PREA Audit: Subpart A
DHS Immigration Detention Facilities
Audit Report

Homeland Security

AUDIT DATES			
From:	5/11/2021	**To:**	5/13/2021
AUDITOR INFORMATION			
Name of auditor:	Sharon R. Shaver	**Organization:**	Creative Corrections
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	474-454-(b) (6), (b)
PROGRAM MANAGER INFORMATION			
Name of PM:	(b) (6), (b) (7)(C)	**Organization:**	Creative Corrections
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	202-381-(b) (6), (b)
AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		

FIELD OFFICE INFORMATION	
Name of Field Office:	El Paso
Field Office Director:	Juan L. Acosta
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	11541 Montana Ave. Suite E, El Paso, TX 79936
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:	Otero County Processing Center		
Physical address:	26 McGregor Range Road		
Mailing address: (if different from above)	Click or tap here to enter text.		
Telephone number:	575-824-0440		
Facility type:	D-IGSA		
PREA Incorporation Date:	4/1/2016		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	**Title:**	Warden
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	575-824-(b) (6), (b) (7)(C)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	**Title:**	PSA Compliance Manager
Email address:	(b) (6), (b) (7)(C)	**Telephone number:**	575-824-(b) (6), (b) (7)(C)

ICE HQ USE ONLY	
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 Prison Rape Elimination Act (PREA) audit of the Otero County Processing Center (OCPC) was conducted May 11-13, 2021 by U.S. Department of Justice (DOJ) and U.S. Department of Homeland Security (DHS) certified PREA Auditors, Sharon Shaver and (b) (6), (b) (7)(C) for Creative Corrections, LLC. This is the second DHS Immigration Customs Enforcement (ICE) PREA audit of the facility. The lead Auditor was provided guidance and review during the audit report writing and review process by the ICE PREA Program Manager (b) (6), (b) (7)(C) and Assistant ICE Program Manager, (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 External Review and Analysis Unit (ERAU) during the audit report review process. The facility's last PREA audit was conducted April 3-5, 2018. OCPC is operated by Management & Training Corporation (MTC). According to the PAQ, the design capacity of the facility is 1,000. OCPC houses adult male detainees with security levels of high, medium, and low. The average detainee population for the last twelve months was reported as 951. The average time in custody is reported as 48 days. The top three nationalities of the detainee population are Cubans, Mexicans, and Indians.

The ICE DHS PREA audit was originally scheduled for December 2020 and postponed due to the COVID - health pandemic. ICE developed a contingency audit process to conduct PREA audits when operationally necessary or appropriate, e.g. a health pandemic. The process was divided into three phases: Pre-Audit, Remote Interviews, and On-Site Audit. Approximately four weeks prior to the contingency audit, ERAU Team Lead, (b) (6), (b) (7)(C) provided the Auditor with the facility's Pre-Audit Questionnaire (PAQ), agency policies, and other pertinent documents. The documentation was provided through the ICE SharePoint. The PAQ and supporting documentation was organized with the PREA Pre-Audit Policy and Document Request DHS Immigration Detention Facilities form in folders for ease of auditing. The main policy that provides facility direction for PREA is Policy MTC/903E.02 Sexual Safety in Prisons (PREA) and ICE Policy 11062.2 Sexual Abuse and Assault Prevention and Intervention (SAAPI). All documentation, policies, and the PAQ was reviewed by the Lead Auditor and/or the Second Auditor. During the Pre-Audit phase, the Auditor completed a review of submitted documentation to include policies, detainee detention files, and personnel files for staff, contractors, and volunteers, and investigative files. The second phase, Remote Interviews, consists of interviews with staff, detainees, volunteers, contractors, and outside investigative units and/or service providers. The population on the first day of the Remote Interview Phase was 187, and the average daily population was reported as 951; therefore, a determination was made to interview 30 detainees. The Remote Interviews were divided between the Lead Auditor and the second Auditor. The second Auditor was assigned the responsibility of interviewing detainees from targeted categories and random selection. The Auditor conducted, 32 formal detainee interviews. All detainees interviewed were selected collaboratively between the two Auditors and were chosen randomly, including those who were identified by the facility as qualifying as a targeted population. Detainees were selected from each housing unit and included a variety of nationalities. Of the 32 detainees interviewed, 24 were LEP, speaking Mandarin, Punjabi, Uzbek, Russian, Portuguese, Vietnamese, and Spanish, and required the use of Language Services Associates (LSA) provided by Creative Corrections. One detainee interviewed qualified as disabled, two identified as gay/bisexual, and one had reported prior sexual victimization. The facility reported there were no detainees who identified as transgender or intersex housed at OCPC during this phase of the audit. A total of 32 staff were formally interviewed which included 30 OCPC employees, 1 contractor, and 1 ERO/ICE employee. All staff were randomly selected by the Lead Auditor from rosters and area expertise lists provided by the facility prior to the Remote Interview Phase. OCPC staff interviewed included the Warden, PSA Compliance Manager, HR Manager, Quality Assurance Coordinator, first line supervisors (6), line officers (11) medical and mental health staff (4), Volunteer Coordinator, Grievance Coordinator, Training Supervisor, and classification/intake staff (2). The pre-audit documentation review and the Remote Interview Phase was completed on December 15-16, 2020.

The third phase, the on-site Audit, was not scheduled until the environment is safe for the ICE federal staff, facility staff, detainees, and Auditors. This phase mirrors a traditional PREA audit with a facility tour, observation of facility practices, and follow-up from the prior phases, as needed. Full compliance was contingent upon the on-site review of observations of facility's operational practices during the facility tour, any additional documentation review, and interviews staff and detainees to determine all subparts of the standard were appropriately handled per the standard's requirement and upon the Auditor's review of notes and information gathered during Phases One and Two of the contingency audit process. Prior to the Phase Three, the On-Site audit, the Auditor requested updated facility information and received additional documentation from the ERAU Team Lead and facility staff. The ERAU Team Lead and facility staff provided additional documentation as requested by the Auditor. The lead Auditor requested to review 1 contractor and 11 staff personnel and training records, and 8 detainee files prior to the contingency portion of the audit. The facility advised there were no active volunteers at this time due to suspension of these activities during the pandemic. The Lead Auditor advised an interview would not be required at this time but requested a sample of a previously approved volunteer's file, including training records. All files were promptly uploaded to ICE SharePoint prior to the Remote Interview phase, with the exception of the volunteer's file. The lead Auditor asked via email and during interviews for any random volunteer file to review, none were provided. The lead Auditor also reviewed the facility's website, www.mtctrains.com/preaThe on-site audit consisted of a facility tour, interviews of staff and detainees, and review of follow-up documentation. The audit period review became December 2019 to May 2021.

The facility contracts with Keefe for commissary services. All other services are provided by OCPC staff who are MTC employees.

There is video monitoring of the facility through 220 cameras. (b) (7)(E) All cameras are reported as operational at time of this audit phase. The facility reports no cameras are in the bathroom or shower areas. The central control officers monitor these cameras from central control and certain administrative and management staff also have access to monitor the cameras. The PAQ states the facility retains video footage for 14 to 21 days and footage is stored in a secured server on-site.

At the time of the Provisional Audit Phase, the facility reported that there were six sexual abuse allegations received during the audit period; four were determined by ICE to meet the definition of PREA; two were reported to have occurred at another facility. Administrative investigations were completed by the facility on all six allegations, four investigations were still pending disposition with ICE. Of the four incidents that were reported to have occurred at OCPC, and met the definition of PREA, all were reported as detainee on detainee sexual abuse. Because all four cases were still open with ICE, the lead Auditor reviewed two closed cases, both were reported outside the audit period but since the last PREA audit, for compliance with processes. A further review of the investigations will occur on-site.

The On-Site Phase of the audit began with communications between the Lead Auditor and Bonita Hopkins, ICE/OPR/ERAU Team Lead to determine logistics and to set a schedule for the on-site visit of OCPC. The Lead Auditor requested that the facility have printed and available the first day of the

on-site visit a current detainee roster, a copy of the facility detainee handbook, a list of detainees identifying as transgender, a list of detainees who are identified as LEP. The Auditors arrived the facility at 8:30 a.m. on Tuesday, May 11, 2021 and were greeted by PSA Compliance Manager who assisted with completion of the check-in process and then provided escort to the conference room were greeted by Warden Orozco and key staff. Before the tour, the lead Auditor held an in-briefing with the agency and facility staff in the conference room at the facility. In attendance were:

- Dora Orozco, Warden, OCPC
- (b) (6), (b) (7)(C) Deputy Warden, OCPC
- (b) (6), (b) (7)(C) PSA Compliance Manager, OCPC
- (b) (6), (b) (7)(C) Classification Manager, OCPC
- (b) (6), (b) (7)(C) Quality Assurance Manager, OCPC
- (b) (6), (b) (7)(C) Chief of Security, OCPC
- (b) (6), (b) (7)(C) Healthcare Service Administrator (HSA), OCPC
- (b) (6), (b) (7)(C) ICE Detention Service Manager (DSM)
- (b) (6), (b) (7)(C) ICE/Assistance Field Director (AFOD)
- (b) (6), (b) (7)(C) Certified DOJ/DHS Auditor, Creative Corrections, LLC
- (b) (6), (b) (7)(C) Certified DOJ/DHS Auditor, Creative Corrections, LLC

The Auditors introduced themselves and then provided an overview of the audit process and the methodology to be used to demonstrate PREA compliance to those present. The Auditor explained that the audit process is designed to not only assess compliance through written policies and procedures but also to determine whether such policies and procedures are reflected in the knowledge of staff at all levels. It was further explained that while the interviews had been conducted prior during the contingency audit process (Phase II), observations would be made during the facility tour and the Auditors would conduct conversations with staff randomly to further assist with determining compliance.

Immediately following the in-briefing the Auditors were given a complete facility tour. The OCPC is a holding and processing facility for detainees while they undergo administrative proceedings regarding their right to enter or remain in the United States. OCPC opened its doors in June of 2008 and the facility has a capacity of 1,089 beds. The facility is located 27 miles from the El Paso International Airport on Highway 54 North.

The Executive Office for Immigration Review (EOIR) building sits adjacent to the OCPC. This building consists of court rooms, offices, and a secured visitation/interview area. All visitors must sign in with the officer at the front desk within the EOIR building and be property screened before proceeding to the court rooms, visitation/interview area or allowed entrance into the OCPC. There are four court rooms located in the EOIR building along with four judges assigned to oversee court proceedings for the detainees, Court staff assists in the daily administrative procedures of the courts. MTC security staff provide security duties within the court rooms and escort detainees to and from the holding cells located in a secure area within the EOIR building. Detainees are allowed to receive visits from family, friends, and interviews from legal representatives under normal operations; however, visits from all other than attorneys have been suspended during the Pandemic. The visitation/interview area is located within the EOIR building and is managed by MTC security staff.

The OCPC's Control Center is a controlled entrance into the secure perimeter. All individuals entering the facility must be verified by a visitor's badge or identified by proper credentials. The Control Center is continuously staffed 24 hours a day to monitor the facility. Responsibilities include key control, count procedures, emergency management, public address system operations and other collateral duties.

On average OCPC houses detainees from over 60 countries. Detainee population is classified as Low Custody, Medium Low & Medium High Custody, and High Custody. Low and High Custody detainees are never housed together or allowed to co-mingle. The Special Management Unit (SMU-D) can house up to six detainees in six single cells, SMU-A has seven cells with two bunks each and can house up to 14 detainees. Detainees who do not comply with the facility's rules and regulations may be confined from general population in SMU-D. General Population detainees are housed in 20 separate dormitories with 50 beds each: A1, A2, A3, A4, B1, B2, B3, B4, C1, C2, C3, C4, C5, C6, D1, D2, D3, D4, D5, D6. There are 43 restrictive housing beds and 15 medical/infirmary beds.

OCPC has Recreation Specialists that coordinate the recreational activities for the detainee population and who is responsible for creating the recreation schedule and development and implementation of the Health and Wellness program. The OCPC Medical Department is operated by MTC Health Services. The medical staff is responsible for administering the medical needs of detainees and is on duty 24 hours a day, 7 days a week. Sick calls can be made through the Telton tablet and detainees will be seen within 24 hours. All initial admissions and release tasks are processed through the Processing Intake Department which operates 24 hours a day, 7 days a week. OCPC allows detainee volunteers to participate in various work details such as kitchen, laundry, barbering, janitorial, grounds cleaning, paint/wax worker, and recreation specialist worker. Work details are limited at the current time to laundry and a very limited number of detainees are allowed to work at this time due to the Pandemic.

All areas of the facility were visited with the exception of one housing unit which had just been identified to house a detainee with a positive COVID-19 test. The Auditors were able to observe the unit and detainees through the main entrance window and found that it was patterned exactly as all other housing units in the facility and that the information posters and notices were displayed in the exact manner as they were in all other housing units.

The following personnel were present during the PREA tour on 05/11/2021:

- Dora Orozco, Warden, OCPC
- (b) (6), (b) (7)(C) Deputy Warden, OCPC
- (b) (6), (b) (7)(C) PSA Compliance Manager, OCPC
- (b) (6), (b) (7)(C) Classification Manager, OCPC
- (b) (6), (b) (7)(C) Quality Assurance Manager, OCPC

- (b) (6), (b) (7)(C) Chief of Security, OCPC
- (b) (6), (b) (7)(C) Grievance Lieutenant, OCPC
- (b) (6), (b) (7)(C) Recreation Specialist, OCPC
- (b) (6), (b) (7)(C) Chaplain, OCPC
- (b) (6), (b) (7)(C) ICE/AFOD
- (b) (6), (b) (7)(C) ICE/SDDO
- (b) (6), (b) (7)(C) Certified DOJ/DHS Auditor, Creative Corrections, LLC
- (b) (6), (b) (7)(C) Certified DOJ/DHS Auditor, Creative Corrections, LLC

After the facility tour the second Auditor was escorted to the multi-purpose room to begin conducting detainee interviews and the Lead Auditor met with the Warden and PSA Compliance Manager to discuss the some of the outstanding items from the Provisional Audit Report. During the remainder of the on-site visit, the Auditors revisited the medical section and intake, conducted random interviews with staff and detainees, reviewed 3 volunteer training files, 11 detainee records, 10 investigation files, and general documentation review to resolve any questions or outstanding items noted in the provisional audit report.

The population reported on the first day of the site visit was 227 and the Auditors collectively selected 10 detainees to interview who were listed as LEP and who spoke Turkish, Creole, Tamil, and Arabic languages. These interviews were conducted by the second Auditor in the multi-purpose room and with use of the Language Line when requested by the detainee. OCPC staff interviewed on-site included the Warden, PSA Compliance Manager, Captain, Deputy Warden of Security, Classification Manager, Health Services Administrator, and the Intake Sergeant. The Lead Auditor also conducted an interview with the AFOD.

During the Provisional Audit Phase, there were four investigations in progress and were still pending disposition with ICE. These cases were closed since the Provisional Audit Report was issued and the Lead Auditor reviewed these cases on-site. Of these cases two were substantiated and two were unsubstantiated; all cases were detainee on detainee. All case files were complete and thoroughly documented and found compliant with the standards requirements. Four new allegations of sexual abuse were received since the Provisional Audit Phase, two of them were alleged incidents that occurred at another facility prior to arriving OCPC, and the other two were administratively investigated and upon forwarding the case to the SAAPI Unit/Custody Management Division/ERO/ICE Program Manager, it was determined that these allegations were not consistent with the definition of a PREA The other two files contain documented correspondence of notification by the PSM Compliance Manager/ICE SDDO to the appropriate office of the agency/administrator of the facility (1-County Sheriff's Office and 1-ICE Processing Center) where the alleged abuse occurred. All four allegation files were documented with the necessary notifications and conclusions.

The out briefing was held at 1:00 p.m. on May 13, 2021 in the OCPC conference room and the Auditors spoke briefly about their observations. The Lead Auditor informed those present of the preliminary findings and explained the audit report process and timeframes. The Auditors expressed their gratitude for the hospitality and cooperation shown by all staff present during the three-day on-site visit. The following personnel were present:

- Dora Orozco, Warden, OCPC
- (b) (6), (b) (7)(C) Deputy Warden, OCPC
- (b) (6), (b) (7)(C) PSA Compliance Manager, OCPC
- (b) (6), (b) (7)(C) Classification Manager, OCPC
- (b) (6), (b) (7)(C) Quality Assurance Manager, OCPC
- (b) (6), (b) (7)(C) Chief of Security, OCPC
- (b) (6), (b) (7)(C) Grievance Lieutenant, OCPC
- (b) (6), (b) (7)(C) Recreation Specialist, OCPC
- (b) (6), (b) (7)(C) Chaplain, OCPC
- (b) (6), (b) (7)(C) Executive Assistant, OCPC
- (b) (6), (b) (7)(C) HSA, OCPC
- (b) (6), (b) (7)(C) ICE/AFOD
- (b) (6), (b) (7)(C) ICE/SDDO
- (b) (6), (b) (7)(C) ICE/DSM
- (b) (6), (b) (7)(C) ICE/Compliance Standards Officer (CSO)
- (b) (6), (b) (7)(C) Certified DOJ/DHS Auditor, Creative Corrections, LLC
- (b) (6), (b) (7)(C) Certified DOJ/DHS Auditor, Creative Corrections, LLC

SUMMARY OF AUDIT FINDINGS

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

Number of Standards Exceeded: 2

§115.13 Detainee supervision and monitoring
§115.31 Staff training

Number of Standards Met: 36

§115.11 Zero-tolerance of sexual abuse; Prevention of Sexual Assault Coordinator
§115.15 Limits to cross-gender viewing and searches
§115.16 Accommodating detainees with disabilities and detainees who are limited English proficient (LEP)
§115.17 Hiring and promotion decisions
§115.21 Evidence protocols and forensic medical examinations
§115.22 Policies to ensure investigation of allegations and appropriate agency oversight
§115.32 Other training
§115.33 Detainee education
§115.35 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
§115.51 Detainee reporting
§115.52 Grievances
§115.53 Detainee access to outside confidential support services
§115.54 Third-party reporting
§115.61 Staff reporting duties
§115.62 Protection duties
§115.63 Reporting to other confinement facilities
§115.64 Responder duties
§115.65 Coordinated response
§115.66 Protection of detainees from contact with alleged abusers
§115.67 Agency protection against retaliation
§115.68 Post-allegation protective custody
§115.71 Criminal and Administrative Investigations
§115.72 Evidentiary standard for administrative investigations
§115.73 Reporting to detainees
§115.76 Disciplinary sanctions for staff
§115.77 Corrective action for contractors and volunteers
§115.78 Disciplinary sanctions for detainees
§115.81 Medical and mental health assessments; history of sexual abuse
§115.82 Access to emergency medical and mental health services
§115.83 Ongoing medical and mental health care for sexual abuse victims and abusers
§115.86 Sexual abuse incident reviews
§115.87 Data collection
§115.201 Scope of audits

Number of Standards Not Met: 1
§115.34 Specialized training: Investigations

Number of Standards Not Applicable: 2
§115.14 Juvenile and family detainees
§115.18 Upgrades to facilities and technologies

PROVISIONS

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

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

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

Notes:

(c): OCPC has a written policy, Sexual Assault and Abuse Prevention and Intervention MTC/2.11 mandating zero tolerance toward all forms of sexual abuse and sexual harassment which has been reviewed and approved by ICE, as per interview with PSA Compliance Manager. The Lead Auditor's review of this policy determined that it outlines the facility's Sexual Abuse and Assault Prevention (SAAPI) Program that ensures preventing, detecting, reporting, and responding to such conduct and includes sexual abuse and PREA definitions. The zero-tolerance policy is publicly posted on the MTC website at www.mtctrains.com/prea. The Auditors observed the postings on the bulletin boards and in other locations throughout the facility which contained the ICE Zero-Tolerance Posters, facility handbooks, ICE National Detainee Handbooks, and the DHS-prescribed Sexual Assault Awareness Information pamphlet to convey the message of the zero-Tolerance for sexual abuse and sexual harassment at OCPC.

(d): The facility's Warden appointed a PSA Compliance Manager who oversees the facility's PREA compliance efforts and implementation process for sexual abuse prevention and intervention policies and procedures. The lead Auditor determined compliance through the review of the facility's Policy MTC/2.11, review of the facility's organizational chart, and an interview with the PSA Compliance Manager. During the interview, the PSA Compliance Manager indicated he reports to the Warden, and confirmed he has sufficient time and authority to oversee facility efforts to ensure the facility's compliance with the sexual abuse prevention and intervention policy. These efforts include collecting and analyzing PREA data, assisting with the development of initial and ongoing training protocols, delivering staff and detainee training, conducting administrative investigations, responding to all PREA allegations, and making appropriate notifications, reviewing results of every investigation of sexual abuse, and preparing required reports. The PSA Compliance Manager was well informed of his responsibilities and duties and appeared to be experienced and engaged in all aspects of facility operations, especially those concerning PREA.

§115.13 - Detainee supervision and monitoring.

Outcome: Exceeds Standard (substantially exceeds requirement of standard)

Notes:

(a)(c): A review of the PAQ indicated the facility employs 235 MTC and 34 ICE staff that may have recurring contact with detainees. There are two primary shifts for security staff working at the facility which are (b) (7)(E) administrative schedule. The Lead Auditor was provided lists of all employees and shift rosters for the dates of the audit. The Warden, during interviews, indicated that the number of staff is determined by the physical layout and size of the facility and the composition of the detainee population and in accordance with contractual requirements. The on-site interview with the Warden confirmed staffing ratio requirements of 1-100 for medium and below security detainees and 1-50 for high security detainees. The 2019 Annual Staffing Plan Review was reviewed by the Lead Auditor which provided sufficient evidence that all requirements of this standard were considered and documented. The Auditors observed officers on posts providing supervision at a ratio at meeting or exceeding the requirement. (b) (7)(E) Video cameras operate 24-hours a day, 7 days a week. These cameras have the capability to pan, tilt, and zoom (PTZ), no cameras record sound. The video camera system was installed in 2008. These video cameras are monitored by the central control officers and designated administrative and management staff. Video footage is recorded, archived, and stored in an on-site server for 14-21 days. The Auditors observed and interviewed the officer working the closed-circuit television (CCTV) post and confirmed this post is filled 24-hours/7-days per week and serves to monitor every camera throughout the facility on a random/systematic basis to observe detainee movement and other activities and operations. This post is responsible for archiving and storing recorded video footage for retrieval during an investigation. Any potential blind spots seen by the Auditors were adequately covered by CCTV cameras. (b) (7)(E) The Auditors reviewed live and recorded CCTV footage and observed that some cameras have PTZ capabilities while some of the older cameras do not. The layout of the housing units provides clear line of sight throughout the unit.

(b)(d): Post Orders for Dorm Officer, Video Monitoring Officer, and Lieutenant were reviewed by the Lead Auditor, who found that the post orders meet the requirement for the facility to develop and document comprehensive detainee supervision guidelines. These post orders are reviewed annually and approved by the Warden. Policy MTC/2.11 requires frequent unannounced security inspections to deter sexual abuse of detainees on all shifts and prohibits OCPC staff from alerting others that these security inspections are occurring, "unless such announcement is related to the legitimate operational functions of the facility." The policy further states that these inspections will be documented in appropriate logbooks. It was determined through interviews with shift supervisors and security staff that the occurrence of these rounds is also documented using the "Pipe Guard1" system. The Pipe is a mechanical device used by staff to record the date and time the area is visited and indicating the code for the type of visit. A random selection of six pipe system printouts were provided with the PAQ to indicate that security inspections occur on a frequent, irregular basis. The sample documents provided indicated rounds are made on all shifts, both night and day. The Auditors reviewed "Pipe Guard 1" log entries for random dates between April 2020 through April 2021 and observed system punches during the facility tour confirming supervisor rounds are conducted in all areas on both day and evening shifts. In addition, the Auditors observed logbook entries during the on-site visit confirming both prior documented rounds and real time rounds being documented by officers on posts during the tour of supervisor rounds. The Executive Management Team is required to make rounds together on a formal inspection at least once per week covering the whole facility and to make themselves accessible to the detainee population. The Auditors observed members from all levels of staff communicating and providing information to the detainees throughout the duration of the site visit.

§115.14 - Juvenile and family detainees.

Outcome: Not Applicable (provide explanation in notes)

Notes:

OCPC does not house detainees younger than 18 years of age and/or family detainees. Interviews with the Warden, PSA Compliance Manager, and information provided on the PAQ indicate that OCPC houses only adult male detainees. The detainee population roster provided to the Auditor during the virtual phase and the on-site phase indicated there were no detainees under the age of 18.

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

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

Notes:

(b)(d): Policy MTC/2.10 states "male detainees will be pat searched by male officers and transgender detainees will be permitted to choose the gender of the officer conducting the pat search." The policy requires cross-gender pat-searches be conducted only in exigent circumstances and to be fully documented explaining the reason for the search. Staff interviewed confirmed that male officers conduct searches of detainees and that transgender detainees are allowed to choose the gender of the officer. Staff indicated they had not witnessed any cross-gender searches and stated that if it were to be necessary an incident report (IR) must be completed. Of the 32 detainees interviewed, all stated that they have only been searched by male officers. The Auditor's review of 10 detainee files found no incidents of cross-gender searches. A memorandum was provided with the PAQ along with a blank copy of the Record of Search Log that indicated no cross-gender searches have occurred at OCPC in the audit period. During the on-site visit the Auditors did not observe any pat-down searches, instead viewed recorded footage of the intake area where it is more common for a detainee to be searched. The Auditor's observation was that the searches were conducted professionally and as least invasive as necessary. Ten detainees were interviewed on-site and expressed no complaints about searches.

(c): OCPC is an all-male facility and does not house female detainees, therefore, this provision is not applicable.

(e)(f): Policy MTC/2.10 states that OCPC "staff will obtain the Shift Supervisor's approval before conducting strip searches and any searches conducted must be documented on the Record of Search form. Male detainees will be strip searched by male officers." The policy further states "In the case of an emergency, the OCPC staff of the same gender as the detainee will be present to observe a strip search performed by an officer of the opposite gender. Any strip searches conducted by an officer of the opposite gender must be fully documented, explaining the reason for the cross-gender strip search." OCPC does not house female or juvenile detainees. Interviews with staff indicated no cross-gender searches and/or body cavity searches of detainees have occurred at OCPC during the audit period. They're aware both types of searches are prohibited. Such searches would only be conducted in exigent circumstances or performed by a medical practitioner. Several employees stated that if a strip search is required, the detainee would be taken to medical. All staff interviewed about searches indicated that all strip searches need supervisor approval and must be documented. A memorandum was provided with the PAQ along with a blank copy of the Record of Search Log that indicated no cross-gender strip and/or visual body cavity searches have occurred at OCPC in the audit period. The Auditor's review of 10 detainee files found no incidents of cross gender strip searches.

Recommendation prior to on-site audit: The facility should update the policy to require exigent circumstances rather than emergency circumstances for a cross-gender search to be warranted. Furthermore, if there is a same-gender staff available to observe the cross-gender strip search, it would seem more appropriate for the same gender staff to conduct the strip search. The lead Auditor recommends reevaluation of this policy language and consideration of a change to be in alignment with the DHS PREA 115.15 language.

Action Taken: During the on-site visit the PSA Compliance Manager provided the Lead Auditor with documentation advising that the OCPC policy 2.10 has been updated. The policy reads "c) Gender of Officer (Strip Searches), Cross-gender strip searches or cross-gender visual body cavity searches shall not be conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners. All strip searches and visual body cavity searches shall be documented."

(g): Policy MTC/2.11 states that "detainees will be able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine checks or cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement." The language in this policy is not consistent with requirement of this provision. If the medical examination or monitored bowel movement is being conducted or observed by a non-medical staff of the opposite gender, then the practice is noncompliant. The policy also states, "staff of the opposite gender shall announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing." Interviews with detainees and staff confirmed the detainees have privacy for these functions. During the interviews, female staff indicated they announce themselves when entering the housing units and when making rounds in the bathroom and shower areas. Detainees interviewed communicated that opposite gender staff announce themselves on a regular basis. All 32 interviewed detainees confirmed having privacy to shower, perform bodily functions, or change clothing without being viewed by the staff of opposite gender. The intake shower area is sectioned off from the main processing area and is equipped with six shower heads. The shower area is constructed with a 40" solid block wall and then a shower curtain is hung between the shower area and the processing area to prevent cross-gender viewing during shower. The Auditors reviewed coverage of all camera views where inmates change clothes, take showers, or use the restroom. Some of the camera views were digitally blocked over specific areas to prevent the potential for cross-gender viewing. The Auditors observed the announcements for females on the floor were made each time the tour group entered the housing unit. In addition, the detainee interviews confirmed that they are able to shower, use the restroom and change clothes without being viewed by opposite gender staff, and that whenever the females enter the housing units, they announce their presents. Posted on the main entry door of each housing unit is a 6"x6" red stop sign reminding female staff to announce their presence upon entry. OCPC/2.11 policy revisions and facility practice were observed to meet the requirements of this standard.

Recommendation prior to on-site audit: The facility should update the policy to indicate medical examinations and monitored bowel movements will be conducted by male staff, if not conducted by medical personnel.

Action Taken: During the on-site visit, the PSA Compliance Manager provided the Lead Auditor with documentation advising that the OCPS policy 2.11 has been updated to reflect the same language as the standard. The policy reads "3. Limits to Cross Gender Viewing, Detainees will be able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement under medical supervision."

(h): The facility is not a family residential facility; therefore, this provision is not applicable.

(i): Policy MTC/2.10 states that OCPC "shall not search or physically examine a detainee for the sole purpose of determining the detainee's genital characteristics and if the gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a standard medical examination that all detainees must undergo as part of intake or other processing procedures conducted in private, by a medical practitioner." Interviews with staff confirmed they are aware that detainees are not to be searched for the sole purpose of determining the detainee's genital characteristics.

(j): Policy MTC/2.10 states that "detention staff shall be trained in proper procedures for conducting pat searches, including cross-gender pat searches and searches of transgender and intersex detainees and in a manner that is professional, respectful, and least intrusive as possible while being consistent with security needs." The Lead Auditor reviewed the MTC Detainee Searches: Cross-Gender Pat Search & Searches of Transgender and Intersex Detainees Lesson Plan and found it to include all training requirements of this standard. A sample of a Pre-Service Training Roster was provided to indicate security officers were provided training on searches. The Auditor's review of staff training records indicated that staff received training on conducting searches during their initial training and then every year during in-service. Interviews with the facility's Training Coordinator further supports delivery of this training and random staff interviews confirmed staff's knowledge on how to conduct proper searches.

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

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

Notes:

(a): Policy MTC/2.11 states that "the OCPC will take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse." The policy further states "when necessary to ensure effective communication with detainees who are deaf or hard of hearing, or detainees who have intellectual, psychiatric, or speech disabilities, limited reading skills, or who are blind or have low vision, the OCPC will provide access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively, using any necessary specialized vocabulary; and will provide access to written materials related to sexual abuse in formats or through methods that ensure effective communication." In matters relating to allegations of sexual abuse, Policy MTC/2.11 requires the OCPC to "employ effective expressive and receptive verbal communication techniques while communicating with detainees with disabilities in accordance with professionally accepted standards of care." The OCPC Detainee Handbook is provided to detainees upon entry to the facility and is provided in English and Spanish. The handbook provides detainees with disabilities accommodations information advising that a detainee with a disability will have an equal opportunity to participate in, access, and enjoy the benefits of OCPC's programs, services, and activities and that such participation will be accomplished in the least restrictive and most integrated setting possible through the provision of reasonable accommodations, modifications, and/or auxiliary aids and services as necessary. Detainees may request reasonable accommodations by submitting a 'Request to Staff' through the Telmate Tablets to the Classification Manager or designee. The second Auditor reviewed 10 detainee files and found none of these detainees were documented as having a disability requiring a communication accommodation. There were no detainees with hearing or visual impairments or any other disability that would require a communication accommodation to interview. The interview with the PSA Compliance Manager indicated that if a special need was identified during intake, the detainee would be taken to medical and whatever accommodation required, to ensure the detainee understands the intake process, to include PREA information, would be provided. Staff interviewed provided similar answers in that they would take whatever measures necessary to ensure effective and professional communication with the detainee and that they would enlist the assistance of their supervisor or the PSA Compliance Manager to assist if they were unable to handle at their level. Interviews with medical and mental health staff indicated that most staff are bilingual in English and Spanish, but if the detainee speaks another language, the Language Line service is used when needed.

(b): Policy MTC/2.11 requires "OCPC staff to take steps to ensure meaningful access to all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient, including steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary." The OCPC Detainee Handbook is provided to detainees upon entry to the facility and is published in both English and Spanish. The handbook advises detainees that they may request interpreter services from any staff member or complete a detainee request form and place the form into the detainee request box located in the housing unit, and telephonic interpreter services will be provided at no cost. The PSA Compliance Manager advised the Lead Auditor during his interview that detainee orientation is provided in both English and Spanish. The ICE zero tolerance posters, published in both English and Spanish, are posted in the housing units and throughout the facility, as reported in the interview with the PSA Compliance Manager. Detainees also confirmed during interviews that the posters are located conspicuously throughout the facility and by the telephones. LA Piñon Sexual Assault Recovery Services of Southern New Mexico 24-Hour Crisis Line posters are printed in both English and Spanish. The telephonic language services information is found on the ERO Language Services Resource Flyer with instructions on how to access the 24-hour language line. The staff interviewed were aware this interpreter/translation service is available and knew how to access the service if needed. During interviews with the PSA Manager, he explained that the facility had invested in a device called a "pocket-talk" that is a portable device that interprets spoken word and will interpret up to 74 languages. Logs were provided showing these devices were used between 10/26/20-12/31/20 to interpret PREA information for 17 detainees speaking Tamil, Spanish, Punjabi, Arab, Chinese, and Russian. Interviews with line staff and supervisors indicated regular use of these devices. The ICE National Detainee Handbook is published in 11 languages (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, and Vietnamese) and OCPC reports they only have English and Spanish on hand. The second Auditor reviewed 10 detainee files and found nothing documented to indicate language interpreting services was used or was necessary for communicating with these detainees. It was not clear to the Auditor what the detainee's primary language is and whether the detainee speaks/understands English or Spanish, based on reviewing documentation in the detainee files. Nor was it clearly documented in what language written and verbal information was provided to the detainee, particularly the screening instrument, OCPC Detainee Handbook, ICE National Detainee handbook, and PREA information. One of the detainees interviewed was identified as LEP which calls to question whether an interpreter was used during the screening and intake/orientation process. Prior to Remote Interview Phase of the audit, the lead Auditor requested a list of detainees identified as LEP and the facility responded that they could not provide a list because they did not track the detainees' languages. The detainee roster indicated the nationality of each detainee, so this was taken into consideration when selecting detainees for interviews. Of the 32 detainees interviewed, 24 were identified as LEP by the second Auditor and the telephonic language interpretation service was used to conduct the interviews. All 32 detainees interviewed reported that they received a OCPC Detainee Handbook during intake; but six detainees stated that they did not receive the ICE National Detainee Handbook in a language that they were able to understand. These languages were Creole, Vietnamese, Russian, Uzbek, Punjabi, and Mandarin. In response to the list of detainees who were interviewed previously and who stated they did not receive an ICE National Detainee Handbook in their language as noted in provision (b) above, the PSA Compliance Manager provided the Lead Auditor with written documentation that the handbook was obtained in the additional languages and

subsequently provided to the detainees who spoke Russian, Creole, Punjabi, and Vietnamese as requested, although two of the detainees (Mandarin) had departed the facility. The ICE National Detainee Handbook is not available in Uzbek and the detainee was offered a handbook in Russian or English but refused. The PSA Compliance Manager utilized the "pocket talk" to communicate the PREA information from the handbook.
The I-Speak language identification posters were visibly posted on the bulletin boards in each housing unit as well as in the intake area and medical. Most all staff at the facility are bilingual (English/Spanish), and the Language Line and "pocket-talk" devices are utilized to communicate with detainees who are LEP or who do not speak Spanish. Each dormitory is equipped with six Talton Tablets for use by detainees and which can be used to initiate a Grievance and to communicate directly with key staff by email. The system has a built-in translation system for the following languages: Arabic, Creole, English, Farsi, French, German, Hindi, Korean, Mandarin, Punjabi, Russian, Spanish, Tagalog, Vietnamese.

The second Auditor reviewed 10 additional detainee files and conducted 10 interviews while on-site to ensure detainees are receiving a handbook in a language they understand. Of the 10 detainees interviewed and whose files were reviewed, 4 report not having received a handbook or pamphlet in their language (Turkish, Creole, Tamil, and Arabic), although documentation was found in the files of 3 detainees that the ICE National Detainee Handbook was provided in the appropriate format. Since the ICE National Detainee Handbook is not currently translated in Tamil, the PSA Compliance Manager provided the Auditor with the log where the "pocket-talk" was signed out and documentation where the PREA information was translated to that detainee using the "pocket-talk" device.

The Auditors observed the intake process in person for current intakes as well as through video footage for prior day intakes. Each holding cell is equipped with a television mounted inside and the PREA video, along with other designated videos while the cells are occupied. The PREA video is played both in English and Spanish and contains closed caption. Each detainee was taken out of the holding cell separately and interviewed directly by an officer. Once the language was established, the officer utilized the "pocket-talk" to communicate general information with the detainee; the Zero-Tolerance message was delivered, and screening questions were conducted using the Language Line interpreter system by telephone. It should be noted that the detainee signs the form stating he has received both detainee handbooks prior to them being issued. The handbooks are issued at the same time the property is issued, which is after the detainee is cleared by medical and enroute to his assigned housing unit. While observing the orientation process on the housing unit for new arrivals, the lead Auditor confirmed the detainees had received a copy of the ICE National Detainee Handbook.

Since the facility is still under COVID-19 safety protocols and keeping detainees within their arrival cohort, the orientation was conducted in each housing unit where new arrivals were assigned. The Auditors observed the PSA Compliance Manager delivering the orientation informing detainees about the agency and the facility's zero-tolerance policies and methods of reporting in each of the spoken languages using the "pocket talk".

Recommendation prior to on-site audit: The facility should implement a system of identifying and tracking detainees who are LEP and document the detainee's primary language, and if the detainee is LEP, in their detention file.

Action Taken: During the on-site visit, the PSA Compliance Manager provided the Lead Auditor with documentation advising that the primary language of the detainee is now identified during the intake process and documented in the detainee's detention file and tracked and on a local spreadsheet. The Interpretation Services Log was updated to include the detainees name, alien number, and language spoken or requested. The Lead Auditor interviewed the Classification Manager who confirmed that the detainee's language is now tracked manually in the detainee's file by the facility and that a request has been initiated to add a language field to the corporate computer database. This was further confirmed by the second Auditor's review of documentation in the detainee files.

(c): Policy MTC/2.11 states that "in matters relating to allegations of sexual abuse, the OCPC will provide detainees with disabilities and detainees with limited English proficiency with in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. Interpretation services shall be provided by someone other than another a detainee, unless the detainee expresses a preference for another detainee to provide interpretation and the agency determines that such interpretations is appropriate and consistent with DHS policy." The Lead Auditor reviewed a total of eight investigative files and found seven of the files indicated the alleged victim spoke Spanish, and that a staff interpreter was used during the detainee's initial interview about the sexual abuse allegation.

§115.17 - Hiring and promotion decisions.

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

(a)(b): Policy MTC/201.3 Background Checks Policy prohibits hiring any person who may have detainee contact who has engaged in sexual abuse in a prison or institution, or who has been convicted of engaging or attempting to engage in sexual activity with any person by force, threat or coercion, or if the victim did not consent; or who has been civilly adjudicated to have engaged in sexual abuse in a prison or institution, or who has been convicted of engaging in or attempting to engage in sexual activity with any person by force, threat of force or coercion or if the victim did not or could not consent. This policy further requires OCPC to ask each applicant who is being interviewed for a position which will have inmate contact: 1) have you ever been found to have engaged in sexual abuse in a prison or institution, or convicted of engaging or attempting to engage in sexual activity with any person by force, threat of force or coercion or if the victim did not or could not consent; 2) have you been civilly or administratively adjudicated to have engaged in the activity described above; 3) have you ever been found to have engaged in sexual harassment at work. These questions are to be documented and retained with interview notes. Through review of Executive Order 10450 Security Requirements for Government Employment and the 5 Code of Federal Regulations (CFR) 731 and ICE Directives 6.7.0 and 6.8.0, it was determined the agency has established a system of conducting criminal background checks for new employees, contractors, and volunteers who have contact with residents to ensure they do not hire or promote anyone who engaged in sexual abuse in a prison or other confinement setting; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, coercion, or if the victim did not consent or was unable to consent to refuse; or had civilly or administratively adjudicated to have engaged in such activity. Department of Homeland Security 6 CFR Part 115 (Standards to Prevent, Detect, and Respond in Sexual Abuse and Assault Confinement Facilities) form contains a statement indicating that applicant responses are true and correct to the best of his/her knowledge. If the applicant does knowingly and willfully give a false response it may result in a negative finding regarding falsifying or omitting information, and he/she will be rejected from the selection process. Employees also have a continuing affirmative duty to report. The Lead Auditor interviewed the HR Manager who stated that no person will be considered for a job if they have engaged in sexual abuse. He further stated that every candidate for employment must first complete an MTC application on the company website and that the MTC application includes the three questions listed above. The Lead Auditor's review of the employee personnel files found that they did not contain a copy of the employment application, so this was unable to be verified as of the issuance of the provisional report. The HR Manager stated that employees have a continuing duty to disclose any

sexual misconduct and stated that offers of employment are not issued until an applicant has been cleared of any prior sexual misconduct and been cleared through the criminal background checks process. Staff interviews indicated their awareness of the affirmative duty to report sexual misconduct and that termination from employment is the consequence of withholding or for falsifying information. The Lead Auditor reviewed 11 OCPC employee personnel files and one contract personnel file and confirmed hiring procedures were followed according to policy requirements. During the on-site inspection the Auditor was provided a copy of the MTC application packet for review, and which included the employment application, and confirmed that the three questions are included and require attestation by signature; in addition, these same questions are listed on the facility's Detention Officer Interview Form and are directly asked of the applicant by the interviewer.

Recommendation: Through the Executive Order 10450 Security Requirements for Government Employment and the 5 Code of Federal Regulations (CFR) 731 and ICE Directives 6.7.0 and 6.8.0, it is established there is a system for conducting criminal background checks for employees and contractors to ensure they do not promote anyone who engaged in sexual abuse in a prison or other confinement setting; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, coercion, or if the victim did not consent or was unable to consent to refuse; or had civilly or administratively adjudicated to have engaged in such activity; promotion is not addressed in the facility. The facility should update the facility's policy to address the practice and standard language regarding promotions.

(c)(d): According to the training documentation available on the ICE SharePoint, the ICE OPR Personnel Security Unit (PSU) Assistant Deputy Division Director (b) (6), (b) (7)(C) explained that all ICE staff and contract employees must clear a background investigation through PSU before being hired or promoted. The contractor or staff complete an Electronic Questionnaire for Investigations Processing (e-QIP) and fingerprints to start the investigation process. The process takes an average of 45-60 days to determine suitability for hiring. If the prospective employee does not clear the background investigation, the individual will not be hired to work for ICE. OPR Personnel Security Unit (PSU) Assistant Deputy Division Director explained that the sexual misconduct questions are asked of the potential employee as part of the e-QIP. The HR Manager stated that every candidate for employment must first complete an MTC application on the company website and that MTC screens all applicants, by running a background check, prior to submitting the applicant to ICE for consideration of employment and background investigation. These background checks are not run at the facility, but at the MTC corporate office. Individuals who are selected for employment must complete a reference check verification form granting MTC permission to contact former employers for employment verification; these reference verifications are retained in the employee's personnel file. The Lead Auditor submitted 12 employee names (11 OCPC staff and one contractor) to verify the background check process. PSU responded with a list showing that a background investigation was completed on all employees on the list within the last five years and the date when the next investigation is due, with the exception of one employee. The Lead Auditor notified the ERAU Team Lead of this discrepancy and requested clarification. On January 26, 2021 the Lead Auditor was notified by the ERAU Team Lead that the employee in question does have an active clearance and the discrepancy was due to a name change. Contract employees undergo the same process as OCPC employees for consideration of employment. According to the Lead Auditor's interview with the facility Chaplain, volunteer applications are taken at the facility and forwarded to ICE for the background records check to be conducted and subsequent approval/disapproval on all potential volunteers prior to enlisting their services. The volunteer's file requested by Lead Auditor was not provided prior to the Provisional Report completion. In response to the missing volunteer files noted, the Lead Auditor reviewed three volunteer files and found documented evidence where background records checks were conducted, and applicants were vetted prior to enlisting their services.

(e): ICE Directive 6.8, ICE Suitability Screening Requirements for Contractor Personnel, and 5 CFR 731 state that the agency will make an unsuitability determination if the contractor or employee provides a materially, intentional false statement or deception, or fraud in examination or appointment. Interviews with the facility's Warden and HR Manager confirmed material omissions and/or providing materially false information would be grounds to terminate an employee or withdraw an offer of employment for a prospective employee; both confirmed that no employee has been terminated for this reason within the past 12 months.

(f): Executive Order 10450 Security Requirements for Government Employment states, "The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law-enforcement agencies, former employers and supervisors…" During the lead Auditor's interview with the HR Manager it was determined that he would provide information to a prospective employer upon receipt of a signed request for information involving a prior employee. The HR Manager provided a completed Employer Reference Form, requested by another correctional agency, for the lead Auditor's review.

§115.18 - Upgrades to facilities and technologies.

Outcome: Not Applicable (provide explanation in notes)

Notes:

(a)(b): Policy MTC/2.11 states that "when designing or acquiring any new facility and in planning any substantial expansion or modification of the existing facilities, the OCPC will consider the effect of the design, acquisition, expansion, or modification upon its ability to protect detainees from sexual abuse." The policy further states that "when installing or updating video monitoring system, electronic surveillance system or other monitoring technology at the facility, the OCPC will consider how such technology may enhance their ability to protect detainees from sexual abuse by eliminating any blind spot as much as possible". Based on the memorandum from the facility Warden dated October 7, 2020, and interviews with the Warden and PSA Compliance Manager, the facility has not designed, modified, acquired, or expanded upon new or existing space, or installed or updated electronic monitoring systems since the last audit on April 3, 2018. During the site inspection the Auditors observed that the facility was well-equipped with video monitoring cameras which effectively eliminated blind spots and provides electronic surveillance for vulnerable areas.

§115.21 - Evidence protocols and forensic medical examinations.

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

Notes:

(a): Policy MTC/903E.02 states that "to the extent MTC is responsible for investigating allegations of sexual abuse, MTC will follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions." This policy does not indicate that the protocols were developed in coordination with DHS, nor were the uniform evidence protocols provided for the lead Auditor's review. The lead Auditor's interviews with the PSA Compliance Manager, the Medical Director, random medical staff, and security staff confirmed they are aware of the facility's evidence protocols and know what necessary steps to take to preserve evidence during a report of sexual abuse. Agency Policy 11062.2 outlines the agency's evidence and investigation protocols. Per Policy 11062.2, when OPR accepts a case, OPR coordinates investigative efforts with law enforcement and the facility incident review personnel in accordance with OPR policies and procedures. OPR does not perform sex 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 FOD and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred to or accepted by DHS OIG, OPR, or local law enforcement agency, the AFOD will assign an administrative investigation to be conducted. The lead Auditor's review of the investigative files indicated the facility takes steps to preserve evidence when evidence is obtainable. The lead Auditor's interview with the PSA Compliance Manager confirmed that when an allegation is referred for criminal investigation, the Otero Sheriff's Department would conduct the evidence collection at the facility. The facility provided a Memorandum of Understanding (MOU) between The County of Otero and OCPC committing to "support the facility in emergency situations with space, vehicles and services." The facility houses no juvenile detainees.

(b)(d): Policy MTC/903.E.02 states that "the facility will attempt to make available to the victim of sexual assault a victim advocate from a rape crisis center. If a rape crisis center is not available or unwilling to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization, or a qualified MTC staff member. If an MTC staff member is used to provide services, documentation of qualifications will be maintained. If requested by the victim, a victim advocate, qualified MTC staff member, or qualified community-based organization staff member accompanies and supports the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals." According to the requirements of DHS 115.21(b) these services are not permitted to be provided by a facility staff member, only a qualified agency (ICE) staff member, and only after a rape crisis center is not available or unwilling to provide victim advocate services. The facility provided a Memorandum of Understanding (MOU) between MTC and La Pinon Sexual Assault Recovery Services that is to assure a unified effort between the entities to provide incarcerated victims or complainants of sexual assault with confidential emotional support, crisis intervention, information, and referrals related to sexual violence as required by PREA. As part of this MOU, MTC will provide detainees with the mailing address and telephone number for La Pinon Sexual Assault Recovery Services; enable reasonable communication between detainees and this organization, with confidentiality to the greatest extent possible; provide for logistical needs, such as private meeting space for advocacy meetings and security clearance for designated advocates of La Pinon Sexual Assault Recovery Services; respect the nature of privileged communication between a rape crisis advocate and a client, and maintain confidentiality in accordance with MTC and of La Pinon Sexual Assault Recovery Services' policies; provide rape crisis advocates with information on MTC procedures for responding to sexual assault allegations; ensure information is provided to inmates regarding the sexual assault services available to them through educational classes or videos, brochures and posters made available throughout the institution, via mental health professionals and/or institutional investigators; inform detainees, prior to giving them access, of the extent to which communications will be monitored; facilitate follow-up and on-going contact between the client and rape crisis advocate, without regard to the presence or status of an investigation. As part of this MOU, La Pinon Sexual Assault Recovery Services agrees to provide access to an advocate via phone, mail, or email to victims of sexual violence who are incarcerated at OCPC; provide in-person advocacy when resources and staff availability permit; maintain confidentiality and ensure detainees are aware of their right to make an anonymous report; and provide detainees with contact information for follow-up services post-incarceration. During interviews with the PSA Compliance Manager, Medical Director, and medical and mental health staff, the lead Auditor confirmed the awareness and knowledge of the MOU with La Pinon Sexual Assault Recovery Services. Based on information provided on the PAQ and interviews with the PSA Compliance Manager and Medical Director, the victim advocate will be allowed to be present to provide support during a forensic exam or investigatory interview. The lead Auditor's review of the investigative files found that each file was documented where the detainee was provided with the La Pinon Sexual Assault Recovery Services brochure. Four additional cases were reported since the provisional audit period and of these two alleged to occur at another facility prior to arrival and the other two were investigated and determined within 24 hours to not meet definition of a PREA incident. In one of the cases forwarded to another facility, that facility determined that the case did not meet the definition of a PREA; the other case did, and the detainee was provided information for La Pinon and offered victim advocacy services, but he declined. This detainee has since departed the facility.

Recommendation prior to on-site audit The facility (MTC) is not permitted to provide a qualified victim advocate per DHS 115.21(b). Recommend updating MTC 903E.02 to reflect language in DHS 115.21(b): "If a rape crisis center is not available to provide victim advocate services, the agency shall provide these services by making available a qualified staff member from a community-based organization, or a qualified agency staff member."

Actions Taken: During the on-sit visit, the PSA Compliance Manager provided the lead auditor with documentation advising that the MTC policy 903E.02 is pending revision from the corporate office to reflect the following language. "For facilities that fall under Department of Homeland Security (DHS)/Immigration and Custom Enforcement (ICE) Performance-Based National Detention Standards (PBNDS), DHS is referred to as the agency. If a rape crises center is not available to provide victim advocate services, the agency shall provide these services by making available a qualified staff member from a community-based organization or a qualified agency staff member."

(c): Policy MTC/903.E.02 states that "MTC will offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs), where possible. If a SAFE or SANE cannot be made available, the examination can be performed by other qualified medical practitioners. SANE services are provided at the SANE Unit at Memorial Medical Center (MMC) in Las Cruces, New Mexico or by La Pinon Sexual Assault Recovery Services of Southern New Mexico as part of the MOU with MTC." Interviews with PSA Compliance Manager, Medical Director, and health services staff confirmed La Pinon would be contacted prior to transporting a detainee to the local hospital for a forensic examination to ensure SANE availability and to request SANE services. A copy of the Checklist of SANE Procedures, and protocols were reviewed by lead Auditor. According to the information provided on the PAQ, a review of the related policy, and interview with PSA Compliance Manager, forensic examinations are conducted at no cost to the detainee. The OCPC Detainee Handbook states, "there will be no co-pays for any medical services provided by OCPC."

(e): Policy MTC/903.E.02 states that "if MTC is not responsible for investigating allegations of sexual abuse and relies on another agency to conduct these investigations, MTC will request (through agreement/MOU) that the responsible agency follow PREA requirements for evidence protocol and forensic examinations." The lead Auditor reviewed a copy of the MOU between OCPC and the County of Otero, New Mexico committing to support the facility in emergency situations with space, vehicles, and services and to respond to calls for assistance as made available to all county residents. The documentation provided did not indicate if the facility requested that the County of Otero follow requirements of §115.21(a) through (d) and the MOU did not indicate this specifically in the agreement. The facility provided the lead Auditor on-site with a copy of a memorandum addressed to the Otero County Undersheriff requesting that they follow the requirements of 115.21 (a)-(d) during an investigation of sexual abuse at the facility and the Undersheriff's response which satisfies the requirements of provision (e).

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

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

Notes:

(a)(b): Policy MTC/2.11 establishes investigation protocols for the facility and outlines a description of the responsibilities of the agency, the facility, and other investigating bodies. When at any time a detainee alleges sexual assault or abuse, OCPC will coordinate a sensitive response and initiate an administrative investigation. OCPC ensures investigations, administrative or criminal, into alleged sexual assault will be prompt, thorough, objective, fair, and conducted by qualified investigators. The OCPC's PSA Compliance Manager is responsible for conducting an administrative investigation for all allegations of sexual assault or abuse; administrative investigations will be conducted after consultation with ICE/ERO and OCSO, where applicable. During interviews with the Warden and the PSA Compliance Manager, the lead Auditor determined that OCPC follows Agency Policy 11062.2 for investigating sexual abuse allegations. Initially, it was explained to the lead Auditor that ICE conducts all investigations to include administrative, however, once the procedures were explained, it was evident administrative investigations are conducted at the facility level. First, the PSA Compliance Manager stated he did not conduct investigations, that ICE does all the investigations and each of the investigative files reviewed has the ICE SDDO listed as the investigator; at no time is the PSA Compliance Manager listed as an investigator. The Warden also said the facility does not investigate; they are "fact finders." The facility does not close an investigation until they get word from ICE. Once the facility becomes aware of an allegation of sexual abuse, the allegation is reported immediately to ICE/ERO, and any other required entities based on the nature of the allegation. PREA allegations are referred to OIG or OPR. OIG has the first right of refusal on all employee, volunteer, or contractor on detainee sexual abuse allegations. Once the allegation is reviewed and accepted by DHS OIG, the OPR would not investigate, so there is no possible intervention. If refused, the allegation is referred to OPR. All detainee-on-detainee allegations is referred to the OPR for assessing criminality. Once the investigation allegation is reviewed and accepted by the OPR investigator, the investigation is conducted by OPR, who will decide on the investigative process. If OPR investigates the allegation, the investigation is conducted in accordance with OPR policies and procedures and coordination with law enforcement and facility staff. If allegations are not criminal in nature, the allegations are referred to the OPR field office or the ERO Administrative Investigative Unit (AIU) for investigation. The AFOD would assign an administrative investigation to be completed. All investigations are closed with a report of the investigation. The agency's Policy 11062.2 outlines the evidence and investigation protocols. The lead Auditor conducted a follow-up interview with the Warden, the PSA Compliance Manager, and the AFOD to clarify the steps of the administrative investigation process. The information provided indicated a collaborative approach. It was determined that the administrative investigations are conducted by either the PSA Compliance Manager, the Captain, or the back-up. Once the facts are collected during the administrative investigation the information is forwarded to ICE/ERO/SDDO who reviews the facts of the investigation and determines the disposition of the case. The Lead Auditor reviewed the investigative files that had been closed since the Provisional Audit and found the documentation to be consistent with the processes outlined above.

(c): A review of the ICE website (https://www.ice.gov/prea) confirms the sexual abuse investigation protocols are available to the public. OCPC does not have its own website, however, MTC publishes protocols on their website at https://www.mtctrains.com/prea/.

(d)(e)(f): Policy MTC/2.11 outlines protocols "to ensure when initial evidence suggests that a legitimate case of sexual abuse or assault did indeed occur, the alleged perpetrator will not be interviewed during the administrative investigation, the PSA Compliance Manager will notify ICE and will contact Otero County Sheriff's Office (OCSO). As OCSO has law enforcement jurisdiction, they will conduct the criminal investigation." The PSA Compliance Manager will be the primary point of contact for the facility and ensure that OCPC provides all evidence gathered during the initial on-site investigation to include all physical evidence and all documentation (incident reports) provided by the OCPC staff involved. The facility Investigator shall establish a relationship with local law enforcement agencies and prosecutors to develop a clear understanding of the investigative guidelines and procedures during a criminal investigation of an alleged sexual abuse and assault incident. Policy MTC/2.11 states "discussions with ICE and local law enforcement should articulate a delineation of roles of the facility's Investigator and the law enforcement investigator to coordinate and sequence administrative and criminal investigations, to ensure that the criminal investigation is not compromised by an internal administrative investigation." The lead Auditor reviewed the 6 administrative investigative files alleged to have occurred at OCSO and determined none of the allegations warranted a criminal investigation. The administrative investigative files documented that the OCSO was contacted by the PSA Compliance Manager, and subsequently the OCSO declined to investigate. There were no staff or contractor perpetrators in any of the investigative files reviewed, all allegations were detainee on detainee. The lead Auditor's interviews with the Warden, PSA Compliance Manager, and ERO Field PREA Coordinator, and a review of investigative files, indicated that all allegations were promptly reported to JIC, ICE OPR, or the DHS Office of Inspector General (OIG), as well as, the ICE Field Office Director (FOD), per policy, according to the circumstances of the allegation.

§115.31 - Staff training.

Outcome: Exceeds Standard (substantially exceeds requirement of standard)

Notes:

(a)(b)(c): Policy MTC/2.11 designates that "the OCPC Training Manager as being responsible for providing initial and annual training to all the OCPC staff, contractors, and volunteers." This training includes how to respond in a coordinated and appropriate fashion, when a detainee reports an incident of sexual abuse or assault. This policy outlines how OCPC trains all employees who may have contact with detainees to ensure all facility staff are trained to fulfill their responsibilities. This training is delivered to all employees through presentation of MTC Module 24: Sexual Abuse and Assault Prevention and Intervention (SAAPI). This training is a two-hour block and required by all employees in pre-service before assuming duties, and every year thereafter during annual in-service training. The lead Auditor reviewed the training curriculum and determined it to be compliant with the standard in all material ways. The lead Auditor randomly selected seven employees and reviewed training documentation for proof of completion, and determined the training was compliant per the standard's requirement. Staff training documentation is maintained in a training file by the Training Manager. Interviews with the Training Manager, PSA Compliance Manager, and randomly selected staff also confirmed staff have received the required PREA training and refresher training. The Auditors' conversations with staff during the on-site visit indicated OCPC has well-trained employees who are

knowledgeable about the agency and facility's zero-tolerance policies and on their responsibilities as outlined in this standard. Training is required annually which exceeds the standard requirement of every two years.

§115.32 - Other training.

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

Notes:

(a)(b)(c): Policy MTC/2.11 requires that "all volunteers and other contractors who have contact with detainees to be trained on their responsibilities under the OCPC's sexual abuse prevention, detection, intervention and response policies and procedures; the level and type of training for volunteers and contractors to be based on the services they provide and their level of contact with detainees. All volunteers and contractors who have any contact with detainees will be notified of the OCPC's zero-tolerance policy and informed on how to report such an incident." The lead Auditor's review of the facility volunteer training and PREA training curriculums determined all the required elements of standard are covered and the curriculum meets the level and type of training required for volunteers and contractors who may have contact with detainees. Based on the training records provided with the PAQ, and the interview with the Training Manager, contractors receive the same PREA training as OCPC employees. Based on the training records provided with the PAQ, and interview with the Chaplain/Volunteer Coordinator, volunteers receive their PREA training as part of the Religious Services Volunteer Orientation delivered by the Chaplain. The lead Auditor requested one contract employee's training record and one volunteer's training record. Review of the contractor's training records confirmed that training is delivered in accordance with established policy. There are currently no volunteers. The lead Auditor reviewed three volunteer training records and found documented evidence that training is delivered in accordance with the established policy.

§115.33 - Detainee education.

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

Notes:

(a)(b)(c)(e)(f): Policy MTC/2.11 establishes and outlines OCPC's requirement to ensure that the detainee orientation program notifies and informs detainees about the agency's and OCPC's zero-tolerance policies for all forms of sexual abuse. "Upon admission to the OCPC, all detainees will be notified of the facility's zero-tolerance policy through the orientation program, the OCPC's Detainee Handbook and the ICE National Detainee Handbook and will be provided with information about the OCPC's SAAPI program. This notification and orientation will be provided in a language or manner that the detainee understands, including for those who are LEP, deaf, visually impaired, or otherwise disabled, as well as to detainees who have limited reading skills. Detainee's receipt of the OCPC Handbook, the ICE National Detainee Handbook, and the viewing of the OCPC Orientation video will be documented by facility." The orientation PowerPoint video or transcript, in English and Spanish, notifying detainees of the facility's zero-tolerance policy for all forms of sexual abuse was not provided with the PAQ; instead the facility provided a memorandum stating OCPC will make available the video for review during the on-site portion of the audit. A copy of the OCPC Detainee Handbook, in English and Spanish, highlighting the information on PREA was provided with the PAQ for Auditor's review, and was found to include all information required in this standard. The DHS-prescribed "Sexual Assault Awareness Information" pamphlet and the ICE National Detainee Handbook was also provided with the PAQ, in both English and Spanish. The ICE National Detainee Handbook is published in 11 languages, however at the time of the provisional audit, only English and Spanish are available at OCPC. The ICE National Detainee Handbook is published in 11 languages (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, and Vietnamese) and the Auditors observed during the on-site visit that OCPC now has printed copies available of the facility's most common languages and has the PDF available for the other languages for printing the handbook should they be needed. Interviews with the PSA Compliance Manager indicated the orientation is presented each week for new arrivals in both English and Spanish. The second Auditor reviewed 10 detainee files and found documentation that each detainee received an OCPC Detainee Handbook and the ICE National Detainee Handbook and were shown the orientation video. It was reported to the second Auditor during detainee interviews, that all had received a OCPC Detainee Handbook and the ICE National Detainee Handbook, but seven of the 32 detainees interviewed stated was not in a language understood by them. All detainees recalled being presented the orientation video and were able to articulate the zero-tolerance policy, as well as knew the multiple reporting methods available to them. All detainees interviewed stated they would be able to report an allegation to OCPC staff.

In response to the list of detainees who were interviewed previously and who stated they did not receive an ICE National Detainee Handbook in their language, the PSA Compliance Manager provided the Lead Auditor with written documentation that the handbook was obtained in the additional languages and subsequently provided to the detainees as requested, although two of the detainees (Mandarin) had departed the facility. The Auditors observed the intake process to determine if detainees were receiving the appropriate PREA information in a language of their understanding or were provided assistance through other means to understand the material. During the intake process the auditors observed the intake staff using the Language Line for translation services, "pocket-talk" Pocket translator (70 languages), During the PREA orientation, the Auditors observed staff utilizing the "pocket translator" to deliver the PREA Education. The second Auditor interviewed 10 detainees to determine if they had received PREA education information and orientation in a format that they understood. The detainee's languages were Russian, Creole, Turkish, Tamil. Four of the ten detainees interviewed stated they had not received handbooks in language they understood. These detainee's files all contained detainee signatures indicating that the handbooks had been received.

(d): Provided with the PAQ for Auditor's review was the DHS-prescribed sexual assault awareness notice, which includes the name of the local PSA Compliance Manager in both English and Spanish, and the notice for La Pinon Sexual Assault Recovery Services of Southern New Mexico 24-hour crisis line, in both English and Spanish. These notices will be posted on all housing unit bulletin boards, as directed by Policy MTC/2.11. All detainees are referred to the DHS-prescribed sexual assault awareness notices posted on the housing units. During the Auditors observation of the intake process and tour of the facility, Auditors saw the ZERO Tolerance and DHS-prescribed sexual assault awareness posters, and signs, located throughout the entire facility, to include administrative offices, hallways, housing areas, and intake unit. These posters and signs all contained the name of the current PSA Compliance Manager, and the contact information for the local rape crisis center (La Pinon) that can assist detainees who have been victims of sexual abuse. There were also La Pinon pamphlets placed all around the facility and housing areas. These were in Spanish and English.

The management team makes a facility inspection at least weekly. Based on interviews with staff, observations made of awareness posters and the intake and orientation processes, observations made of communications between staff and detainees, and detainee file reviews, the Auditors have determined that the facility staff make conscientious efforts to ensure effective communication is achieved between staff and detainees and that the zero-tolerance message is delivered to detainees in a manner that they understand.

115.34 - Specialized training: Investigations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a)(b): Policy MTC/2.11 establishes that "in addition to the general training provided to all OCPC employees, the OCPC will provide specialized training on sexual abuse and effective cross-agency coordination to facility's investigators who conduct investigations into allegations of sexual abuse at immigration detention facilities and that this training will be documented by the OCPC Training Manager." In talking with the PSA Compliance Manager and the Warden, the lead Auditor was informed that OCPC does not conduct sexual abuse investigations; however, in talking with the PSA Compliance Manager, his responsibilities include completing administrative investigations even though he and the Warden referred to the function as "fact gathering." The lead Auditor's review of the investigative files indicate administrative investigations are conducted by OCPC staff. While no training curriculum was made available for review by the lead Auditor, a training certificate was provided with the PAQ for the PSA Compliance Manager, indicating he received "PREA: Investigating Sexual Abuse and Sexual Harassment in Confinement" training presented by New Mexico Coalition of Sexual Assault Programs, Inc. on January 8-9, 2020. No other staff at OCPC have received specialized training investigating sexual abuse in confinement, and based on interviews with staff, the back-up to the PSA Compliance Manager and Captain conduct administrative investigations at the facility level. At the on-site visit, the lead Auditor was provided a copy of the training curriculum for the investigator's specialized training. Clarification of the facility investigator's responsibilities was further clarified by additional interview with the Warden and PSA Compliance Manager. Certificates of training were also provided for the two additional designated facility investigators to satisfy the requirements noted in provision (a)(b) above.

Agency Policy 11062.2 states that "OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as, Office of Detention Oversight staff, and other OPR staff, as appropriate." The Auditors reviewed the ICE OPR Investigation Incidents of Sexual Abuse and Assault training curriculum and found the curriculum to cover in-depth investigative techniques, evidence collection, and all aspects to conduct an investigation of sexual abuse in a confinement setting. The agency also offers fact finders training, which provides information needed to conduct the initial investigation at the facility to determine if a sexual abuse incident has taken place and whether to complete an administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP; LGBTI, and disabled detainees; and an overall view of the investigative process. A complete list of ICE staff trained on Investigating Incidents of Sexual Abuse and Assault is provided on SharePoint for review. The lead Auditor was unable to confirm, through a search of the list, whether all ICE investigators (SDDO), noted in the investigative files reviewed, had received this training at the time of the provisional audit. During the remote interview, the PSA Compliance Manager stated he did not investigate allegations and that the ICE SDDO conducts the investigations which was consistent with the documentation found in the investigative files reviewed. The lead Auditor conducted a follow-up interview with the Warden, the PSA Compliance Manager, and the AFOD to clarify the steps of the administrative investigation process. The information provided indicated a collaborative approach. It was determined that the initial administrative investigation actions are conducted by either the PSA Compliance Manager, the Captain, or the back-up, i.e., interviews with alleged abusers/victims, video surveillance reviws, etc.; however, once the facts are collected, they the information is forwarded to ICE/ERO/SDDO who reviews the facts of the investigation and determines the disposition of the case. The Lead Auditor reviewed the ICE staff trained on Investigating Incidents of Sexual Abuse and Assault list in SharePoint and the SDDO names listed as investigators in the case files were still unable to be found; furthermore, upon request, the ERO field office was unable to provide any other specialized training documentation for these agency investigators.

Does Not Meet: The agency was unable to provide documentation to support agency investigator that completed the sexual abuse investigations had completed the specialized investigator training. The agency must provide and document specialized training on sexual abuse investigations and effective cross-agency coordination of agency investigators who conduct investigations into allegations of sexual abuse at immigration detention facilities. If the agency expects the trained facility investigators to conduct the administrative investigation, they must ensure they complete all actions related to the administrative investigation, to include issuing a case disposition.

§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:

(a)(b): These subparts of the standard do not apply to OCPC as the facility medical department is operated through MTC medical staff and independent contractors. A memorandum provided with the PAQ states the facility does not have ICE Health Service Corps (IHSC) or United States Public Health Service (USPHS) staff present.

(c): Healthcare is provided to detainees through MTC medical staff and independent contractors. Policy MTC/2.11 establishes that "the OCPC medical staff will only provide care within the scope of their training and certification. Where indicated as necessary, advanced care for victims of sexual assault/abuse will be referred to outside providers." Examinations for sexual assault/abuse are not performed by OCPC medical staff, they are provided by the SANE Unit at Memorial Medical Center (MMC) in Las Cruces, New Mexico or by La Pinon Sexual Assault Recovery Services of Southern New Mexico as part of the MOU with MTC. Interviews with the Medical Director and other medical staff found they were knowledgeable on and confirmed that they are trained by the facility on how to detect and assess signs of sexual abuse; how to respond effectively and professionally to victims of sexual abuse; how and to whom to report allegations or suspicion of sexual abuse; and how to preserve physical evidence of sexual abuse. The facility did not provide any medical staff training files or training curriculum for review during the contingency audit phase. At the on-site visit, the facility provided to the lead Auditor Certificates of Completion of the National Institute of Corrections PREA: Medical Health Care for Sexual Assault Victims in a Confinement Setting and PREA 201 for Medical and Mental Health Practitioners for all medical and mental health staff which satisfies the missing documentation noted in provision (c) above.

§115.41 - Assessment for risk of victimization and abusiveness.

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

Notes:

(a)(b)(c)(d): Policy MTC/2.11 requires OCPC "to assess all detainees on intake to identify those likely to be sexual aggressors or sexual abuse victims and shall house detainees to prevent sexual abuse taking necessary steps to mitigate any such danger." The policy further requires "each new arrival be kept separate from the general population until he is classified and may be housed accordingly, allowing for segregated housing is warranted." The screening of each detainee will be performed using the Screening for Risk of Victimization and Abusiveness (SRVA) form. "Information for this screening will be gathered by interviewing the detainee and by using ICE provided documentation, I-213 Record of Deportable/Inadmissible Alien and Criminal Record Transcription. Screening will occur upon arrival within 12 hours of admission, and at any other time when warranted based upon the receipt of

additional relevant information." Auditors reviewed the risk screening instrument and found it contains questions to assess all criteria required in this standard. Intake staff interviewed by the lead Auditor stated that they conduct the risk screening process during admission in a private location and by method of direct questioning of the detainee and a review of documented information obtained from the detainee's file. Interviews with staff and detainees indicated that detainees remain in holding cells and are not placed into general population, until they have been processed and interviewed. When a vulnerable detainee is known or suspected to exist upon arrival, the detainee will be placed in a single cell in the intake area or taken to the medical area pending classification. Auditors reviewed 10 detainee files to determine if risk assessments were conducted during intake, within 12 hours and reassessment within 90-days. One detainee file indicated the initial risk assessment was conducted more than 12-hours after intake and the other nine were within the required timeframe. Detainee interviews indicated the screening questions were administered during intake and in a sensitive and private manner. During the on-site visit, Auditors observed the intake process and determined that staff are giving each detainee a risk assessment within 12 hours of arriving at the facility. The second Auditor reviewed 10 detainee files and each file was properly documented to show that each detainee was given a risk assessment within the prescribed timeframe.

(e): Policy MTC/2.11 requires the Classification Supervisor to conduct a reassessment between 60 and 90 days from the date of initial assessment. The detainee file reviews and by completed forms provided with the PAQ provided evidence of the reassessment being conducted within 60-90 days as observed by Auditors. Interviews with the PSA Compliance Manager and Classification Manager further confirm that these screenings occur within the time required. According to these interviews, the Count Clerk tracks the timeline and notifies the Classification Supervisor when a rescreening is due. The Lead Auditor reviewed a sample of a rescreening that was conducted on a detainee who reported a sexual abuse allegation.

(f): Policy MTC/2.11 states that "OCPC will not discipline detainees for refusing to answer or for not disclosing complete information in response to screening questions asked during the risk screening process." Interviews with the PSA Compliance Manager and intake staff indicate detainees are not disciplined for refusing to answer or for not disclosing complete information in response to questions asked pursuant to the standard.

(g): Policy MTC/2.11 requires OCPC staff "to take appropriate protections on responses to questions asked pursuant to the risk screening process, limiting dissemination, and ensuring that sensitive information is not exploited to the detainee's detriment by staff or other detainees." Based on the lead Auditor's interviews with PSA Compliance Manager, intake staff, and Classification Supervisor, information is only disseminated to the designated staff on a need-to-know basis. When a detainee is determined to be at risk for victimization or abusiveness, the shift supervisor, PSA Compliance Manager, mental health staff, Classification Supervisor, Warden, and Medical Director will be immediately notified. Detainee files are stored in a locked secured area inside the Count Room according to information obtained during interviews with the Classification Supervisor and Count Room Coordinator. During the risk screening process, the detainee was asked sensitive and personal information by the intake officer standing out in the open, but apart from other detainees. While the intake officer was discrete in his verbal tone during the interview, the setting does not necessarily provide for adequate controls for the protection of sensitive information that could possibly be overheard and exploited to the detainee's detriment by staff or other detainees as required by provision (e). The Auditors observed that the detainee files are stored in a locked secured area inside the Count Room.

Recommendation: The facility should consider having these risk assessments conducted in a more private setting or during the medical interview which is conducted in a private setting. When discussed with Warden, he was receptive to the recommendation.

§115.42 - Use of assessment information.

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

Notes:

(a): Policy MTC/2.11 requires OCPC to "assess all detainees on intake to identify those likely to be sexual aggressors or sexual abuse victims" and "house detainees to prevent sexual abuse, taking necessary steps to mitigate any such danger." The policy further requires each new arrival "be kept separate from the general population until he is classified and may be housed accordingly." Allowance for segregated housing is warranted in some cases. OCPC uses the information obtained from the risk screening assessment "to inform assignment of detainees to recreation and other activities, and voluntary work." The second Auditor reviewed 10 detainee files and found documented evidence of housing placement and referrals based on consideration of the risk assessment of these detainees. The Auditors observed the count board in the Count Room which is used to monitor bed assignments and to keep detainees separate as determined by their risk screening and security classification through use of a color-coded sticker system that indicates the different levels of classification and those at high risk for victimization or perpetration of sexual abuse. High risk victims will not be placed on housing units with high risk/known perpetrators. Detainees who were flagged as potential for risk for sexual abuse were assigned beds closer to the officer's station at the front of the dormitory.

(b)(c): Policy MTC/2.11 establishes that "OCPC will provide a respectful, safe, and secure environment for all detainees, including those individuals identified as transgender or intersex. The detainee's gender self-identification and an assessment of the effects of placement on the detainee's health and safety will be given consideration. Both medical and mental health professionals will be consulted as soon as practicable on this assessment and no placement decisions will be made solely on identity documents or the physical anatomy of the detainee. The housing of a transgender or intersex detainee will be consistent with the safety and security consideration of the facility. Housing and programming assignments for each transgender or intersex detainee will be reassessed at least twice each year to review any threats to safety experienced by the detainee. Additional needs of the transgender or intersex detainee will further be determined by the Transgender Classification and Care Committee. When operationally feasible, transgender and intersex detainees will be given the opportunity to shower separately from other detainees." During interviews with the Warden, PSA Compliance Manager, and Classification Supervisor, the lead Auditor determined that a transgender detainee would be allowed to shower separately from other detainees through a scheduling process. A completed risk screening instrument for a detainee who identified as transgender was provided with the PAQ; this instrument indicated the initial assessment but provided no evidence of a reassessment being conducted. Without documentation of this detainee's transfer/release history, the Auditor is unable to ascertain compliance with the reassessment provision of this standard. There were no transgender or intersex detainees housed at OCPC during the remote interview phase of this audit. At the time of the site visit, there were no detainees who identify as transgender or intersex. The facility provided the Lead Auditor with documentation confirming that the transgender detainee noted in provision (b)(c) above departed the facility prior to any subsequent reassessment being due.

§115.43 - Protective custody.

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

Notes:

(a)(b)(c): Policy MTC2.12 "places restrictions on the use of administrative restricted housing to protect detainees vulnerable to sexual abuse or assault, to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing option exists, and as a last resort. The OCPC should assign detainees vulnerable to sexual assault or abuse to administrative restricted housing unit for their protection only until an alternative means of separation from likely abusers can be arranged, and such and assignment shall not ordinarily exceed a period of 30 days. Detainees placed in restricted housing for protection shall have access to programs, visitors, counsel, and other services available to the general population to the maximum extent practicable." The PAQ reviewed by Auditors indicated there had been two detainees in the audit period who were placed in segregated administrative housing related to a sexual abuse allegation; in both cases the detainees were the alleged perpetrator and were assigned there, pending investigation. The Auditors reviewed documentation for one detainee, provided with PAQ, that indicated the detainee was placed in voluntary protective custody (PC) after the detainee stated, "he felt unsafe anywhere within this prison." During this placement, the detainee was provided access to showers, recreation, meals, and visits from medical staff. Interviews with all levels of staff, including Warden, PSA Compliance Manager, and an officer assigned to restricted housing unit (RHU), indicated that the use of restrictive administrative housing for protection is rarely used. The only time is when the detainee requests voluntary protective custody and that safe housing will be provided to the detainee through housing unit reassignment or being assigned to the medical unit when necessary, to keep separate from the alleged abuser or other detainees. The facility reports there were no involuntary PC placements, therefore no documentation was available to review. There were no detainees held in the RHU for protection from sexual abuse or assault at the time of the on-site visit.

(d)(e): Policy MTC/2.12 requires "the OCPC shift supervisor review, of any detainee victim or vulnerable detainee placed in segregation within 72 hours of their placement in segregation, to determine if the placement is still warranted; and a supervisory staff member shall conduct, at a minimum, an identical file review after the detainee has spent 7 days in administrative restricted housing, and every week thereafter for the first 30 days, and every 10 days thereafter. Assessments are to be documented on the Administrative Segregation Review form and upon completion reviewed and signed by the OCPC Facility administrator. Detainee victim placement in administrative segregation must be documented and reported to the Field Office Director (FOD) within 72 hours of placement for review and approval of placement." The Warden and PSA Compliance Manager confirmed that any victim or vulnerable detainee's placement in segregated housing would be reviewed within the first three days of his/her placement in administrative segregation, with additional reviews completed after the detainee has spent seven days in administrative segregation, and for every week for the first 30 days, and every 10 days thereafter. An example of completed documentation assigning a detainee to voluntary PC was provided for the Auditor to review and is included as documentary evidence of OCPC processes. The detainee, who the second Auditor interviewed, confirmed that his placement in segregated housing was voluntary and that he had asked to be segregated because he would feel safer. At the time of the audit, the other two detainees that were placed in administrative segregation had already left the facility. The documentation reviewed for these two detainees was complete and demonstrated required reviews were conducted, and properly documented, and included a copy of the email notification to the ICE FOD. There were no detainees held in the RHU for protection from sexual abuse or assault at the time of the on-site visit. The lead Auditor reviewed the file of the detainee referenced in provision narrative (a)(b)(c) above and found the required reviews were conducted and properly documented according to the required procedures.

§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): Policy MTC/2.11, ensures protocols and procedures are in place for detainee reporting. This policy states "multiple ways for detainees to report privately for sexual abuse and assault, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidences at OCPC. The facility also provides contact information to detainees for Consular officials, the DHS OIG, or as appropriate, another designated office, to confidentially and, if desired, anonymously report these incidences. In addition, OCPC provides detainees contact information on how to report sexual abuse or assault to a public or private entity or office that is not part of the facility and that is able to receive and immediately forward detainee reports of sexual abuse to facility or MTC officials allowing for the detainee to remain anonymous upon request." The facility provides multiple reporting methods to include providing a verbal or written report to any staff member; filing an informal or formal grievance; telephone speed dial or email by tablet to the PSA Compliance Manager; reporting to the La Pinon Sexual Assault Recovery Services 24-hour crisis line; and telling an outside third-party who may contact the facility on the detainee's behalf. Detainees may also use any of the following reporting methods established by ICE: reporting to the DHS OIG complaint hotline; the ICE OPR JIC; the ICE Detention and Reporting Information Line (DRIL); an ICE ERO staff member who visits the facility; writing a letter to the ICE OIC, ICE FOD or Assistant FOD, using special mail procedures to ensure confidentiality; and filing a written formal request or emergency grievance to ICE. Policy MTC/2.11 requires employees to accept reports made verbally, in writing, anonymously, and from third parties promptly, and subsequently document any verbal reports. All staff interviewed were able to identify each of these reporting methods available to detainees to make reports of sexual abuse. OCPC provides detainees with contact information for reporting sexual abuse to the facility's PSA Compliance Manager. This information is provided to detainees through initial orientation, the DHS-prescribed Sexual Assault and Awareness Information pamphlet, OCPC Detainee Handbook, and PREA reporting information posted on bulletin boards and walls within the facility. Auditors were provided the telephone listing, for OCPC, that provides detainees with Consulate telephone numbers (toll free), where sexual abuse may be reported to a private entity that is not part of the agency, and the DHS OIG poster containing the reporting contact information. The Auditors observed posted signage throughout the facility and noted that each housing unit was replicated and contained all the required postings. The lead Auditor attempted to place calls from the detainee phone system and found that calls cannot be completed according to the training information provided to detainees and signage. The PSA Compliance Manager was able to obtain the correct methods for placing these calls and provided this to the Lead Auditor, so calls were able to be completed. Calls completed to the DRIL and DHS/OIG lines are able to be placed anonymously.

In all cases reviewed, the files indicated immediate action was taken and protocols were followed upon receiving the reports. All 32 detainees interviewed were able to articulate multiple ways to make a report, to include using the hotline and filing a grievance. Six of the inmates interviewed stated they did not know sexual abuse could be reported anonymously or privately; these six detainees were all LEP and reported they did not receive a OCPC Detainee Handbook in a language they understood. The Auditor also saw evidence of detainee signatures during 10 file reviews indicating they had received a copy of OCPC's handbook which includes the process for detainees to report allegations of sexual misconduct. Calls placed from the

detainee phone system cannot be completed according to the training information provided to detainees and signage. The facility must ensure that instructions provided to the detainees for placing a call is accurate.

Corrective Action Taken: The lead Auditor was provided confirmation from the PSA Compliance Manager by email that the actions listed below are completed.

1. Instructions were developed that reflect the correct method of placing a call to make a PREA report. This includes clear instructions on how to make toll free/pro bono phone calls. Copies of all three signs created were provided.
2. An internal systems check was conducted with the newly made instructions. All speed options were operational. Contact was made on all eight phone options anonymously with no pin number required. Test calls were also made for option nine. The option does require a pin number. Test message was received by the PSA Compliance Manager in the form of an email and text message on his cellular phone. Testing of detainee phones are done on a weekly basis.
3. The instructions were added to the facility detainee handbook. Copies of the handbook have been provided. Instructional signs were attached to phones throughout the facility. Pictures were provided to document this has been done.
4. The information has also been added to the PREA orientation given to detainees which is now implemented. A copy of the outline was provided.

The facility has met substantial compliance with the standard.

§115.52 - Grievances.

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

Notes:

(a)(b)(c)(d)(e): Policy MTC/6.2 requires OCPC to "accept formal grievances related to sexual assault/abuse at any time during, after, or in lieu of lodging a complaint and does not impose a time limit for filing." The policy further requires the facility "to implement written procedures for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse/assault." The lead Auditor interviewed the Grievance Coordinator who confirmed all allegations of sexual abuse, received through the grievance process, are immediately reported to the PSA Compliance Manager for investigation and medical emergencies are brought immediately to the proper medical personnel for assessment. He further stated that his office issues a decision on the grievance within five days and responds to an appeal of the grievance within 30 days, as directed by policy. OCPC notifies the ICE FOD of all sexual abuse grievances at the end of the process. The OCPC Detainee Handbook was reviewed which contains this policy information and detailed instructions on how detainees can access the grievance procedures and provides procedures and rights for filing a grievance, including access to outside support. A review of the PAQ, Warden's memorandum, dated 10/20/20, and interviews with staff indicated the facility has had no sexual abuse allegations or appeals reported through the grievance system within the audit period. During the on-site visit, interviews with the 10 detainees indicated they are aware of their right to file a grievance and how to access the system if needed. The Auditors observed receptacles in common areas clearly marked for receiving grievances. No allegations were received through the grievance process since the contingency phases.

(f): Policy MTC/2.11 and the OCPC Detainee Handbook states "detainees may obtain assistance from another detainee, housing unit officer, or other facility staff, family members, or legal representatives, to prepare a grievance." During interviews with random security staff, they each confirmed their responsibility to take reasonable steps to expedite requests for assistance, from these other parties, when necessary. The security staff interviewed confirmed that assistance was not requested by any detainees, for the purpose of reporting sexual abuse through the grievance process, in the audit period.

Most of the detainees interviewed stated they knew they could file a sexual abuse grievance and that they understood they could request assistance to file a grievance. Of the 32 detainees interviewed, six detainees reported not having received the OCPC Detainee Handbook in a language they understood (Creole, Mandarin, Portuguese, Punjabi, Uzbek, and Russian respectively). Handbooks were issued to four of the six detainees who claimed they had not received a handbook in a language they understood, two departed the facility before the handbook could be issued.

§115.53 - Detainee access to outside confidential support services.

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

Notes:

(a)(b)(c)(d): Policy MTC/2.11 requires OCPC "to utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse perpetrators to most appropriately address victim's needs." It further requires "the facility make available information about the local organization that can assist detainees who have been victims of sexual abuse, including mailing addresses and telephone numbers (including toll-free hotline numbers where available) posted in all living areas." OCPC through MTC, entered a MOU, dated 7/17/17 with La Pinion Sexual Assault Recovery Services of Southern New Mexico, agreeing to provide rape crisis assistance in the form of advocacy, hotline numbers, private meeting space, and general confidential support services as needed. This reporting information is contained in the OCPC Detainee Handbook, which includes an address and 24-hour toll-free reporting number. Should a detainee need to access outside confidential support services, they would submit a request through the electronic tablets that are available in all the housing areas. The Auditor reviewed 10 detainee files that confirmed by signature that a copy of the OCPC Detainee Handbook is distributed at intake/orientation. A review of the handbook gives the detainee detailed instructions for obtaining victim advocacy services. The facility informs detainees through orientation and through OCPC detainee handbook, prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The OCPC Detainee Handbook states telephone and tablet use are subject to monitoring except for legal calls. All detainees interviewed were aware that communications may be monitored unless they were having private meetings with their attorneys. The investigative files reviewed indicated that the alleged victims were provided a copy of the SAAPI pamphlet and advised of the victim services available to him through La Pinion. During the on-site visit, Auditors observed signage throughout the facility that advises detainees of the availability of outside crisis services. Auditors interviewed rape crisis staff at La Pinon and determined rape crisis services were available for detainees. The facility has a signed MOU with La Pinon to provide crisis services.

§115.54 - Third-party reporting.

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

Notes:

Policy MTC/903E.02 states that "MTC will provide a method to receive third-party reports of inmate sexual abuse or sexual harassment in accordance with MTC policy; MTC facilities publicly distribute information on how to report inmate sexual abuse on behalf of inmates." This information is obtainable through the MTC website and third-party reports may be made to by email directly to the corporate PREA Coordinator and/or the Assistant.

DHS OIG poster provides toll-free hotline 1-800-323-8603 and website www.oig.dhs.gov to report misconduct, suspected criminal violations, wasteful activities, and allegations of civil rights or civil liberties. Anyone may use these resources for reporting sexual abuse as a third-party. ICE ERO Detention Reporting and Information Line (DRIL) (1-888-351-4024) is also a direct channel to receive third-party reports and complaints and this information is provided publicly on the DHS website. Language assistance and Spanish operators are available through this line. This information is posted throughout the facility on posters and in the ICE and facility's detainee handbooks. During the on-site visit, Auditors observed signage throughout the facility that advises detainees how to report sexual abuse through a third-party method. This information is also in the facility's detainee handbook. Auditors placed a call from the detainee phone system and found that the detainee instructions were not clear as how to report sexual abuse or sexual harassment anonymously. This discrepancy has been resolved by the facility as noted in §115.51, Detainee reporting.

§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): Policy MTC/2.11 requires all OCPC staff, contractors, and volunteers to immediately report "any knowledge, suspicion, information regarding an incident or allegation of sex abuse occurring in the OCPC; retaliation against detainees, staff, contractors or volunteers who reported such an incident; any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation." Detainees are made aware of third-party reporting through the OCPC detainee handbook and Sexual Abuse and Assault Awareness Pamphlet. As outlined in the Policy MTC/2.11, the OCPC's chain of command structure for reporting allegations is as follows: shift supervisor, chief of security, PSA Compliance Manager, Assistant Facility Administrator, ICE/ERO via Contracting Officer's Representative. "However, staff, contractors and volunteers may report any allegations outside of the OCPC's chain-of-command structure, or directly to ICE/ERO, La Pinion Sexual Assault Recovery Services or Southern New Mexico, DHS/OIG or ICE/OPR." The Warden, PSA Compliance Manager, and the Training Coordinator confirmed staff are made aware of their reporting duties during pre-service training and annual in-service training. During the lead Auditor's interview with the PSA Compliance Manager it was confirmed that staff, by policy, may report sexual abuse outside their chain of command to the Chief of Security, upper-level executive, employee hotline, or Corporate PREA Coordinator. Interviews with staff indicated they understand the mandatory requirement to report all incidents and suspected incidents of sexual abuse and are aware they may go outside of their chain-of-command and report anonymously if they feel this is necessary. The MTC website provides email addresses for the corporate PREA Coordinator and Assistant PREA Coordinator, where anyone can report an allegation or suspicion of sexual abuse or sexual harassment. Staff interviews also confirmed their knowledge that all information that they become aware of is, must be kept strictly confidential and only shared to protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions. The Auditor's review of the investigative files indicated staff followed protocols for reporting in all cases. The Auditors' conversations with staff during the on-site visit indicated OCPC has well-trained employees who are knowledgeable about the agency and facility's zero-tolerance policies and on their reporting responsibilities as outlined in this standard.

(d): OCPC does not house juvenile detainees. There were no detainees at the facility identified as vulnerable adults during the audit period. The lead Auditor received no evidence the facility houses or has housed potentially vulnerable adult detainees within the past year. Interviews with various staff as well as a review of the detainee roster by age demonstrated there were no juveniles housed at this facility.

§115.62 - Protection duties.

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

Notes:

Policy MTC/2.11 requires a staff member who has reasonable belief that a detainee is subject to substantial risk of imminent sexual abuse, to take immediate action to protect the detainee. During interviews with the Warden, PSA Compliance Manager, and random security staff each stated, that in any situation involving substantial risk or imminent sexual abuse of a detainee, they would take immediate action by whatever means necessary, to protect the detainee. The Auditor's review of investigative files indicates staff acted immediately to ensure detainee's safety upon becoming aware of the allegation. The Auditors' conversations with staff during the on-site visit indicated OCPC has well-trained employees who are knowledgeable about the agency and facility's zero-tolerance policies and on their responsibilities to provide protection to detainees in imminent danger as outlined in this standard.

§115.63 - Report to other confinement facilities.

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

Notes:

(a)(b)(c): Policy MTC/2.11 requires the Warden "to provide notification to the ICE FOD, and the appropriate administrator of the facility where the alleged abuse occurred as soon as possible, but no later than 72 hours after receiving the allegation that a detainee was sexually abused or assaulted while confined at another facility. This notification is to be documented using the PREA Form 115.63 which is to be maintained in the detainee's detention file." One example was provided for the Auditor's review indicating the notifications were made in accordance with the standards requirements. Interviews with Warden and PSA Compliance Manager further confirmed their knowledge of this requirement. During the on-site visit, the lead Auditor reviewed allegations made since the contingency phases and including a report that a detainee was abused while confined at another facility. The file contained clear documentation of notifications being made according to the requirements of this standard.

(d): Policy MTC/2.11 states "in the event the OCPC receives a report/notification from another facility that a detainee, who was previously detained at the OCPC is alleging to have been sexually abused or assaulted, the staff member receiving the allegation will immediately notify the PSA Compliance Manager for investigation and report the allegation to the ICE FOD." The PSA Compliance Manager confirmed, during his interview, that a report from another facility of an allegation of sexual abuse, that was alleged to have happened while the detainee was housed at OCPC, would be handled according to the same procedures as if the detainee were still at the facility. An example of a notification was provided to the lead Auditor for review which indicated the allegation was immediately acted upon; the PSA Compliance Manager immediately discovered the detainee was never housed at OCPC and that the allegation occurred at another facility with a similar name; the documentation provided indicated the facility promptly forwarded the allegation to the other facility, as required in subparts (a) through (c) of 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): Policy MTC/2.11 describes the duties of the first security staff to respond to a report of sexual abuse. These duties are to: "separate the alleged victim and abuser; preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence; if the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim and alleged abuser not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; A security staff member of the same sex shall be placed outside the area where the detainee is secured by direct observation to ensure these actions are not performed." According to OCPC there were no sexual abuse allegations, occurring in the audit period, that required the collection of physical evidence. Interviews with random security staff indicated their knowledge of their responsibilities as a first responder in accordance with OCPC policy. Review of the investigative files indicated first responder duties were followed in all cases to the degree of applicability. The Auditors' conversations with staff during the on-site visit indicated OCPC has well-trained employees who are knowledgeable about the agency and facility's zero-tolerance policies and on their First Responder responsibilities as outlined in this standard.

(b): Policy MTC/2.11 requires the "duties of a first responder who is not security staff to respond according to the same procedures as outlined in subsection (a) of this narrative and then to contact a security staff member." The facility has not had an instance where a sexual abuse report was received by a first responder who is not security within the preceding 12 months as evidenced by documentation provided with PAQ and interview with the PSA Compliance Manager. During interviews with non-security staff, they each confirmed they would secure the alleged victim and immediately call for a security staff member.

§115.65 - Coordinated response.

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

Notes:

(a)(b): Policy MTC/2.11 states the OCPC staff will use a coordinated, multidisciplinary team approach to effectively respond to all incidents of sex abuse or assault and address any safety, medical or mental health needs. During the review of this policy, the Auditors found detailed responsibilities for first responders, medical and mental health practitioners, investigators, and OCPC leadership. The shift supervisor is responsible for ensuring the alleged victim is separated from the perpetrator and escorted to medical for examination/assessment, gathering facts, and making required notifications. OCPC medical staff will provide care within the scope of their training and certification; advanced care for victims of sexual assault will be referred to outside providers. Examinations for sexual assault will be performed by a Sexual Assault Nurse Examiner (SANE) at Memorial Medical Center (MMC) in Las Cruces, New Mexico. OCPC medical personnel is required to contact MMC to ensure SANE availability prior to transporting alleged victim. The Warden/Deputy Warden will make required notifications and initiate the investigation process. The PSA Compliance Manager will coordinate a sensitive response and initiate an administrative investigation; where sexual abuse/assault has occurred, report to and coordinate with ICE and Otero County Sheriff's Office (OCSO). It should be noted that Policy MTC/2.11 does not include the requirement for OCPC's mental health provider to conduct a mental health evaluation of detainee victims, however, detainee files indicate that evaluations are conducted after a report of sexual abuse has been received. Interviews with the Warden, the PSA Compliance Manager, and the Medical Director combined with review of investigative files, confirmed implementation of the coordinated response at OCPC. During the on-site visit, the lead Auditor was provided with a copy of the revised institutional coordinated plan that includes the mental health provider's responsibility to victims as further explained in the "Actions Taken" section above. A completed Transfer/Service Request form was provided for the lead Auditor's review which provided documented evidence of a mental health referral for services.

Recommendation prior to on-site audit: The facility should add language to MTC/2.11 requiring the OCPC mental health provider to conduct a mental health evaluation of detainee victims to match the practice.

Action Taken: During the on-site visit, the PSA Compliance Manager provided the lead Auditor with documentation advising that the OCPC policy 2.11 has been updated and the missing language has been incorporated into policy. "P. REQUIRED STAFF ACTIONS, 7. Mental Health Practitioner, Mental health staff should be notified immediately after the initial report of an allegation of sexual abuse or assault of a detainee. The detainee shall receive a mental health evaluation no later than 72 hours after the referral. The OCPC's mental health provider will attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history. The OCPC will offer treatment when deemed appropriate by mental health practitioners."

(c)(d): Policy MTC/2.11 states "when a victim is transferred between detention facilities, the OCPC, as permitted by law, will inform the receiving facility of the incident and the victim's potential need for medical or social services (unless the victim requests otherwise in case of transfer to a non-ICE facility). If the receiving facility is unknown to the OCPC, the facility will notify the FOD, so that he/she can notify the receiving facility. The OCPC will use the Transfer/Service Request form, PREA 115.65." Interviews with Warden, PSA Compliance Manager, and Medical Director confirmed these procedures are in place. A Transfer/Service Request form was not provided with the PAQ and was requested by the lead Auditor.

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

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

Notes:

Policy MTC/2.11 states "if OCPC staff, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse or assault, the Warden will ensure that the incidents are properly referred to the ICE FOD and the OCPC staff, contractor, volunteers suspected of perpetrating sexual abuse or assault, will be removed from all duties requiring detainee contact pending the outcome of an investigation." Interviews with PSA Compliance Manager, Warden, and ERO PREA Field Coordinator confirmed that any staff, contractor, or volunteer who is suspected of sexual abuse of a detainee, would be removed from any further contact with detainees pending the investigative outcome. There were no documented allegations made against staff within the audit period, according to the PAQ and interview with the PSA Compliance Manager.

§115.67 - Agency protection against retaliation.

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

Notes:

(a)(b)(c): Policy MTC/2.11 "prohibits the OCPC staff, contractors, or volunteers from retaliating against any person, including a detainee who reports, complains about, or participates in an investigation into an allegation of sex abuse, or for participating in sex abuse or as a result of force, coercion, threats or fear of force." "The OCPC employs multiple protection measures, such as housing changes, removal of alleged staff or detainee abusers from contact with victims, and emotional support services to detainees or staff who fear retaliation for reporting sexual abuse for cooperating with investigations." According to the PSA Compliance Manager, he is the designated staff person responsible for monitoring detainee retaliation and that it

is within his authority to take immediate and necessary action to remedy any retaliation or threat of retaliation. The PREA Allegation Follow Up form indicates disciplinary reports, housing changes, program changes or any negative performance reports are monitored for each detainee being monitored for retaliation; retaliation monitoring for staff includes negative performance reviews and job reassignments. This monitoring will continue for at least 90 days following a report of sexual abuse. Completed examples of the PREA Allegation Follow Up form was provided with the PAQ, for review by Auditor, documenting implementation of this procedure. In addition, the Auditor found evidence of retaliation monitoring for detainees in the investigative files reviewed. In all cases, the monitoring occurred every 30 days, and was discontinued, prior to 90 days, only in cases where the detainee left the facility. The results of the monitoring of the cases reviewed deemed no retaliation occurred. Four additional cases were reported since the provisional audit period and of these two alleged to occur at another facility prior to arrival and the other two were investigated and determined within 24 hours to not meet definition of a PREA incident, therefore, in all four cases, no retaliation monitoring was initiated. There were no incidents within the audit period requiring staff monitoring. There were no allegations requiring monitoring for retaliation since the provisional audit period.

§115.68 - Post-allegation protective custody.

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

Notes:

(a)(b)(c): Policy MTC/2.11 requires "OCPC to place victims and vulnerable detainees in a supportive environment that represents the least restrictive housing option possible subject to the requirements of standard 115.43. This placement will take into account any ongoing medical or mental health needs of the victim. Victims are not to be held for longer than five days in any type of administrative segregation for protective purposes, except in highly unusual circumstances or at the request of the victim." Interviews with the Warden and PSA Compliance Manager indicated the use of segregation for a victim of sexual abuse would be highly unlikely and only used as a last resort, for any victim needing protection. The Auditor's review of investigative files noted that detainees who were placed in segregation for protective custody, were done so only at their request. The PSA Compliance Manager also confirmed that completion of a vulnerability reassessment will be completed on any detainee following the report of sexual abuse allegation and prior to being placed back into general population. Documentation provided with the PAQ shows information where a detainee victim was placed in the RHU on PC for five days and then returned to general population, because the alleged perpetrator had been released from the facility. Evidence of reassessment, prior to returning the detainee to general population, was not provided, and was requested by the Auditor. During the on-site audit, evidence of reassessment prior to returning the detainee to general population was provided to the Lead Auditor for the detainee referenced in provision (a)(b)(c) above. During on-site visit the facility did not have any new detainees that had been placed in protective custody, therefore, there was no additional documentation to review.

(d): Interviews with the Warden and PSA Compliance Manager indicated the facility will notify the appropriate ICE FOD whenever a detainee victim has been placed in administrative segregation as soon as possible, but that they would make arrangements for placement in segregation to not exceed 72 hours. The investigative file nor documentation provided with the PAQ, indicated that the ICE FOD was notified that the detainee victim had been in protective custody. During the on-site visit, the PSA Compliance Manager provided the Lead Auditor with the detainee's file for review and there was documentation indicating the ICE FOD was notified of the placement in voluntary protective custody.

§115.71 - Criminal and administrative investigations.

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

Notes:

(a)(b)(c): Policy MTC/2.11 establishes that "the facility is not responsible for conducting investigations into criminal activity but is responsible for notifying ICE and OCSO to determine if a criminal investigation is warranted. The OCPC will provide to the investigative entity all evidence gathered during the initial on-site investigation to include all physical evidence and all documentation (incident reports) provided by the OCPC staff involved. Upon conclusion of a criminal investigation, where the allegation is substantiated or unsubstantiated, the OCPC will conduct an administrative investigation. Administrative investigations will be conducted after consultation with ICE/ERO and OCSO." This policy outlines the requirements of the OCPC's administrative investigations, that were determined by lead Auditor to be consistent with DHS requirements. Investigative files reviewed by lead Auditor were found to include sufficient documentation that these procedural requirements were followed for administrative investigations, and that an administrative investigation was conducted in all cases. This policy further requires investigative reports to be retained for as long as the alleged abuser is detained or employed by the facility, plus five years. The interview with the PSA Compliance Manager indicated he ensures administrative investigations are conducted promptly, thoroughly, and objectively, and the lead Auditor's review of the investigative files found documentation confirming this to be accurate. The PSA Compliance Manager has received specialized training for conducting administrative investigations. All of the allegations, reported within the audit period, were deemed sexual harassment, and did not meet the definition requiring a criminal investigation; however, all allegations were reported to the OCSO, who declined to investigate. During the on-site visit, the lead Auditor reviewed the investigation files that were closed since the contingency audit phases and found they contained documentation of a prompt, objective, and thorough investigation, and correspondence between the PSA Compliance Manager and ICE/OPR for collection of evidence and disposition according to the requirements of this standard.

(e)(f): Policy MTC/2.11 establishes "coordination and sequencing of administrative and criminal investigations to ensure that a criminal investigation is not compromised by an internal administrative investigation. When OCSO investigates an alleged sexual abuse and assault, the OCPC will cooperate with OCSO and will attempt to remain informed about the progress of the investigation. The OCPC will also cooperate with any administrative or criminal investigative efforts arising from the incident." The policy further requires that "the departure of the alleged abuser or victim from the employment or control of the facility or agency does not provide a basis for terminating an investigation." The interview with the PSA Compliance Manager indicates he works closely with outside investigators, for a cooperative and collaborative investigative process and he is provided notification when investigations conducted by ICE/OPR are concluded. Investigative files contained documented correspondence between the PSA Compliance Manager and ICE/OPR for collection of evidence and disposition of closed cases.

§115.72 - Evidentiary standard for administrative investigations.

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

Notes:

Policy MTC/2.11 "states that OCPC will use no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated." The lead Auditor's review of the investigative files indicated a preponderance of evidence was the standard used to determine disposition for the administrative investigation. During the on-site visit, the lead Auditor reviewed the investigation files that were closed since the contingency audit phases which indicated a preponderance of evidence was the standard used to determine disposition.

§115.73 - Reporting to detainees.

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

Notes:

Policy MTC/2.11 directs "OCPC to notify the detainee of any responsive action taken following an investigation. Documentation provided with the PAQ and found in the investigative files provides proof the detainee is notified through use of the Investigative Findings and Responsive Actions Notification, upon closure of the case by ICE; proof of notification is documented through detainee's signature. The interview with the PSA Compliance Manager indicated that he provides detainees with the notification upon receipt of the completed Investigative Findings and Responsive Action Notification form from ICE/OPR. During the on-site visit, the lead Auditor reviewed investigation files closed since December and found that notification was provided to the detainee and properly documented as required.

Recommendation prior to on-site audit: The Policy MTC/2.11 should be updated to include language to direct OCPC to notify a detainee as to the result of an investigation and any responsive action taken.

Action Taken: During the on-site visit, the PSA Compliance Manager provided the lead Auditor with documentation advising that the OCPC policy 2.11 has been updated to incorporate the missing language. "T. INVESTIGATION, Following any fact finding conducted by the OCPC into detainee's allegation of sexual abuse, the OCPC will forward all fact-finding information to the Field Office Director. ICE/ERO will make a determination of substantiated, unsubstantiated, unfounded following the results of their investigation into the incident. The determination will be reported to ICE headquarters. The detainee will be notified with the Investigative Findings and Responsive Actions Notification Form provided by ICE/ERO practitioners."

§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): Policy MTC/2.11 states that "OCPC staff will be subject to disciplinary or adverse action, up to and including removal from their position, for substantiated allegations of sexual abuse or for violating ICE/ERO or the OCPC's sexual abuse rules, policies, or standards. The presumptive disciplinary sanction for staff who have violated these policies is removal from their position. The OCPC will report all incidents of substantiated sexual abuse by staff, and all removals of staff, or resignations in lieu of removal for violations of sexual abuse policies, to the OCSO unless the activities were clearly not criminal. The OCPC will also report all such incident of substantiated abuse, removals, or resignations in lieu of removal to the FOD and will make reasonable efforts to report such information to any relevant licensing bodies, to the extent known." Documentation provided with the PAQ indicates OCPC has not had a termination, resignation, or other sanctions of a staff member for violating sexual abuse policies in the audit period; this was further confirmed by the lead Auditor during interviews with the HR Manager, the Warden, and the PSA Compliance Manager. During the on-site visit, the lead Auditor reviewed investigation files closed since the provisional audit and found no allegations against staff for the audit period.

§115.77 - Corrective action for contractors and volunteers.

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

Notes:

(a)(b)(c): Policy MTC/2.11 states "any contractor or volunteer who is suspected of perpetrating sexual abuse or assault will be removed from all duties requiring detainee contact pending the outcome of an investigation and further, if found to have engaged in this conduct, will be prohibited from contact with detainees; the facility will take appropriate remedial measures and will consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse or assault but have violated other sexual abuse policies. Incidents of substantiated sexual abuse by a contractor or volunteer will be reported to the OCSO unless the activity was clearly not criminal. OCPC will also report such incidents to the ICE FOD regardless of whether the activity was criminal and will make reasonable efforts to report such incidents to any relevant bodies, to the extent known." The facility had no incidents where contractors or volunteers violated any of the sexual abuse policies within the previous 12 months according to documentation provided with the PAQ; this was further confirmed through interviews with the Warden, the PSA Compliance Manager, and the Chaplain/Volunteer Coordinator. During the on-site visit, the lead Auditor reviewed investigation files closed since the provisional audit and found no allegations against contractors or volunteers during the audit period.

§115.78 - Disciplinary sanctions for detainees.

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

Notes:

(a)(b)(c)(d)(e)(f): Policy MTC/2.11 establishes requirement for detainees to be subject to "disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse or assault." "The OCPC will not discipline a detainee for sexual contact with staff unless there is a finding that the staff member did not consent to such contact. For purposes of disciplinary action, a report of sexual abuse or assault made in good faith based upon a reasonable belief that the alleged conduct occurred will not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation If a detainee is mentally disabled or mentally ill but competent the disciplinary process will consider whether the detainee's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. MTC Disciplinary System 6.3.1 is the governing standard operating procedures for detainee discipline procedures and outlines the steps of the OCPC disciplinary process." Policy MTC/6.3.1 states, that "at all steps in the disciplinary process, any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform to rules and regulations in the future." Based upon the lead Auditor's review of closed investigative files and interview with the PSA Compliance Manager, there was one substantiated allegation in which the perpetrator received disciplinary sanctions, after being subjected to the disciplinary process. Documentation provided for this substantiated case did not indicate whether the detainee perpetrator was evaluated for a mental health issue that may have contributed to his behavior. During the audit period, the lead Auditor was provided documentation where the detainee perpetrator received a mental health evaluation prior to receiving the disciplinary sanction.

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

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

Notes:

(a)(b)(c): Policy MTC/2.11 states that "if a detainee discloses, or the screening indicates, that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, the OCPC staff will, as appropriate, ensure that the detainee is immediately referred to a qualified medical and mental health practitioner for follow-up as appropriate. When a referral for medical follow-up is initiated, the detainee will receive a health evaluation no later than two working days from the date of assessment. When a referral for mental health is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral." The lead Auditor determined, by review of investigative files, detainee medical records, and the interview with the Medical Director, that detainees with history of sexual abuse victimization or perpetration, as well as those who report an allegation of sexual abuse while at the facility, are referred for follow-up with a medical and/or mental health practitioner, as deemed appropriate, and within the prescribed time-frames.

§115.82 - Access to emergency medical and mental health services.

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

Notes:

(a)(b): Policy MTC/2.11 states "detainee victims of sexual abuse and assault shall have timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. The OCPC medical department will coordinate with transportation officers and/or Emergency Medical Services (EMS), if applicable, to ensure the alleged victim's special needs are taken into account during transportation for emergency care or other services offsite. All treatment services, both emergency and ongoing, will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The OCPC will provide such victims with medical and mental health services consistent with the community level of care. According to the PAQ and submitted documentation, the facility has not had to send a detainee out for emergency medical assistance for sexual assault related injuries or treatment or for a forensic examination within the audit period. Interviews with the Medical Director and other medical staff confirmed detainees receive timely emergency access to medical and mental treatment and without financial cost. These interviews further confirmed that victims of sexual abuse would undergo a forensic medical exam at no cost to the detainee and only with consent of the detainee. All allegations reported within the audit period involved sexual harassment, however, each detainee was evaluated by medical staff following their allegation of sexual abuse. The facility has a new Health Services Administrator (HSA) who was interviewed during the on-site visit by the lead Auditor. The HSA confirmed that detainees receive timely emergency access to medical and mental treatment and at no cost to the detainee.

§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): Policy MTC/2.11 states that "the OCPC medical department will coordinate with ICE/ERO to offer medical and mental health evaluations and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while detained in immigration detention. The evaluation and treatment of such victims will include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The OCPC's medical department will offer detainee victims of sexual abuse, while detained, tests for sexually transmitted infections as medically appropriate. All detainees will receive medical and mental health services consistent with the community level of care and unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. All treatment services, both emergency and ongoing, will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. OCPC will provide such victims with medical and mental health services consistent with the community level of care." All allegations reported within the audit period involved sexual harassment, however, each detainee was evaluated by medical staff following their allegation of sexual abuse.

(d): OCPC is a male facility making this provision not applicable.

(f): Policy MTC/2.11 states "all treatment services, both emergency and ongoing, will be provided to the victim without financial cost." This was also confirmed by lead Auditor through interviews with the Medical Director and medical staff.

(g): Policy MTC/2.11 states "the mental health provider will attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history. The OCPC will offer treatment when deemed appropriate by mental health practitioners." The interview with the Medical Director indicated evaluations are conducted on known abusers and treatment is offered, although voluntary. No documentation was provided to the Auditors with the PAQ for review to evaluate the facility's compliance with this portion of the provision. During the on-site visit, the PSA Compliance Manager provided the lead Auditor with the documented evaluation of a known abuser which was found to be compliant with the requirements of this standard.

§115.86 - Sexual abuse incident reviews.

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

Notes:

(a)(b)(c): Policy MTC/2.11 states "the OCPC will conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault. Regardless of whether the investigation results are substantiated or unsubstantiated, the OCPC's PSA Compliance Manager will prepare a written report within 30 days of the conclusion of the investigation. The report will include recommendations, revealed by the allegation or investigation, to change policy or practice that could better prevent, detect or respond to sexual abuse and assault. The policy further states the OCPC will implement the recommendations for improvement or will document its reasons for not doing so in a written response. Both the report and response will be forwarded to the ICE FOD for transmission to the ICE/ERO PSA Coordinator. The OCPC will also provide any further information regarding such incident reviews as requested by the ICE/ERO PSA Coordinator." The lead Auditor reviewed completed Sexual Abuse or Assault Incident Review Forms provided with the PAQ, and included in the closed investigative files, and found the documentation contained all the required considerations specified in subpart (b) of this standard. Further confirmation of the review process was verified through interviews with the PSA Compliance Manager and other members of the incident review team. The facility provided the Auditors with the facility's Annual PREA Report for the period of January 1, 2019 – December 31, 2019, which constitutes the annual review of aggregate data and an overview of PREA related implementations for the period taken to improve sexual abuse intervention, prevention, and response efforts. Four additional allegations were received since the provisional audit period and of these, two alleged to occur at another facility prior to arrival and the other two were investigated and determined within 24 hours to not meet definition of a PREA incident, therefore, in all four cases, no incident review is required.

§115.87 - Data collection.

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

Notes:

Policy MTC/2.11 states "the OCPC will maintain, in the Warden's office, all case records associated with claims of sexual abuse, including incident reports, investigative reports, detainee information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary. The information contained in these files will be maintained on a need-to-know basis and access will be limited to those staff involved in the treatment of the victim or the investigation of the incident." The interviews with the Warden and the PSA Compliance Manager confirm that these files are stored securely in the Warden's office in a locked cabinet and that these files can only be accessed by those parties involved in providing treatment to the victim or for investigative purposes. During the on-site visit, the lead Auditor observed the PREA allegations case files and investigative files are stored in a locked filing cabinet in the PSA Compliance Manager's office. Health records are securely stored in the medical section through an electronic health records system as determined through interview with the Health Services Administrator, and the detainee files are stored in the Count Room as determined through interview with the Classification Manager. All these areas are secured areas and access to these records are restricted to those parties who have a need to know for purposes of investigation, providing treatment, classification, or management of the detainee.

Recommendation: MTC/2.11 states the records are stored in the Warden's office when in fact they are stored in the PSA Compliance Manager's office. The facility meets the requirements of this standard in practice, but the policy conflicts with the practice and should be resolved.

§115.201 - Scope of audits.

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

Notes:

(d): The Auditors were given full access to all areas of the facility including full access to view CCTV views and access to observe facility operations.

(e): Much of the relevant documentation was provided by the facility during the contingency phases, however, there are additional documents that were needed to be reviewed on-site for a comprehensive assessment of the operations. During the on-site, relevant documentation was provided by the facility upon request of the Auditors.

(i): Although interviews with detainees conducted remotely through WebEx were conducted in private and remained confidential the quality of the interview process was not optimum. The second Auditor encountered difficulty understanding detainees at times due to the wearing of masks during the interviews; in addition, use of the telephonic interpreter service on three-way remote viewing presented audible barriers making responses difficult to understand at times. During the on-site visit, the second Auditor interviewed 10 additional detainees while onsite and the facility provided a private and suitable location for these interviews to be conducted

(j): Audit announcement notices were posted prominently on every housing unit and in common areas to include entrances and intake area as required. These notices provided information on the detainee's right to correspond confidentially with the Auditors. No correspondence was received.

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:	2
Number of standards met:	36
Number of standards not met:	1
Number of standards N/A:	2
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.

Sharon Ray Shaver 8/13/2021

Auditor's Signature & Date

(b) (6), (b) (7)(C) 8/13/2021

Assistant PREA Program Manager's Signature & Date

(b) (6), (b) (7)(C) 8/13/2021

PREA Program Manager's Signature & Date

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

Homeland Security

AUDITOR INFORMATION			
Name of Auditor:	Sharon R. Shaver	**Organization:**	Creative Corrections LLC
Email (b) (6), (b) (7)(C)	[redacted]	**Telephone number:**	478-454-(b) (6), (b)
PROGRAM MANAGER INFORMATION			
Name of PM:	(b) (6), (b) (7)(C)	**Organization:**	Creative Corrections LLC
Email (b) (6), (b) (7)(C)	[redacted]	**Telephone number:**	772-201-(b) (6), (b)
AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		
FIELD OFFICE INFORMATION			
Name of Field Office:	El Paso		
Field Office Director:	Juan L. Acosta		
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)		
Field Office HQ physical address:	11541 Montana Ave. Suite E, El Paso, TX 79936		
Mailing address: *(if different from above)*			
INFORMATION ABOUT THE FACILITY BEING AUDITED			
Basic Information About the Facility			
Name of facility:	Otero County Processing Center		
Physical address:	26 McGregor Range Road, Chaparral, NM 88081		
Mailing address: *(if different from above)*			
Telephone number:	575-824-0440		
Facility type:	DIGSA		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	**Title:**	Warden
Email (b) (6), (b) (7)(C)	[redacted]	**Telephone number:**	575-824-(b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	**Title:**	PSA Compliance Manager
Email (b) (6), (b) (7)(C)	[redacted]	**Telephone number:**	575-824-(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.

The U.S. Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of the Otero County Processing Center (OCPC) was conducted on May 11-13, 2021, by U.S. Department of Justice (DOJ) and DHS certified PREA Auditors, Sharon R. Shaver and [redacted] contractors with Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by the ICE PREA Program Manager, (b) (6), (b) (7)(C) and Assistant Program Manager, (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 Immigration and Customs Enforcement (ICE) Office of Professional Responsibility (OPR), and External Reviews and Analysis Unit (ERAU) during the audit report review process. The facility's last PREA audit was conducted April 3-5, 2018. OCPC is operated by Management & Training Corporation (MTC) and is located in Chapparal, New Mexico. According to the PAQ, the design capacity of the facility is 1,000. OCPC houses adult male detainees with security levels of high, medium, and low. The average detainee population for the last twelve months was reported as 951. The average time in custody is reported as 48 days. The top three nationalities of the detainee population are Cubans, Mexicans, and Indians.

During the audit, the Auditor found the OCPC met 36 standards, had two standards (115.13, 115.31) that exceeded, had two standards (115.14, 115.18) that were non-applicable, and one non-compliant standard (115.34). As a result, the facility was placed under a Corrective Action Period to address the non-compliant standard. On January 26, 2022, the Auditor was provided the ICE PREA Corrective Action Plan (CAP) from ERAU that was reviewed and approved by the auditor to determine compliance with the one standard that did not meet compliance during the PREA audit site visit and documentation review. Based on the information provided, it was determined standard 115.34 is compliant in all material ways.

PROVISIONS

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

§115. 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): Policy MTC/2.11 establishes that "in addition to the general training provided to all OCPC employees, the OCPC will provide specialized training on sexual abuse and effective cross-agency coordination to facility's investigators who conduct investigations into allegations of sexual abuse at immigration detention facilities and that this training will be documented by the OCPC Training Manager." In talking with the PSA Compliance Manager and the Warden, the lead Auditor was informed that OCPC does not conduct sexual abuse investigations; however, in talking with the PSA Compliance Manager, his responsibilities include completing administrative investigations even though he and the Warden referred to the function as "fact gathering." The lead Auditor's review of the investigative files indicate administrative investigations are conducted by OCPC staff. While no training curriculum was made available for review by the lead Auditor, a training certificate was provided with the PAQ for the PSA Compliance Manager, indicating he received "PREA: Investigating Sexual Abuse and Sexual Harassment in Confinement" training presented by New Mexico Coalition of Sexual Assault Programs, Inc. on January 8-9, 2020. No other staff at OCPC have received specialized training investigating sexual abuse in confinement, and based on interviews with staff, the back-up to the PSA Compliance Manager and Captain conduct administrative investigations at the facility level. At the on-site visit, the lead Auditor was provided a copy of the training curriculum for the investigator's specialized training. Clarification of the facility investigator's responsibilities was further provided during an additional interview with the Warden and PSA Compliance Manager. Certificates of training were also provided for the two additional designated facility investigators to satisfy the requirements noted above.

Agency Policy 11062.2 states that "OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as, Office of Detention Oversight staff, and other OPR staff, as appropriate." The Auditors reviewed the ICE OPR Investigation Incidents of Sexual Abuse and Assault training curriculum and found the curriculum to cover in-depth investigative techniques, evidence collection, and all aspects to conduct an investigation of sexual abuse in a confinement setting. The agency also offers fact finders training, which provides information needed to conduct the initial investigation at the facility to determine if a sexual abuse incident has taken place and whether to complete an administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP; LGBTI, and disabled detainees; and an overall view of the investigative process. A complete list of ICE staff trained on Investigating Incidents of Sexual Abuse and Assault is provided on ICE SharePoint for review. The Lead Auditor was unable to confirm, through a search of the list, whether all ICE investigators (SDDO), noted in the investigative files reviewed, had received this training at the time of the provisional audit. During the remote interview, the PSA Compliance Manager stated he did not investigate allegations and that the ICE SDDO conducts the investigations which was consistent with the documentation found in the investigative files reviewed. The Lead Auditor conducted a follow-up interview with the Warden, the PSA Compliance Manager, and the AFOD to clarify the steps of the administrative investigation process. The information provided indicated a collaborative approach. It was determined that the initial administrative investigation actions are conducted by either the PSA Compliance Manager, the Captain, or the back-up, i.e., interviews with alleged abusers/victims, video surveillance reviews, etc.; however, once the facts are collected, then the information is forwarded to ICE/ERO/SDDO who reviews the facts of the investigation and determines the disposition of the case. The Lead Auditor reviewed the list of ICE staff trained on Investigating Incidents of Sexual Abuse and Assault in SharePoint and the SDDO names listed as investigators in the case files were still unable to be found; furthermore, upon request, the ERO field office was unable to provide any other specialized training documentation for these agency investigators.

Does Not Meet: The agency must provide and document specialized training on sexual abuse investigations and effective cross-agency coordination of agency investigators who conduct investigations into allegations of sexual abuse at immigration detention facilities. If the agency expects the trained facility investigators to conduct the administrative investigation, they must ensure they complete all actions related to the administrative investigation, to include issuing a case disposition.

Corrective Action: The Auditor reviewed the response from the ICE OPR Investigations Division (INV), and the written acknowledgement of the Management Inquiry (MI) Guidelines provided to El Paso staff on 12/16/2021. Based on the information presented, it has been determined that the ERO staff listed in the investigative files reviewed by the Auditor were not authorized OPR investigators and therefore broke protocol. Based on the facility response that they will complete all administrative investigations using specially trained investigators going forward, and the OPR INV response supporting this, the specially trained facility PREA investigator(s) will conduct administrative investigations going forward and issue a disposition upon completion of the investigation. The Auditor accepts the corrective action as complete, and the facility and agency are compliant in all material ways with 115.34.

§115. Choose an item.

Outcome: Choose an item.

Notes:

§115. Choose an item.

Outcome: Choose an item.
Notes:

§115. **Choose an item.**
Outcome: Choose an item.
Notes:

§115. **Choose an item.**
Outcome: Choose an item.
Notes:

§115. **Choose an item.**
Outcome: Choose an item.
Notes:

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

Sharon R. Shaver February 17, 2022
Auditor's Signature & Date

(b) (6), (b) (7)(C) February 17, 2022
Assistant Program Manager's Signature & Date

(b) (6), (b) (7)(C) February 17, 2022
Program Manager's Signature & Date