

**PREA Audit: Subpart B  
DHS Holding Facilities  
Corrective Action Plan Final Determination**



**Homeland  
Security**

AUDITOR INFORMATION				
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AGENCY INFORMATION				
<b>Name of agency:</b>	U.S. Immigration and Customs Enforcement (ICE)			
FIELD OFFICE INFORMATION				
<b>Name of Field Office:</b>	San Diego Field Office			
<b>ICE Field Office Director:</b>	Jamison Matuszewski			
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<b>Field Office HQ physical address:</b>	880 Front Street Suite 3300, San Diego, Ca 92101			
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INFORMATION ABOUT FACILITY BEING AUDITED				
Basic Information About the Facility				
<b>Name of facility:</b>	San Diego District Staging Facility			
<b>Physical address:</b>	880 Front Street, San Diego, Ca 92101			
<b>Mailing address: (if different from above)</b>				
<b>Telephone number:</b>	619-436-0621			
<b>Facility type:</b>	ICE Staging Facility			
Facility Leadership				
<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)		<b>Title:</b>	Deputy Field Office Director
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Facility PSA Compliance Manager				
<b>Name of PSA Compliance Manager:</b>	N/A		<b>Title:</b>	N/A
<b>Email address:</b>	N/A		<b>Telephone number:</b>	N/A

## FINAL DETERMINATION

### SUMMARY OF AUDIT FINDINGS:

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

During the audit, the Auditor found San Diego District Staging Facility (SDDSF) met 19 standards, had 0 standards that exceeded, had 1 standard that was non-applicable, and had 10 non-compliant standards. As a result of the facility being out of compliance with 10 standards, the facility entered into a 180-day corrective action period which began on June 28, 2022, and ended on December 25, 2022. The purpose of the corrective action period is for the facility to develop and implement a Corrective Action Plan (CAP) to bring these standards into compliance.

#### **Number of Standards Initially Not Met: 10**

§115.113 Detainee supervision and monitoring  
§115.116 Accommodating detainees with disabilities and detainees who are limited English proficient  
§115.117 Hiring and promotion decisions  
§115.121 Evidence protocol and forensic medical examinations  
§115.132 Notification to detainees of the agency's zero-tolerance policy  
§115.141 Assessment for risk of victimization and abusiveness  
§115.151 Detainee reporting  
§115.165 Coordinated response  
§115.182 Access to emergency medical services  
§115.186 Sexual abuse incident reviews

The facility submitted documentation, through the Agency, for the CAP on August 8, through December 25, 2022. The Auditor reviewed the CAP and provided responses to the proposed corrective actions. The Auditor reviewed the final documentation submitted on December 25, 2022. In a review of the submitted documentation to demonstrate compliance with the deficient standards, the Auditor determined compliance with six of the standards, and found that four standards continued to be non-complaint based on submitted documentation or lack thereof.

#### **Number of Standards Met: 6**

§115.116 Accommodating detainees with disabilities and detainees who are limited English proficient  
§115.121 Evidence protocol and forensic medical examinations  
§115.132 Other training  
§115.151 Detainee reporting  
§115.165 Coordinated response  
§115.186 Sexual abuse incident reviews

#### **Number of Standards Not Met: 4**

§115.113 Detainee supervision and monitoring  
§115.117 Hiring and promotion decisions  
§115.141 Assessment for risk of victimization and abusiveness  
§115.182 Access to emergency medical services

#### **Facility Risk Rating**

§115.193 – Not Low Risk

At the conclusion of the corrective action period, the Auditor determined SDDSF did not achieve full compliance with the DHS PREA Standards.

## PROVISIONS

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

### §115.113 - Detainee supervision and monitoring

**Outcome:** Does not Meet Standard

#### Notes:

(a)(b)(c): Policy 11087.1, Operations of ERO Holding Facilities, states "The Field Office Director (FOD) shall ensure that each holding facility maintains sufficient supervision of detainees, including through appropriate staffing levels and where applicable, video monitoring, to protect detainees against sexual abuse and assault. In so doing the FOD shall take into consideration a) The physical layout of each holding facility; b) The composition of the detainee population; c) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; d) The findings and recommendations of the sexual abuse review reports; e) Any other relevant factors, including the length of time detainees spend in custody." A review of the facility Pre-Audit Questionnaire (PAQ) indicated SDDSF has a total of 93 security ICE staff, consisting of 83 males and 10 females, and 81 security Spectrum contract staff, consisting of 44 males and 37 females, who may have recurring contact with detainees. The remaining staff consists of facility management and supervisory personnel. There are no civilian staff present at the facility who have reoccurring contact with detainees.

The Agency provided employee duty rosters and an email by the Enforcement and Removal Operations (ERO) Holding Facility Assessments, dated April 27, 2022, showing compliance with their self-assessment. This process is completed annually and is identified as the "Hold Room Facility Self-Assessment Tool (HFSAT)," and the document's purpose states it is used to determine if the facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse; however, although the facility provided confirmation that the Agency developed and documented supervision guidelines, the Auditor's review of the supervision guidelines, and interviews with the facility Assistant Field Office Director (AFOD) and Supervisory Detention and Deportation Officer (SDDO)/PREA Field Coordinator, confirmed that the supervision guidelines have not been reviewed since developed on December 3, 1998.

The Auditor observed staffing levels during the on-site audit and determined they were adequate. (b) (7)(E)

**Does Not Meet (b):** The facility is not in compliance with subpart (b) of the standard. Subpart (b) requires that the supervision guidelines be reviewed at least annually; however, although the facility provided confirmation that the Agency developed and documented supervision guidelines, the Auditor's review of the supervision guidelines provided by the facility, and interviews with the facility AFOD and SDDO/PREA Field Coordinator, confirmed that the supervision guidelines have not been reviewed since developed by the Agency. To become compliant, the facility must provide documentation that the supervision guidelines were reviewed for the year 2022.

**Corrective Action Taken (b):** Although the facility submitted a log indicating that six ICE staff and seven Spectrum staff reviewed Operations Supervision Guidelines between the dates of 11/30/2022 and 12/22/2022, the facility did not submit documentation indicating what guidelines were actually reviewed, including but not limited to, the Agency's supervision guidelines, Policy 11087.1. Upon review of the submitted documentation, the Auditor continues to find that the facility does not meet subpart (b) of the standard.

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

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

#### Notes:

(a)(b)(c): Policy 11087.1, states, "The FOD shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to participate in, and benefit from, processes and procedures in connection with placement in an ERO holding facility, consistent with established statutory, regulatory, DHS and ICE policy requirements. The FOD shall take reasonable steps to ensure meaningful access to detainees who are limited English proficient, consistent with established regulatory and DHS/ICE policy requirements." Policy 11062.2 states, "Appropriate steps in accordance with applicable law to ensure that detainees with disabilities (including detainees who are deaf or hard of hearing, those who are blind, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in, and benefit from, all aspects of agency and facility efforts to prevent, detect, and respond to sexual abuse. In matters related to allegations of sexual abuse or assault, ensure the provision of in-person or telephonic interpretation that enable effective, accurate, and impartial interpretation by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that such interpretation is appropriate and consistent with DHS Policy."

During the on-site audit, the Auditor observed that the DHS-prescribed Sexual Assault Awareness Information pamphlet and ICE Zero-Tolerance posters were posted in the holding areas in both English and Spanish. Interviews with the AFOD, SDDO/PREA Field Coordinator, and Spectrum contract Detention Officers (DOs) indicated that the facility does not provide the detainee with the PREA information in other languages, nor does it provide access to the information should the detainee be blind or have low vision, deaf or hard of hearing, or have intellectual, psychiatric, or speech disabilities. The Spectrum contract Captain, during his interview, indicated that the ICE staff has access to an ICE-wide language services contract to provide 24-hour telephonic interpretation services for detainees that do not speak English or Spanish; however, they do not provide the detainee with PREA information. The Auditor's interview with the SDDO/PREA Field Coordinator confirmed that the facility would not use another detainee to provide interpretive services unless the interpretation is consistent with DHS policy, and the detainee requests they do so.

**Does Not Meet (a)(b):** The facility is not compliant with subparts (a)(b) of the standard. During the onsite Audit, the Auditor observed that the DHS-prescribed Sexual Assault Awareness Information pamphlet and ICE Zero-Tolerance posters were posted in the holding areas in both English and Spanish. Interviews with the AFOD, SDDO/PREA Field Coordinator, Spectrum contract DOs, indicated that the facility does not provide the detainee with the PREA information in other languages, nor does it provide access to the information should the detainee be blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities. To become compliant, the facility must institute a practice of providing the detainee who is limited English proficient (LEP), or does not speak Spanish, the PREA information in their preferred language. In addition, the facility must institute a practice of providing a detainee who is blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities access to the PREA information. The facility must train all staff on the new practice. In addition, the facility must provide the Auditor with documentation that confirms that detainees who are LEP, do not speak Spanish, blind, or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities are provided access to the PREA information.

**Corrective Action Taken (a)(b):** The facility submitted copies of a daily intake log, a blank Detainee Translation Line Services, the DHS-prescribed Sexual Abuse and Assault (SAA) Information pamphlet in the nine most prevalent languages used by ICE at the time of the on-site audit: English, Spanish, Arabic, French, Haitian Creole, Hindu, Portuguese, Punjabi, and Chinese, and copies of PREA reporting posters in English and Spanish. The daily intake log included the practice of providing the detainee who is LEP, blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities with access to the PREA information. The facility provided a copy of the training curriculum that includes the proper requirements to provide a detainee who is blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities access to the PREA information. In addition, the facility provided documentation that all staff were trained on the implemented practice. Upon review of all available information, the Auditor now finds the facility compliant with subparts (a) and (b) of the standard.

#### **§115.117 - Hiring and promotion decisions**

**Outcome:** Does not Meet Standard

#### **Notes:**

(a)(b)(c)(d)(e)(f): 5 CFR 731, Executive Order 10450, ICE Directive 6-7.0, ICE Personnel Program Security and Suitability, and ICE Directive 6-8.0, ICE Suitability Screening Requirements for Contractor Personnel, require, "Anyone entering or remaining in government service undergo a thorough background examination for suitability and retention. The background investigation, depending on the clearance level, will include education checks, criminal records check, financial check, residence and neighbor checks, and prior employment checks." In addition, 5 CFR 731 requires investigations every five years. The COR confirmed during an interview that background checks are performed for all new hires through the Agency. The policy outlines misconduct and criminal misconduct as grounds for unsuitability including material omissions or making false or misleading statements in the application. The Unit Chief of OPR Personnel Security Operations (PSO) informed Auditors, who attended virtual training in November 2021, that detailed candidate suitability for all applicants includes their obligation to disclose: any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity. In addition, based on information provided in an email by the OPR PSO (A) Division Chief, information on substantiated allegations of sexual abuse involving a former employee would be provided to prospective employers upon request, unless prohibited by law.

Interviews with ICE and Spectrum contract DOs confirmed continuing affirmative duty to disclose any misconduct as required by subpart (b); however, interviews with two newly promoted SDDOs indicated that neither were directly asked about previous misconduct, including engaging and/or attempting to engage in sexual abuse. In addition, in an interview with the Spectrum COR, it was confirmed that unless the promotional opportunity is to key personnel, such as becoming a Project Manager, there is no requirement to ask the applicant directly about previous misconduct, including engaging and/or attempting to engage in sexual abuse. Interviews with the Spectrum COR and the SDDO/Field PREA Coordinator confirmed that there were no

employees at SDDSF considered for termination or withdrawal of an offer of employment due to material omissions of sexual misconduct.

The Auditor reviewed background checks for five ICE and three Spectrum contract DOs working at the SDDSF and confirmed all but one background check was completed as required by subpart (c). The one uncompleted background check was the result of the Spectrum contract DO being under another contract, and when she provided her two-week notice, PSO did not properly transfer her clearance to the Spectrum contract.

**Does Not Meet (b):** The Auditor interviewed two newly promoted ICE SDDOs and the Spectrum COR, who confirmed that neither ICE or Spectrum requires that prior to receiving a promotion, the applicant, who will have direct contact with detainees, be asked directly about previous misconduct, including engaging and/or attempting to engage in sexual abuse. To become compliant, the Agency and facility must develop a process that requires that employees offered promotions are directly asked about previous misconduct related to sexual abuse, as outlined in subpart (a) of this standard. In addition, if applicable, the facility must provide the Auditor with documentation that confirms newly promoted ICE and Spectrum contract staff were directly asked about previous misconduct related to sexual abuse.

**Corrective Action Taken (b):** The facility submitted an email that requires "all Spectrum staff that are designated to have direct contact with detainees complete a PREA memorandum answering previous misconduct, including engaging and /or attempting to engage in sexual abuse in accordance with 6 CFR Part 115.117(a). When promoted, Spectrum staff will complete a new memorandum in accordance with 6 CFR Part 115.117(a)." In addition, the facility submitted a copy of the form DHS 6 Code of Federal Regulations Part 115 that includes direct questioning regarding sexual misconduct. The facility provided the Auditor with an email regarding Spectrum employees which stated that unless a staff person is being promoted from Detention Officer to Key Personnel, i. e. Project Manager, they are classified as a Detention Officer regardless of rank. In addition, the facility submitted documentation that confirmed Spectrum "key personnel" do not have direct contact with detainee. As a result of no Spectrum staff promotions occurring that include direct contact with detainees, Spectrum has demonstrated compliance with component (b) of this standard. The facility also provided a listing of three ICE SDDOs who have been promoted during the CAP; however, the facility did not provide documentation that any of the three promoted ICE staff was asked directly about previous misconduct in written applications or interviews. Upon review of the submitted documentation, the Auditor continues to find that the facility does not meet subpart (b) of the standard.

#### **§115.121 - 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:**

(b)(c)(d): Policy 11087.1 states, "The FOD shall coordinate with the ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available and appropriate, community resources and services that provide expertise and support in areas of crisis intervention and counseling to address victims' needs." Policy 11087.1 further states, "Where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the FOD shall arrange or refer an alleged victim detainee to a medical facility to undergo a forensic medical examination, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel. If in connection with an allegation of sexual abuse, the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available consistent with security needs." The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed that the victim did not require a forensic medical exam.

Interviews with the AFOD, SDDO/PREA Field Coordinator, and Spectrum contract Captain could not confirm what hospital detainee victims of sexual abuse would be transported to following an incident of sexual abuse; and therefore, the Auditor could not confirm that the AFOD would transport the detainee to a hospital, if evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent. In addition, the Auditor could not confirm during interviews with the AFOD, SDDO/PREA Field Coordinator, and Spectrum contract Captain that a forensic exam would be conducted by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable, or, if SAFEs or SANEs cannot be made available, the examination would be performed by other qualified health care personnel. In an interview with the SDDO/PREA Field Coordinator, it was confirmed that the facility did not utilize any available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling, nor did it confirm the use of a victim advocacy during the forensic exam should one be requested by the detainee victim.

**Does Not Meet (b)(c)(d):** The facility is not compliant with sections (b), (c), and (d) of the standard. Interviews with the AFOD, SDDO/PREA Field Coordinator, and Spectrum contract Captain could not confirm what hospital detainee victims of sexual abuse would be transported to following an incident of sexual abuse; therefore, the Auditor could not confirm that the AFOD would transport the detainee to a hospital, if evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent. In addition, the Auditor could not confirm during interviews with the AFOD, SDDO/PREA Field Coordinator, and Spectrum contract Captain that a forensic exam would be conducted by a SAFE or SANE, or, if SAFEs or SANEs cannot be

made available, the examination would be performed by other qualified health care personnel. In an interview with the SDDO/PREA Field Coordinator, it was confirmed that the facility did not utilize any available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling, nor did it confirm the use of a victim advocate during the forensic exam should one be requested by the detainee victim. To become compliant, the facility must identify a local hospital to provide the detainee victim a forensic exam, if evidentiary or medically appropriate, by a SAFE/SANE Nurse or other qualified medical practitioner. In addition, the facility must coordinate with a community resource to provide expertise and support in the areas of crisis intervention and counseling and to provide advocacy services, if not available through the hospital agreement, to the detainee victim during a forensic exam and during the investigation process. The facility must provide documented training to all applicable staff regarding protocols developed and their responsibility to provide the detainee victim with all requirements of the standard. The facility must also provide the Auditor with any investigative files where the detainee victim was transported to an outside hospital following an incident of sexual abuse to confirm compliance with subparts (b), (c), and (d) of the standard.

**Corrective Action Taken (b)(c)(d):** The facility provided documentation outlining the services of Palomar Health Services (PHS) that confirmed the services provided by PHS will be conducted by a SAFE/SANE or other qualified medical practitioner. In addition, the facility provided documentation outlining the services of the Center for Community Solutions that confirms the center will provide expertise and support in the areas of crisis intervention and counseling and advocacy services to the detainee victim during a forensic exam and during the investigation process. The facility provided documented training regarding standard 115.121, confirming all applicable staff have received training regarding protocols developed and their responsibility to provide the detainee victim with all requirements of the standard. The facility also provided a memorandum to the Auditor confirming that no detainee was transported to an outside hospital following an incident of sexual abuse during the CAP. Upon review of the submitted documentation, the Auditor now finds the facility in substantial compliance with subparts (b), (c), and (d) of the standard.

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

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

#### **Notes:**

Policy 11087.1 states, "The FOD shall ensure that key information regarding ICE's zero-tolerance policy for sexual abuse is visible or continuously and readily available to detainees (e.g., through posters, detainee handbooks, or other written formats)." As confirmed through direct observation, during the facility tour, zero-tolerance and reporting posters provided in English and Spanish are affixed to the walls in each of the holding cells; however, interviews with the AFOD and SDDO/PREA Field Coordinator indicated that other than the information affixed to the wall SDDSF does not provide the detainees with key information, including but not limited to the ICE National Detainee Handbook, regarding the ICE's zero-tolerance policy for sexual abuse in a manner that detainees who do not speak English or Spanish or who are physically or developmentally disabled can understand. The Auditor also interviewed the one detainee who arrived at SDDSF during the audit. She indicated that she was English speaking, and therefore, understood the postings in the holding cells. In an email received by the AFOD following the onsite audit, the Auditor was advised that the facility contacted the Agency PSA Coordinator to obtain the DHS-prescribed Sexual Abuse and Assault Awareness Information pamphlet to provide to detainees upon intake. The Auditor reviewed the ICE website, [www.ice.gov](http://www.ice.gov), and confirmed the zero-tolerance information is available to the public.

**Does Not Meet:** The facility is not in compliance with standard 115.32. During the onsite tour, the Auditor confirmed through interviews, and observation, that the information provided to the detainee regarding the Agency's zero-tolerance for sexual abuse was only available to those detainees who spoke English or Spanish and not to those detainees who spoke a different language or who was physically and/or developmentally disabled. Following the onsite audit, the Auditor received a copy of an email from the AFOD, directed to the Agency PSA Coordinator, requesting copies of the DHS-prescribed Sexual Abuse and Assault (SAA) Information pamphlets to distribute to detainees upon intake; however, the practice had not been initiated prior to the completion of this report. To become compliant the facility must institute a practice that provides all detainees with key PREA information regarding the Agency's zero-tolerance policy, including detainees whose preferred language is other than English or Spanish, and are either developmentally or physically disabled. In addition, the facility must train all intake staff on the new practice and document the training. The facility must also provide the Auditor with documentation that the new practice has been initiated.

**Corrective Action Taken:** The facility submitted copies of a daily intake log, a blank Detainee Translation Line Services, the DHS-prescribed SAA Information pamphlet in the nine most prevalent languages used by ICE at the time of the on-site audit: English, Spanish, Arabic, French, Haitian Creole, Hindi, Portuguese, Punjabi, and Chinese, and copies of PREA reporting posters in English and Spanish. The facility provided the Auditor with copies of a daily intake log, which includes the practice of providing the detainee who is LEP, blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities access to the PREA information. The facility provided a copy of the training curriculum that includes the proper requirements to provide a detainee who is blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities access to the PREA information. In addition, the facility provided documentation that all staff were trained on the implemented practice. Upon review of all available information, the Auditor now finds the facility compliant with the standard.

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

**Outcome:** Does not Meet Standard

#### Notes:

c): Agency Policy 11087.1 states, "The FOD shall ensure that the following criteria are considered in assessing detainees for risk of sexual victimization, to the extent that the information is available: whether the detainee has a mental, physical, or developmental disability, the age of the detainee, the physical build and appearance of the detainee, whether the detainee has previously been incarcerated or detained, the nature of the detainee's criminal history, whether the detainee has any convictions for sex offenses, whether the detainee has self-identified as LGBTQI or gender nonconforming, whether the detainee has self-identified as previously experiencing sexual victimization, and the detainee's own concerns about his or her physical safety."

An interview with an ICE DO indicated that as most of the detainees processed at the SDDSF are arriving from other facilities, the ICE Custody Classification Work Sheet is completed prior to arrival. The accompanying screening work sheet is reviewed for any "flags" that are available in the detainee's records. He further indicated that the "flags" are not specific, and therefore, a history of sexual victimization may not be apparent. In addition, to reviewing the intake screening process documents and ICE Classification Work Sheets, the Auditor reviewed a section of the HFSAT which questioned "Please provide, in detail, the considerations taken into account for the sexual victimization risk assessment before placing detainees together in a hold room cell." The review further indicated that the facility responded with "LGBTQ+, Mental illness/cognitive disability, physical disability, history of sexual abuse, and college educated or above" thus confirming the facility does not take into account the age of the detainee, the physical build of the detainee, whether the detainee has previously been incarcerated or detained, the nature of the detainee's criminal history, whether the detainee has any convictions for sex offenses against an adult or child, or the detainees own concerns about his or her physical safety, as required by policy 11087.1 and subpart (c) of the standard. During the onsite audit, the facility processed a transgender detainee through the intake screening and based on her physical appearance placed her in a cell by herself. Following the intake process, the Auditor interviewed the detainee and confirmed that although both ICE and Spectrum Contract staff had available information regarding the detainee's sexual identity, they did not confirm through interview whether the detainee self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming. According to the detainee, staff "just assumed" she was transgender. It should be noted that there were no other detainees being process at SDDSF with the transgender detainee.

**Does Not Meet (c):** The facility is not in compliance with subpart (c) of the standard. Subpart (c) and Agency Policy 11087.1 require, "The FOD shall ensure that the following criteria are considered in assessing detainees for risk of sexual victimization, to the extent that the information is available: whether the detainee has a mental, physical, or developmental disability, the age of the detainee, the physical build and appearance of the detainee, whether the detainee has previously been incarcerated or detained, the nature of the detainee's criminal history, whether the detainee has any convictions for sex offenses, whether the detainee has self-identified as LGBTQI or gender nonconforming, whether the detainee has self-identified as previously experiencing sexual victimization, and the detainee's own concerns about his or her physical safety." Although the facility confirmed through response on their HFSAT that they consider LGBTQ+, Mental illness/cognitive disability, physical disability, a history of sexual abuse, and Agency Policy 11087.1, following the intake process, the Auditor interviewed a transgender detainee and confirmed that although both ICE and Spectrum contract staff had available information regarding the detainee's sexual identity, they did not confirm through interview whether the detainee self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming as required by subpart (c)(7) of the standard. To become compliant, the facility must train all ICE and Spectrum Contract staff on the requirements of subpart (c) of the standard. In addition, the facility must document that the required training was conducted.

**Corrective Action Taken (c):** The facility provided the Auditor with a memorandum indicating that both Spectrum and ICE staff are aware of the requirements of subsection (c) of the standard; however, the facility did not provide documentation of said training for either Spectrum or ICE staff. Upon review of the submitted documentation, the Auditor continues to find the facility does not meet subpart (c) of the standard.

### §115.151 - 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 11087.1 states, "The FOD shall ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse, retaliation for reporting sexual abuse, or violations of responsibilities that may have contributed to such incidents to ERO personnel," and, "the FOD shall also implement procedures for ERO personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports, and that the FOD shall ensure that detainees are provided with instructions on how they can contact the DHS/Office of the Inspector General (OIG) or as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse to agency officials. Also, to confidentially, and if desired, anonymously, report these incidents." Interviews with Spectrum contract staff indicated ICE staff provides the detainee with Consulate contact information during ICE's portion of the intake processing. Interviews with ICE DOs and Spectrum Contract DOs confirmed that they would accept reports of sexual abuse, retaliation for reporting sexual abuse, and staff neglect that may have contributed to the abuse in



writing, verbally, anonymously, and from third parties and that they would immediately forward any reported detainee allegations to the SDDO on duty.

During the onsite audit, the Auditor confirmed that holding cells contain posters, in both English and Spanish, with information in which detainees can report to the DHS OIG. The Auditor further confirmed that the posted information did not contain information as to how the detainee can report to a private entity or office that is not part of the Agency in a language other than English or Spanish. The Auditor attempted to call the DHS OIG Hotline, and the listed # number, through the Talton Communications phone system and confirmed that all calls made required the detainee to state their name.

**Does Not Meet (a)(b):** The facility is not in compliance with subparts (a) and (b) of the standard. The Auditor attempted to contact the DHS OIG and the listed facility number via the Talton Communications phone system and confirmed that the detainee is required to state their name to complete any attempted phone call.

**Corrective Action Taken (a)(b):** The facility submitted a posted sign in English and Spanish that states, "When making collect calls to report any allegation of misconduct, abuse, or mistreatment you may remain anonymous when prompted to state your name." Upon review of the submitted documentation, the Auditor now finds the facility is in compliance with subparts (a) and (b) of the standard.

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

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

#### **Notes:**

(b)(c): Policy 11087.1 requires, "notification to a receiving ICE, or non-ICE facility, where a detainee may be transferred, of the incident and the detainee's need for any on-going medical and/or mental health treatment services." The SDDO/PREA Field Coordinator during interviews confirmed that he was not knowledgeable regarding the requirements of subpart (c) of the standard indicating that if a detainee being transferred was a victim of sexual abuse, SDDSF staff would provide the receiving facility any information regarding the sexual abuse allegation, including the victim's need for any medical or social services follow-up regardless of the detainees request not to have his/her potential need for medical or social services shared with the receiving facility.

**Does Not Meet (c):** Policy 11087.1, as it relates to standard 115.165 is not consistent with the standard. The policy as it relates to the coordinated response protocol does not include "unless the victim requests otherwise." Although the other Agency directive, 11062.2, is compliant with the DHS PREA Standards, if hold rooms are using 11087.1 as their coordinated response protocol, or even a combination of both, then they would be deficient. To become compliant, the Agency must update their written institutional plan to contain the required verbiage as written in 115.165 subpart (c). The facility must provide documented training of applicable staff on the updated written institutional plan. In addition, the facility must provide the Auditor with any investigation, medical, and detainee files regarding any detainee victim of sexual abuse transferred during the CAP period.

**Corrective Action Taken (c):** The facility submitted a copy of an ICE broadcast from the Assistant Director of ICE Custody Management to Field Office Directors and Deputy Field Office Directors that includes the necessary verbiage to be compliant with subsection (c) of the standard. The facility submitted documented training for all staff on subsection (c) of the standard. The facility submitted a memorandum that confirms there were no allegations of sexual abuse during the CAP. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subpart (c) of the standard.

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

**Outcome:** Does not Meet Standard

#### **Notes:**

(a)(b): Policy 11087.1 states, "The FOD shall ensure that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. The FOD shall coordinate with ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available, any community resources and services that provide expertise and support in the areas of crisis intervention and counseling to address the victims' needs." Policy 11087.1 further states, "Victims of sexual abuse shall be provided emergency medical and mental health services and any ongoing care necessary. All treatment services, both emergency and ongoing, shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident." The interview with the AFOD, and SDDO/PREA Field Coordinator, could not confirm that a detainee alleging sexual abuse and in need of emergency care would be taken to a specific hospital. Therefore, the Auditor could not confirm that the facility ensures that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care or that the treatment services, both emergency and ongoing, will be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The Auditor reviewed the one sexual abuse allegation investigation that occurred



during the audit period and confirmed the allegation did not require the facility to transport the detainee victim to an outside hospital.

**Does Not Meet (a)(b):** The facility is not compliant with subparts (a) and (b) of the standard. The interview with the AFOD, and SDDO/PREA Field Coordinator, could not confirm that a detainee alleging sexual abuse and in need of emergency care would be taken to a specific hospital. Therefore, the Auditor could not confirm that the facility would be able to comply with the requirements in subparts (a) and (b) of the standard should they need to. To become compliant, the facility must identify a local hospital to provide detainee victims of sexual abuse or assault with timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care and that the treatment services, both emergency and ongoing, will be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. In addition, the facility must provide documented training to all applicable staff regarding their responsibility to provide the detainee victim with all requirements of the standard. The facility must also provide the Auditor, if applicable, with any investigative files where the detainee victim was transported to an outside hospital following an incident of sexual abuse to confirm compliance with subparts (a) and (b) of the standard.

**Corrective Action Taken (a)(b):** The facility provided the Auditor with documented training of all applicable staff on their responsibility to provide the detainee victim with all requirements of the standard. The facility provided documentation from PHS and advocates from the Center for Community Solutions confirming that both entities will provide detainee victims of sexual abuse or assault with timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services in accordance with professionally accepted standards of care and that treatment services, both emergency and ongoing, will be provided to the victim without financial cost; however, the facility did not provide documentation that the services will include emergency contraception and sexually transmitted infections prophylaxis or that the services will be provided regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The facility also provided to the Auditor a memorandum that confirms that no detainee victim was transported to an outside hospital following an incident of sexual abuse during the CAP. Upon review of the submitted documentation the Auditor continues to find that the facility does not meet subparts (a) and (b) of the standard.

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

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

#### **Notes:**

(a): Policy 11087.1 states, "A sexual abuse and assault incident review shall be conducted at the conclusion of every investigation of sexual abuse or assault occurring at a holding facility and unless the allegation was determined to be unfounded, a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse and assault. Such review shall ordinarily occur within 30 days of the EROs receipt of the investigation results from the investigating authority. The FOD shall implement the recommendations for improvement, or shall document its reasons for not doing so, in written justification. Both the report and justification shall be forwarded to the Agency PSA Coordinator."

The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was determined to be unsubstantiated and an incident review was not conducted. During the interview with the SDDO/PREA Field Coordinator, it was further confirmed that an incident review report and recommendations, if any, was not conducted following the outcome of the one sexual abuse allegation reported during the audit period. As no report was prepared, no report was forwarded to the Agency PSA Coordinator as required by subpart (a) of the standard as well.

**Does Not Meet (a):** The facility does not meet subpart (a) of the standard. During the interview with the SDDO/PREA Field Coordinator, and review of the one sexual abuse allegation investigation reported during the audit period, it was confirmed that an incident review report and recommendations, if any, was not conducted following the outcome of the investigation. As no report was prepared, no report was forwarded to the Agency PSA Coordinator. To become compliant, the facility must update their practice to include conducting an incident review at the conclusion of all allegations of sexual abuse and to prepare a report for all allegations that are not determined to be unfounded. In addition, the new practice must include implementing any recommendations received from the review or document its reasons for not doing so in a written response. The facility must also initiate a practice of forwarding both the report and response to the Agency PSA Coordinator. The facility must document that all applicable staff involved in the incident review are trained in the new practice. A Sexual Abuse Incident Review must be conducted on the one case that occurred within the Audit period, prepare a written report in accordance with the requirements of this standard, and provide the report to the agency PSA Coordinator. Documentation of these actions must be provided to the Auditor for compliance review. Additionally, the facility must supply the Auditor with any detainee investigative files that occur during the CAP period, in conjunction with the corresponding incident review form. The facility must provide to the Auditor documentation to confirm the review, and the report was forwarded to the Agency PSA Coordinator, to confirm the new practice has been initiated.

**Corrective Action Taken (a):** The facility provided training documentation that confirms both ICE and Spectrum staff received training on the requirements of subsection (a) of the standard. The facility provided to the Auditor a memorandum that confirms there were no detainee investigative files that occurred during the CAP period; and therefore, there are no corresponding incident review forms submitted to the Auditor to review. Upon review of the submitted documentation, the Auditor now finds the facility in substantial compliance with subpart (a) of the standard.

**§115.193**

**Outcome: Not Low Risk**

**Notes:**

The PREA Audit at the SDDSF was the second audit for this facility. Following the CAP, the Auditor continues to find that the facility does not meet four standards, and therefore, not in compliance with DHS PREA Standards. Although SDDSF generally only holds detainees up to 6 hours, and there has been only one allegation of sexual abuse between May 25, 2017, through May 4, 2022, the Auditor must take into consideration the continued areas of non-compliance which include both policy and procedural issues. Therefore, the Auditor has determined that the facility is not low risk.

**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.

Sabina Kaplan

January 8, 2023

**Auditor's Signature & Date**

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

February 16, 2023

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

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

February 16, 2023

**Program Manager's Signature & Date**

# PREA Audit: Subpart B DHS Holding & Staging Facilities Audit Report



# Homeland Security

## AUDIT DATES

<b>From:</b>	5/3/2022	<b>To:</b>	5/4/2022
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## AUDITOR INFORMATION

<b>Name of auditor:</b>	Sabina Kaplan	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	914-474- (b) (6), (b) (7)(C)

## PROGRAM MANAGER INFORMATION

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

## AGENCY INFORMATION

<b>Name of agency:</b>	U.S. Immigration and Customs Enforcement (ICE)
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## FIELD OFFICE INFORMATION

<b>Name of Field Office:</b>	San Diego Field Office
<b>Field Office Director:</b>	Jamison Matuszewski
<b>ERO PREA Field Coordinator:</b>	(b) (6), (b) (7)(C)
<b>Field Office HQ physical address:</b>	880 Front Street Suite 3300, San Diego, Ca 92101
<b>Mailing address: (if different from above)</b>	Click or tap here to enter text.

## INFORMATION ABOUT THE FACILITY BEING AUDITED

### Basic Information About the Facility

<b>Name of facility:</b>	San Diego District Staging Facility
<b>Physical address:</b>	880 Front Street, San Diego, Ca 92101
<b>Mailing address: (if different from above)</b>	Click or tap here to enter text.
<b>Telephone number:</b>	619-436-0621
<b>Facility type:</b>	ICE Staging Facility

### Facility Leadership

<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Deputy Field Office Director
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	913-923- (b) (6), (b) (7)(C)
<b>Name of PSA Compliance Manager:</b>	N/A	<b>Title:</b>	N/A
<b>Email address:</b>	N/A	<b>Telephone number:</b>	N/A

## ICE HQ USE ONLY

<b>Form Key:</b>	29
<b>Revision Date:</b>	12/14/2021
<b>Notes:</b>	Click or tap here to enter text.

## NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS

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

The U.S. Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) Audit of the San Diego District Staging Facility (SDDSF) was conducted May 3 – May 4, 2022. The audit was conducted by U.S. Department of Justice (DOJ) and U.S. Department of Homeland Security (DHS) certified PREA Auditor/Assistant Program Manager Sabina Kaplan, employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by the U.S. Immigration and Customs Enforcement (ICE) PREA Program Manager (PM), (b) (6), (b) (7)(C) also a DOJ and DHS certified PREA Auditor. The PM's role is to provide oversight to the ICE PREA audit process and liaison with the ICE, Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU) during the audit report review process. This was the second DHS ICE audit for SDDSF and included a review of the audit period from May 25, 2017, through May 4, 2022. As there were zero allegations of sexual abuse reported at SDDSF for the prior 12-months period, the audit period was extended to capture closed investigations that occurred since the facility's last audit. SDDSF is a staging facility that processes detainees within 6 hours and is operated by DHS ICE. The SDDSF is located at 880 Front Street, San Diego, California 92101. The ERO Field Office is located on the building's top floor at the same address.

Prior to the audit, the ERAU Team Lead, (b) (6), (b) (7)(C) provided the Auditor with the facility's Pre-Audit Questionnaire (PAQ), facility 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 and placed within folders for ease of auditing. The main policies that provide facility direction is Agency policy 11062.2, Sexual Abuse and Assault Prevention and Intervention (SAAPI) and Agency policy 11087.1, Operations of ERO Holding Facilities. The Auditor reviewed all documentation, policies, and the PAQ and developed a tentative daily schedule for staff and detainee interviews. The Auditor also reviewed the facility's website, [www.ice.gov](http://www.ice.gov).

On May 3, 2022, at approximately 8:15 am, the Auditor met with facility administration in the office of the Assistant Field Office Director (AFOD) where the entry briefing was moderated by Team Lead (b) (6), (b) (7)(C) via teleconference. In attendance either in person, or via teleconference, were the following:

(b) (6), (b) (7)(C) ICE/OPR/ERAU, Inspections and Compliance Specialist (ICS)  
(b) (6), (b) (7)(C) AFOD, ICE/ERO  
(b) (6), (b) (7)(C) Contract Office Representative (COR), ICE/ERO  
(b) (6), (b) (7)(C) Supervisory Detention and Deportation Officer (SDDO)/PREA Field Coordinator, ICE/ERO  
(b) (6), (b) (7)(C) Deportation Officer (DO), ICE/ERO  
Sabina Kaplan, APM/Certified DOJ/DHS Auditor, Creative Corrections, LLC

The Auditor introduced herself 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. She further explained compliance with the PREA standards will be determined based on the review of policy and procedures, observations made during the facility tour, provided documentation for review, and conducting both staff and detainee interviews. It was shared that no correspondence was received from any detainee, outside individual, or staff member. The facility provided the requested information to be used for the random selection of detainees and staff to be interviewed (random and specific categories) including lists of staff by duty position and shifts. Shifts are 0600-1400, 1400-2200, and 2200-0600. There are zero volunteers who enter the facility.

A facility tour was completed by the Auditor accompanied by the SDDO/PREA Field Coordinator. SDDSF is in the basement of the Internal Revenue Building at 880 Front Street, San Diego, California. Detainees are not housed at SDDSF, but held for processing, for less than 6 hours and then transferred to other facilities. SDDSF has an intake area, three processing rooms, and eight hold cells with a total capacity of 122 detainees. The location and design of the hold rooms allow for the separation of detainees by gender, age groups, and family units. Due to the extremely short length of stay, there are no housing units, medical, education, library, food service, education, or recreation areas. The total number of adult detainees processed in the last 12 months was 9,442. The total number of juveniles processed in the last 12 months was 4,273. Spectrum Contract Detention Services (SCDS) is the security contractor.

During the tour, the Auditor looked at camera placements for possible blind spots and the detainee-to-officer ratio in accordance with the holding room occupancy capacity. The Auditor looked at privacy issues, how the toilet areas were configured, and if detainees have adequate privacy to perform bodily functions. The Auditor observed that PREA posters and PREA notices sent to the SDDSF prior to the on-site visit, were displayed in the holding cells in English and Spanish. In addition, the Auditor observed that the PREA notices were posted in one area outside the holding cells in 10 additional languages. PREA audit notices, sent to the SDDSF prior to the on-site visit, were observed posted in all holding cells as well as throughout the facility. The notices provide information on how detainees, and/or staff, could contact the Auditor should they have any concerns prior to the on-site visit. The Auditor noted there was one phone per hold cell; however, the Auditor confirmed through test calls to the DHS OIG that the detainee was required to give

their name to continue the call. A review of the "cell sheet" could not confirm that rounds were being completed as required by the standard; however, the COR immediately modified the form to adequately reflect the times rounds are conducted.

(b) (7)(E) It was observed during the tour that detainees can dress and use the toilet facilities without exposing themselves to staff of the opposite gender. Only three holding cells contained showers. (b) (7)(E)

A total of 13 staff were interviewed including 7 staff/contractors, (1 Captain, 3 Sergeants, and 3 Detention Officers (DOs; and 6 ICE staff, including the AFOD, 1 SDDO/PREA Field Coordinator, 1 SDDO, and 3 ICE DOs). The staff were randomly selected by the Auditor, using the daily duty roster, provided by the SDDO/PREA Field Coordinator. The Auditor chose staff from all shifts and different work assignments. In addition, the Auditor interviewed the one detainee that was processed at the facility during the onsite audit. The detainee was transgender, whose preferred language was English.

The facility does not conduct investigations into allegations of sexual abuse. There was one sexual abuse allegation reported during the extended audit period. The case involved a detainee-on-detainee. The case was closed and determined to be unsubstantiated. The case was referred to ICE OPR.

On May 4, 2022, an exit briefing was moderated by the Team Lead, (b) (6), (b) (7)(C) via teleconference, in the office of the AFOD. In attendance were:

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

(b) (6), (b) (7)(C) AFOD, ICE/ERO

(b) (6), (b) (7)(C) COR, ICE/ERO (Via Teleconference)

(b) (6), (b) (7)(C) SDDO ICE/ERO

Sabina Kaplan, APM/Certified DOJ/DHS Auditor, Creative Corrections, LLC

The Auditor spoke briefly about the staff knowledge of the SDDSF PREA zero-tolerance policy. The Auditor informed those present that it was too early in the process to formalize an outcome of the audit, and that she would need to review all submitted documentation and interview notes conducted with staff and detainees. The Auditor explained the audit report process, timeframes, and thanked all present for their cooperation.

Following the onsite audit, the Auditor requested additional information from the Team Lead, and facility, which was provided via email as requested.

## SUMMARY OF AUDIT FINDINGS

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

**Number of Standards Exceeded: 0**

**Number of Standards Met: 19**

§115.111 Zero-tolerance of sexual abuse  
§115.114 Juvenile and family detainees  
§115.115 Limits to cross-gender viewing and searches  
§115.122 Policies to ensure investigation of allegations and appropriate agency oversight  
§115.131 Employee, contractor, and volunteer training  
§115.134 Specialized training: Investigations  
§115.154 Third-party reporting  
§115.161 Staff reporting duties  
§115.162 Protection duties  
§115.163 Reporting to other confinement facilities  
§115.164 Responder duties  
§115.166 Protection of detainees from contact with alleged abusers  
§115.167 Agency protection against retaliation  
§115.171 Criminal and administrative investigations.  
§115.172 Evidentiary standard for administrative investigations  
§115.176 Disciplinary sanctions for staff  
§115.177 Corrective action for contractors and volunteers  
§115.187 Data collection  
§115.201 Scope of audits

**Number of Standards Not Met: 10**

§115.113 Detainee supervision and monitoring  
§115.116 Accommodating detainees with disabilities and detainees who are limited English proficient  
§115.117 Hiring and promotion decisions  
§115.121 Evidence protocol and forensic medical examinations  
§115.132 Notification to detainees of the agency's zero-tolerance policy  
§115.141 Assessment for risk of victimization and abusiveness  
§115.151 Detainee reporting  
§115.165 Coordinated response  
§115.182 Access to emergency medical services  
§115.186 Sexual abuse incident reviews

**Number of Standards Not Applicable: 1**

§115.118 Upgrades to facilities and technologies

**Staging Facility Risk Rating:**

§115.193 Audits of standards – Not Low Risk



## PROVISIONS

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

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

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

**Notes:**

(a): Policy 11062.2 mandates that "ICE has a zero-tolerance policy for all forms of sexual abuse or assault. It is ICE policy to provide effective safeguards against sexual abuse and assault of all individuals in ICE custody, including with respect to screening, staff training, detainee education, response and intervention, medical and mental health care, reporting, investigation, and monitoring and oversight." All ICE and Spectrum contract staff formally interviewed confirmed they were aware of the zero-tolerance policy.

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

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

**Notes:**

(a)(b)(c): Policy 11087.1, Operations of ERO Holding Facilities, states "The Field Office Director (FOD) shall ensure that each holding facility maintains sufficient supervision of detainees, including through appropriate staffing levels and where applicable, video monitoring, to protect detainees against sexual abuse and assault. In so doing the FOD shall take into consideration a) The physical layout of each holding facility; b) The composition of the detainee population; c) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; d) The findings and recommendations of the sexual abuse review reports; e) Any other relevant factors, including the length of time detainees spend in custody." A review of the facility PAQ indicated SDDSF has a total of 93 security ICE staff, consisting of 83 males and 10 females, and 81 security Spectrum contract staff, consisting of 44 males and 37 females, who may have recurring contact with detainees. The remaining staff consists of facility management and supervisory personnel. There are no civilian staff present at the facility who have reoccurring contact with detainees.

The Agency provided employee duty rosters and an email by the ERO Holding Facility Assessments, dated April 27, 2022, showing compliance with their self-assessment. This process is completed annually and is identified as the "Hold Room Facility Self-Assessment Tool (HFSAT)," and the document's purpose states it is used to determine if the facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse; however, although the facility provided confirmation that the Agency developed and documented supervision guidelines, the Auditor's review of the supervision guidelines, and interviews with the facility AFOD and SDDO/PREA Field Coordinator, confirmed that the supervision guidelines have not been reviewed since developed on December 3, 1998.

The Auditor observed staffing levels during the on-site audit and determined they were adequate. (b) (7)(E)

**Does Not Meet (b):** The facility is not in compliance with subpart (b) of the standard. Subpart (b) requires that the supervision guidelines be reviewed at least annually; however, although the facility provided confirmation that the Agency developed and documented supervision guidelines, the Auditor's review of the supervision guidelines provided by the facility, and interviews with the facility AFOD and SDDO/PREA Field Coordinator, confirmed that the supervision guidelines have not been reviewed since developed by the Agency. To become compliant, the facility must provide documentation that the supervision guidelines were reviewed for the year 2022.

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

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

**Notes:**

(a)(b): ICE Directive 11087.1 states, "The FOD shall ensure that minors are detained in the least restrictive setting appropriate to his or her age and special needs, provided that such setting is consistent with the need to protect the minor's well-being and that of others, as well as with any other laws, regulations, or legal requirements" and, "unaccompanied minors will generally be held apart from adults. The unaccompanied minor may temporarily remain with a non-parental adult family member where: the family relationship has been vetted to the extent feasible, and it has been determined that remaining with the non-parental adult family member is appropriate, given the totality of circumstances." In an interview, the Spectrum contract Captain indicated that all juveniles stay with their mothers in a hold room that is not locked. Juveniles, and family units, have regular access to meals, snacks, milk, and juice. During the onsite tour, the Auditor observed the area where juveniles are placed while being processed at SDDSF. The area was open and conducive to processing juveniles and family units. In an interview with the SDDO/PREA Field Coordinator, he indicated that the facility no longer accepted juvenile detainees or family units. He reported that if a juvenile detainee, or family unit, needed



processing at SDDSF they would remain in the vehicle until their paperwork was processed and cleared. The Auditor requested documentation to confirm the facility no longer accepted juveniles or family units; however, the facility was unable to provide anything that would confirm the PREA Field Coordinator/SDDO's statement. Based on the Auditor's observations, and interview with the Spectrum contract Captain, the facility meets the standard.

**§115.115 - 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)(c)(e)(f): Policy 11087.1 states, "The FOD shall ensure that when pat down searches indicate the need for a more thorough search, an extended search (i.e., strip search), is conducted in accordance with ICE policies, including that a) All strip searches and visual body cavity searches are documented; b) Cross-gender strip searches or cross gender visual body cavity searches are not conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners; and c) Visual body cavity searches of minors are conducted by a medical practitioner and not by law enforcement personnel." Policy 11087.1 further states, "The FOD shall ensure that ERO personnel do not search or physically examine a detainee for the sole purpose of determining the detainee's gender." Interviews with the SDDO/PREA Field Coordinator and the Spectrum contract Captain confirmed that SDDSF does not conduct visual body cavity searches of any detainee including juveniles. In addition, interviews with both ICE and Spectrum contract staff, confirmed their knowledge of cross-gender viewing, search policy and procedure, and that pat-down searches are not conducted for the sole purpose of determining the genital status of a transgender or intersex detainee. Staff interviews and detainee search log documents indicated that all searches would be documented. In addition, the Auditor reviewed staff training records and the training curriculum and confirmed staff are trained as required by the standard in the proper procedures for conducting pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex detainees. Interviews with both ICE and Spectrum contract staff indicated if the detainee's gender is unknown, it may be determined during conversation, reviewing medical records, or learning that information as part of a broader medical examination conducted in private by a medical practitioner. The Auditor interviewed a transgender detainee during the on-site audit who confirmed staff did not conduct a pat-down search to determine her genital status.

(d): Agency Policy 11087.1 states, "The FOD shall ensure that detainees are permitted 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 hold room checks, a medical exam, or monitored bowel movement under medical supervision. The FOD will also ensure that ERO personnel of the opposite gender announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing."

It was confirmed through direct observation, and camera review, that a detainee can perform bodily functions without being observed by staff. The Auditor observed, during the tour, that the bathroom toilets were covered with half walls approximately four feet high to ensure privacy. (b) (7)(E)

Interviews with Spectrum contract DOs confirmed the use of cross-gender announcements prior to entry into holding areas.

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

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

**Notes:**

(a)(b)(c): Policy 11087.1, states, "The FOD shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to participate in, and benefit from, processes and procedures in connection with placement in an ERO holding facility, consistent with established statutory, regulatory, DHS and ICE policy requirements. The FOD shall take reasonable steps to ensure meaningful access to detainees who are limited English proficient, consistent with established regulatory and DHS/ICE policy requirements." Policy 11062.2 states, "Appropriate steps in accordance with applicable law to ensure that detainees with disabilities (including detainees who are deaf or hard of hearing, those who are blind, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in, and benefit from, all aspects of agency and facility efforts to prevent, detect, and respond to sexual abuse. In matters related to allegations of sexual abuse or assault, ensure the provision of in-person or telephonic interpretation that enable effective, accurate, and impartial interpretation by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and ICE determines that such interpretation is appropriate and consistent with DHS Policy."

During the on-site audit, the Auditor observed that the DHS-prescribed Sexual Assault Awareness Information pamphlet and ICE Zero-Tolerance posters were posted in the holding areas in both English and Spanish. Interviews with the AFOD, SDDO/PREA Field Coordinator, and Spectrum contract DOs indicated that the facility does not provide the detainee with the PREA information in other languages, nor does it provide access to the information should the detainee be blind or have low vision, deaf or hard of hearing, or have intellectual, psychiatric, or speech disabilities. The Spectrum contract Captain, during his interview, indicated that the ICE staff has access to an ICE-wide language services contract to provide 24-hour telephonic interpretation services for detainees that do not speak English or Spanish; however, they do not provide the detainee with PREA information. The Auditor's interview with the SDDO/PREA Field Coordinator confirmed that the facility would not use another detainee to provide interpretive services unless the interpretation is consistent with DHS policy, and the detainee requests they do so.

**Does Not Meet (a)(b):** The facility is not compliant with subparts (a)(b) of the standard. During the onsite Audit, the Auditor observed that the DHS-prescribed Sexual Assault Awareness Information pamphlet and ICE Zero-Tolerance posters were posted in the holding areas in both English and Spanish. Interviews with the AFOD, SDDO/PREA Field Coordinator, Spectrum contract DOs, indicated that the facility does not provide the detainee with the PREA information in other languages, nor does it provide access to the information should the detainee be blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities. To become compliant, the facility must institute a practice of providing the detainee who is limited English proficient (LEP), or does not speak Spanish, the PREA information in their preferred language. In addition, the facility must institute a practice of providing a detainee who is blind or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities access to the PREA information. The facility must train all staff on the new practice. In addition, the facility must provide the Auditor with documentation that confirms that detainees who are LEP, do not speak Spanish, blind, or have low vision, deaf or hard of hearing, or those who have intellectual, psychiatric, or speech disabilities are provided access to the PREA information.

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

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

##### **Notes:**

(a)(b)(c)(d)(e)(f): 5 CFR 731, Executive Order 10450, ICE Directive 6-7.0, ICE Personnel Program Security and Suitability, and ICE Directive 6-8.0, ICE Suitability Screening Requirements for Contractor Personnel, require, "Anyone entering or remaining in government service undergo a thorough background examination for suitability and retention. The background investigation, depending on the clearance level, will include education checks, criminal records check, financial check, residence and neighbor checks, and prior employment checks." In addition, 5 CFR 731 requires investigations every five years. The COR confirmed during an interview that background checks are performed for all new hires through the Agency. The policy outlines misconduct and criminal misconduct as grounds for unsuitability including material omissions or making false or misleading statements in the application. The Unit Chief of OPR Personnel Security Operations (PSO) informed Auditors, who attended virtual training in November 2021, that detailed candidate suitability for all applicants includes their obligation to disclose: any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity. In addition, based on information provided in an email by the OPR PSO (A) Division Chief, information on substantiated allegations of sexual abuse involving a former employee would be provided to prospective employers upon request, unless prohibited by law.

Interviews with ICE and Spectrum contract DOs confirmed continuing affirmative duty to disclose any misconduct as required by subpart (b); however, interviews with two newly promoted SDDOs indicated that neither were directly asked about previous misconduct, including engaging and/or attempting to engage in sexual abuse. In addition, in an interview with the Spectrum COR, it was confirmed that unless the promotional opportunity is to key personnel, such as becoming a Project Manager, there is no requirement to ask the applicant directly about previous misconduct, including engaging and/or attempting to engage in sexual abuse. Interviews with the Spectrum COR and the SDDO/Field PREA Coordinator confirmed that there were no employees at SDDSF considered for termination or withdrawal of an offer of employment due to material omissions of sexual misconduct.

The Auditor reviewed background checks for five ICE and three Spectrum contract DOs working at the SDDSF and confirmed all but one background check was completed as required by subpart (c). The one uncompleted background check was the result of the Spectrum contract DO being under another contract, and when she provided her two-week notice, PSO did not properly transfer her clearance to the Spectrum contract.

**Does Not Meet (b):** The Auditor interviewed two newly promoted ICE SDDOs and the Spectrum COR, who confirmed that neither ICE or Spectrum requires that prior to receiving a promotion, the applicant, who will have direct contact with detainees, be asked directly about previous misconduct, including engaging and/or attempting to engage in sexual abuse. To become compliant, the Agency and facility must develop a process that requires that employees offered promotions are directly asked about previous misconduct related to sexual abuse, as outlined in subpart (a) of this standard. In addition, if applicable, the facility must provide the Auditor with documentation that confirms newly promoted ICE and Spectrum contract staff were directly asked about previous misconduct related to sexual abuse.

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

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

##### **Notes:**

(a)(b): Documentation submitted with the PAQ, and an interview with the SDDO/PREA Field Coordinator, determined that SDDSF did not design or acquire any new facility, has not undergone any substantial expansion or modification during the audit period, or installed any new, or updated its current monitoring system during the audit period.

### **§115.121 - Evidence protocols and forensic medical examinations.**

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

#### **Notes:**

(a): Policy 11062.2 states, "When feasible, secure and preserve the crime scene and safeguard information and evidence, consistent with ICE uniform evidence protocols and local evidence protocols in order to maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions." Policy 11062.2 further states, "When a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility's incident review personnel in accordance with OPR policies and procedures. OPR does not perform sex assault crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or local law enforcement agency. The OPR will coordinate with the ICE Enforcement and Removal Operations ERO FOD, and facility staff, to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred or accepted by DHS Office of the Inspector General (OIG), OPR, or the local law enforcement agency, the ICE AFOD would assign an administrative investigation to be conducted." Policy 11062.2 further states, "If the alleged victim is under the age of 18 or determined, after consultation with the relevant OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under a State or local vulnerable persons statute, report the allegation to the designated State or local services agency as necessary under applicable mandatory reporting laws; and document his or her efforts taken under this section." In interviews with the AFOD, and PREA Field Coordinator, it was confirmed that the San Diego Police Department (SDPD) is responsible for conducting sexual abuse investigations that are criminal in nature, including evidence collection. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the SDPD conducted a criminal investigation. The allegation did not include the need to preserve a crime scene or collect physical evidence.

(b)(c)(d): Policy 11087.1 states, "The FOD shall coordinate with the ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available and appropriate, community resources and services that provide expertise and support in areas of crisis intervention and counseling to address victims' needs." Policy 11087.1 further states, "Where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the FOD shall arrange or refer an alleged victim detainee to a medical facility to undergo a forensic medical examination, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel. If in connection with an allegation of sexual abuse, the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available consistent with security needs." The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed that the victim did not require a forensic medical exam.

Interviews with the AFOD, SDDO/PREA Field Coordinator, and Spectrum contract Captain could not confirm what hospital detainee victims of sexual abuse would be transported to following an incident of sexual abuse; and therefore, the Auditor could not confirm that the AFOD would transport the detainee to a hospital, if evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent. In addition, the Auditor could not confirm during interviews with the AFOD, SDDO/PREA Field Coordinator, and Spectrum contract Captain that a forensic exam would be conducted by a SAFE or SANE where practicable, or, if SAFEs or SANEs cannot be made available, the examination would be performed by other qualified health care personnel. In an interview with the SDDO/PREA Field Coordinator, it was confirmed that the facility did not utilize any available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling, nor did it confirm the use of a victim advocacy during the forensic exam should one be requested by the detainee victim.

**Does Not Meet (b)(c)(d):** The facility is not compliant with sections (b), (c), and (d) of the standard. Interviews with the AFOD, SDDO/PREA Field Coordinator, and Spectrum contract Captain could not confirm what hospital detainee victims of sexual abuse would be transported to following an incident of sexual abuse; therefore, the Auditor could not confirm that the AFOD would transport the detainee to a hospital, if evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent. In addition, the Auditor could not confirm during interviews with the AFOD, SDDO/PREA Field Coordinator, and Spectrum contract Captain that a forensic exam would be conducted by a SAFE or SANE, or, if SAFEs or SANEs cannot be made available, the examination would be performed by other qualified health care personnel. In an interview with the SDDO/PREA Field Coordinator, it was confirmed that the facility did not utilize any available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling, nor did it confirm the use of a victim advocate during the forensic exam should one be requested by the detainee victim. To become compliant, the facility must identify a local hospital to provide the detainee victim a forensic exam, if evidentiarily or medically appropriate, by a SAFE/SANE Nurse or other qualified medical practitioner. In addition, the facility must coordinate with a community resource to provide expertise and support in the areas of crisis intervention and counseling and to provide advocacy services, if not available through the hospital agreement, to the detainee victim during a forensic exam and during the investigation process. The facility must provide documented training to all applicable staff regarding protocols developed and their responsibility to provide the detainee victim with all requirements of the standard. The facility must also provide the Auditor with any investigative files where the detainee victim was transported to an outside hospital following an incident of sexual abuse to confirm compliance with subparts (b), (c), and (d) of the standard.

(e): Interviews with the AFOD and SDDO/PREA Field Coordinator confirmed that the SDPD would be responsible to investigate allegations of sexual abuse at SDDSF. Interviews, however, could not confirm that the SDPD is trained to follow the Uniform Evidence

Collection protocols in compliance with PREA mandates and ICE evidence protocols for conducting criminal investigations. The facility did not provide documentation that the SDPD was contacted to request they follow the requirements of subparts (a) through (d) of the standard.

**Does Not Meet (e):** The facility is not compliant with subpart (e) of the standard. Interviews with the AFOD, and SDDO/PREA Field Coordinator, could not confirm that the SDPD has been asked to follow the Uniform Evidence Collection protocols in compliance with PREA mandates and ICE evidence protocols for conducting criminal investigations. The facility did not provide documentation that the SDPD was contacted to request they follow the requirements of subparts (a) through (d) of the standard. To become compliant the facility must enter, or attempt to enter, an agreement with the SDPD to follow the Uniform Evidence Collection protocols in compliance with PREA mandates and ICE evidence protocols for conducting criminal investigations.

#### **§115.122 - 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)(c)(d): Policy 11062.2 states, "When an alleged sexual abuse incident occurs in ERO custody, the FOD shall a) Ensure that the appropriate law enforcement agency having jurisdiction for the investigation has been notified by the facility administrator of the alleged sexual abuse. The FOD shall notify the appropriate law enforcement agency directly if necessary; b) Notify ERO's Assistant Director for Field Operations telephonically within two hours of the alleged sexual abuse or as soon as practical thereafter, according to procedures outlined in the June 8, 2006, Memorandum from (b) (6), (b) (7)(C) Acting Director, Office of Detention and Removal Operations, regarding "Protocol on Reporting and Tracking of Assaults" (b) (6), (b) (7)(C) Memorandum); and c) Notify the ICE Joint Intake Center (JIC) telephonically within two hours of the alleged sexual abuse and in writing within 24 hours via the ICE SEN Notification Database, according to procedures outlined in the (b) (6), (b) (7)(C) Memorandum." Policy 11062.2 further dictates that "The JIC shall notify the DHS Office of Inspector General (OIG)," and "the OPR shall coordinate with the FOD or SOC and facility staff to ensure evidence is appropriately secured and preserved pending an investigation federal, state, or local law enforcement, DHS OIG, or referral to OPR," and "All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise." Interviews with the AFOD and SDDO/PREA Field Coordinator confirmed that the SDPD would be responsible to investigate allegations of sexual abuse at SDDSF. The Auditor reviewed the Agency website, (<https://www.ice.gov/prea>) which provided the Agency protocol. In addition, the Auditor reviewed a copy of the one sexual abuse investigation that occurred during the audit period and confirmed that the allegation was reported to the JIC, ICE ERO, and investigated by the SDPD, as required by the standard.

(e): Policy 11062.2 states, "The OPR shall coordinate with appropriate ICE entities and federal, state, or local law enforcement to facilitate necessary immigration processes that ensure availability of victims, witnesses, and alleged abusers for investigative interviews and administrative or criminal procedures, and provide federal, state, or local law enforcement with information about U nonimmigrant visa certification." A review of the one sexual abuse allegation investigation that occurred during the audit period confirmed that the victim did not require U nonimmigrant status information.

#### **§115.131 – Employee, contractor, and volunteer training.**

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

##### **Notes:**

(a)(b)(c): Policy 11062.2 states, "All current employees required to take the training, as listed below, shall provide each employee with biennial refresher training to ensure that all employees know ICE's current sexual abuse policies and procedures," and "all newly hired employees who may have contact with individuals in ICE custody shall also take the training within one year of their entrance on duty." Policy 11062.2 further states, "The agency shall document all ICE personnel, who may have contact with individuals in ICE custody, have completed the training. All ICE personnel who may have contact with individuals in ICE custody shall receive training on the ICE's zero-tolerance policy for all forms of sexual abuse, the right of detainees and staff to be free from sexual abuse, definitions and examples of prohibited and illegal behavior, dynamics of sexual abuse and assault in confinement, prohibitions on retaliation against individuals who report sexual abuse, recognition of physical, behavioral, and emotional signs of sexual abuse that may occur, and ways of preventing and responding to such occurrences. These ways include common reactions of sexual abuse victims, how to detect and respond to signs of threatened and actual sexual abuse, prevention, recognition, and appropriate response to allegations or suspicions of sexual abuse involving detainees with mental or physical disabilities, and how to communicate effectively and professionally with victims reporting sexual abuse."

A review of the provided training curriculum, including PowerPoint slides though PALMS e-learning, transcripts from Relias online PREA training, Relias completion of training certificates for five Spectrum Contract staff, and PALMS e-learning completion of training certificates for five ICE staff confirmed that ICE employees and Spectrum contract staff have received both their initial and refresher PREA training as required by the standard. In addition, a review of the Relias online and PALMS e-learning training sites confirms that employee training records as maintained indefinitely. A review of the PAQ and interview with the SDDO/PREA Field Coordinator confirmed that SDDSF does not have volunteers that enter the facility.

**Recommendation (c):** The Auditor recommends that ICE Policy 11062.2 is updated to include the language requiring the maintenance of training records for contractors and volunteers for at least five years.



### **§115.132 – Notification to detainees of the agency’s zero-tolerance policy.**

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

**Notes:**

Policy 11087.1 states, “The FOD shall ensure that key information regarding ICE’s zero-tolerance policy for sexual abuse is visible or continuously and readily available to detainees (e.g., through posters, detainee handbooks, or other written formats).” As confirmed through direct observation, during the facility tour, zero-tolerance and reporting posters provided in English and Spanish are affixed to the walls in each of the holding cells; however, interviews with the AFOD and SDDO/PREA Field Coordinator indicated that other than the information affixed to the wall SDDSF does not provide the detainees with key information, including but not limited to the ICE National Detainee Handbook, regarding the ICE’s zero-tolerance policy for sexual abuse in a manner that detainees who do not speak English or Spanish or who are physically or developmentally disabled can understand. The Auditor also interviewed the one detainee who arrived at SDDSF during the audit. She indicated that she was English speaking, and therefore, understood the postings in the holding cells. In an email received by the AFOD following the onsite audit, the Auditor was advised that the facility contacted the Agency PSA Coordinator to obtain the DHS-prescribed Sexual Abuse and Awareness Information pamphlet to provide to detainees upon intake. The Auditor reviewed the ICE website, [www.ice.gov](http://www.ice.gov), and confirmed the zero-tolerance information is available to the public.

**Does Not Meet:** The facility is not in compliance with standard 115.32. During the onsite tour, the Auditor confirmed through interviews, and observation, that the information provided to the detainee regarding the Agency’s zero-tolerance for sexual abuse was only available to those detainees who spoke English or Spanish and not to those detainees who spoke a different language or who was physically and/or developmentally disabled. Following the onsite audit, the Auditor received a copy of an email from the AFOD, directed to the Agency PSA Coordinator, requesting copies of the DHS-prescribed Sexual Abuse Awareness pamphlets to distribute to detainees upon intake; however, the practice had not been initiated prior to the completion of this report. To become compliant the facility must institute a practice that provides all detainees with key PREA information regarding the Agency’s zero-tolerance policy, including detainees whose preferred language is other than English or Spanish, and are either developmentally or physically disabled. In addition, the facility must train all intake staff on the new practice and document the training. The facility must also provide the Auditor with documentation that the new practice has been initiated.

### **§115.134 - 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 11062.21 states, “OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as Office of Detention Oversight staff, and other OPR staff, as appropriate. The training should cover, at a minimum, interviewing sexual abuse and assault victims, sexual abuse, and assault evidence collection in confinement settings, the criteria, and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process.” The Agency offers another level of training, the Fact Finders Training, which provides information needed to conduct the initial investigation at the facility to determine if an incident has taken place or to complete the administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP; LGBTI, and disabled residents; and an overall view of the investigative process. The Agency provides rosters of trained investigators on OPR’s SharePoint site for Auditors’ review; this documentation is in accordance with the standard’s requirement. Interviews with the AFOD, and SDDO/PREA Field Coordinator, confirm that SDDSF does not conduct sexual abuse allegation investigations. According to the AFOD, and SDDO/PREA Field Coordinator all investigations are referred to ICE OPR and the SDPD for investigation. In addition, the AFOD reported that upon conclusion of the criminal investigation OPR investigators, will be assigned to conduct an administrative investigation if necessary.

The Auditor reviewed the one investigative file that occurred during the audit period, and determined, the investigation was completed by the SDPD and reviewed by an Agency trained investigator who concluded an administrative investigation was not necessary.

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

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

**Notes:**

(a): Policy 11062.2 states, “The FOD should ensure that before placing detainees together in a hold room, there shall be consideration of whether a detainee may be at a high risk of being sexually abused and when appropriate, shall take necessary steps to mitigate any such danger to the detainee.” During the facility tour, the Auditor was provided a comprehensive review of the intake screening process including the ICE Custody Classification Work Sheets. In addition, to reviewing the intake screening process documents, and ICE Classification Work Sheets, the Auditor reviewed a section of the HFSAT which questioned, “Please provide, in detail, the considerations taken into account for the sexual victimization risk assessment before placing detainees together in a hold room cell.” The review further indicated that the facility responded with “LGBTQ+, Mental illness/cognitive disability, physical disability, history of sexual abuse, and college educated or above.” In an interview with the Spectrum contract Captain, it was indicated that when the detainee arrives at the facility, Spectrum contract DOs ask the detainee questions regarding his/her current medical status and then the detainee is placed in a holding cell until he/she can be interviewed by ICE staff, which could take up to 45 minutes or more. The Spectrum Contract Captain further indicated that Spectrum contract staff consider all available information prior to placing the detainee in a holding cell; however, the Auditor observed during the intake process that Spectrum contract staff only had access to the

information passed on by the transport officer and the medical questions asked at intake, thus confirming the facility does not consider mental illness/cognitive disability, physical disability, history of sexual abuse, and college educated or above as they indicated on the HFSAT. The Auditor further confirmed, by observation, that during the intake process of a transgender detainee, she was asked the medical questions and then placed in a holding cell by herself. It should be noted that there were no other detainees at SDDSF when the transgender detainee was processed in.

**Recommendation:** The Auditor recommends that prior to placing a detainee in a holding cell, that Spectrum contract staff take into consideration all elements the facility lists on the HFSAT to remain compliant with their HFSAT.

b): Policy 11062.2 states, "The FOD shall ensure that detainees who may be held overnight with other detainees are assessed to determine their risk of being either sexually abused or sexually abusive, to include being asked about their concerns for their physical safety." According to the interviews with the AFOD, SDDO/PREA Field Coordinator, Spectrum Contract Captain, and random ICE and Spectrum Contract DOs the facility does not house detainees overnight.

c): Agency Policy 11087.1 states, "The FOD shall ensure that the following criteria are considered in assessing detainees for risk of sexual victimization, to the extent that the information is available: whether the detainee has a mental, physical, or developmental disability, the age of the detainee, the physical build and appearance of the detainee, whether the detainee has previously been incarcerated or detained, the nature of the detainee's criminal history, whether the detainee has any convictions for sex offenses, whether the detainee has self-identified as LGBTQI or gender nonconforming, whether the detainee has self-identified as previously experiencing sexual victimization, and the detainee's own concerns about his or her physical safety."

An interview with an ICE DO indicated that as most of the detainees processed at the SDDSF are arriving from other facilities, the ICE Custody Classification Work Sheet is completed prior to arrival. The accompanying screening work sheet is reviewed for any "flags" that are available in the detainee's records. He further indicated that the "flags" are not specific, and therefore, a history of sexual victimization may not be apparent. In addition, to reviewing the intake screening process documents and ICE Classification Work Sheets, the Auditor reviewed a section of the HFSAT which questioned "Please provide, in detail, the considerations taken into account for the sexual victimization risk assessment before placing detainees together in a hold room cell." The review further indicated that the facility responded with "LGBTQ+, Mental illness/cognitive disability, physical disability, history of sexual abuse, and college educated or above" thus confirming the facility does not take into account the age of the detainee, the physical build of the detainee, whether the detainee has previously been incarcerated or detained, the nature of the detainee's criminal history, whether the detainee has any convictions for sex offenses against an adult or child, or the detainees own concerns about his or her physical safety, as required by policy 11087.1 and subpart (c) of the standard. During the onsite audit, the facility processed a transgender detainee through the intake screening and based on her physical appearance placed her in a cell by herself. Following the intake process, the Auditor interviewed the detainee and confirmed that although both ICE and Spectrum Contract staff had available information regarding the detainee's sexual identity, they did not confirm through interview whether the detainee self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming. According to the detainee, staff "just assumed" she was transgender. It should be noted that there were no other detainees being process at SDDSF with the transgender detainee.

**Does Not Meet (c):** The facility is not in compliance with subpart (c) of the standard. Subpart (c) and Agency Policy 11087.1 require, "The FOD shall ensure that the following criteria are considered in assessing detainees for risk of sexual victimization, to the extent that the information is available: whether the detainee has a mental, physical, or developmental disability, the age of the detainee, the physical build and appearance of the detainee, whether the detainee has previously been incarcerated or detained, the nature of the detainee's criminal history, whether the detainee has any convictions for sex offenses, whether the detainee has self-identified as LGBTQI or gender nonconforming, whether the detainee has self-identified as previously experiencing sexual victimization, and the detainee's own concerns about his or her physical safety." Although the facility confirmed through response on their HFSAT that they consider LGBTQ+, Mental illness/cognitive disability, physical disability, a history of sexual abuse, and Agency Policy 11087.1, following the intake process, the Auditor interviewed a transgender detainee and confirmed that although both ICE and Spectrum contract staff had available information regarding the detainee's sexual identity, they did not confirm through interview whether the detainee self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming as required by subpart (c)(7) of the standard. To become compliant, the facility must train all ICE and Spectrum Contract staff on the requirements of subpart (c) of the standard. In addition, the facility must document that the required training was conducted.

(d): Policy 11087.1 states, "For detainees identified as being at high risk for victimization, the FOD shall provide heightened protection, including continuous direct sight and sound supervision, single-housing, or placement in a hold room actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is feasible."

Interviews with ICE, and Spectrum contract DOs, confirmed if there is any affirmative identification of a detainee being a sexual abuse victim or abuser, they are placed in a holding room by themselves. If a single holding room would not be available, the Spectrum contract staff would maintain a constant visual of the holding cell the detainee victim or abuser was detained in. There was one transgender processed into SDDSF during the onsite audit. The Auditor observed that the detainee was placed in a holding cell by herself.

(e): Policy 11087.1 requires "all holding facilities to place strict controls on regarding the dissemination of sensitive information detainees provided during the screening procedures." Interviews with the AFOD, SDDO/PREA Field Coordinator, Spectrum contract Captain, and random ICE and Spectrum contract DOs confirmed the facility has implemented appropriate controls on the dissemination of sensitive information provided by detainees during the risk screening.

#### **§115.151 - Detainee reporting.**

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

##### **Notes:**

(a)(b)(c): Policy 11087.1 states, "The FOD shall ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse, retaliation for reporting sexual abuse, or violations of responsibilities that may have contributed to such incidents to ERO personnel," and, "the FOD shall also implement procedures for ERO personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports, and that the FOD shall ensure that detainees are provided with instructions on how they can contact the DHS/Office of the Inspector General (OIG) or as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse to agency officials. Also, to confidentially, and if desired, anonymously, report these incidents."

Interviews with Spectrum contract staff indicated ICE staff provides the detainee with Consulate contact information during ICE's portion of the intake processing. Interviews with ICE DOs and Spectrum Contract DOs confirmed that they would accept reports of sexual abuse, retaliation for reporting sexual abuse, and staff neglect that may have contributed to the abuse in writing, verbally, anonymously, and from third parties and that they would immediately forward any reported detainee allegations to the SDDO on duty.

During the onsite audit, the Auditor confirmed that holding cells contain posters, in both English and Spanish, with information in which detainees can report to the DHS OIG. The Auditor further confirmed that the posted information did not contain information as to how the detainee can report to a private entity or office that is not part of the Agency in a language other than English or Spanish. The Auditor attempted to call the DHS OIG Hotline, and the listed # number, through the Talton Communications phone system and confirmed that all calls made required the detainee to state their name.

**Does Not Meet (a)(b):** The facility is not in compliance with subparts (a) and (b) of the standard. The Auditor attempted to contact the DHS OIG and the listed facility number via the Talton Communications phone system and confirmed that the detainee is required to state their name to complete any attempted phone call.

**Recommendation (a):** The Auditor recommends that the facility provide the reporting information in languages other than English and Spanish, and in a way for the physically and developmentally disabled detainee to understand.

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

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

##### **Notes:**

Policy 11087.1 states, "The FOD shall also implement procedures for ERO personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports." Through direct observation of holding cell postings, ICE DO and Spectrum contract staff interviews, and by directly visiting the ICE website [www.ice.gov](http://www.ice.gov), it was confirmed that SDDSF has established methods to receive third party reports of sexual abuse. Third parties may report via telephone, or email, using the information located on the website.

#### **§115.161 - 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 11062.2 states, "All ICE employees shall immediately report to a supervisor or a designated official any knowledge, suspicion, or information regarding an incident of sexual abuse of an individual in ICE custody, retaliation against detainees or staff who reported or participated in an investigation about such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation," and "the supervisor, or designated official, shall report the allegation to the FOD or [Special Agent in Charge] SAC, as appropriate. Apart from such reporting, ICE employees shall not reveal any information related to a sexual abuse allegation to anyone other than the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff, or to make medical treatment, investigation, law enforcement, or other security and management decisions." The Agency has also provided a memorandum entitled, "Employee Obligation to Report Corruption and Misconduct," dated November 8, 2021, by Acting Deputy Director (b) (6), (b) (7)(C). This memo reiterates the types of misconduct allegations that employees must report to the JIC, OPR, or the DHS OIG and those types of allegations that should be referred to local management and states, "Employees should report allegations of substantive misconduct or serious mismanagement to the JIC, OPR, or DHS OIG." Listed in this memo as a substantive misconduct is "Physical or sexual abuse of a detainee or anyone else."

The Auditor interviewed three ICE DOs and three Spectrum contract DOs, and each confirmed their responsibility to report any knowledge, suspicion, or information regarding an incident of sexual abuse, retaliation, or staff failure to perform their duties he/she becomes aware of to their immediate supervisor. Staff were also aware of their ability to make a report to the JIC. Staff interviewed



further indicated their knowledge regarding reporting obligations and maintaining confidentiality except when necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff, or to make medical treatment, investigation, law enforcement, or other security and management decisions.

(d): Policy 11062.2 states, "If alleged victim under the age of 18 or determined, after consultation with the relevant [Office of Principal Legal Advisor] OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state or local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section."

It was confirmed during interviews with ICE and Spectrum contract DOs their knowledge and understanding of this provision regarding juveniles and vulnerable adults and reporting allegations of sexual abuse. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and determined that the allegation involved a juvenile detainee. The Auditor was also able to confirm during the review that the case was referred to the Child Abuse Investigative Unit of the SDPD for follow-up.

#### **§115.162 – Agency protection duties.**

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

**Notes:**

The SDDSF provided a written directive, Policy 11062.2, that addresses the requirements of the standard and states in part that "If an ICE employee has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee." Interviews with three ICE DOs and three Spectrum contract DOs confirmed their knowledge and understanding of the requirement to report to their immediate supervisor, separate the detainee from the threat, and place them under direct supervision. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the detainee victim was immediately separated from the alleged perpetrator upon receipt of the allegation.

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

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

**Notes:**

(a)(b)(c)(d): Policy 11062.2 states, "If the alleged assault occurred at a different facility from the one where it was reported, ensure that the administrator at the facility where the assault is alleged to have occurred is notified as soon as possible, but no later than 72 hours after receiving the allegation and document such notification."

The interview with the AFOD confirmed the facility is aware of the requirement to notify the appropriate office of the Agency, or the Administrator of the facility where the alleged abuse occurred, within 72-hours of receiving the allegation. The AFOD further confirmed during his interview that the facility that held the detainee where the abuse occurred, must make all mandatory notifications upon receiving the notice of the allegation, per the mandatory requirements of the standard. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed that the allegation did not involve a detainee from another facility.

#### **§115.164 - Responder duties.**

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

**Notes:**

(a): Policy 11087.1 states, "The FOD shall ensure that upon learning of an allegation that a detainee was sexually abused, the first responder, or his or her supervisor shall; 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, and if the sexual abuse occurred within a time period that still allows for the collection of physical evidence, requests the alleged victim not to take any actions that could destroy physical evidence. These actions would include washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. If the sexual abuse occurred within a time that still allows for the collection of physical evidence, ERO staff would ensure that the alleged abuser does not to take any actions that could destroy physical evidence, including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating." It was confirmed through interviews with three ICE DOs and three Spectrum contract DOs, that they are aware of, and knowledgeable regarding their responsibilities to respond when learning of an allegation of sexual abuse toward a detainee. Both ICE and Spectrum contract DOs were able to explain the steps necessary as a first responder to ensure the safety of a detainee after an allegation of sexual abuse. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed that the first responder separated the detainee victim from the alleged predator as required by the standard. A review of the investigation further confirmed that there were no further standard requirements that needed to be met by the first responder.

(b): Policy 11087.1 states, "If the first responder is not a security staff member, the responder shall request the alleged victim not to take any actions that could destroy physical evidence, and then notify security staff." Per the PAQ, and an interview with the AFOD, SDDSF does not have any non-security contractors or volunteers that have contact with any detainees.

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

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

**Notes:**

(a): Policy 11087.1 states, "The FOD shall ensure a coordinated, multidisciplinary team approach to responding to allegations of sexual abuse occurring in holding facilities or in the course of transit to or from holding facilities, as well as to allegations made by a detainee at a holding facility of sexual abuse that occurred elsewhere in ICE custody."

It was confirmed through interviews with the SDDO/PREA Field Coordinator, six ICE DOs, and six Spectrum contract DOs that they are aware of their responsibilities to respond in conjunction with the facility coordinated response to sexual abuse toward a detainee. When conducting the interviews with the three ICE DOs and the three Spectrum contract DOs, they indicated that they would separate the victim from the abuser, preserve the scene, contact medical personnel, secure the area, and notify a supervisor. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed that the detainee victim was separated from the alleged abuser and cared for by SDDSF staff pending the outcome of the investigation.

(b)(c): Policy 11087.1 requires, "notification to a receiving ICE, or non-ICE facility, where a detainee may be transferred, of the incident and the detainee's need for any on-going medical and/or mental health treatment services." The SDDO/PREA Field Coordinator during interviews confirmed that he was not knowledgeable regarding the requirements of subpart (c) of the standard indicating that if a detainee being transferred was a victim of sexual abuse, SDDSF staff would provide the receiving facility any information regarding the sexual abuse allegation, including the victim's need for any medical or social services follow-up regardless of the detainees request not to have his/her potential need for medical or social services shared with the receiving facility.

**Does Not Meet (c):** Policy 11087.1, as it relates to standard 115.165 is not consistent with the standard. The policy as it relates to the coordinated response protocol does not include "unless the victim requests otherwise." Although the other Agency directive, 11062.2, is compliant with the DHS PREA Standards, if hold rooms are using 11087.1 as their coordinated response protocol, or even a combination of both, then they would be deficient. To become compliant, the Agency must update their written institutional plan to contain the required verbiage as written in 115.165 subpart (c). The facility must provide documented training of applicable staff on the updated written institutional plan. In addition, the facility must provide the Auditor with any investigation, medical, and detainee files regarding any detainee victim of sexual abuse transferred during the CAP period.

### **§115.166 - 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 11062.2 states, "The FOD shall ensure that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring detainee contact pending the outcome of an investigation."

During the interview, the AFOD confirmed both ICE, and Spectrum contract staff, would be removed from any and all duties in which detainee contact was involved pending the outcome of an investigation in accordance with the standard. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed that the allegation did not involve ICE or Spectrum contract staff. Per the PAQ, and interview with the SDDO/PREA Field Coordinator, the facility does not allow volunteers into the facility.

### **§115.167 - Agency protection against retaliation.**

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

**Notes:**

Policy 11062.2 states, "ICE employees shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse or for participating in sexual activity as a result of force, coercion, threats, or fear of force."

The interview with the SDDO/PREA Field Coordinator confirmed that any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual activity as a result of force, coercion, threats, or fear of force would be protected from retaliation. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed that the detainee victim was removed from the facility immediately upon the allegation; and therefore, retaliation monitoring was not required.

### **§115.171 - Criminal and administrative investigations.**

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

**Notes:**

(a): Policy 11062.2 states, "The FOD shall ensure that the facility complies with the investigation mandates established by PBNDS 2011 Standard 2.11, as well as other relevant detention standards and contractual requirements including by conducting a prompt, thorough, and objective investigation by qualified investigators."

The interviews with the AFOD, and SDDO/PREA Field Coordinator, confirmed that all allegations of detainee sexual abuse are referred to ICE OPR, potentially further referred to ICE ERO for action, and the SDPD for investigation. The Auditor reviewed the one sexual

abuse allegation investigation that occurred during the audit period and confirmed the investigation was referred to ICE OPR and a criminal investigation was conducted by the SDPD.

(b)(c)(d): Policy 11062.2 states, "The FOD shall ensure that the facility complies with the investigation mandates established by the Performance-Based National Detention Standards (PBNDS) 2011 2.11, as well as other relevant detention standards." PBNDS 2011 states, "Upon conclusion of a criminal investigation where the allegation was substantiated, or in instances where no criminal investigation has been completed, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Substantiated allegation means an allegation that was investigated and determined to have occurred. Unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether the event occurred. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. The ICE Office of Professional Responsibility will typically be the appropriate investigative office within DHS, as well as the DHS OIG in cases where the DHS OIG is investigating." PBNDS 2011 further states, "The facility shall develop written procedures for administrative investigations, including provisions requiring; preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data, interviewing alleged victims, suspected perpetrators, and witnesses, reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator, assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph, an effort to determine whether actions or failures to act at the facility contributed to the abuse, documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings, and retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years," and, "such procedures shall govern the coordination and sequencing of administrative and criminal investigations, in accordance with the first paragraph of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation." In an interview with the SDDO/PREA Field Coordinator, it was confirmed that if a sexual abuse allegation were reported it would immediately be referred to ICE OPR for investigation. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was unsubstantiated. In addition, the review confirmed that the allegation was referred to ICE OPR, who upon the conclusion of the criminal investigation reviewed the investigation report and determined, after consultation with the SDPD, that an administrative investigation was not necessary.

(e): Policy 11062.2 dictates that "The facility fully cooperates with any outside agency investigating and endeavor to remain informed about the progress of the investigation."

The interview with the AFOD confirmed that the facility would fully cooperate with any outside agency as required by this policy. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the facility fully cooperated with the SDPD during their investigation.

#### **§115.172 - 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 11062.2 states, "The OPR shall conduct either an OPR review or investigation, in accordance with OPR policies and procedures. Administrative investigations impose no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse." Since the ICE OPR determined an administrative investigation was unnecessary on the one case investigated during the audit period, there was no investigation to review to determine compliance; therefore, compliance is determined based on agency policy.

#### **§115.176 - Disciplinary sanctions for staff.**

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

#### **Notes:**

(a)(c)(d): Policy 11062.2 states, "Upon receiving a notification from a FOD, or Special Agent in Charge (SAC), of the removal or resignation in lieu of removal of staff violating agency or facility sexual abuse and assault policies, the OPR will report that information to the appropriate law enforcement agencies unless the activity was clearly not criminal and make reasonable efforts to report that information to any relevant licensing bodies, to the extent known."

The interview with the AFOD confirmed there were no staff resignation, termination, or discipline for violating the Agency's policy on sexual abuse during the audit period. In addition, the AFOD stated staff would be removed from Federal service for substantiated allegations of sexual abuse or for violating agency sexual abuse policies and that the facility would report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to the SDPD unless the allegation was clearly not criminal. In addition, the AFOD reported that, if known, the facility would report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse to any relevant licensing bodies. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation did not involve a SDDSF staff person.

### **§115.177 - 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): Policy 11062.2 states, "The FOD shall ensure that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring contact with detainees pending the outcome of an investigation."

In an interview, the AFOD confirmed should an allegation of sexual abuse involve a Spectrum contract staff, the facility would remove the Spectrum contract staff from all duties involving detainee contact until the outcome on the investigation. The AFOD also confirmed that the facility would immediately contact the ICE OPR and the JIC and report the allegation to the SDPD for investigation. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation did not involve a SDDSF Spectrum contract employee. Per the PAQ, and interview with the AFOD, volunteers are not allowed in SDDSF.

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

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

**Notes:**

(a)(b): Policy 11087.1 states, "The FOD shall ensure that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. The FOD shall coordinate with ERO HQ, and the Agency PSA Coordinator, in utilizing, to the extent available, any community resources and services that provide expertise and support in the areas of crisis intervention and counseling to address the victims' needs." Policy 11087.1 further states, "Victims of sexual abuse shall be provided emergency medical and mental health services and any ongoing care necessary. All treatment services, both emergency and ongoing, shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident."

The interview with the AFOD, and SDDO/PREA Field Coordinator, could not confirm that a detainee alleging sexual abuse and in need of emergency care would be taken to a specific hospital. Therefore, the Auditor could not confirm that the facility ensures that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care or that the treatment services, both emergency and ongoing, will be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation did not require the facility to transport the detainee victim to an outside hospital.

**Does Not Meet (a)(b):** The facility is not compliant with subparts (a) and (b) of the standard. The interview with the AFOD, and SDDO/PREA Field Coordinator, could not confirm that a detainee alleging sexual abuse and in need of emergency care would be taken to a specific hospital. Therefore, the Auditor could not confirm that the facility would be able to comply with the requirements in subparts (a) and (b) of the standard should they need to. To become compliant, the facility must identify a local hospital to provide detainee victims of sexual abuse or assault with timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care and that the treatment services, both emergency and ongoing, will be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. In addition, the facility must provide documented training to all applicable staff regarding their responsibility to provide the detainee victim with all requirements of the standard. The facility must also provide the Auditor, if applicable, with any investigative files where the detainee victim was transported to an outside hospital following an incident of sexual abuse to confirm compliance with subparts (a) and (b) of the standard.

### **§115.186 – Sexual abuse incident reviews.**

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

**Notes:**

(a): Policy 11087.1 states, "A sexual abuse and assault incident review shall be conducted at the conclusion of every investigation of sexual abuse or assault occurring at a holding facility and unless the allegation was determined to be unfounded, a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse and assault. Such review shall ordinarily occur within 30 days of the EROs receipt of the investigation results from the investigating authority. The FOD shall implement the recommendations for improvement, or shall document its reasons for not doing so, in written justification. Both the report and justification shall be forwarded to the Agency PSA Coordinator."

The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the allegation was determined to be unsubstantiated and an incident review was not conducted. During the interview with the SDDO/PREA Field Coordinator, it was further confirmed that an incident review report and recommendations, if any, was not conducted following the

outcome of the one sexual abuse allegation reported during the audit period. As no report was prepared, no report was forwarded to the Agency PSA Coordinator as required by subpart (a) of the standard as well.

**Does Not Meet (a):** The facility does not meet subpart (a) of the standard. During the interview with the SDDO/PREA Field Coordinator, and review of the one sexual abuse allegation investigation reported during the audit period, it was confirmed that an incident review report and recommendations, if any, was not conducted following the outcome of the investigation. As no report was prepared, no report was forwarded to the Agency PSA Coordinator. To become compliant, the facility must update their practice to include conducting an incident review at the conclusion of all allegations of sexual abuse and to prepare a report for all allegations that are not determined to be unfounded. In addition, the new practice must include implementing any recommendations received from the review or document its reasons for not doing so in a written response. The facility must also initiate a practice of forwarding both the report and response to the Agency PSA Coordinator. The facility must document that all applicable staff involved in the incident review are trained in the new practice. A Sexual Abuse Incident Review must be conducted on the one case that occurred within the Audit period, prepare a written report in accordance with the requirements of this standard, and provide the report to the agency PSA Coordinator. Documentation of these actions must be provided to the Auditor for compliance review. Additionally, the facility must supply the Auditor with any detainee investigative files that occur during the CAP period, in conjunction with the corresponding incident review form. The facility must provide to the Auditor documentation to confirm the review, and the report was forwarded to the Agency PSA Coordinator, to confirm the new practice has been initiated.

#### **§115.187 – Data collection.**

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

**Notes:**

(a): Policy 11062.2 states, "Data collected pursuant to this Directive shall be securely retained in accordance with agency record retention policies and the agency protocol regarding investigation of allegations, (see PBNDS 2011, section 2.11 page 142). All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise," and, "investigative files would be retained at the OPR Headquarters in the Agency's online case management system (JICMS)."

In an interview with the AFOD, it was confirmed that all investigative files are maintained by ICE OPR. The Auditor reviewed the one sexual abuse allegation investigation that occurred during the audit period and confirmed the availability of the report in JICMS.

#### **§115.193 – Audits of standards.**

**Outcome:** Not Low Risk

**Notes:**

The PREA Audit at the SDDSF was the second audit for this facility. After a careful review, it was determined that the facility is not in compliance with 11 of the standards, and therefore not in compliance with the DHS PREA Standards. SDDSF only holds detainees up to 6 hours, and there has been only one allegation of sexual abuse between May 25, 2017, through May 4, 2022, however, the Auditor must take into consideration the areas of non-compliance which include both policy and procedural issues. Therefore, the Auditor has determined that the facility is not low risk.

#### **§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)(i): The facility meets the standard provisions. The Auditor was given access to and observed all areas of the facility. The Auditor received all requested documents and copies of relevant materials. At the time of the onsite audit there was one detainee processed at SDDSF and the Auditor was allowed to interview the detainee in a private setting.

(e): The Auditor was provided with all relevant documents required to conduct a thorough PREA compliance audit of the SDDSF.

(j): Audit notices were posted in each holding tank, and individual holding cells, giving the detainees an opportunity to confidentiality correspond with the Auditor should they desire. The Auditor did not receive any correspondence from staff, contractors, or detainees at the SDDSF.

### **AUDITOR CERTIFICATION**

Update Audit Findings Outcome Counts by Clicking Button:

**Update Outcome Summary**

<b>SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)</b>	
<b>Number of standards exceeded:</b>	0
<b>Number of standards met:</b>	19
<b>Number of standards not met:</b>	10
<b>Number of standards N/A:</b>	1

<b>Number of standard outcomes not selected (out of 31):</b>	0
<b>Facility Risk Level:</b>	Not Low Risk

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.

*Sabina Kaplan*

6/20/2022

**Auditor's Signature & Date**

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

6/22/2022

**Program Manager's Signature & Date**

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

5/25/2022

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