protocol along with training recording indicating that investigative staff has been trained on these procedures. The Auditor accepts the CAP as presented and the facility has demonstrated compliance with subpart (a).

(e) The NCSO is the chief law enforcement entity in Nye County and is responsible for all criminal investigations. The NCDC provided a memorandum which states in part that; "NCSO conducts its own law enforcement investigations into allegations of sexual abuse." The NCDC will request assistance from a NCSO detective who is not assigned to the detention facility and not part of the assigned detention staff. The detective responds and initiates an investigation. The detective is part of the NCSO but is seen as an outside entity because of their role, job responsibilities, different NCSO division and separate supervisors. According to the Training Supervisor, the NCSO requires all investigators to be trained in investigating sexual abuse allegations in a confinement setting whether or not they are assigned specifically to work at the NCDC. The OIC confirmed that the investigators are knowledgeable about the requirements of §115.21 subpart (a) through (d) and will follow all subparts of the standard, which was further confirmed through an interview with a NCSO investigator; however, no documentation was provided to indicate that the facility has requested that the investigating agency follow the requirements of subparts (a) through (d) of this standard.

Does Not Meet (e): The facility did not provide documentation to indicate that the facility has requested that the investigating agency follow the requirements of subparts (a) through (d) of this standard. To become compliant, the NCDC must document the request that NCSO follow subparts (a) through (d) of this standard when conducting sexual abuse investigations.

Corrective Action Taken (e): On December 3, 2022, the Auditor reviewed the information provided by the facility, dated November 16, 2022, which referred the Auditor to the comments provided by the facility, dated July 24, 2022, explaining that NCSO is the agency responsible for the investigation of the allegations of sexual abuse. The Auditor previously explained the issue as noted in the initial report and above, and to that degree, the facility is responsible for demonstrating compliance. The facility failed to provide any documentation that they have requested that NCSO follow subparts (a) through (d) of standard 115.21 when conducting sexual abuse investigations. Therefore, the facility remains non-compliant with subpart (e) of this standard.

§115. 22 - Policies to ensure investigation of allegations and appropriate agency oversight

Outcome: Does not Meet Standard

Notes:

(a)(b)(d)(e)(f) NCSO Policy 0047 states in part that "Investigations shall be conducted in accordance with NCSO Policy and shall be investigated by a general assignment investigator and internal affairs investigator. Upon conclusion of the criminal investigation if the conclusion is it was unsubstantiated, detention staff will review the investigation and determine whether an administrative disciplinary investigation is necessary or appropriate. If deemed to be appropriate the investigation will begin. A log documenting the unsubstantiated investigation and findings of administrative issues will be done and the criminal investigator conducting the investigation will complete a criminal report. Upon conclusion of the criminal investigation if the conclusion is it was substantiated, an administrative disciplinary investigation will be conducted in accordance with NCDC policy. All continued investigations that involve any ICE Detainee will be coordinated through ICE. Following an investigation conducted by the facility into a detainee's allegation of sexual abuse and assault, NCSO personnel shall notify ICE, JIC and OPR of the results of the investigation and any responsive actions taken so that the information can be reported to ICE Headquarters and to the inmate." The OIC explained that if a sexual abuse allegation was made alleging staff or contractors, the NCSO Internal Affairs (IA) would conduct the administrative investigation. All other allegations would be investigated criminally by NCSO, and if no evidence of a crime was committed, that information would be forwarded to ICE to conduct an administrative investigation.

The policy further states that "If the incident involves an ICE Detainee, ICE will be notified, and the investigation coordinated with them. Investigators will interview the alleged victims, suspected perpetrators, and witnesses.

Investigators will review all prior complaints and reports of sexual abuse and assault involving the suspected perpetrator and will utilize those in determining responsibility. Investigators will assess the credibility of an alleged victim, suspect or witness without regard to their status as an inmate, staff member or employee and without requiring any inmate who alleges sexual abuse and assault to submit to a polygraph in accordance with NRS and Policy. Investigators will make an effort to determine whether actions or failures to act at the facility contributed to the abuse, and if so, notify the chain of command immediately. Investigators will document their investigative actions in a written report which shall include a description of all evidence (physical and testimonial), the reasoning behind the credibility assessments and investigative facts and findings. Criminal investigators will do so in a criminal report and administrative investigators will do so in the applicable administrative reports (i.e., IA report, logs etc.). All reports of PREA investigations will be maintained for a minimum of five years beyond the time period that the inmate is released from detention."

The OIC confirmed during his interview that the facility will "cooperate and provide all information required" during an ICE OPR investigation. The OIC also indicated that he would immediately notify ICE when there is an incident alleging sexual abuse of an ICE detainee.

During the interview with the investigative staff member who was the acting Captain of NCDC Administrative Services, he explained that in every sexual abuse allegation a "general assignment detective" is contacted via dispatch and responds to the facility to conduct an investigation. If it appears criminal activity has occurred, then the detective will continue with the case until final disposition. If the evidence doesn't establish that probable cause exists, and the allegation involves a NCSO employee, volunteer, or contractor then an Internal Affairs investigator responds and conducts an administrative investigation. If there is an allegation of inmate/detainee on detainee or detainee on inmate, the criminal investigation is forwarded to the OPR for investigation.

The Auditor reviewed three investigations involving allegations of sexual abuse. The NCSO conducted a criminal investigation in all three allegations. Both physical and circumstantial evidence was collected, the alleged victim, aggressor, and witnesses were interviewed, and the investigative procedure was followed. The ICE Joint Intake Center (JIC) was notified by the facility in each incident and documented. It appears to the Auditor, based on interviews with the OIC and the NCSO investigator, that the NCSO conducts criminal investigations into all sexual abuse allegations and if staff is involved in the allegation, then the NCSO IA Unit will conduct an administrative investigation. When there is a detainee-on-detainee allegation or inmate-on-detainee allegation, the OIC stated the administrative investigative duties are turned over to ICE OPR. However, the Auditor's review of the three cases found that in each of case, an ICE management inquiry was conducted with the information provided by the NCSO criminal investigation and a final disposition finding was established by ICE. Management inquiries are not the same as an administrative investigation; therefore, there is no evidence that an administrative investigation was conducted for these three cases, either by the facility, the NCSO, or ICE.

Does Not Meet (a): The three cases reviewed by the Auditor indicated an ICE management inquiry was conducted but there was no evidence that an administrative investigation occurred. The facility must develop protocols that ensure all allegations are referred for either a criminal or administrative investigation to an appropriate investigative authority. NCDC staff must be trained on these protocols and the training must be documented for compliance review.

Corrective Action Taken (a): On October 2, 2022, the Auditor reviewed the facility's response, which included the facility's revised policy pertaining to 115.22 that states, "Upon conclusion of the criminal investigation if the conclusion [...] was unsubstantiated, detention staff will review the investigation and determine whether an administrative disciplinary investigation is necessary or appropriate. If deemed to be appropriate the investigation will begin. A log documenting the unsubstantiated investigation and finding of administrative issues will be done and the criminal investigator conducting the investigation will complete a criminal report. Upon conclusion of the criminal investigation if the conclusion is it was substantiated, an administrative disciplinary investigation will be conducted in accordance with NCDC policy. All continued investigations that involve any ICE Detainee will be coordinated through ICE. Following an investigation conducted by the facility into a detainee's allegation of sexual abuse and assault, NCSO personnel shall notify ICE of the results of the investigation and any responsive actions taken so that the information can be reported to ICE Headquarters and to the inmate." Based on the development of protocols to ensure all sexual abuse allegations will be referred for an administrative or criminal investigation, the facility has substantially met the intent of provision (a). Since the NCDC has no designated investigator and all investigations are conducted by NCSO, the requirement for staff to be trained on the policy change is hereby waived.

(c) NCDC does not have their own website but are a part of the NCSO's website. The NCSO website is www.nyecountysheriffsoffice.com and the ICE website is www.ice.gov. The Auditor has found no evidence to support that the NCDC has posted its investigative protocols on the NCSO's website. The Auditor also requested this information in the Issue Log provided to the facility on March 11, 2022, but it was never supplied.

Does Not Meet (c): The facility has not posted its investigative protocols regarding allegations of sexual abuse made by ICE detainees on its public website. To become compliant, the facility must post its protocols on its website, if it has one, or otherwise make the protocol available to the public.

Corrective Action Taken (c): On August 24, 2022, the Auditor reviewed the information provided on the facility's website. This information states the zero-tolerance policy; however, did not provide the facility's protocols as explained in 115.22 provision (a). On October 2, the Auditor reviewed the information provided in the CAP which included a link to the NCDC website that was updated to include the facility's protocols regarding administrative and criminal sexual abuse investigations involving ICE detainees. The facility demonstrated compliance with subpart (c).

§115. 32 - Other training

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

Notes:

(c) NCSO Policy 0047 states that "the NCSO shall maintain documentation confirming that volunteers and contractors understand the training they have received." The facility has not provided documentation to demonstrate that contractors and volunteers have received the training outlined in NCSO Policy 0047 and required by this standard. The Auditor requested this documentation prior to the on-site audit on March 11, 2022. No documentation was provided to the Auditor to confirm that volunteers receive training nor that other contractors who provide services on a non-reoccurring basis have been notified of the zero-tolerance policy.

Does Not Meet (c): NCDC has not provided evidence that the necessary PREA training is being provided to other contractors or volunteers and documented by written confirmation. To meet compliance, the facility must implement a procedure and practice to ensure that all volunteers and other contractors who have contact with detainees have been trained on their responsibilities under the agency's and facility's SAAP policies; and receive and maintain written confirmation of this training.

Corrective Action Taken (c): On October 5, 2022, the Auditor reviewed the information provided by the facility which included 25 examples of signed non-sworn Nye County Volunteer and Contractor Rules & Regulations forms. In this form the volunteer/contractor acknowledges receiving the mandatory PREA training. The facility also provided PREA training attendance rosters as proof of compliance. The Auditor accepts and approves the corrective action taken. The facility has demonstrated compliance with subpart (c) of this standard.

§115. 33 - Detainee education

Outcome: Does not Meet Standard

Notes:

(a)(b)(c) NCSO Policy 0047 states in part that "during the intake process, inmates shall receive information explaining NCSO's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. Within 30 days of intake, NCSO shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and NCSO's policies and procedures for responding to such incidents. NCSO will provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. NCSO shall maintain documentation of inmate participation in these education sessions. In addition to providing such education, NCSO shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats."

The NCDC provided a memorandum stating that the PREA orientation is presented in video format both in English and Spanish on a television monitor in the Intake area. This process was observed by the Auditor during the on-site facility tour and the Auditor requested a copy of the video transcript to verify that it contained the six topics outlined in provision (a) of this standard. This transcript was not provided by the facility. In order to access these functions, the detainee must watch the video either in English or Spanish and electronically acknowledge watching the video. For those detainees that speak/understand languages other than English and Spanish, the NCDC provides the facility handbook in five other languages most commonly encountered at the facility; the Auditor received a copy of these translations, but the language was not identified on the document. The Auditor reviewed the handbook in English and observed the explanation of methods for reporting sexual abuse, prohibition against retaliation, and the right of a detainee that has been subjected to sexual abuse to receive treatment and counseling. However, there is no information present in the NCDC Handbook that addresses prevention and intervention strategies, or definitions or examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse, or coercive sexual activity. Finally, there is no information about self-protection and indicators of sexual abuse. All the necessary contact information regarding the DHS OIG was present in the NCDC handbook. The

facility handbook does not contain all elements required to satisfy subpart (a) of this standard, and neither was the Auditor able to confirm that the video included all of the required elements.

The NCDC handbook states that "to ensure effective communication with inmates and their visitors who are deaf or hard of hearing, we provide appropriate auxiliary aids and services free of charge, such as: qualified sign language interpreters and oral translators, TTY's, note takers, computer-assisted real time transcription services, written materials, telephone handset amplifiers, assistive listening devices and systems, telephones compatible with hearing aids, closed caption decoders or TVs with built in captioning, and open and closed captioning of Sheriff's Office programs. Ask a Detention Deputy if you need assistance." When interviewing the OIC, he confirmed these practices and stated those detainees with vision disability would either listen to the educational video or a deputy would read the information to the detainee; if a detainee has limited reading skills, the deputy would read the SAAPI information to the individual and discuss it to ensure the detainee understood.

The facility only provides the video orientation in English and Spanish. For those individuals that may speak other languages, a facility handbook in five different languages is offered. However, the information provided in the facility handbook is not sufficient to address the topics outlined in subpart (a). Furthermore, the facility is not using the ICE National Detainee Handbook, available in 14 languages (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Turkish, Bengali, Romanian, Portuguese, and Vietnamese) or the DHS-prescribed SAAPI pamphlet, available in 9 languages (Arabic, English, French, Haitian Creole, Chinese, Portuguese, Punjabi, and Spanish) during orientation.

There is no documentation placed in the detainee files that acknowledges the detainee viewed the orientation video playing on the monitor or receipt of the ICE National Detainee Handbook or DHS-prescribed SAAPI pamphlet during the intake process. When asked to review this documentation of detainee participation in the intake process orientation, the facility presented the Auditor with an electronic list of all detainee's acknowledging through electronic signature that they reviewed the detainee PREA educational video through the tablet process. There is no evidence that was provided indicating that the detainee acknowledges receipt of the sexual abuse orientation at intake, as required in subpart (a) and (c) of this standard.

Does Not Meet (a)(b)(c): The facility did not provide a written transcript of the detainee orientation for the Auditor's review as requested; and therefore, the Auditor cannot determine if the video is compliant with subpart (a) without review of this document; nor does the facility handbook contain all the required elements of subpart (a). Additionally, the facility is not documenting that the orientation is occurring during intake as required in subpart (c). The facility's SAAPI policy allows 30 days for the comprehensive education to be delivered which is not in alignment with subpart (a) of this standard which requires education on these six topics to be delivered during intake. To become compliant, the facility must ensure that during the intake process, the detainee orientation program notifies and informs detainees about the agency's and the facility's zero-tolerance policies for all forms of sexual abuse and must include instruction on the topics listed in subpart (a) 1-5. This orientation must be delivered during intake and documentation of detainee participation in the process must be maintained. To become compliant with subpart (b), the facility must develop procedures and processes that ensure detainees who are LEP, particularly those who speak/understand languages other than Spanish, have access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. The revised orientation procedures must be presented to the Auditor for compliance review. Additionally, examples of detainee participation in the new process, to include LEP detainees, must be presented for compliance review; quantity and specifics to be determined during development of the CAP.

Corrective Action Taken (a)(b)(c): On November 10, 2022, the Auditor reviewed the documentation provided by the facility on November 8, 2022. The facility provided the ICE National Detainee Handbook in 14 languages now available on the facility's tablet. In addition, the facility also made available the SAAPI pamphlet in 15 different languages. However, this documentation is supplemental to the orientation video the facility uses to deliver its orientation, based on the information obtained during the audit. The Auditor previously requested written documentation, either the PowerPoint or a written transcript of the information provided to detainees during orientation as part of the SAAPI instruction. In lieu of the requested PowerPoint or written transcript, the facility provided a link to its orientation video for the Auditor's review for compliance of the SAAPI information provided to detainees during orientation. The Auditor's review of this video confirmed that it notifies and informs detainees about the agency's and the facility's zero-tolerance policies for all forms of sexual abuse and includes instruction on the topics listed in subpart (a) 1-5. However, the facility provided no evidence they had implemented a procedure to capture documentation of detainee participation in the intake process orientation. Therefore, this standard remains non-compliant.

(d)(e) The Auditor observed the DHS Sexual Abuse & Assault Awareness pamphlet and the DHS zero-tolerance posters with contact information for the facility PREA Compliance Manager posted in all the housing units. The NO TO sexual abuse

advocacy flyers were posted in the housing units. However, the facility did not have available the DHS-prescribed SAAP pamphlet, in all available languages, for distribution to detainees, as needed.

Does Not Meet (e): The facility did not have available the DHS-prescribed SAAP pamphlet provided by ICE, in all available languages, for distribution to detainees, as needed. To become compliant, the facility must make available and distribute the DHS-prescribed SAAP pamphlet.

Corrective Action Taken (e): On July 24, 2022, and again on August 24, 2022, the Auditor reviewed screenshots provided by the facility of documents available on the detainee tablets and identified SAAP awareness pamphlet listed in all 15 languages available. The facility has demonstrated compliance with provision (e), and no further action is required for this deficiency.

(f) The Auditor observed no ICE National Detainee Handbook distributed to detainees during intake, and there is no documented evidence that the facility is making available the ICE National Detainee Handbook to detainees.

Does Not Meet (f): There is no documented evidence that the facility is making available the ICE National Detainee Handbook to detainees. To become compliant, the facility must make the ICE National Detainee Handbook available to detainees.

Corrective Action Taken (f): On July 24, 2022, and again on August 24, 2022, the Auditor reviewed screenshots provided by the facility of documents available on the detainee tablets and identified the ICE National Detainee Handbook loaded in English, Spanish, Portuguese, Chinese, Bengali, and Arabic. There are 14 languages that the ICE National Detainee Handbook is available. The missing languages were identified as Turkish, Russian, Romanian, Haitian Creole, Punjabi, Hindi, French, and Vietnamese. On November 9, 2022, the facility provided evidence that the DHS Detainee Handbook in all 14 languages is now available for access using the detainee tablets. In addition, the facility has also made available the SAAP pamphlet in 15 different languages. The facility has demonstrated compliance with provision (f), and no further action is required for this deficiency.

§115. 35 - Specialized training: Medical and mental health care

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

Notes:

(c) NCSO Policy 0047 states in part that "NCSO shall ensure that all full and part-time medical and mental health care practitioners who work regularly in its facility have been trained in how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment. NCSO shall document, through employee signature or electronic verification, that employees have received and understand the training. In the case of medical and mental health practitioners, it shall maintain documentation that they have received the specialized training described in this section."

When interviewing the Training Supervisor, she was asked if additional specialized PREA training is provided to full and part-time medical and mental health professionals. The Training Supervisor indicated that the medical staff has not received any specialized training regarding PREA and their job positions they need to take the classes. When conducting the interviews with the two medical staff, both indicated that they had not received any additional specialized training associated with PREA. The training they received was the initial training that all staff receive. The medical staff members were also asked if they conducted FMEs and both stated they do not, and this examination is conducted at the hospital. The NCDC did not provide specialized training records from the medical staff or a curriculum for any specialized training. Again, this information was requested through the issue log provided to the Team Lead on March 11, 2022 and forwarded to the NCDC. The Auditor was not provided with documentation to indicate the agency review and approval of the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse.

Does Not Meet (c): The facility was unable to provide documentation to demonstrate that the medical and mental health staff have received specialized training as outlined in subpart (b) of this standard. The Auditor was not provided with documentation to indicate the agency review and approval of the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse. To become compliant, the facility must provide documentation of agency review and approval of the policies and procedures for medical and mental health training; additionally, the medical and mental health staff must complete the training and produce documented training records or certificates for review. Additionally, the facility must provide documentation that the agency has reviewed and approved the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse.

Corrective Action Taken (c): On October 6, 2022, the Auditor reviewed NCDC Medical policy 053 regarding the need for medical staff to be trained on how to detect, assess, and respond to victims of sexual abuse. The policy also addresses the need to preserve physical evidence of sexual abuse. However, the Auditor found no new evidence of the agency's (ICE Field Office) review and approval of the policies and procedures for medical and mental health training. The medical and mental health staff must complete the training and produce documented training records or certificates for review. On November 9, 2022, the Auditor reviewed the documentation uploaded in the CAP folder which included a memorandum written by an SDDO from the Salt Lake City Field Office, Las Vegas Sub-Office, dated October 19, 2022, indicating the review and approval of NCDC Medical policy 053. The facility has also provided medical and mental health staff training records with staff signatures dated October 19, 2022. The Auditor accepted the corrective action made and the facility has demonstrated compliance with subpart (c) of this standard.

§115. 41 - Assessment for risk of victimization and abusiveness

Outcome: Does not Meet Standard

Notes:

(a)(b)(c)(d) NCSO Policy 0047 states in part that "all inmates shall be assessed during an intake screening and upon transfer from another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates during their medical assessment. Intake screening shall ordinarily take place within 12 hours of arrival at the facility." In addition, the NCDC handbook states that "your booking Deputy will be responsible for initial classification. You will be classified as Maximum, Medium, Minimum, Protective Custody, based on your criminal history, current charges, and past behavior in this facility. Minimum, Medium, Maximum, and Protective Custody classifications are all general population with no restriction to privileges." NCSO Policy 0047 further states, "Such assessments shall be conducted using an objective screening instrument. The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: Whether the inmate has a mental, physical, or developmental disability; The age of the inmate; The physical build of the inmate; Whether the inmate has previously been incarcerated; Whether the inmate's criminal history is exclusively nonviolent; Whether the inmate has prior convictions for sex offenses against an adult or child; Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; Whether the inmate has previously experienced sexual victimization; The inmate's perception of his or her own vulnerability to sexual abuse or sexual harassment; and whether the inmate is detained solely for civil immigration purposes." The policy further states, "The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to NCSO, in assessing inmates for risk of being sexually abusive."

The facility handbook states that "your booking Deputy will be responsible for initial classification. You will be classified as Maximum, Medium, Minimum, Protective Custody, based on your criminal history, current charges, and past behavior in this facility. Minimum, Medium, Maximum, and Protective Custody classifications are all general population with no restriction to privileges." The intake officer confirmed this is the current procedure for how housing assignments are made, and that housing assignments are accomplished immediately during the booking process, and within 12 hours.

The facility provided a completed risk screening assessment for the Auditor's review. The form was provided and completed by medical personnel. This form appears to be part of the detainee medical file and questions asked during the initial medical screening. Given the information that was provided, and interviews conducted, these questions are part of a medical assessment and not for risk screening purposes. The Auditor interviewed a medical staff member using the DHS interview protocols for staff who perform risk screening. The medical staff informed the Auditor that they ask sexual abuse questions upon arrival to the facility and all detainees are screened within the first 12 hours. The medical staff member then indicated that they do not know how to determine who could be a sexual aggressor. The questions listed on the initial medical screening form do not address questions that could help identify and determine who may be a sexual aggressor. In addition, medical staff is not privy to any criminal history or prior convictions of sexual abuse. The Auditor then interviewed the intake officer identified as the person that conducts the risk screening. The intake officer confirmed that the risk screening is conducted by medical staff upon arrival.

Does Not Meet (a)(c)(d): The facility's current practice does not assess detainees during intake to identify those likely to be sexual aggressors. Medical personnel do not have access to detainees' prior convictions, violent offenses or prior institutional violence or sexual abuse. The facility has no procedure in place that combines the information collected by medical and by intake staff in a manner that provides a proper screening. To become compliant, the facility must develop and implement procedures and practice that ensures detainees are assessed at intake to identify those likely to be sexual aggressors or sexual abuse victims and shall house detainees to prevent sexual abuse, taking necessary steps to mitigate any such danger. Additionally, the facility must develop a procedure and practice to include consideration of all elements in subparts (c)(d) during the initial screening of detainees in order to properly identify sexual aggressors or sexual abuse victims. Facility staff must be trained on the procedures and the training must be documented for compliance review.

Corrective Action Taken (a)(c)(d): On November 10, 2022, the Auditor reviewed the documentation provided by the facility which included policy 0047 that directs all detainees be risk screened during the intake process and ordinarily within 12 hours of arrival to the facility. The policy also addresses the nine considerations and criteria that must be assessed during every risk screening. The risk screening is accomplished during the medical assessment. The policy also addresses that initial screening consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse as known to the facility. The Auditor accepts this procedure and practice that ensures detainees are assessed at intake. However, the facility was required to provide evidence that staff has been trained on the procedures and the training must be documented for compliance review. On December 3, 2022, the Auditor reviewed the documentation provided which included electronic acknowledgement of staff receiving refresher PREA training from as early as December 2021 to as late as September 2022. However, the policy revision made to be compliant with this standard was provided in September 2022. The facility indicated that the training will not be completed until approximately December 20, 2022, which is beyond the CAP period expiration date. The facility has failed to provide adequate documentation of staff training on the new procedures and therefore remain non-compliant with subpart (a)(c)(d) of this standard.

(e) NCSO Policy 0047 states, "Any inmate who appears at risk from the initial screening, shall be reassessed by the Detention Lieutenant within 30 days to determine inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening. An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness." When conducting interviews, the medical staff indicated that the detainees are not reassessed according to the policy. The Auditor requested documentation of reassessments from those files reviewed during the documentation review. After consultation with NCDC staff, it was determined that reassessments are not being conducted.

Based on policy review, detainee file reviews, and staff interviews, the facility is not reassessing each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional relevant information or following an incident of abuse or victimization. NCSO Policy 0047 requires a reassessment within 30 days from the initial screening, which is not consistent with the DHS 115.41 (e) requirement of between 60 and 90 days. There is no documentation or evidence of any reassessment in the detainees' files, including those who reported sexual abuse. When the auditor interviewed the intake officer, he did not know if detainees are reassessed within 60 to 90 days in accordance with DHS PREA policy.

Does Not Meet (e): The facility does not conduct risk screening reassessments of all detainees between 60 and 90 days of initial assessment. To become compliant, the facility must implement a procedure and practice for reassessing each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any time warranted based upon receipt of additional, relevant information or following an incident of abuse or victimization.

Corrective Action Taken (e): On November 10, 2022, the Auditor reviewed the documentation provided by the facility on November 8, 2022. The facility provided policy 0047 that indicates all detainees will be reassessed for risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment and at any time warranted based upon receipt of additional, relevant information or following an incident of abuse or victimization. The Auditor accepted this procedure and practice that ensures detainees are reassessed within 60 to 90 days. However, the facility was also required to provide evidence that staff has been trained on the procedures and the training must be documented for compliance review. On December 3, 2022, the Auditor reviewed the documentation provided by the facility on November 16, 2022. This documentation included an electronic acknowledgement of staff receiving refresher PREA training from as early as December 2021 to as late as September 2022. However, the policy revision made to be compliant with this standard was provided in November 2022, which was after the training dates provided for review. The facility indicated that the training on the revised procedures will not be completed until approximately December 20, 2022, which is beyond the 180-day CAP period. Therefore, the facility remains non-compliant with this standard.

The facility has failed to provide adequate documentation of staff training on the new procedures and therefore remain non-compliant with subpart (e) of this standard.

§115. 42 - Use of assessment information

Outcome: Does not Meet Standard

Notes:

(a) NCSO Policy 0047 states in part that "NCSO personnel shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Personnel shall make individualized determinations

about how to ensure the safety of each inmate.” Because the facility showed no evidence that they identify possible abusers in 115.41, there is no indication that any information related to risk screening is used for housing assignments, programs, or educational classes for any detainee. During the interview, the OIC was asked how the facility determines housing and programming assignments for detainees. Based on the interviews, the assignments are made based on bed availability and there is no process in place to utilize the information from 115.41 in making any of the decisions required in subpart (a).

Does Not Meet (a): Because the facility does not conduct risk screening for risk of sexual abuse aggressors as identified in 115.41, there is no mechanism in place to separate or make safe those individuals that have been identified as potential sexual abuse victims from those individuals that may be potential sexual abuse aggressors. Furthermore, based on an interview with the intake officer, detainees are classified and housed based on their security classification based on criminal history, current charges, and past behavior in this facility, and does not take into consideration risk screening information. The facility must develop a procedure that uses the information from the risk assessment under 115.41 to inform assignment of detainees to housing, recreation and other activities, and voluntary work.

Corrective Action Taken (a): On November 10, 2022, and again on December 3, 2022, the Auditor reviewed the documentation provided by facility including a revised policy 0047 that states, “NCSO personnel shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Personnel shall make individualized determinations about how to ensure the safety of each inmate.” The facility provided evidence the policy was approved by the Sheriff and published on November 14, 2022. Therefore, the facility has demonstrated compliance with provision 115.42 (a), and no further action is required for this deficiency.

(b)(c) NCSO Policy 0047 states in part that “In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate’s health and safety, and whether the placement would present management or security problems. A shift supervisor shall be contacted for help in making this decision. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate. A transgender or intersex inmate’s own view with respect to his or her own safety shall be given serious consideration. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.”

During the interview, the OIC was asked how the facility determines housing and programming assignments for transgender and intersex detainees and he indicated that they would be asked where they wanted to be housed, how they identify, and concerns and needs of the facility. He was also asked how often housing and programming assignments are reassessed for transgender and intersex detainees. He explained that they would be reassessed upon an incident that may occur; however, because the facility does not reassess detainees, there is no evidence that they conduct any reassessments on transgender or intersex detainees twice a year. The OIC confirmed that transgender and intersex detainees’ views with respect to their own safety is given serious consideration and that transgender and intersex detainees are given the opportunity to shower separately from other inmates and detainees, although he was unable to explain a procedure for this. When conducting the on-site facility tour, the Auditor observed that all shower stalls were separated into single stalls with full length shower curtains. The NCDC reported that there were no transgender or intersex detainees housed at their facility at the time of the on-site visit; and therefore, the Auditor was unable to provide that perspective through an interview with a detainee.

Does Not Meet (b)(c): The facility policy does not specify that medical or mental health professional be consulted as soon as practicable when determining the housing assignment for a transgender or intersex detainee as outlined in 115.42(b), nor was this able to be confirmed through interviews. The facility provided nothing to indicate that transgender and intersex detainees will be reassessed at least twice per year to review any threats to safety experienced by the detainee. To become compliant, the facility must develop a procedure and practice that requires the facility to consult with a medical or mental health professional as soon as practicable on assessments for transgender and intersex detainees, and a procedure and practice for reassessing transgender and intersex detainees at least twice per year. NCDC staff must be trained on these procedures and this training must be documented for compliance review. (a) NCSO Policy 0047 states in part that “NCSO personnel shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Personnel shall make individualized determinations about how to ensure the safety of each inmate.” Because the facility showed no evidence that they identify possible abusers in 115.41, there is no indication that any information related to risk screening is used for housing assignments, programs, or educational classes for any detainee. During the interview, the OIC was asked how the facility determines housing and programming assignments for

detainees. Based on the interviews, the assignments are made based on bed availability and there is no process in place to utilize the information from 115.41 in making any of the decisions required in subpart (a).

Corrective Action Taken (b)(c): On November 10, 2022, the Auditor reviewed the documentation provided by the facility which included a revised policy 0047 that contains language to govern the placement and programming assignments for transgender or intersex detainees to be reassessed at least twice a year. The revised policy also states that transgender or intersex detainees will be given the opportunity to shower separately from other detainees or inmates. However, the policy revision did not speak to the need to consult with medical or mental health professional as soon as practicable on the placement assessment. The facility did not provide evidence that NCDC staff was trained on these procedures for compliance review. On December 4, 2022, the Auditor reviewed the documentation provided which included the revised 0047 policy that contains the appropriate language to direct staff to consult with medical or mental health professionals as soon as practicable on the assignments of transgender or intersex detainees. However, the facility has indicated that staff training regarding this procedure will not be completed until approximately December 20, 2022, which is beyond the CAP period expiration. Therefore, the facility remains non-compliant with subpart (b) and (c) of this standard.

§115. 43 - Protective custody

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

Notes:

(d) NCSO Policy 0047 does not address or provide any information related to regular review of all vulnerable detainees placed in administrative segregation for their protection.

Does Not Meet (d): The facility policy does not address or provide guidance on the regular review of all vulnerable detainees placed in administrative segregation. To become compliant, the facility must implement written procedures for the regular review of all vulnerable detainees placed in administrative segregation for their protection according to the requirements of subpart (d).

(e) NCSO Policy 0047 does not address or provide any information related to the facility making notification to the appropriate ICE Field Office Director no later than 72 hours after the placement of a detainee in administrative segregation on the basis of being sexually abused or assaulted.

Does Not Meet (e): The facility policy does not address the requirement to make notification to ICE officials within 72 hours of placing a detainee in segregation based on his vulnerability of being sexually abused in the facility. To become compliant, the facility must implement written procedures, as indicated in subpart (a) of this standard, that addresses the required notifications in subpart (e).

Corrective Action Taken (d)(e): On November 10, 2022, the Auditor reviewed documentation provided by the facility including a revised policy 0047 that contains language to govern all aspects for regular review of all vulnerable detainees placed in administrative segregation for their protection according to the requirements of subpart (d). In addition, the facility furnished a revised policy 0047 that contains language to address the requirement to make notification to ICE officials within 72 hours of placing a detainee in segregation based on his vulnerability of being sexually abused in the facility according to the requirements of subpart (e). Therefore, the facility has demonstrated compliance with provisions (d) and (e) of standard 115.43, pending approval by the Sheriff. The Auditor reviewed the CAP documentation on December 04, 2022, indicating that the Sheriff approved policy 0047 revisions. The Auditor accepted the corrective action made and the facility has demonstrated compliance with subpart (d) and (e) of this standard.

§115. 52 - Grievances

Outcome: Does not Meet Standard

Notes:

(a)(b) NCSO Policy 0047 states in part that "there is no time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse. Staff shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and such grievance is not referred to a staff member who is the subject of the complaint. When the individual(s) suspected of sexual abuse is a member of the staff, contractors, or volunteers, they shall be removed from all duties that involve detainee contact pending the outcome of the investigation. A final decision shall be issued on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal. A detainee who alleges to be the victim of sexual abuse shall be notified of the results of an investigation into an allegation of sexual abuse and any responsive action taken. NCSO staff may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. Supervisor shall notify the inmate in writing of any such extension and provide a date by which a decision shall be

made. At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level. Staff may discipline an inmate for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.” The facility inmate handbook that is provided to all detainees explains the procedure and ability to report a sexual abuse allegation through the grievance process by way of the tablet. These facility handbooks are available in seven different languages. During the interview with the Grievance Coordinator, he was asked if a sexual abuse allegation would be accepted through the grievance process. The Grievance Coordinator indicated that no, once the allegation had been received an investigation into the allegation would begin and the grievance procedure would stop.

Does Not Meet (a): The facility’s policy allows for grievances to be filed related to sexual abuse, but staff interviews determined that sexual abuse allegations would not be accepted through the grievance process. To become compliant, the facility must put into practice the use of the grievance process in accordance with DHS PREA standard 115.52 and train staff on these procedures.

Corrective Action Taken (a): On December 4, 2022, the Auditor reviewed the CAP folder and found no new information or documentation related to the deficiency for compliance consideration. The facility provided an electronic acknowledgement of staff receiving refresher PREA training from as early as December 2021 to as late as September 2022. However, there is no evidence that staff had been trained on this specific policy. The facility indicated that the training would likely be completed on or about December 20, 2022, which is beyond the CAP period expiration. Therefore, the facility remains non-compliant with subpart (a) of this standard.

(c)(d)(e) NCSO Policy 0047 states “Detainees may file an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse. After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual, NCSO personnel shall, immediately forward the grievance (or any portion of it that alleges the substantial risk of imminent sexual abuse) to a supervisor at which immediate corrective action may be taken; provide an initial response within 48 hours; and issue a final decision within five (5) calendar days. The initial response and final decision shall document the determination of whether the inmate is at substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.” The Grievance Coordinator also acknowledged that there are a different set of procedures for responding to time sensitive grievances related to sexual abuse but was unable to explain what those were and did not have written procedures to provide to the Auditor. The Grievance Coordinator stated that if he received a grievance alleging sexual abuse, he would immediately notify medical staff. Medical staff indicated that all detainees that allege being sexually abused receive timely access to emergency medical treatment.

Does Not Meet (d)(e): NCSO Policy 0047 does not address or contain the language that facility staff shall bring medical emergencies to the immediate attention of proper medical personnel for further assessment as outlined in subpart (d). In addition, the policy does not address the need to respond to an appeal of a sexual abuse alleged grievance within 30 days as required in subpart (e). To become compliant, the facility must develop written procedures or modify the existing grievance procedures to incorporate the requirements of subparts (d) and (e) and update the detainee handbook with the amended procedures. Lastly, the facility’s procedures shall include sending all grievances related to sexual abuse and the facility’s decisions to the appropriate ICE Field Office Director at the end of the grievance process as outlined in subpart (e).

Corrective Action Taken (d)(e): On November 10, 2022, and December 4, 2022, the Auditor reviewed the documentation provided by the facility including a revised version of policy 0047 that contains the appropriate language to address both 115.52 provisions (d) and (e). No further action is required for this deficiency.

§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) NCSO Policy 0047 states in part that “the facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers, where available, of local, State, or national victim advocacy or rape crisis organizations, and for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible.”

The facility utilizes NO TO Abuse through the Nevada Outreach Training Organization for rape crisis counseling. This organization provides counseling services and services for victims of sexual abuse. The Auditor observed fliers for this organization posted on the walls of the housing units. Also, contact information for NO TO Abuse can be found in the

facility detainee handbook. The Auditor contacted NO TO Abuse and confirmed that they provide a 24-hour hotline, and advocacy for the NCSO. The NCDC provided a memorandum stating that the NCSO has not entered into an MOU with the NO TO Abuse, and based on the Auditor's interview with the OIC, he stated it is not necessary because of their mutual county affiliation; however, based on the requirements of subpart (a) of this standard, the facility must attempt to enter into memoranda of understanding or other agreement with community service providers.

Does Not Meet (a): The facility has not attempted to enter into memoranda of understanding or other agreement with the NO TO Abuse, or other community service providers. To become compliant, the facility must attempt to enter into memoranda of understanding or other agreement with the NO TO Abuse, or other community service providers, and provide documentation of this attempt to the Auditor for compliance review.

Corrective Action Taken (a): On August 24, 2022, the Auditor reviewed the documentation uploaded and found that the facility has attempted to obtain an agreement with the NO TO for advocacy services provided to detainees. It appears that the NO TO is amenable to providing this agreement. The attempt to enter into an agreement with NO TO satisfies this subpart. Therefore, the Auditor accepted the corrective action made and the facility has demonstrated compliance with subpart (a) of this standard.

§115. 61 - Staff reporting duties

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

Notes:

(a)(b)(c)(d) NCSO Policy 0047 states in part that, "reporting of sexual abuse and assault to personnel with a need to know in order to make decisions concerning the detainee-victim's welfare, and for law enforcement/investigative purposes only. Any staff member who has knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment; retaliation against inmates or staff who reported such an incident; and any staff neglect that may have contributed to such incident or retaliation, shall immediately report such incident or retaliation, in the manner specified by NCSO policy. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone except as specified by NCSO policy. NCSO personnel will report any PREA allegation relating to ICE detainees as required by NCSO Policy. NCSO provides a method for staff to privately report sexual abuse and sexual harassment of inmates."

Does Not Meet (a): To become compliant, the facility must present their staff reporting duties policy and procedures to ICE for review and approval. Documentation must be provided to the Auditor for compliance review.

Corrective Action Taken (a): On July 24, 2022, the Auditor reviewed the memorandum, dated June 29, 2022, issued by the Salt Lake City Field Office, Las Vegas Sub-Office AFOD that the Nye County Policy NCDC 0047-PREA had been reviewed and approved. The Auditor accepts the CAP as complete, and the facility has demonstrated compliance with this standard.

§115. 64 - Responder duties

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

Notes:

(a)(b) NCSO Policy 0047 states in part that, "when a security staff first-responder learns that an inmate has been sexually abused, they shall take immediate action to protect the inmate. This includes, separating the inmate from the alleged perpetrator; preserve and protect any crime scene until appropriate steps can be taken to collect evidence; and if the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim and ensure that the alleged abuser not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall immediately notify the appropriate medical and mental health practitioners. When the first staff responder is not a security staff member, they shall request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff."

The OIC confirmed that all NCDC staff are trained in first responder duties. During interviews, the Auditor asked six random staff members (five deputies and one detention technician) about their responsibilities if they were first on the scene of an alleged sexual abuse. All five deputies interviewed indicated that they would immediately separate the involved parties and notify their supervisor. However, no deputy stated that they would secure the scene or preserve the evidence. The detention technician was also asked this question and indicated that she would immediately notify a supervisor of the situation. Based on the staff interviews, it appears that staff is unfamiliar with the appropriate steps to take if they are a first responder to an incident of sexual abuse.

Does Not Meet (a)(b): To meet this standard, the facility must provide refresher training to all NCDC staff regarding the responsibilities of all first responders to an alleged sexual abuse. The training should be specific to the duties of first responders and their responsibility to separate the alleged victim and abuser, secure the scene and preserve the evidence. This training should be documented and provided to the Auditor for compliance review.

Corrective Action Taken (a)(b): On October 06, 2022, the Auditor reviewed the First Responder refresher training roster provided. This roster indicated that 59 employees received the training after the completion of the DHS ICE PREA audit. Therefore, the Auditor accepts the CAP as complete, and the facility has demonstrated compliance with 115.64.

§115. 65 - Coordinated response

Outcome: Does not Meet Standard

Notes:

(a)(b) NCSO Policy 0047 states in part that, "in the event of a complaint actions shall be coordinated among staff first responders, medical and mental health practitioners, investigators, and facility leadership." The OIC was interviewed and indicated that their response plan is the criminal and IA investigators coordinating with the University Medical Center of Las Vegas. Medical staff indicated during interviews that detainees that have been sexually assaulted would immediately receive timely access to emergency medical treatment. The facility was unable to provide the Auditor with a written institutional plan to coordinate actions taken by staff first responders, medical and mental health professionals, investigators, and facility leadership. The written coordinated response plan was requested by the Auditor through the issue log provided to the Team Lead and presented to the NCDC on March 11, 2022 and was requested again during the on-site visit. No documented coordinated response plan has been presented for the Auditor's review.

Does Not Meet (a)(b): The NCDC has not provided a written institutional plan to coordinate actions taken by first responders, medical and mental health professionals, investigators, and facility leadership. The written coordinated response plan was requested by the Auditor through the issue log provided to the Team Lead and presented to the NCDC on March 11, 2022. To achieve compliance, the facility must develop a written response plan identifying the protocols for all staff that are involved in the coordinated response. The plan must use a coordinated, multidisciplinary team approach to responding to sexual abuse. All facility staff must receive training on this coordinate response plan and training must be documented.

Corrective Action Taken (a)(b): On November 10, 2022, the Auditor reviewed the revised version of NCDC policy 0047 regarding the Coordinated Response Plan. The added language in the policy states, "In the event of a complaint, actions shall be coordinated among staff first responders, medical and mental health practitioners, investigators, and facility leadership." This coordinated response plan is insufficient. The plan must coordinate actions that need to be taken by staff first responders, medical staff, investigators, and facility leadership in response to an incident of sexual abuse. In addition, training must be provided to NCDC staff regarding the coordinated response plan documented and presented for compliance review. The Auditor was provided documentation of an Agency training curriculum and Agency records, but as the Agency was not found deficient with this standard, the provided documentation is insufficient in clearing the facility deficiencies. On December 4, 2022, the Auditor reviewed information provided by the facility indicating a meeting was scheduled for December 15, 2022, with all involved parties to develop the Coordinated Response Plan, which is after the CAP period expiration. Therefore, the facility remains non-compliant with subparts (a) and (b) of this standard.

(c)(d) The NCDC provided a memo stating that they had not had an incident where a victim of sexual abuse was transferred during the audit period. All NCDC's detainees go to ICE for release or deportation. Based on the interview with the OIC, if a victim was transferred, ICE would have already been notified of their status and the Transportation Sergeant would follow up with an email to ICE when the transfer occurred. Facility staff did not provide the Auditor with evidence to support any facility procedures that comply with subparts (c)(d).

Does Not Meet (c)(d): The information conveyed by facility staff and review of the documentation provided did not support any procedures in place for complying with these subparts. To become compliant with (c), the facility must have procedures in place to inform the receiving facility of a sexual abuse incident and the victim's potential need for medical or social services when a detainee victim is transferred between DHS immigration detention facilities. To become compliant with (d), the facility must have procedures in place to inform the receiving facility of a sexual abuse incident and the victim's potential need for medical or social services when a detainee is transferred to a non-DHS facility, unless the victim requests otherwise. These notifications must be documented and made available for compliance review.

Corrective Action Taken (c)(d): On November 10, 2022, the Auditor reviewed the revised version of NCDC policy 0047 regarding the Coordinated Response Plan. The added language in the policy addressed 115.65 (c) regarding informing DHS facilities of an incident and the victim's potential need for medical or social services. However, the revised policy did not

address provision (d) as it pertains to transfers between facilities not covered by DHS PREA Standards, subpart A or B. On December 4, 2022, the Auditor reviewed the revised version of NCDC policy 0047 and determined the necessary language to meet provision (d) remained missing. Therefore, the facility remains non-compliant with subpart (d) of this standard.

§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:

NCSO Policy 0047 states in part that "when the individual(s) suspected of sexual abuse is a member of the staff, contractors, or volunteers, they shall be removed from all duties that involve detainee contact pending the outcome of the investigation."

During the interview with the OIC, it was asked what actions would be taken if staff, contractors, or volunteers were suspected of detainee sexual abuse. The OIC indicated that contractors would have their contract suspended, preventing any further contact. Volunteers would no longer be allowed entry into the facility and staff would be placed on administrative leave until the completion of the investigation. The Auditor's review of the case file involving a staff member found that the investigation was conducted on the same day and closed unfounded on the same day the incident was reported; therefore, the staff member was not removed from contact with detainees. The second allegation regarding a staff member was made by a detainee that was being housed in a different facility when the allegation was made but had previously been housed at the NCDC. Therefore, the staff member was not removed from his/her duties during the investigation.

Does Not Meet: In the two allegations reported that involved staff, there was no documentation to indicate that the staff members were removed from detainee contact duties during the investigation. To become compliant, the facility must implement procedures that ensure staff, contractors, and volunteers suspected of perpetrating sexual abuse are removed from all duties requiring detainee contact pending the outcome of an investigation and document this action. Documentation of implementation of these procedures must be presented to the Auditor for compliance review, along with any examples to demonstrate compliance with this standard for any allegations reported during the CAP period.

Corrective Action Taken: On November 10, 2022, the Auditor reviewed the revised version of policy 0047 regarding protection of detainees from contact with alleged abusers. The policy contains the appropriate language needed to satisfy 115.66 (a). However, no evidence existed to establish if this procedure has been implemented. No documented allegations against staff were presented to the Auditor for review during the CAP period; therefore, the Auditor accepts the revised policy as implementation of corrective action and the facility has demonstrated compliance with this standard.

§115. 67 - Agency protection against retaliation

Outcome: Does not Meet Standard

Notes:

(a)(b)(c) NCSO Policy 0047 states in part that "NCSO policy is to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff. Staff shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. For at least 90 days following a report of sexual abuse, staff shall monitor the conduct and treatment of inmates or staff who reported sexual abuse, and of inmates who were reported to have suffered sexual abuse, to see if there are changes that may suggest possible retaliation by inmates or staff and shall act promptly to remedy any such retaliation. Staff shall continue such monitoring beyond 90 days if the initial monitoring indicates an ongoing need. Monitoring shall include periodic in-person conversations with inmates and/or staff; review of disciplinary incidents involving inmates; review of housing or program changes; and review of negative performance reviews or reassignments of staff. Any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the same requirements that are discussed in this policy".

The facility provided a memo that indicates that they had no instances where monitoring for retaliation was necessary. However, there were seven allegations reported during the audit period and monitoring should begin immediately following the allegation, continuing for 90 days, or longer, if a need is indicated. The three investigative files reviewed by the Auditor contained no information regarding retaliation monitoring and the facility has not provided any evidence that this practice is being conducted. During the interview with the OIC, he indicated that the way the facility protects both detainees and staff from retaliation for reporting sexual abuse would be absolute swift consequences through discipline and monitoring of the victims of retaliation. He also stated that staff would immediately be placed on administrative leave and detainees would face in-house disciplinary charges.

Does Not Meet (c): The facility was found non-compliant with this standard because no retaliation monitoring has been conducted within the audit period, although there were seven allegations reported. To become compliant, the facility must implement procedures and practice to ensure that retaliation monitoring is conducted for at least 90 days for any person 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. Designated staff must be trained on the requirement to monitor for retaliation in accordance with this standard, and this training must be documented. This monitoring shall begin immediately following the allegation, continuing for 90 days, or longer, if a need is indicated. Documentation of this monitoring for any allegations within the CAP period shall be maintained and presented for compliance review.

Corrective Action Taken (c): On November 10, 2022, the Auditor reviewed the updated policy 0047 that contains the appropriate language to address retaliation monitoring for at least 90 days following a report of sexual abuse. The policy also addresses the items that the facility should monitor and the continued monitoring beyond 90 days if the monitoring indicates a continued need. However, no proof was provided to suggest designated staff has been trained on the requirement to monitor for retaliation in accordance with this standard, and the documented training. Also, no documentation of monitoring for any allegations within the CAP period had been presented for compliance review, and if the facility had no allegations of sexual abuse during the CAP period, the OIC provide a memorandum stating as such. On December 4, 2022, the Auditor reviewed the documentation provided by the facility on November 18, 2022, which included a memorandum by the OIC stating that the facility has received one allegation of sexual abuse from an ICE detainee during the CAP period. However, the OIC had indicated that the detainee was removed from the country the following day and therefore no 90-day monitoring period for retaliation was initiated. The facility has failed to provide proof that designated staff has been trained on the requirement to monitor for retaliation in accordance with this standard, and the training documented. Therefore, the facility remains non-compliant with subpart (c) of this standard.

§115. 68 - Post-allegation protective custody

Outcome: Does not Meet Standard

Notes:

(a)(b) NCSO Policy 0047 states in part that "inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless a supervisor has assessed all available alternatives and has determined that there is no available alternative means of separation from likely abusers. If the facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment. Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the fullest extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, it shall document the opportunities that have been limited; the duration of the limitation; and the reasons for such limitations." The current policy does not prohibit holding of detainee victims in segregation for longer than five days. Based on the Auditor's interview with the OIC, the facility does not place detainee victims in segregation. However, the facility must have a procedure in place to ensure compliance with subparts (a)(b) of this standard in the event that it was necessary to place a detainee victim in segregation.

Does Not Meet (b): The facility's policy does not address that a detainee victim cannot be placed in administrative segregation housing unit for longer than five days. To become compliant, procedures must be implemented to provide guidance to staff that detainees cannot be placed in administrative segregation housing for longer than five days, except in highly unusual circumstances or at the request of the detainee. NCDC staff must be trained on these procedures and training shall be documented for compliance review.

Corrective Action Taken (b): On November 10, 2022, the Auditor reviewed the revised version of policy 0047 regarding detainees not being held longer than five days in any type of administrative segregation. The policy contained the appropriate language needed to satisfy 115.68(b). However, no evidence exists to establish if this procedure has been implemented or if staff has been trained on this revised policy. On December 4, 2022, the Auditor reviewed the documentation provided by the facility uploaded on November 18, 2022. The facility provided their PREA Policy that has been approved by the Sheriff and published on November 14, 2022. However, the facility indicated that training regarding this revision would not be completed until December 2022, after the CAP period expiration. Therefore, the facility remains non-compliant with subpart (b) of this standard.

§115. 73 - Reporting to detainees

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

Notes:

NCSO Policy 0047 states in part that, "A detainee who alleges to be the victim of sexual abuse shall be notified of the results of an investigation into an allegation of sexual abuse and any responsive action taken."

The OIC was interviewed and asked if the facility makes notification to the detainee victim of the findings of the investigation and any responsive action taken. The OIC stated that notification is made to the detainee through the tablet. The detainee who was interviewed by the Auditor who reported sexual abuse indicated that he was made aware of the findings of his allegation by an ICE officer. The facility was unable to provide documentation that the detainees were notified of the result of the investigation and any responsive action taken related to the allegations of sexual abuse in the three allegations reviewed by the Auditor.

Does Not Meet: The facility or agency did not provide documentation to indicate that detainees were notified of the result of the investigation and responsive action taken following an investigation into the three allegations of sexual abuse that were reviewed by the Auditor. To become compliant, the facility must implement a procedure and practice of making these notifications according to requirements of this standard. Notifications must be made or attempted to be made to the victims in the cases that occurred within the audit period, and for any other closed cases that occur within the CAP period, with documentation provided to the Auditor for compliance review.

Corrective Action Taken: On August 24, 2022, the Auditor reviewed the documentation provided including "screenshots" of notifications made to 5 detainees through the internal email system. The Auditor accepted these as partially complete. No evidence was provided of notification to one detainee who was no longer in custody and the Auditor requested the facility coordinate with ICE/ERO to attempt to locate the detainee who is no longer in custody to provide notification. On October 6, 2022, and again on December 04, 2022, the Auditor reviewed the documentation provided by the facility which included an email correspondence between the NCDC OIC and the AFOD from the Salt Lake City Field Office, Las Vegas Sub-Office. In this email, the AFOD specifically stated that on May 19, 2021, the (undisclosed) detainee was removed from the United States to France. The AFOD also indicated that ICE records revealed no known foreign address for this detainee; thus, no way to notify the detainee of the results of the PREA investigation. The facility has provided sufficient documentation to demonstrate full compliance with standard 115.73.

§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)(c)(d) NCSO Policy 0047 states in part that "staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse. Disciplinary sanctions for violations of NCSO policies relating to sexual abuse or sexual harassment shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies."

The facility did not provide the Auditor evidence that they submitted their policies and procedures regarding disciplinary and adverse actions for staff to ICE for review and approval.

Does Not Meet (b): The facility did not provide the Auditor evidence that they submitted their policies and procedures regarding disciplinary and adverse actions for staff to ICE for review and approval. To become compliant, the facility must present their policies and procedures regarding the disciplinary or adverse actions for staff to the agency for review and approval in accordance with subpart (b) of this standard. This approval must be documented and presented for compliance review.

Corrective Action Taken (b): On July 24, 2022, the Auditor reviewed the memorandum dated June 29, 2022, issued by the Salt Lake City Field Office, Las Vegas Sub-Office AFOD that the Nye County Policy NCDC 0047-PREA had been reviewed and approved. Therefore, the Auditor accepts the corrective action made and the facility has demonstrated compliance with subpart (b) of this standard.

§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:

(b) The facility's NCSO Policy 0047 does not require contractors and volunteers suspected of perpetrating sexual abuse be removed from all duties requiring detainee contact pending the outcome of an investigation. During the Auditor's interview with the OIC, he indicated that investigations into allegations against contractors or volunteers would follow the same procedures as staff investigations but was unable to ascertain if a contractor or volunteer would be removed from all duties requiring detainee contact pending the outcome of any investigation. The NCDC has not provided any evidence that this

particular provision of the standard is common practice given the interview response. The NCDC provided a memo stating that there were no instances of contractor or volunteer sexual misconduct during the audit period

Does Not Meet (b): The facility's NCSO Policy 0047 does not require contractors and volunteers suspected of perpetrating sexual abuse be removed from all duties requiring detainee contact pending the outcome of an investigation. Furthermore, the Auditor was unable to ascertain this as a practice during interview with the OIC. The NCDC has not provided any evidence that provision (b) of the standard is common practice given the interview response. The facility must implement a procedure for removing contractors and volunteers suspected of perpetrating sexual abuse from all duties requiring detainee contact pending the outcome of an investigation. Additionally, the facility shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. These procedures must be presented to the Auditor for compliance review.

Corrective Action Taken (b): On November 10, 2022, and again on December 4, 2022, the Auditor reviewed the updated NCDC policy 0047 that contains the appropriate language to address corrective action for contractors and volunteers. The 0047 policy states, "any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies." The facility had provided an updated and published version of policy 0047 that has been approved by the Sheriff. Therefore, the Auditor accepts the corrective action made and the facility has demonstrated compliance with subpart (b) of this standard.

§115. 81 - Medical and mental health assessments; history of sexual abuse

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

Notes:

(a)(b)(c) NCSO Policy 0047 states in part that "if the screening required in above indicates that an inmate has experienced prior sexual victimization, whether in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments. Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting unless the inmate is under the age of 18." The facility's policy indicates that a follow-up medical or mental health meeting will take place within 14 days of the risk screening. However, DHS PREA standards require meetings with medical staff take place within 2 working days and mental health meetings within 72 hours after the referral. In addition, the Auditor has not received any evidence of referrals to medical or mental health professionals.

The Auditor interviewed the intake officer who was identified as the person responsible for conducting risk screening. The intake officer confirmed that if a detainee discloses that they were previous victims of sexual abuse they will be referred to medical for further evaluation and referral. When interviewing the medical staff, the Auditor was informed that they screen for prior sexual victimization but were unable to provide clear information on whether or not the detainee would be referred to a mental health practitioner for an evaluation. The Auditor requested from the facility information about when a referral for medical and/or mental health follow-up is initiated based on a prior sexual abuse and how soon after screening is a medical or mental health assessment conducted; this information was never provided to the Auditor.

Does Not Meet (a)(b)(c): The facility has not demonstrated compliance with any of the requirements in (a)(b)(c). To become compliant the facility must develop procedures and update their policies to reflect their current procedures and practice, that ensure appropriate referrals to qualified medical or mental health practitioners occur immediately when identified during the screening pursuant to 115.41 to have experienced prior sexual victimization or perpetrated sexual abuse. Additionally, procedures and processes must include when a referral for medical follow-up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of the assessment; when a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral.

Corrective Action Taken (a)(b)(c): On November 10, 2022, and again on December 4, 2022, the Auditor reviewed the updated policy 0047 that contains the appropriate language to govern medical and mental health screening upon notification of a history of sexual abuse. The revised policy addresses if screening required in 115.41 indicates prior sexual victimization whether in a confinement setting or in the community, staff shall ensure a detainee is offered a follow-up meeting with medical or mental health within two days of the intake screening. The facility provided an updated and published version of the agency's PREA policy 0047 that has been approved by the Sheriff. Therefore, the Auditor accepts the corrective action made and the facility demonstrated compliance with subparts (a)(b) and (c) of this standard.

§115. 86 - Sexual abuse incident reviews

Outcome: Does not Meet Standard

Notes:

(a)(b)(c) The Auditor's review of NCSO Policy 0047 found that the provisions of this standard are not addressed. After conducting interviews with the OIC, the Auditor concluded that no incident review has been conducted, nor reports prepared, nor any annual reports prepared after every sexual abuse incident. The facility explained that the NCDC has just recently established a procedure to conduct incident reviews by using an existing team referred to as the Training Tribunal; however, no incident reviews have been conducted.

Does Not Meet (a)(b)(c): No incident reviews have been conducted in accordance with DHS PREA Standard 115.86. To become compliant, the facility must implement procedures and practices that ensure a sexual abuse incident review is conducted at the conclusion of every investigation of sexual abuse. Additionally, if the allegation was determined to be substantiated or unsubstantiated, the facility must prepare a report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates a change in policy or practice that could better prevent, detect, or respond to sexual abuse.

The review team shall consider whether the incident was motivated by race, ethnicity, gender identity, LGBTQ status, transgender or intersex identification, or gang affiliation; or was otherwise caused by other group dynamics at the facility. The facility must implement the recommendations for improvement or document its reasons for not doing so in a written response. Both the report and response must be forwarded to the agency PSA Coordinator. Each facility shall also conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention, and response efforts. The results and findings of the annual review shall be provided to the facility administrator, FOD, and agency PSA Coordinator.

Furthermore, for compliance review, each of the sexual abuse cases that occurred within the audit period must have an incident review conducted in accordance with the provisions of this standard; additionally, any new sexual abuse cases that are closed during the CAP period must also have an incident review conducted in accordance with the provisions of this standard.

Corrective Action Taken (a)(b)(c): On December 4, 2022, the Auditor reviewed documentation provided by the facility on November 18, 2022. The facility indicated on the CAP form that they provided a "PREA Review." However, the Auditor found no supporting documentation to indicate the review was conducted and if the review considered all required elements. Therefore, the facility remains non-compliant with subparts (a)(b) and (c) of this standard.

§115. 201 - Scope of audits

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

Notes:

(e) The Auditor was not provided relevant documentation to complete a thorough audit of the facility prior to the on-site visit. The auditor did receive some additional information during the visit; however, he did not receive all requested documents or copies of relevant materials necessary to make compliance determinations.

Does Not Meet (e): To meet this standard the facility must provide all documentation requested during the CAP period.

Corrective Action Taken (e): Additional guidance provided regarding this standard is that if a facility cannot produce a document or evidence of a standard compliance due to not having it, then the facility should not be found non-compliant. It does not appear, to the Auditor, that the facility intentionally withheld a requested document or evidence during the audit or during the CAP period. Therefore, the Auditor accepts the corrective action made and the facility has demonstrated compliance with this standard.

AUDITOR CERTIFICATION:

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

Ron Kidwell

Auditor's Signature & Date

December 18, 2022

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

January 18, 2023

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

January 18, 2023