

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



**Homeland  
Security**

**AUDITOR INFORMATION**

<b>Name of auditor:</b>	Jodi Upshaw	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</b>	(409) 866-(b) (6), (b) (7)(C)

**PROGRAM MANAGER INFORMATION**

<b>Name of PM:</b>	(b) (6), (b) (7)(C)	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</b>	(409) 866-(b) (6), (b) (7)(C)

**AGENCY INFORMATION**

<b>Name of agency:</b>	U.S. Immigration and Customs Enforcement (ICE)
------------------------	--

**FIELD OFFICE INFORMATION**

<b>Name of Field Office:</b>	St. Paul
<b>Field Office Director:</b>	Peter Berg
<b>ERO PREA Field Coordinator:</b>	(b) (6), (b) (7)(C)
<b>Field Office HQ physical address:</b>	1 Federal Drive, Suite 1640 Fort Snelling, MN 55111

**INFORMATION ABOUT THE FACILITY BEING AUDITED**

**Basic Information About the Facility**

<b>Name of facility:</b>	Sherburne County Jail
<b>Physical address:</b>	13880 Business Center Drive Elk River, Minnesota 55330
<b>Telephone number:</b>	(763) 765-3844
<b>Facility type:</b>	Intergovernmental Service Agreement
<b>PREA Incorporation Date:</b>	6/17/2020

<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Jail Commander
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</b>	(763) 765-(b) (6), (b) (7)(C)
<b>Name of PSA Compliance Manager:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	PSA Compliance Manager
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</b>	(763) 765-(b) (6), (b) (7)(C)

**FINAL DETERMINATION**

## **SUMMARY OF AUDIT FINDINGS**

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

During the audit, the Auditor found Sherburne County Jail met 35 standards, had 0 standards that exceeded, had 1 standard that was non-applicable, and had 5 non-compliant standards. As a result of the facility being out of compliance with 5 standards, the facility entered into a 180-day corrective action period which began on August 9, 2023, and ended on February 5, 2024. 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.

The facility submitted documentation, through the Agency, for the CAP on August 28, 2023, through January 25, 2024. The Auditor reviewed the CAP and provided responses to the proposed corrective actions. The Auditor reviewed the final documentation submitted on January 29, 2024. After review of the submitted documentation utilized to demonstrate compliance with the deficient standards the Auditor determined compliance with all five previously deficient standards.

### **Number of Standards Initially Not Met: 5**

- §115.13 - Detainee supervision and monitoring
- §115.15 - Limits to cross-gender viewing and searches
- §115.22 - Policies to ensure investigation of allegations and appropriate agency oversight
- §115.31 - Staff Training
- §115.67 - Agency protection against retaliation

### **Number of Standards Exceeded: 0**

### **Number of Standards Met: 5**

- §115.13 - Detainee supervision and monitoring
- §115.15 - Limits to cross-gender viewing and searches
- §115.22 - Policies to ensure investigation of allegations and appropriate agency oversight
- §115.31 - Staff Training
- §115.67 - Agency protection against retaliation

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

## PROVISIONS

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

### §115.13 - Detainee supervision and monitoring

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

**Notes:**

(a)(b)(c)(d): SCJ PREA mandates, "The PREA Coordinator will develop a staffing plan that provides adequate levels of staffing and, where applicable, video monitoring, to protect inmates/detainees from sexual abuse. The staffing plan will be reviewed no less than once per year. In circumstances where the staffing plan is not complied with, deviations and the reason(s) for deviations from the staffing plan will be documented. In determining adequate levels of inmate/detainee supervision and determining the need for video monitoring, generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of the facility, the composition of the inmate/detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time inmates/detainees spend in agency custody, will be taken into consideration. During their shift, Jail Sergeants shall conduct unannounced security inspections in housing units located in the zone they have been assigned to. These inspections are conducted on day shifts, as well as night shifts, and are meant to identify and deter staff and inmate/detainee sexual abuse and sexual harassment. Staff are prohibited from alerting other staff members that these security inspections are occurring unless such announcement is related to the legitimate operational functions of the facility." A review of the facility PAQ indicated SCJ has a total of 141 security staff, consisting of 104 males and 37 females, that may have recurring contact with detainees. The remaining staff consists of support personnel in administration, maintenance, and food service. The facility staffing also includes 32 medical and mental health contract staff employed by Wellpath. During the onsite audit, SCJ custody staff were working two 8-hour shifts: 6:00 a.m. - 2:30 p.m. and 2:00 p.m. - 10:30 p.m. or two 12-hour shifts: 6:30 a.m. - 6:30 p.m. and 6:30 p.m. - 6:30 a.m. The Auditor observed appropriate staffing levels in the booking/intake area and housing units during the onsite. There are a total of (b) (7)(E) strategically located throughout the facility. Video cameras operate 24/7 and have pan, zoom, and tilt, (PTZ) functionality, but do not record sound. Cameras are continuously monitored by staff members assigned to the (b) (7)(E). Video feed can be observed in (b) (7)(E) and on the computers of the (b) (7)(E). There are cameras located in (b) (7)(E). These camera views contained a digital square gray box at the (b) (7)(E) that adequately blocked viewing of sensitive body parts preventing opposite gender viewing and providing detainees privacy while performing bodily functions. During the on-site tour, the Auditor observed adequate cameras within the (b) (7)(E) and found there were no direct camera views into (b) (7)(E). The facility has developed comprehensive detainee supervision guidelines via the Community Release Housing Unit Officer, Gamma Housing Unit Officer, and Special Housing Unit Officer Post Orders which have been reviewed annually. In 2021 the facility obtained (b) (7)(E) for security staff. An interview with the PSA Compliance Manager confirmed that the facility took into consideration generally accepted detention and correctional practices, judicial findings of inadequacy, the physical layout of the facility, composition of detainee population, review of substantiated and unsubstantiated incidents, the findings and recommendations of prior sexual abuse incident review reports and other relevant factors. The Auditor reviewed a sexual abuse incident review for one unsubstantiated investigative report and

confirmed during the review the facility took into account staffing levels and video monitoring as part of the review. Also during the interview with the PSA Compliance Manager, he indicated the facility does not use a staff-to-detainee ratio and required unannounced security checks are mandated for Jail Sergeants. Interviews with three DOs confirmed that supervisors do conduct rounds and do not alert others when a round is occurring; however, the Auditor reviewed a Sherburne County Activity Log with recorded activity from 04/17/2023 00:00 – 05/01/2023 23:59:59. Review of this log shows that on three days an unannounced round was only conducted on one shift and no unannounced security rounds were logged on two days. An interview with a First-Line Supervisor confirmed the facility has a practice of conducting rounds on each shift but could not confirm that the rounds were to identify and deter sexual abuse of detainees. As a result, the facility is not in compliance with subsection (d) of the standard.

**Corrective Action:**

(d) Although interviews confirmed rounds are being conducted, staff could not articulate that the rounds were to identify and deter sexual abuse of detainees. Also, review of activity logs cannot confirm that unannounced security rounds are being conducted on every shift or completed daily. To become compliant, the facility must implement a practice that requires supervisors to make frequent daily unannounced security inspections on both day and night shifts to identify and deter sexual abuse of detainees. Once implemented the facility must submit documentation to confirm all supervisors were trained in conducting unannounced security inspections for the purpose of identifying and deterring sexual abuse of detainees. In addition, the facility must submit to the Auditor documentation of unannounced security inspections for the purpose of identifying and deterring sexual abuse of detainees for each month of the Corrective Action Plan (CAP) period.

**Corrective Action Taken:**

(d): On August 28, 2023, the facility submitted an Activity Log dated 06/01/2023 to 08/01/2023 for review. On October 1, 2023, the APM/Auditor reviewed Unannounced rounds log printed for the dates 06/01/2023 through 09/23/2023. The facility provided documentation for training Supervisors (signed rosters), which was found in the CAP folder 115.31, indicating 18 employees were trained on making unannounced rounds as required by this standard. The training records were accepted as partial compliance. On December 13, 2023, the facility submitted an Unannounced Rounds security log for November 1, 2023, to December 1, 2023. The documentation provided during the CAP period confirms that unannounced rounds are being conducted frequently on day and night shifts. The facility is now in compliance with provision (d) and is compliant with this standard.

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

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

**Notes:**

(b)(c)(d)(e)(f)(i): SCJ Contraband Control Policy mandates, “Cross-gender pat-down searches of male inmates/detainees shall not be conducted unless, after reasonable diligence, male jail staff is not available at the time the pat-down search is required, or in exigent circumstances. Male staff are prohibited from pat searching female inmates/detainees. All cross-gender pat-down searches shall be documented by using the Guardian RFID system using the code “Cross-Gender Pat Search”. Strip searches shall be conducted by members of the same gender as the inmate/detainee. At least two staff members of the inmate/detainee’s gender shall be present during any strip search. To ensure privacy, strip searches shall take place in a room (b) (7)(E). Staff shall not conduct strip searches without the authorization of a Sergeant or higher-ranking authority. An electronic strip search form shall be completed in the jail management system.” SCJ Contraband Control Policy further mandates, “Staff is prohibited from conducting any type of search of an inmate/detainee for the sole purpose of determining the inmate/detainee’s genital characteristics. Strip searches shall be conducted in a professional manner as not to intentionally offend, insult, humiliate, or agitate inmates/detainees.” The Auditor reviewed a cross gender pat down search log that documents the date, time, detainee name, location, name of the officer conducting the search, and reason for the search. The pat down searches were conducted by a female

officer due to unavailability of a male officer. The facility reported that there have not been any cross gender pat down searches of a female detainee conducted during the audit period. Facility policy prohibits cross gender strip searches or body cavity searches and provided a memorandum that SCJ did not conduct a cross gender strip or body cavity search during the audit period. The Auditor reviewed a blank Strip Search form that would document date, time, detainee name, officer name, reason for search, location, and additional boxes to document reasonable suspicion, items found or other detail. Facility policy additionally prohibits searches or physical examination to determine the genital status of a detainee. Interviews with four DOs confirmed that cross gender pat down searches are not normally conducted due to an adequate ratio of male/female staff members on each shift. All DOs confirmed that should a cross gender pat down be conducted it would be documented. Interviews with four DOs further confirmed that staff were aware of proper procedures for conducting pat down searches, that cross gender strip or body cavity searches are not allowed, and all confirmed that they would not search a detainee for the sole purpose of determining the detainee's genital status and understood this practice is prohibited. Interviews with Medical staff confirmed that they have not had an instance of a detainee's gender being unknown; however, should an exam be necessary, it would be conducted by medical personnel. The facility does not house juvenile detainees.

(g): SCJ Cross-Gender Supervision Policy mandates, "Inmates/Detainees can 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 welfare checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. Staff of the opposite gender as an inmate/detainee entering a housing unit, or any other area where an inmate/detainee is likely to be showering, performing bodily functions, or changing clothes must announce their presence upon entry." During the onsite review the Auditor observed staff of the opposite gender announce their presence upon entry in the housing units. Interviews with four DOs confirmed that they are aware of this policy, and all stated they announce their presence as required. Interviews with two detainees further confirmed opposite gender staff announcing their presence when they entered the housing unit; however, both stated it was hard for them to hear sometimes.

(h): SCJ is not designated as a Family Resident Center; therefore, provision (h) is not applicable.

(j): The Auditor reviewed the Shakedowns and Cell Searches curriculum. This training includes instruction on pat down searches and cross gender pat searches. The training does not include instruction on proper procedures for searches of transgender and intersex detainees. Staff are trained to conduct pat down searches in a professional and respectful manner in the least intrusive manner. Staff are further instructed that cross gender pat down searches of male detainees is not allowed unless male staff is not available or in exigent circumstances. Interview with the TO revealed that training is conducted in the most realistic method possible. Review of seven security staff files confirmed that training utilizing the Shakedowns and Cell Searches curriculum was completed. The Auditor reviewed a video of staff conducting a pat search on the last detainee processed into the facility and confirmed that this was conducted in a professional and respectful manner by staff of the same gender as the detainee. Because the Shakedown and Cell Searches curriculum does not provide training on cross gender pat down searches or searches of transgender and intersex detainees the facility is non-compliant with subsection (j).

**Corrective Action:**

(j): The Shakedown and Cell Searches curriculum does not provide training on searches of transgender and intersex detainees. In order to become compliant, the facility must include training on searches of transgender and intersex detainees. All staff must be trained on these procedures and documentation of this training must be provided to the Auditor for compliance review once completed.

**Corrective Action Taken:**

(j): On October 1, 2023, the APM/Auditor reviewed the facility’s revised training curriculum on searches which now includes instructions for staff regarding searches of transgender and intersex detainees. On November 2, 2023, the Auditor reviewed a completed sign in sheet for the revised training indicated staff have been trained. The facility is now in compliance with provision (j) and is compliant with this standard.

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

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

**Notes:**

(a)(b)(c)(d)(e)(f): SCJ PREA mandates, “An investigation is conducted and documented for all allegations of sexual abuse and sexual harassment. Allegations of sexual abuse or sexual harassment are referred for investigation to the Sherburne County Sheriff’s Office Investigations Division unless the allegation does not involve potentially criminal behavior. All reports and referrals of allegations of sexual abuse and sexual harassment shall be documented and maintained for a minimum of five years. The PREA Coordinator shall ensure that protocols describing the responsibilities of the facility and any other investigative entities are posted on the Sherburne County Sheriff’s Office website. When an inmate/detainee of the facility in which an alleged ICE detainee victim is housed is alleged to be the perpetrator of ICE detainee sexual abuse, the Jail Commander shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility, or the DHS Office of the Inspector General, as well as the local ICE Field Office Director, and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation. When a staff member, contractor, or volunteer is alleged to be the perpetrator of sexual abuse of an ICE detainee, the Jail Commander shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility, or the DHS Office of Inspector General, as well as to the appropriate ICE Field Office Director, and to the Sheriff.” A review of Agency policy and SCJ PREA confirm that there is established protocol to ensure all allegations of sexual abuse is investigated by the agency or facility or referred to an appropriate investigative authority. In addition, an administrative or criminal investigation is completed for all allegations of sexual abuse. The Auditor reviewed the facility’s website, <https://www.co.sherburne.mn.us/319/Prison-Rape-Elimination-Act-PREA> and the Agency website, [www.ice.gov](http://www.ice.gov) and confirmed that the Agency website includes the Agency’s investigative protocol, and the facility website also includes verbiage that all allegations of sexual abuse will be investigated. The facility website does not include the facility protocols. Interviews with the JC, PSA Compliance Manager, and Investigator indicated that all allegations of sexual abuse would be referred for investigation and that such records will be maintained in hard copy and electronic format indefinitely. Interviews further indicated when a detainee, prisoner, inmate, or resident of the facility where the detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse or staff member, contractor or volunteer is the perpetrator of detainee sexual abuse, the facility will notify the appropriate ICE FOD and appropriate investigative authority unless the allegation does not involve potentially criminal behavior. In an interview with the SDDO it was confirmed he would be notified immediately and would immediately notify the AFOD, who in turn would notify the JIC and ICE OPR or DHS OIG. The facility is out of compliance because the facility’s protocols are not posted on its public website.

**Corrective Action:**

(c): The facility does not post or otherwise make available to the public the facility protocols. In order to become compliant, the facility must post the facility protocols on its website or otherwise make the protocol available to the public and provide documentation to the Auditor that the protocols are available.

**Corrective Action Taken:**

(c): On October 1, 2023, the APM/Auditor reviewed the Sherburne County Sheriff’s Office public website and found that the facility has posted its protocols on its public website in accordance with the requirements of this standard. The facility is now in compliance with provision (c) and is compliant with this standard.

### **§115.31 - Staff Training**

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

**Notes:**

(a)(b)(c): SCJ PREA mandates, “All employees who may have contact with inmates/detainees will be trained on: The zero-tolerance policies for all forms of sexual abuse and sexual harassment; The right of inmates/detainees and staff to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse and sexual harassment; Definitions and examples of prohibited and illegal sexual behavior; Recognition of situations where sexual abuse may occur; Recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing and responding to such occurrences; How to avoid inappropriate relationships with inmates/detainees; How to communicate effectively and professionally with inmates/detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates/detainees; Procedures for reporting knowledge or suspicion of sexual abuse and sexual harassment; The requirement to limit reporting of sexual abuse to personnel with a need to-know in order to make decisions concerning the victim’s welfare and for law enforcement or investigative purposes; Instruction that sexual abuse is never an acceptable consequence of detention; Working with vulnerable populations and addressing their potential vulnerability in the general population; The investigation process and how to ensure that evidence is not destroyed; Prevention, recognition, and appropriate response to allegations or suspicions of sexual assault involving inmates/detainees with mental or physical disabilities; and Instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse. All facility staff who may have contact with inmates/detainees will receive this training within their first year of employment and every two years after that. In years in which an employee does not receive refresher training, refresher information on current sexual abuse and sexual harassment policies will be provided. Documentation that staff members that may have contact with inmates/detainees have completed the training will be maintained by the Jail Training Sergeant.” The Auditor reviewed the facility PREA training curriculum which includes: the facility’s zero-tolerance policy, definitions and examples of prohibited and illegal sexual behavior, rights of detainees and staff to be free from sexual abuse and retaliation for reporting sexual abuse, recognition of situations where sexual abuse may occur, recognition of physical, behavioral, and emotional signs of sexual abuse, and how to avoid inappropriate relationships with detainees. However, a review of the facility PREA training curriculum confirmed it does not include the Agency’s zero-tolerance policy; how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; procedures for reporting knowledge or suspicion of sexual abuse; and the requirement to limit reporting of sexual abuse to personnel on a need-to-know basis in order to make decisions concerning the victim’s welfare and for law enforcement or investigative purposes resulting in non-compliance with subsection (a). The Auditor reviewed training transcripts and confirmed staff receive initial training and refresher training every two years as required by subsection (b) of the standard. Interview with the TO confirmed PREA refresher is required annually online, and classroom training is conducted every two years. The TO additionally mandates selected PREA topics monthly that will be completed as an online course. Interviews with four ICE staff confirmed that they have all received training annually and provided training transcripts confirmed the training.

**Corrective Action:**

(a): A review of the facility PREA training curriculum confirmed it does not include the Agency’s zero-tolerance policy; how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; procedures for reporting knowledge or suspicion of sexual abuse; and the requirement to limit reporting of sexual abuse to personnel on a need-to-know basis in order to make decisions concerning the victim’s welfare and for law enforcement or investigative purposes. To become compliant the facility must submit documentation that the facility PREA training curriculum includes all elements of subsection (a) of the standard. In addition, the facility must provide documentation that all staff who have contact with detainees have received training on the updated curriculum.

**Corrective Action Taken:**

(a): On October 5, 2023, the Auditor/APM reviewed the staff training curriculum provided by the facility on September 27, 2023. This curriculum includes the Agency’s zero-tolerance policy (a-1) and the requirement to limit reporting of sexual abuse to personnel with a need-to-know (a-9). On January 17, 2024, the facility submitted a sign in sheet of staff acknowledging training received on December 7th, 8th, and 12th. On January 29, 2024, the facility submitted ICE LGBTI, PREA refresher training slides and a memorandum from the Jail Commander verifying that staff were trained on the updated curriculum. The facility is now in compliance with provision (a) and is compliant with this standard.

**§115.67 - Agency protection against retaliation**

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

**Notes:**

(a)(b)(c): ICE Policy 11062.2 mandates, “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 assault, or for participating in sexual activity as a result of force, coercion, threats, or fear of force.” SCJ PREA mandates, “Staff, contractors, volunteers, and inmates/detainees, shall not retaliate against any person, including an inmate/detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse or sexual harassment, or for participating in sexual activity as a result of force, coercion, threats, or fear of force. Protective measures, including housing changes, transfers, removal of alleged abusers from contact with victims, administrative reassignment or reassignment of the victim or alleged perpetrator to another housing area, and support services for inmates/detainees or staff who fear retaliation shall be utilized. For at least 90 days following a report of sexual abuse, the Jail Commander, or authorized designee, shall assign a supervisor to monitor the conduct and treatment of inmates/detainees or staff who report sexual abuse and of inmates/detainees who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates/detainees or staff, and act promptly to remedy any such retaliation. The assigned supervisor should consider inmate/detainee disciplinary reports, housing or program changes, or negative performance reviews or reassignment of staff members. Monitoring, to include periodic status checks, shall continue beyond 90 days if the initial monitoring indicates a continuing need. The Jail Commander should take reasonable steps to limit the number of people with access to the names of individuals being monitored and should make reasonable efforts to ensure that staff members who pose a threat of retaliation are not entrusted with monitoring responsibilities. If any other individual who cooperates with an investigation expresses a fear of retaliation, the facility shall take reasonable measures to protect that individual against retaliation.” There were no grievances filed for retaliation within the last 12 months for the Auditor to review. SCJ utilizes a Sexual Abuse Retaliation Monitoring form to document retaliation monitoring following a report of sexual abuse. The facility monitors disciplinary reports, program changes, housing changes, performance evaluations and review of staff reassignments with a block to add comments and a box to check if the monitor met with the detainee or staff member in person. The facility provided a completed retaliation monitoring form for the Auditor to review. Interview with the staff member designated to monitor for retaliation also confirmed that monitoring would occur for 90 days. Interviews with the JC, PSA Compliance Manager and four DOs confirmed that the facility does not tolerate retaliation. The Auditor learned that SCJ did not conduct retaliation monitoring on unfounded cases and is found non-compliant with sub-section (c) of this standard.

**Corrective Action:**

(c): Although SCJ is conducting retaliation monitoring now on unfounded cases, previously they did not. In order to become compliant, the facility must provide the Auditor with documentation to show that all reported cases of sexual abuse during the CAP period are being monitored for retaliation.

**Corrective Action Taken:**

(c): On October 5, 2023, January 8, 2024, and January 25, 2024, the facility submitted memoranda that stated there were no new allegations reported to monitor during the CAP period. Based on information provided through interviews during the onsite audit and policy review, the facility is now aware they must conduct retaliation monitoring for all cases including unfounded. Although there were no new cases to review during the CAP period, the Auditor finds the facility compliant with provision (c) and compliant with this standard.

**AUDITOR CERTIFICATION:**

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

*Jodi Upshaw*

2/20/2024

**Auditor's Signature & Date**

2/20/2024

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

**Program Manager's Signature & Date**

2/20/2024

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

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

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



**Homeland  
Security**

**AUDIT DATES**

<b>From:</b>	6/06/2023	<b>To:</b>	6/08/2023
--------------	-----------	------------	-----------

**AUDITOR INFORMATION**

<b>Name of auditor:</b>	Jodi Upshaw	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</b>	409-866-(b) (6), (b) (7)

**PROGRAM MANAGER INFORMATION**

<b>Name of PM:</b>	(b) (6), (b) (7)(C)	<b>Organization:</b>	Creative Corrections, LLC
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</b>	409-866-(b) (6), (b) (7)

**AGENCY INFORMATION**

<b>Name of agency:</b>	U.S. Immigration and Customs Enforcement (ICE)
------------------------	--

**FIELD OFFICE INFORMATION**

<b>Name of Field Office:</b>	St. Paul Field Office
<b>Field Office Director:</b>	Peter Berg
<b>ERO PREA Field Coordinator:</b>	(b) (6), (b) (7)(C)
<b>Field Office HQ physical address:</b>	1 Federal Drive, Suite 1640 Fort Snelling, MN 55111

**INFORMATION ABOUT THE FACILITY BEING AUDITED**

**Basic Information About the Facility**

<b>Name of facility:</b>	Sherburne County Jail
<b>Physical address:</b>	13880 Business Center Drive Elk River Minnesota 55330
<b>Telephone number:</b>	763-765-3844
<b>Facility type:</b>	IGSA
<b>PREA Incorporation Date:</b>	6/17/2020

**Facility Leadership**

<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)	<b>Title:</b> Jail Commander	Officer In Charge (OIC)
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</b>	763-765-(b) (6), (b) (7)
<b>Name of PSA Compliance Manager:</b>	(b) (6), (b) (7)(C)	<b>Title:</b> Jail Sergeant	PSA Compliance Manager
<b>Email address:</b>	(b) (6), (b) (7)(C)	<b>Telephone #:</b>	763-765-(b) (6), (b) (7)

## 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 Sherburne County Jail (SCJ) was conducted June 6, 2023 through June 8, 2023, by U.S. Department of Justice (DOJ) and DHS certified PREA Auditor, Jodi Upshaw employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by the ICE PREA Program Manager (PM), (b) (6), (b) (7)(C) and Assistant Program Manager (APM), (b) (6), (b) (7)(C), both DOJ and DHS certified PREA Auditors. The PM's role is to provide oversight to the ICE PREA auditing process and liaison with the ICE Office of Professional Responsibility (OPR), External Reviews Analysis Unit (ERAU) during the audit report review process. The purpose of the audit was to determine compliance with the DHS PREA standards. SCJ is a county government facility governed by the Sherburne County Sheriff's Office (SCSO) and operates under contract with the DHS ICE, Office of Enforcement and Removal Operations (ERO). The audit period is from June 17, 2020, through June 8, 2023. This is the first DHS PREA audit for SCJ.

The design capacity for the facility is 732. The facility houses adult male and female county inmates, Federal inmates, and ICE detainees with low, medium, and high custody levels. Detainees are comingled with county and other federal inmates depending on classification level. The average daily ICE population for the prior 12 months was 3. The facility reported there were 7 ICE detainees booked into the facility in the last 12 months with an average length of time in custody of 85 days. The current population on the first day of the audit was two. The facility is comprised of one building which includes two female multiple occupancy cell housing units, three male multiple occupancy cell housing units, one protective custody unit and one disciplinary and administrative custody unit. According to the Jail Commander (JC), these are the only units where an ICE detainee would be housed.

Approximately four weeks prior to the audit, the ERAU Team Lead (TL), (b) (6), (b) (7)(C) provided the Auditor with facility policies and other pertinent documents through the ICE SharePoint. The Pre-Audit Questionnaire (PAQ) and supporting documentation was organized with the PREA Pre-Audit Policy and the Document Request DHS Immigration Detentions Facilities form and placed within folders for ease of auditing. The main policy that provides facility direction for SCJ is Policy 14.21 Prison Rape Elimination Act Policy (PREA), which will be referenced throughout the report as "SCJ PREA". All documentation, policies, and the PAQ were reviewed by the Auditor. A tentative daily schedule was provided by the Auditor for interviews with staff and detainees. The Auditor also reviewed the facility's website, <https://www.co.sherburne.mn.us/319/Prison-Rape-Elimination-Act-PREA> and the Agency website, [www.ice.gov](http://www.ice.gov).

The entry briefing was held in the SCJ conference room on June 6, 2023. The ICE ERAU TL opened the briefing. In attendance were:

(b) (6), (b) (7)(C) TL, Inspections and Compliance Specialist (ICS), ICE/OPR/ERAU  
(b) (6), (b) (7)(C) Supervisory Detention and Deportation Officer (SDDO), ERO  
(b) (6), (b) (7)(C) Detention and Deportation Officer (DO), ERO  
(b) (6), (b) (7)(C) OIC/JC, SCSO  
(b) (6), (b) (7)(C) Assistant Jail Administrator, Major, SCSO  
(b) (6), (b) (7)(C) Captain, SCSO  
(b) (6), (b) (7)(C) Sergeant, PSA Compliance Manager, SCSO  
(b) (6), (b) (7)(C) Accreditation Correction Officer, SCSO  
(b) (6), (b) (7)(C) Health Service Administrator, Wellpath

(b) (6), (b) (7)(C) Director of Nursing, Wellpath

(b) (6), (b) (7)(C) Office Manager

Jodi Upshaw, Auditor, Creative Corrections, LLC

The Auditor introduced herself and then provided an overview of the audit process and methodology to be used to demonstrate PREA compliance with those present. The Auditor explained the audit process is designed to not only assess compliance through written policies and procedures but also to determine whether such policies and procedures are reflected in the knowledge of staff at all levels. She further explained compliance with the PREA standards will be determined based on review of policy and procedures, observations made during the facility tour, provided documentation for review, and conducting staff and detainee interviews. No correspondence was received from any detainee, outside individual, or staff member.

At the completion of the entry briefing, the Auditor was provided a complete tour of SCJ which included the sallyport, intake area, medical unit, protective custody unit, administrative and disciplinary unit, master control and housing units. The intake area consists of a close watch cell and two holding cells that included a toilet and sink. There were two interview rooms that could be used as holding cells if needed. There was a change out room that included a toilet and shower area enclosed with a shower curtain. There is a medical office located within the intake area. Outside of the holding cells is an elevated desk for staff and an enclosed office for the intake sergeant. Within each holding cell the Auditor observed the PREA audit notice signs in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese; the DHS-prescribed sexual assault awareness notice in English and Spanish with facility contact name and number; contact information for DHS Office of the Inspector General (OIG); reporting numbers for the ICE Detention and Reporting and Information Line (DRIL); I Speak poster; ICE language flyer; and poster for the Central MN Sexual Assault Center.

During the onsite audit, the Auditor noted sight lines, potential blind spots, and camera locations throughout the (b) (7)(E). There were no detainees processed into SCJ during the onsite audit. The Auditor was able to view the video of a pat search for the last detainee processed into the facility.

SCJ has (b) (7)(E) located throughout all areas of the facility that do not record sound, but have the capability to tilt, pan and zoom. The cameras run 24/7 and video footage is stored for up to 45 days on a server before being over written. The Auditor viewed camera site lines for direct viewing of (b) (6), (b) (7)(C), (b) (6), (b) (7) and (b) (6), (b) (7)(C) and confirmed camera angles provided privacy while a detainee was using the (b) (6), (b) (7)(C). The (b) (6), (b) (7)(C) is the only area in the facility that has cameras located within the (b) (6), (b) (7). Cameras directed at (b) (6), (b) (7)(C) contained a square gray box that provided detainee privacy while performing bodily functions. Every housing unit provided individual showers with an enclosed area for change out and another enclosed area for showering.

The facility has 141 security staff positions, 30 medical, 2 mental health, and the remainder consisting of non-security administrative, management, and support staff. The remaining staff consists of county employed maintenance, and food service contracted through Trinity Services Group. The facility has religious and programming volunteers that could have detainee contact. These programs have recently been reactivated as they were discontinued during the COVID Pandemic. ICE staff come to the facility once a week.

The Auditor was provided with a staff and detainee rosters for a random selection of formal interviews. The Auditor interviewed 25 staff members which consisted of the JC, the PSA Compliance Manager, Medical Nurse (3), Mental Health staff (1), Human Resources (HR) staff (2), Investigative staff (1), Training Officer (TO) (1), Grievance Officer (GO) (1), Retaliation Monitor (1), Classification staff (2), Intake staff (1), custody first-responders (2), and Detention Officers (DOs) (4). In addition, the Auditor interviewed four ICE staff consisting of the SDDO(A) and three DOs. There were two detainees housed at the facility during the audit

and both were interviewed.

The facility PAQ reported there are 17 facility investigators that have received specialized training on sexual abuse. There were four allegations of sexual abuse reported at SCJ during the audit period; one inmate on detainee, one detainee on detainee and two staff on detainee allegations. The two allegations involving staff were unfounded and the other two were unsubstantiated.

On June 8, 2023, an exit briefing was held in the conference room. The ICE/OPR/ERAU TL opened the briefing. In attendance were:

(b) (6), (b) (7)(C) TL, ICS, ICE/OPR/ERAU  
(b) (6), (b) (7)(C) ICS, ICE/OPR/ERAU, via telephone  
(b) (6), (b) (7)(C) DDO, ERO, via telephone  
(b) (6), (b) (7)(C) DO, ERO  
(b) (6), (b) (7)(C) ICE, Contract Officer Representative (COR), via telephone  
(b) (6), (b) (7)(C) Sheriff, SCSO  
(b) (6), (b) (7)(C) JC, SCSO  
(b) (6), (b) (7)(C) Assistant Jail Administrator, Major, SCSO  
(b) (6), (b) (7)(C) Sergeant, PSA Compliance Manager, SCSO  
(b) (6), (b) (7)(C) Accreditation Correction Officer, SCSO  
(b) (6), (b) (7)(C) Health Service Administrator, Wellpath  
(b) (6), (b) (7)(C) Director of Nursing, Wellpath  
(b) (6), (b) (7)(C) Office Manager  
(b) (6), (b) (7)(C) APM, Creative Corrections, LLC, via telephone  
Jodi Upshaw, Auditor, Creative Corrections, LLC

The Auditor spoke briefly about non-compliance in the area of detainee assessment for risk of sexual victimization and abusiveness. The Auditor informed those in attendance that final compliance determinations could not be made until a review of documentation, site review notes, and interviews were compiled. The Auditor recognized the facility for their hard work in preparing for the audit and thanked those in attendance for their cooperation.

## 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: 35**

- §115.11 - Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator
- §115.16 - Accommodating detainees with disabilities and detainees who are limited English proficient
- §115.17 - Hiring and promotion decisions
- §115.18 - Upgrades to facilities and technologies
- §115.21 - Evidence protocols and forensic medical examinations
- §115.32 - Other Training
- §115.33 - Detainee Education
- §115.34 - Specialized training: Investigations
- §115.35 - Specialized training: Medical and mental health care
- §115.41 - Assessment for risk of victimization and abusiveness
- §115.42 - Use of assessment information
- §115.43 - Protective Custody
- §115.51 - Detainee Reporting
- §115.52 - Grievances
- §115.53 - Detainee access to outside confidential support services
- §115.54 - Third-party reporting
- §115.61 - Staff and Agency Reporting Duties
- §115.62 - Protection Duties
- §115.63 - Reporting to other Confinement Facilities
- §115.64 - Responder Duties
- §115.65 - Coordinated Response
- §115.66 - Protection of detainees from contact with alleged abusers
- §115.68 - Post-allegation protective custody
- §115.71 - Criminal and administrative investigations
- §115.72 - Evidentiary standard for administrative investigations
- §115.73 - Reporting to detainees
- §115.76 - Disciplinary sanctions for staff
- §115.77 - Corrective action for contractors and volunteers
- §115.78 - Disciplinary sanctions for detainees
- §115.81 - Medical and mental health screening; history of sexual abuse
- §115.82 - Access to emergency medical and mental health services
- §115.83 - Ongoing medical and mental health care for sexual abuse victims and abusers
- §115.86 - Sexual abuse incident review
- §115.87 - Data collection
- §115.201 - Scope of Audit

**Number of Standards Not Met: 5**

- §115.13 - Detainee supervision and monitoring
- §115.15 - Limits to cross-gender viewing and searches
- §115.22 - Policies to ensure investigation of allegations and appropriate agency oversight
- §115.31 - Staff Training
- §115.67 - Agency protection against retaliation

**Number of Standards Not Applicable: 1**

- §115.14 - Juvenile and family detainees

## PROVISIONS

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

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

**Outcome:** Meets Standard

**Notes:**

(c)(d) SCJ PREA mandates, "The Sherburne County Jail has zero tolerance toward all forms of sexual abuse and sexual harassment. It is the policy of the facility to provide a safe and secure environment for all inmates/detainees, staff members, contractors, and volunteers, free from the threat of sexual abuse or sexual harassment. Effective procedures for preventing, reporting, responding to, investigating, and tracking incidents or allegations of sexual abuse and sexual harassment have been established." SCJ PREA further mandates, "The Jail Commander shall appoint a PREA Coordinator who has sufficient time and authority to oversee facility efforts to comply with facility sexual abuse and assault prevention and intervention policies and procedures."

During the onsite tour the Auditor observed the DHS sexual assault awareness notice in the holding cells, intake area and housing units in English and Spanish. The Auditor also observed the facility and Agency zero-tolerance policy in the facility and ICE National Detainee handbook. The facility has appointed and does employ a PSA Compliance Manager who serves as the facility point of contact for the agency PSA Coordinator. The Auditor reviewed the organizational chart and observed the PSA Compliance Manager reports to the Captain, Assistant Jail Administrator, Jail Administrator and then to the Jail Commander. Interview with the PSA Compliance Manager confirms that he is the point of contact for the facility and Agency PSA Coordinator. In addition, the PSA Compliance Manager confirmed he has sufficient time and the authority to oversee facility efforts to comply with facility sexual abuse prevention and intervention policies and procedures. Interviews with four random DOs confirmed all were aware of the facility and Agency zero-tolerance policy toward all forms of sexual abuse. Interviews with three medical staff and the TO also confirmed staff were knowledgeable about the facility's zero-tolerance policy. The facility has forwarded its PREA policy to the Agency for review and approval; however, the Agency had not yet provided approval by the end of the onsite audit.

**Corrective Action:**

No corrective action needed.

## §115.13 - Detainee supervision and monitoring

**Outcome:** Does Not Meet Standard

### **Notes:**

(a)(b)(c)(d): SCJ PREA mandates, “The PREA Coordinator will develop a staffing plan that provides adequate levels of staffing and, where applicable, video monitoring, to protect inmates/detainees from sexual abuse. The staffing plan will be reviewed no less than once per year. In circumstances where the staffing plan is not complied with, deviations and the reason(s) for deviations from the staffing plan will be documented. In determining adequate levels of inmate/detainee supervision and determining the need for video monitoring, generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of the facility, the composition of the inmate/detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time inmates/detainees spend in agency custody, will be taken into consideration. During their shift, Jail Sergeants shall conduct unannounced security inspections in housing units located in the zone they have been assigned to. These inspections are conducted on day shifts, as well as night shifts, and are meant to identify and deter staff and inmate/detainee sexual abuse and sexual harassment. Staff are prohibited from alerting other staff members that these security inspections are occurring unless such announcement is related to the legitimate operational functions of the facility.” A review of the facility PAQ indicated SCJ has a total of 141 security staff, consisting of 104 males and 37 females, that may have recurring contact with detainees. The remaining staff consists of support personnel in administration, maintenance, and food service. The facility staffing also includes 32 medical and mental health contract staff employed by Wellpath. During the onsite audit, SCJ custody staff were working two 8-hour shifts: 6:00 a.m. - 2:30 p.m. and 2:00 p.m. - 10:30 p.m. or two 12-hour shifts: 6:30 a.m. - 6:30 p.m. and 6:30 p.m. - 6:30 a.m. The Auditor observed appropriate staffing levels in the booking/intake area and housing units during the onsite. There are a total of (b) (7)(E) strategically located throughout the facility. Video cameras operate 24/7 and have pan, zoom, and tilt, (PTZ) functionality, but do not record sound. Cameras are continuously monitored by staff members assigned to the (b) (7)(E). Video feed can be observed in (b) (7)(E) and on the computers of the (b) (7)(E). There are cameras located in (b) (7)(E) of the intake area. These camera views contained a digital square gray box at the (b) (7)(E) that adequately blocked viewing of sensitive body parts preventing opposite gender viewing and providing detainees privacy while performing bodily functions. During the on-site tour, the Auditor observed adequate cameras within the (b) (7)(E) and found there were no direct camera views into (b) (7)(E). The facility has developed comprehensive detainee supervision guidelines via the Community Release Housing Unit Officer, Gamma Housing Unit Officer, and Special Housing Unit Officer Post Orders which have been reviewed annually. In 2021 the facility obtained (b) (7)(E) for security staff. An interview with the PSA Compliance Manager confirmed that the facility took into consideration generally accepted detention and correctional practices, judicial findings of inadequacy, the physical layout of the facility, composition of detainee population, review of substantiated and unsubstantiated incidents, the findings and recommendations of prior sexual abuse incident review reports and other relevant factors. The Auditor reviewed a sexual abuse incident review for one unsubstantiated investigative report and confirmed during the review the facility took into account staffing levels and video monitoring as part of the review. Also during the interview with the PSA Compliance Manager, he indicated the facility does not use a staff-to-detainee ratio and required unannounced security checks are mandated for Jail Sergeants. Interviews with three DOs confirmed that supervisors do conduct rounds and do not alert others when a round is occurring;

however, the Auditor reviewed a Sherburne County Activity Log with recorded activity from 04/17/2023 00:00 – 05/01/2023 23:59:59. Review of this log shows that on three days an unannounced round was only conducted on one shift and no unannounced security rounds were logged on two days. An interview with a First-Line Supervisor confirmed the facility has a practice of conducting rounds on each shift but could not confirm that the rounds were to identify and deter sexual abuse of detainees. As a result, the facility is not in compliance with subsection (d) of the standard.

**Corrective Action:**

(d): Although interviews confirmed rounds are being conducted, staff could not articulate that the rounds were to identify and deter sexual abuse of detainees. Also, review of activity logs cannot confirm that unannounced security rounds are being conducted on every shift or completed daily. To become compliant, the facility must implement a practice that requires supervisors to make frequent daily unannounced security inspections on both day and night shifts to identify and deter sexual abuse of detainees. Once implemented the facility must submit documentation to confirm all supervisors were trained in conducting unannounced security inspections for the purpose of identifying and deterring sexual abuse of detainees. In addition, the facility must submit to the Auditor documentation of unannounced security inspections for the purpose of identifying and deterring sexual abuse of detainees for each month of the Corrective Action Plan (CAP) period.

**§115.14 - Juvenile and family detainees**

**Outcome:** Not Applicable

**Notes:**

(a)(b)(c)(d): According to the PAQ and interviews with the JC, PSA Compliance Manager and four DOs, SCJ does not accept juvenile or family unit detainees; therefore, the standard is not applicable.

**Corrective Action:**

No corrective action needed.

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

**Outcome:** Does Not Meet Standard

**Notes:**

(b)(c)(d)(e)(f)(i): SCJ Contraband Control Policy mandates, “Cross-gender pat-down searches of male inmates/detainees shall not be conducted unless, after reasonable diligence, male jail staff is not available at the time the pat-down search is required, or in exigent circumstances. Male staff are prohibited from pat searching female inmates/detainees. All cross-gender pat-down searches shall be documented by using the Guardian RFID system using the code “Cross-Gender Pat Search”. Strip searches shall be conducted by members of the same gender as the inmate/detainee. At least two staff members of the inmate/detainee’s gender shall be present during any strip search. To ensure privacy, strip searches shall take place in a room (b) (7)(E). Staff shall not conduct strip searches without the authorization of a Sergeant or higher-ranking authority. An electronic strip search form shall be completed in the jail management system.” SCJ Contraband Control Policy further mandates, “Staff is prohibited from conducting any type of search of an inmate/detainee for the sole purpose of determining the inmate/detainee’s genital characteristics. Strip searches shall be conducted in a professional manner as not to intentionally offend, insult, humiliate, or agitate inmates/detainees.” The Auditor reviewed a cross gender pat down search log that documents the date, time, detainee name, location, name of the

officer conducting the search, and reason for the search. The pat down searches were conducted by a female officer due to unavailability of a male officer. The facility reported that there have not been any cross gender pat down searches of a female detainee conducted during the audit period. Facility policy prohibits cross gender strip searches or body cavity searches and provided a memorandum that SCJ did not conduct a cross gender strip or body cavity search during the audit period. The Auditor reviewed a blank Strip Search form that would document date, time, detainee name, officer name, reason for search, location, and additional boxes to document reasonable suspicion, items found or other detail. Facility policy additionally prohibits searches or physical examination to determine the genital status of a detainee. Interviews with four DOs confirmed that cross gender pat down searches are not normally conducted due to an adequate ratio of male/female staff members on each shift. All DOs confirmed that should a cross gender pat down be conducted it would be documented. Interviews with four DOs further confirmed that staff were aware of proper procedures for conducting pat down searches, that cross gender strip or body cavity searches are not allowed, and all confirmed that they would not search a detainee for the sole purpose of determining the detainee's genital status and understood this practice is prohibited. Interviews with Medical staff confirmed that they have not had an instance of a detainee's gender being unknown; however, should an exam be necessary, it would be conducted by medical personnel. The facility does not house juvenile detainees.

(g): SCJ Cross-Gender Supervision Policy mandates, "Inmates/Detainees can 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 welfare checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. Staff of the opposite gender as an inmate/detainee entering a housing unit, or any other area where an inmate/detainee is likely to be showering, performing bodily functions, or changing clothes must announce their presence upon entry." During the onsite review the Auditor observed staff of the opposite gender announce their presence upon entry in the housing units. Interviews with four DOs confirmed that they are aware of this policy, and all stated they announce their presence as required. Interviews with two detainees further confirmed opposite gender staff announcing their presence when they entered the housing unit; however, both stated it was hard for them to hear sometimes.

(h): SCJ is not designated as a Family Resident Center; therefore, provision (h) is not applicable.

(j): The Auditor reviewed the Shakedowns and Cell Searches curriculum. This training includes instruction on pat down searches and cross gender pat searches. The training does not include instruction on proper procedures for searches of transgender and intersex detainees. Staff are trained to conduct pat down searches in a professional and respectful manner in the least intrusive manner. Staff are further instructed that cross gender pat down searches of male detainees is not allowed unless male staff is not available or in exigent circumstances. Interview with the TO revealed that training is conducted in the most realistic method possible. Review of seven security staff files confirmed that training utilizing the Shakedowns and Cell Searches curriculum was completed. The Auditor reviewed a video of staff conducting a pat search on the last detainee processed into the facility and confirmed that this was conducted in a professional and respectful manner by staff of the same gender as the detainee. Because the Shakedown and Cell Searches curriculum does not provide training on searches of transgender and intersex detainees the facility is non-compliant with subsection (j).

## **Corrective Action:**

(j): The Shakedown and Cell Searches curriculum does not provide training on searches of transgender and intersex detainees. In order to become compliant, the facility must include training on searches of transgender and intersex detainees. All staff must be trained on these procedures and documentation of this training must be provided to the Auditor for compliance review once completed.

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

**Outcome:** Meets Standard

### **Notes:**

(a)(b)(c): SJC PREA mandates, "Reasonable accommodations will be provided to ensure that inmates/detainees with disabilities (including, for example, inmates/detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with inmates/detainees who are deaf or hard of hearing, providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In addition, written materials related to sexual abuse and sexual harassment will be provided in formats or through methods that ensure effective communication with inmates/detainees with disabilities, including inmates/detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. The facility is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans with Disabilities Act, 28 CFR 35.164. Steps shall be taken to ensure meaningful access to all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates/detainees who are limited English proficient, including steps to provide in person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In matters relating to allegations of sexual abuse and sexual harassment, staff will utilize in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another inmate/detainee, unless the inmate/detainee expresses a preference for another inmate/detainee to provide interpretation, and Jail Administration determines that such interpretation is appropriate and consistent with applicable policies. Interpreter services will not be performed by alleged abusers, inmates/detainees who witnessed the alleged abuse, and inmates/detainees who have a significant relationship with the alleged abuser. Inmate/Detainee interpreters, inmate/detainee readers, or other types of inmate/detainee assistants may be used in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate/detainee's safety, the performance of first-responder duties, or the investigation of the inmate/detainee's allegation." During the onsite review the Auditor observed the PREA audit notice signs in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese, the DHS sexual assault awareness notice in English and Spanish with facility contact name and number, contact information for DHS Office of the Inspector General (OIG), reporting numbers for the ICE Detention and Reporting and Information Line (DRIL), I Speak poster, ERO Language Services Resource Flyer and poster for the Central MN Sexual Assault Center. The Auditor also observed handheld devices available to staff that provide a means to utilize google translate to communicate with a detainee in their language of

choice. Detainees with hearing or vision disabilities, intellectual, psychiatric, speech disabilities or limited English proficiency are identified upon intake, a special needs worksheet is completed, and an alert is entered into the computer system. Intake staff can utilize a language line, google translate or an Eye-Pal Ace Plus which is a text to speech assistive device to be used for visual disabilities. A special needs notification is then sent to the Jail Program Coordinator that will present additional information in appropriate formats for the detainee. The Auditor confirmed the facility had the ICE National Detainee Handbook available in the 14 most prevalent languages encountered by ICE: English, Spanish, Arabic, Bengali, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Simplified Chinese, Turkish, and Vietnamese and the DHS-prescribed Sexual Assault Awareness (SAA) information pamphlet available in the 15 most prevalent languages encounter by ICE: English, Spanish, Arabic, Bengali, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Simplified Chinese, Turkish, Ukrainian and Vietnamese. The Auditor was provided with facility handbooks in English and Spanish with information on the facility's efforts to prevent, detect and response to sexual abuse. Other languages could be accessed as needed on a shared computer folder. Interview with the JC confirmed that no detainee has been denied reasonable accommodation to access PREA information. Interview with intake staff and four DOs indicated they would use multiple ways to provide PREA information to detainees who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities, and those who have limited reading skills. These ways would include speaking slowly with limited vocabulary for those detainees who have intellectual or psychiatric disabilities, speaking, louder for those detainees who have a hearing disability, and reading material or providing written communication for those detainees who may have a vision disability. All staff were knowledgeable about the language line, handheld devices, and communicative techniques to assist disabled detainees and would use these resources in appropriate situations

**Corrective Action:**

No corrective action needed.

**§115.17 - Hiring and promotion decisions**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d)(e)(f): The Federal Statute 731.202 (b), Executive Order 10450, ICE Personnel Security and Suitability Program 6-7.0, and ICE Suitability Screening Requirements for Contractor Personnel Directive 6-8.0 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, a financial check, residence and neighbor checks, and prior employment checks.” The ICE Personnel Security and Suitability Program 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.” SCJ PREA mandates, “It is the policy of the Sherburne County Jail not to hire or promote anyone who may have contact with inmates/detainees,

and not to enlist the services of any contractor or volunteer who may have contact with inmates/detainees, who: Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S. Code 1997); Has been convicted of engaging or attempting to engage in sexual activity in the community 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 Has been civilly or administratively adjudicated to have engaged in such activity. Any incidents of sexual harassment shall be considered in determining whether to hire or promote anyone, or to enlist the services of any contractor or volunteer, who may have contact with inmates/detainees. Applicants and employees who may have contact with inmates/detainees directly will be asked about previous misconduct described in paragraph 1, a-c of [DHS Standard 115.17] in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. Employees are required to report incidents of such misconduct throughout their employment at the facility. Consistent with the law, individuals involved in the hiring process shall attempt to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse. Prior to hiring new staff who may have contact with inmates/detainees, a background investigation will be conducted to determine whether the candidate for hire is suitable for employment with the facility, including a criminal background records check. An updated criminal history check will be conducted annually for facility employees who may have contact with inmates/detainees. A background investigation shall be conducted prior to enlisting the services of any contractor who may have contact with inmates/detainees. Any omission of material fact or providing materially false information of such misconduct, shall be grounds for termination or withdrawal of an offer of employment, as appropriate. Information will be provided on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work." The 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. 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. Based on the memorandum dated November 8, 2021, issued by the ICE Acting Deputy Director, Employee Obligation to Report Corruption and Misconduct, ICE employees are obligated to report criminal and other allegations of employee and contractor misconduct, specifically including "sexual assaults, sexual harassment, or non-sexual harassment of [...] detainees." Interviews with two HR staff confirmed new hires must complete a background investigation successfully prior to hire and the PREA related questions are included in the employment documents. Both additionally confirmed that SCJ would share any lawful relevant information on substantiated allegations of sexual abuse involving a former employee applying to a different institutional employer. The Auditor reviewed seven staff personnel files and confirmed that all SCJ staff have received background checks subsequent to employment and the required five-year background investigations. SCJ employment documents include the inquiry of previous misconduct of sexual abuse, conviction or civil adjudication of sexual abuse activity and staff must sign that material omissions regarding conduct will be grounds for dismissal or withdrawal of offer of employment. SCJ staff are required to complete a PREA questionnaire yearly where staff confirm they have not engaged in sexual abuse in a prison, jail, lockup,

community confinement, juvenile facility or other institution, or never been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt (obvious) or implied threats of force, or coercion (pressure) or if the victim did not consent or was unable to consent or refuse and never been civilly or administratively adjudicated (had judgement declared) for having engaged in the activity described. The Auditor reviewed a printout that confirms all SCJ staff are asked annually about previous misconduct. The Auditor interviewed four ICE personnel, and none could remember if they were asked about previous misconduct either in an interview or through a written application during hiring or promotions; however, based on the established hiring and promotion procedures of the PSO as outlined in policy and as explained by the PSO Unit Chief, the Auditor has determined substantial compliance. The Auditor submitted a Background Investigation for Employees and Contractors form to the OPR PSO Unit to include the three ICE employees assigned to the facility to verify the completion of the background investigation. OPR PSO confirmed the background investigation status of all Agency employees submitted were completed and current.

**Recommendation:** A review of SCJ PREA finds that it contains the verbiage, “Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion.” The Auditor recommends that SCJ remove the term “in the community” from this sentence since the standard encompasses any convictions of engaging or attempting to engage in sexual activity, regardless of where it occurred.

**Corrective Action:**

No corrective action needed.

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

**Outcome:** Meets Standard

**Notes:**

(a): This subsection of the standard is not applicable. SCJ has not designed or acquired a new holding facility or planned a substantial expansion or modification of the existing facility.

(b): SCJ PREA mandates, “When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the effect the design, acquisition, expansion, or modification will have on the facility’s ability to protect inmates/detainees from sexual abuse will be taken into consideration. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, how such technology may enhance the facility’s ability to protect inmates/detainees from sexual abuse will be taken into consideration.” An interview conducted with the PSA Compliance Manager confirmed that the facility obtained (b) (7)(E) for security staff in 2021. During the acquisition the facility considered how the technology could enhance their ability to protect detainees against sexual abuse

**Corrective Action:**

No corrective action needed.

## **§115.21 - Evidence protocols and forensic medical examinations**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d)(e): The Agency’s policy 11062.2 Sexual Abuse and Assault Prevention and Intervention (SAAPI), outlines the Agency’s evidence and investigation protocols. Per policy 11062.2, “when a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility’s incident review personnel in accordance with OPR policies and procedures. OPR does not perform 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 ERO Field Office Director (FOD) and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred or accepted by DHS Office of Inspector General (OIG), OPR, or the local law enforcement agency, the agency would assign an administrative investigation to be conducted.” SCJ PREA mandates, “Evidence collection shall be based on a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol shall be developed in coordination with DHS and shall be developmentally appropriate for juveniles, where applicable. Protocols shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violence Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents”, or similarly comprehensive and authoritative protocols developed after 2011. Pursuant to a memorandum of understanding (MOU) between the Sherburne County Sheriff’s Office and Central Minnesota Sexual Assault Center (CMSAC), victim advocate services will be made available to the victim of an alleged sexual assault. If CMSAC is unable to provide a victim advocate, a qualified staff member from a community-based organization, or a qualified facility staff member will be made available. A qualified facility staff member or a qualified community-based staff member means an individual who has received education concerning sexual assault and forensic examination issues in general. The outside or internal victim advocate shall provide emotional support, crisis intervention, information, and referrals. Where evidentiarily or medically appropriate, at no cost to the inmate/detainee, and only with the inmate/detainee’s consent, arrangements shall be made for an alleged victim inmate/detainee to undergo a forensic medical examination by qualified health care personnel, 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. The Sherburne County Sheriff’s Office has entered a MOU with Mercy Hospital to provide SAFE and/or SANE services. As requested by a victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, shall be allowed for support during a forensic exam and investigatory interviews.” SCJ has forwarded it’s PREA policy to the Agency for review and approval, however; the Agency had not responded to the request by the end of the onsite audit. The Auditor reviewed a signed Memorandum of Understanding (MOU) dated March 23, 2023, between SCJ and Central Minnesota Sexual Assault Center (CMSAC) with no listed end date and confirmed services provided by the CMSAC will include emotional support, crisis intervention, information and referrals, and a victim advocate to ensure that a victim’s interests are represented. In addition, the Auditor reviewed an MOU signed on March 22, 2023, between SCJ and Mercy Hospital with no end date that confirmed Mercy Hospital will provide Sexual Assault Forensic Examination or Sexual Assault Nurse Examiner services. The facility is part of the Sherburne County Sheriff’s Office (SCSO). Should a criminal investigation be required of an allegation, the SCSO would complete the investigation. Interviews with the JC and PSA Compliance Manager confirm that should an allegation of sexual abuse or assault occur, the incident would be

reported immediately to ICE/ERO. Interviews with three medical staff confirmed that if the detainee consented, they would be transported to Mercy Hospital for a SAFE/SANE examination and services would be provided free of cost. A review of four sexual abuse allegations during the audit period confirmed that no detainees were transported to Mercy Hospital for a forensic examination, but one detainee utilized the services of CMSAC. The facility does not house juvenile detainees.

**Corrective Action:**

No corrective action needed.

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

**Outcome:** Does Not Meet Standard

**Notes:**

(a)(b)(c)(d)(e)(f): SCJ PREA mandates, "An investigation is conducted and documented for all allegations of sexual abuse and sexual harassment. Allegations of sexual abuse or sexual harassment are referred for investigation to the Sherburne County Sheriff's Office Investigations Division unless the allegation does not involve potentially criminal behavior. All reports and referrals of allegations of sexual abuse and sexual harassment shall be documented and maintained for a minimum of five years. The PREA Coordinator shall ensure that protocols describing the responsibilities of the facility and any other investigative entities are posted on the Sherburne County Sheriff's Office website. When an inmate/detainee of the facility in which an alleged ICE detainee victim is housed is alleged to be the perpetrator of ICE detainee sexual abuse, the Jail Commander shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility, or the DHS Office of the Inspector General, as well as the local ICE Field Office Director, and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation. When a staff member, contractor, or volunteer is alleged to be the perpetrator of sexual abuse of an ICE detainee, the Jail Commander shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility, or the DHS Office of Inspector General, as well as to the appropriate ICE Field Office Director, and to the Sheriff." A review of Agency policy and SCJ PREA confirm that there is established protocol to ensure all allegations of sexual abuse is investigated by the agency or facility or referred to an appropriate investigative authority. In addition, an administrative or criminal investigation is completed for all allegations of sexual abuse. The Auditor reviewed the facility's website, <https://www.co.sherburne.mn.us/319/Prison-Rape-Elimination-Act-PREA> and the Agency website, [www.ice.gov](http://www.ice.gov) and confirmed that the Agency website includes the Agency's investigative protocol, and the facility website also includes verbiage that all allegations of sexual abuse will be investigated. The facility website does not include the facility protocols. Interviews with the JC, PSA Compliance Manager, and Investigator indicated that all allegations of sexual abuse would be referred for investigation and that such records will be maintained in hard copy and electronic format indefinitely. Interviews further indicated when a detainee, prisoner, inmate, or resident of the facility where the detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse or staff member, contractor or volunteer is the perpetrator of detainee sexual abuse, the facility will notify the appropriate ICE FOD and appropriate investigative authority unless the allegation does not involve potentially criminal behavior. In an interview with the SDDO it was confirmed he would be notified immediately and would immediately notify the AFOD, who in turn would notify the JIC and ICE OPR or DHS OIG. The facility is out of compliance because the facility's protocols are not posted on its public website.

**Corrective Action:**

(c): The facility does not post or otherwise make available to the public the facility protocols. In order to become compliant, the facility must post facility the facility protocols on its website or otherwise make the protocol available to the public and provide documentation to the Auditor that the protocols are available.

**§115.31 - Staff Training**

**Outcome:** Does Not Meet Standard

**Notes:**

(a)(b)(c): SCJ PREA mandates, “All employees who may have contact with inmates/detainees will be trained on: The zero-tolerance policies for all forms of sexual abuse and sexual harassment; The right of inmates/detainees and staff to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse and sexual harassment; Definitions and examples of prohibited and illegal sexual behavior; Recognition of situations where sexual abuse may occur; Recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing and responding to such occurrences; How to avoid inappropriate relationships with inmates/detainees; How to communicate effectively and professionally with inmates/detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates/detainees; Procedures for reporting knowledge or suspicion of sexual abuse and sexual harassment; The requirement to limit reporting of sexual abuse to personnel with a need to-know in order to make decisions concerning the victim’s welfare and for law enforcement or investigative purposes; Instruction that sexual abuse is never an acceptable consequence of detention; Working with vulnerable populations and addressing their potential vulnerability in the general population; The investigation process and how to ensure that evidence is not destroyed; Prevention, recognition, and appropriate response to allegations or suspicions of sexual assault involving inmates/detainees with mental or physical disabilities; and Instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse. All facility staff who may have contact with inmates/detainees will receive this training within their first year of employment and every two years after that. In years in which an employee does not receive refresher training, refresher information on current sexual abuse and sexual harassment policies will be provided. Documentation that staff members that may have contact with inmates/detainees have completed the training will be maintained by the Jail Training Sergeant.” The Auditor reviewed the facility PREA training curriculum which includes: the facility’s zero-tolerance policy, definitions and examples of prohibited and illegal sexual behavior, rights of detainees and staff to be free from sexual abuse and retaliation for reporting sexual abuse, recognition of situations where sexual abuse may occur, recognition of physical, behavioral, and emotional signs of sexual abuse, and how to avoid inappropriate relationships with detainees. However, a review of the facility PREA training curriculum confirmed it does not include the Agency’s zero-tolerance policy; how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; procedures for reporting knowledge or suspicion of sexual abuse; and the requirement to limit reporting of sexual abuse to personnel on a need-to-know basis in order to make decisions concerning the victim’s welfare and for law enforcement or investigative purposes resulting in non-compliance with subsection (a). The Auditor reviewed training transcripts and confirmed staff receive initial training and refresher training every two years as required by subsection (b) of the standard. Interview with the TO confirmed PREA refresher is required annually online, and classroom training is conducted every two years. The TO additionally mandates selected PREA topics monthly that will be completed as an online course. Interviews with four ICE staff and review of their training transcripts confirmed that they have all received training annually,

**Corrective Action:**

(a): A review of the facility PREA training curriculum confirmed it does not include the Agency’s zero-tolerance policy; how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; procedures for reporting knowledge or suspicion of sexual abuse; and the requirement to limit reporting of sexual abuse to personnel on a need-to-know basis in order to make decisions concerning the victim’s welfare and for law enforcement or investigative purposes. To become compliant the facility must submit documentation that the facility PREA training curriculum includes all elements of subsection (a) of the standard. In addition, the facility must provide documentation that all staff who have contact with detainees have received training on the updated curriculum.

**§115.32 - Other Training**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c): SCJ PREA mandates, “All volunteers and contractors who have contact with inmates/detainees are trained on their responsibilities under the sexual abuse prevention, detection, intervention and response policies and procedures. The level and type of training provided to volunteers and contractors will be based on the services they provide and level of contact they have with inmates/detainees, but all volunteers and contractors who have contact with inmates/detainees shall be notified of the zero-tolerance policies regarding sexual abuse and sexual harassment informed how to report such incidents during the initial orientation process. Written confirmation that volunteers and contractors who have contact with inmates/detainees have completed and understand the training they received will be maintained.” An interview with the TO confirmed that volunteers and other contractors are required to complete PREA training prior to performance of their duties. The Auditor reviewed the curriculum and confirmed it adheres to all elements required of the standard. The training meets all elements of subsection (a) of the standard and is based on the services provided and level of contact with detainees. The Auditor reviewed a sign in sheet with 18 medical staff acknowledging training and four other contractor volunteer training acknowledgement forms entitled, “Sherburne County Sheriff’s Office PREA Acknowledgement, PREA (PREA Rape Elimination Act) & Custodial Sexual Misconduct.” Upon completion of the training other contractors and volunteers are required to sign this form acknowledging their PREA responsibilities.

**Corrective Action:**

No corrective action needed.

**§115.33 - Detainee Education**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d)(e)(f): SCJ PREA mandates, “During the intake process, classification and medical staff will verbally explain the facility’s zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. In addition, each inmate/detainee will receive a facility handbook that includes instruction on: Prevention and intervention strategies; Definitions and examples of inmate-on-inmate sexual abuse; staff-on-inmate sexual abuse and coercive sexual activity; Explanation of methods for reporting sexual abuse, including to any staff member, including a staff member other than an

immediate point-of-contact line officer (e.g. the PREA Coordinator or a mental health specialist), the DHS Office of Inspector General, and the Joint Intake Center; Information about self-protection and indicators of sexual abuse; Prohibition against retaliation, including an explanation that reporting sexual abuse shall not negatively impact an ICE detainee's immigration proceedings; and The right of an inmate/detainee who has been subjected to sexual abuse to receive treatment and counseling. Information on sexual abuse and sexual harassment shall be provided in formats accessible to all inmates/detainees, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates/detainees who have limited reading skills. After being assigned to an intake housing area, each inmate/detainee will receive a facility orientation that includes information on sexual abuse and sexual harassment. At the conclusion of the orientation, the inmate/detainee will sign the Sherburne County Inmate/Detainee Orientation form acknowledging that they have received this orientation. Additional key information on sexual abuse and sexual assault will be posted in housing unit dayrooms or provided in other formats (e.g., tablets, kiosks). Housing units with ICE detainees assigned to them will post the following notices on the housing unit bulletin board: The DHS-prescribed sexual assault awareness notice; The name of the facility's PREA Coordinator; and the name of local organizations that can assist ICE detainees who have been victims of sexual abuse. All ICE detainees are issued a Sherburne County Jail ICE Detainee Handbook that contains the DHS-prescribed "Sexual Assault Awareness Information" pamphlet. Along with the facility's handbook, all ICE detainees will be provided with a copy of the ICE National Detention Handbook that contains information about reporting sexual abuse." During the on-site review the Auditor observed the DHS sexual assault aware notice in English and Spanish with facility contact name and number, contact information for DHS OIG, reporting numbers for the ICE DRIL and poster for the CMNSAC. Orientation for detainees gives all information required in element (a) of this standard and detainees must sign that they acknowledge this information which documents their participation in the intake process orientation. The Auditor observed the facility handbook provided in English and Spanish. The facility explained that the handbook can be printed in additional languages as needed through the use of Google Translate. Additionally, the Auditor was provided with confirmation that the ICE National Detainee handbook is available in 14 of the most prevalent languages encountered by ICE (English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Turkish, Bengali, Romanian, Portuguese, and Vietnamese) and DHS-prescribed SAA Information pamphlet is available in Arabic, Bengali, Chinese, English, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Spanish, Vietnamese, Turkish, and Ukrainian. The Auditor confirmed these were available electronically and would be printed when needed. The ICE National Detainee Handbook contained the required reporting information and is given to detainees upon intake. The Auditor reviewed the interviewed detainee's files and observed that both detainees signed for the PREA orientation received at intake. Interviews with these two detainees confirmed that they received the facility handbook and ICE National Detainee Handbook in a language they could easily understand, and the handbooks included the required elements of this standard. The detainees confirmed that verbal orientation and handbooks were provided in a language they could easily understand.

**Corrective Action:**

No corrective action needed.

**§115.34 - Specialized training: Investigations**

**Outcome:** Meets Standard

**Notes:**

(a)(b): SCJ PREA mandates, “In addition to the general training provided to all employees pursuant to PREA standard 115.31, specialized training on sexual abuse and effective cross-agency coordination will be provided to individuals that conduct investigations into allegations of sexual abuse at the facility. All investigations into alleged sexual abuse must be conducted by qualified investigators. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Documentation that facility investigators have completed the required specialized training in conducting sexual abuse investigations will be maintained.” The Auditor was provided with documentation that facility investigators are trained through the National Institute of Corrections for the course: PREA: Investigating Sexual Abuse in a Confinement Setting. The training curriculum was reviewed and includes all elements required by the standard. The facility reported in the PAQ that they have 17 investigators who have received specialized training on sexual abuse and effective cross-agency coordination. The Auditor reviewed a transcript of PREA investigator training with certificate award dates for all 17 investigators. There were four allegations of sexual abuse reported during the audit period. The Auditor reviewed the investigatory files to determine the investigator and confirmed the assigned investigators completed generalized staff training required under standard 115.31 and specialized training pursuant to this standard. An interview with one investigator also confirmed completion of generalized and specialized training.

**Corrective Action:**

No corrective action needed.

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

**Outcome:** Meets Standard

**Notes:**

(a): The facility does not employ DHS or Agency employees who serve as full and part-time medical or mental health practitioners, and therefore, this element of the standard is not applicable.

(b)(c): SCJ PREA mandates, “The Responsible Health Authority (RHA) shall ensure that all full- and part-time medical and mental health care staff who work regularly in this facility have received documented training in: How to detect and assess signs of sexual abuse and sexual harassment; How to preserve physical evidence of sexual abuse; How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and How and to whom to report allegations or suspicions of sexual abuse and sexual harassment. All medical and mental health care staff who have contact with inmates/detainees receive documented training on their responsibilities under the facility’s sexual abuse and sexual harassment prevention, detection, and response policies and procedures.” The Auditor reviewed the Wellpath training slides entitled: Introduction to PREA: Prison Rape Elimination Act and certificates of completion for medical staff. The specialized training includes how to detect and assess signs of sexual abuse; how to respond effectively and professionally to victims of sexual abuse; how and to whom to report allegations or suspicions of sexual abuse; and how to preserve physical evidence of sexual abuse. The facility does not conduct forensic examinations. The facility forwarded

it's PREA policy to the Agency for review and approval, however; this was not completed by the end of the onsite audit. The Auditor interviewed three medical staff and a mental health staff member who all confirmed they have received specialized and general PREA training.

**Corrective Action:**

No corrective action needed.

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

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d)(e)(f)(g): SCJ PREA mandates, "All inmates/detainees shall be assessed during the intake process to identify those likely to be sexual aggressors or sexual abuse victims. Housing assignments will be made to prevent sexual abuse, and necessary steps to mitigate any such danger will be taken. During the intake process, inmates/detainees will be kept separate from the general population until he/she is classified and assigned to an appropriate housing unit. The initial classification process and initial housing assignment should be completed within 12 hours of admission to the facility. Facility staff conducting the assessment use the Sexual Violence Prevention Checklist as an objective screening instrument to assess inmates/detainees for risk of sexual victimization by considering the following criteria: Whether the inmate/detainee has a mental, physical, or developmental disability; The age of the inmate/detainee; The physical build and appearance of the inmate/detainee; Whether the inmate/detainee has previously been incarcerated or detained; The nature of the inmate/detainee's criminal history; Whether the inmate/detainee has any convictions for sex offenses against an adult or child; Whether the inmate/detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; Whether the inmate/detainee has self-identified as having previously experienced sexual victimization; The inmate/detainee's own concerns about his or her safety; and Whether the inmate/detainee is detained solely for civil immigration purposes. The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known by facility staff, in assessing inmates/detainees for risk of being sexually abusive. Each inmate/detainee's risk of victimization or abusiveness shall be reassessed within a set time period, not to exceed 30 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization. Inmates/Detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to this section. Completed Sexual Violence Prevention Checklist forms will be stored separately from the inmate/detainee's detention file and responses to questions on the form will be disseminated on a need-to-know basis to facility and health care staff to determine appropriate housing, programming and health care needed for the inmate/detainee." The Auditor reviewed the Sexual Violence Prevention PREA Checklist utilized by SCJ. Based on an interview with two Classification Officers, all detainees are assessed with this form upon arrival and all detainees are kept separate from general population until classified. Review of the Sexual Violence Prevention PREA Checklist confirms that it takes into consideration: whether the detainee has a mental, physical or developmental disability, the age of the detainee, physical build, previous incarcerations, detainee criminal history, convictions for sex offenses, whether the detainee identifies as gay, lesbian, bisexual, transgender, intersex or gender nonconforming, whether the detainee has experienced prior sexual victimization and the detainee's concerns about physical safety. The assessment also takes into account prior acts of sexual abuse, prior convictions for violent offenses and history of institutional violence or sexual abuse. The facility

reassesses each detainee every 30 days or following receipt of new information or an incident of abuse or victimization. Review of detainee files confirm that classification is completed with 12 hours of admission. Interviews with two Classification Staff further confirmed that detainees are reassessed every 30 days or as needed for new information or an incident. There were four allegations reported during the audit cycle. The Auditor reviewed all four detainee's reassessments after the allegations and confirmed that these were completely timely. Classification Staff and the PSA Compliance Manager also confirmed in interviews that assessment responses are disseminated on a need-to-know basis and a detainee would not be disciplined for refusing to answer any questions on the assessment. These interviews further confirmed that information entered into the system is based on job roles and hard copies of documents are secured within the Classification office in a locked filing cabinet.

**Corrective Action:**

No corrective action needed.

**§115.42 - Use of assessment information**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c): SCJ PREA mandates, "Information from the Sexual Violence Prevention Checklist will be used to inform housing, recreation and other activities, and voluntary work with the goal of keeping separate those inmates/detainees at high risk of being sexually victimized from those at high risk of being sexually abusive. Individualized determinations will be made about how to ensure the safety of each inmate/detainee. When making assessment and housing decisions for a transgender or intersex inmate/detainee, the inmate/detainee's gender self-identification and an assessment of the effects of placement on the inmate/detainee's health and safety will be considered. Consultation with medical or mental health staff will take place as soon as practicable on this assessment. Housing placement decisions of transgender or intersex inmates/detainees should not be based solely on the identity documents or physical anatomy of the inmate/detainee; an inmate/detainee's self-identification of his/her gender and self-assessment of safety needs shall always be taken into consideration as well. The placement of a transgender or intersex inmate/detainee shall be consistent with the safety and security considerations of the facility. Placement and programming assignments for each transgender or intersex inmate/detainee shall be reassessed at least twice each year to review any threats to safety experienced by the inmate/detainee." SCJ provided the Auditor with a Sexual Violence Prevention PREA Checklist. Interviews with Classification Staff and the PSA Compliance Manager confirmed that SCJ utilizes a "pair with care" philosophy in addition to the risk assessment and other available information available to SCJ when determining housing, recreation, other activities, and voluntary work. The "pair with care" philosophy is utilized by staff when determining housing assignments which means that they do not place vulnerable detainees with aggressors or younger first-time incarcerated detainees with someone who has an extensive criminal history. The facility provided documentation stating a transgender or intersex detainee has not been housed at SCJ during the audit cycle. SCJ further provided the Auditor with a Transgender Detainee/Inmate Welfare Form that would be utilized as an interview guide for the detainee's safety, recommendation for staff gender in conducting pat or strip searches and special clothing needs. Interview with the PSA Compliance Manager and four DOs confirm that transgender and intersex detainees would be allowed to shower separately if requested.

**Corrective Action:**

No corrective action needed.

**§115.43 - Protective Custody****Outcome:** Meets Standard**Notes:**

(a)(b)(c)(d)(e): SCJ PREA mandates, “Inmates/Detainees at high risk for sexual victimization or assault shall not be placed in involuntary administrative segregation unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If such an assessment cannot be conducted immediately, the inmate/detainee may be held in involuntary administrative segregation for less than 24 hours while completing the assessment. Inmates/Detainees vulnerable to sexual abuse or assault will be assigned administrative segregation for their protection until an alternative means of separation from likely abusers can be arranged, ordinarily not to exceed 30 days. Vulnerable inmates/detainees placed in administrative segregation for protective custody shall be provided access to programs, visitation, counsel, and other services available to the general population to the maximum extent practicable. If restrictions are put in place, the Jail Commander shall document the following: The opportunities that have been limited; The duration of the limitation; and The reasons for such limitations. If an administrative segregation assignment is made because of a high risk for victimization, the Jail Commander, or designee, shall clearly document the basis for the concern for the inmate/detainee's safety and the reasons why no alternative means of separation can be arranged. A regular review of all vulnerable inmates/detainees placed in administrative segregation for their protection will be conducted as follows: A supervisory staff member shall conduct a documented review within 72 hours of the inmate/detainee’s placement in administrative segregation to determine whether segregation is still warranted; and A supervisory staff member shall conduct, at a minimum, an identical review after the inmate/detainee has spent seven days in administrative segregation, and every seven days thereafter. The Jail Commander will notify the local ICE Field Office Director no later than 72 hours after the initial placement into segregation, whenever an ICE detainee has been placed in administrative segregation based on a vulnerability to sexual abuse or assault.” SCJ has written procedures developed governing the management of the facility’s administrative segregation unit which also documents detailed reasons for placement in administrative segregation on the basis of vulnerability to sexual abuse or assault. The facility forwarded its PREA policy to the Agency for review and approval, however; the Agency had not responded by the end of the onsite audit. The Auditor reviewed the Sherburne County Jail Segregation Review form which documents detailed reasons for placement of an individual in segregation, has an area to check for a 72 hour or weekly review and an area for what factors were considered during the review. SCJ conducts reviews at 72 hours and every week thereafter until released from segregation. Reviews are completed every Tuesday and involves jail administration, classification, medical and mental health. Interviews with the JC and PSA Compliance Manager confirmed that detainees would not be held in administrative segregation longer than 30 days unless circumstances warranted the placement and that detainees would have access to programs, visitation, counsel, and other services available to general population. A memorandum from the JC also confirmed that notification to ICE is made on the first business day after placement, but no later than 72 hours and further confirmed this during an interview. There were four allegations of sexual abuse during the audit period. None of the detainees were placed in administrative segregation as a result of any incident.

**Corrective Action:**

No corrective action needed.

**§115.51 - Detainee Reporting**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c): SCJ PREA mandates, “Inmates/Detainees may privately report sexual abuse and sexual harassment, retaliation for reporting sexual abuse and sexual harassment, or staff neglect or violations of responsibilities that may have contributed to such incidents. These incidents may be reported verbally or in writing, to any staff member the inmate/detainee chooses or by calling the PREA Tip Line to make an anonymous report. The Sherburne County Jail ICE Detainee Handbook provides instruction on how ICE detainees may contact their consular official, the DHS Office of the Inspector General or, as appropriate, another designated office, to confidentially and, if desired, anonymously, report these incidents. The facility handbook and information posted in each housing unit provides instruction to inmates/detainees on how to report sexual abuse and sexual harassment to a public or private entity that is not part of the facility, and that is able to receive and immediately forward inmate/detainee reports of sexual abuse and sexual harassment to facility officials, allowing the inmate/detainee to remain anonymous upon request. Staff shall accept reports made verbally, in writing, anonymously or from third parties and shall promptly document all verbal reports. Staff may also privately report sexual abuse and sexual harassment of inmates/detainees (e.g., report to the Jail Commander).” During the on-site review the Auditor observed the DHS sexual assault awareness notice in English and Spanish with facility contact name and number, contact information for DHS OIG, reporting numbers for the ICE DRIL and poster for the CMNSAC. The Auditor reviewed the Sherburne County Jail ICE Detainee Handbook that instructs detainees on multiple ways for a detainee to privately report sexual abuse, retaliation or staff neglect or violations of responsibilities that may have contributed to such incidents. The handbook also instructs detainees to call the DHS OIG, the Joint Intake Unit, or their consulate office. During the onsite review the Auditor attempted to call the speed dial numbers for the OIG (518#) and ICE DRIL (9116#). These numbers could not be completed, and the Auditor received a recording, “You have dialed a number not available from your calling area.” The Auditor attempted and completed a call to CMSAC. Further clarification of dialing instructions revealed that anonymous speed dialing instructions are on the top of the consulate posters for utilizing the DHS OIG and ICE DRIL speed dialing numbers. The Auditor attempted to make a call utilizing these instructions and was able to complete the calls. Interviews with the PSA Compliance Manager and four DOs confirm that reports made verbally, in writing, anonymously and from third parties would be accepted and processed immediately. DOs further confirmed that should a report be received verbally it would be documented prior to the end of their shift. All four allegations of sexual abuse received during the audit period were reported verbally. The Auditor reviewed the investigative files and confirmed that all reports were documented.

**Recommendation (a)(b):** It is recommended that the facility provide clear and concise instructions for completing speed dial numbers and anonymous calls on the posters, in the detainee handbook or by other avenues readily available to the detainee.

**Corrective Action:**

No corrective action needed.

## **§115.52 - Grievances**

**Outcome:** Meets Standard

### **Notes:**

(a)(b)(c)(d)(e)(f): SCJ PREA mandates, “Inmates/Detainees are permitted to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint. Inmates/Detainees are not required to submit a grievance to a staff member who is the subject of the complaint, nor will the grievance be referred to a staff member who is the subject of the complaint. There is no time limit on when an inmate/detainee may submit a grievance regarding an allegation of sexual abuse. Staff receiving a formal grievance will review the grievance to determine if it is an emergency grievance that involves an immediate threat to an inmate/detainee’s health, safety, or welfare related to sexual abuse. This type of grievance is time sensitive, and staff will notify an on-duty supervisor for immediate attention and appropriate action based upon the contents of the grievance. Whenever a grievance involves a sexual abuse-related medical emergency, appropriate medical staff will be notified immediately for further assessment. A decision on the grievance will be given to the inmate/detainee within five days of receipt and a response to an appeal of the grievance decision within 30 days. The Jail Commander shall send all grievances related to sexual abuse and the facility’s decision with respect to such grievances to the local ICE Field Office Director at the end of the grievance process. Third parties, including other inmates/detainee, staff members, family members, legal representatives, and outside advocates will be permitted to assist inmates/detainees in filing formal grievances relating to allegations of sexual abuse, and will also be permitted to file such requests on behalf of inmates/detainees.” The Auditor reviewed the Sherburne County Jail ICE Detainee Handbook and Inmate/Detainee Formal Grievance form. The handbook gives detainees instruction on how to file a grievance and the response time limits. The grievance form has an area for the inmate type and grievance type. A staff member signs and dates the grievance after receipt and gives a copy to the detainee for their records. SCJ provided a memorandum stating there have not been any grievances filed related to sexual abuse for the facility to show a record of action which was also confirmed during interviews with the GO. Also during the interview the GO confirmed that a detainee can file a grievance at any time without filing an informal first and there is no time limit on when a detainee can file a grievance related to sexual abuse. The facility has implemented procedures for staff to identify and handle time sensitive grievances that involve an immediate threat to a detainee’s health, safety or welfare related to sexual abuse. The procedures include staff response to a grievance that involves a medical emergency. Interview with the GO further confirmed that grievances are answered within 5 days and a response to an appeal will be answered within 30 days. Interviews with four DOs confirmed that grievances related to PREA are accepted at any time, and should a grievance indicate a time sensitive issue involving an immediate threat to the detainee’s health, safety, or welfare it would be forwarded immediately to their supervisor for responsive action. Should a grievance involve a medical emergency the grievance will be forwarded to medical personnel for action. Interviews with the GO and DOs further confirmed that a detainee could enlist assistance from another detainee, SCJ staff, a family member, legal representative or any other person to complete a grievance and that staff would accommodate requests for help as soon as possible.

### **Corrective Action:**

No corrective action needed.

### **§115.53 - Detainee access to outside confidential support services**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d): SCJ PREA mandates, “The PREA Coordinator shall maintain or attempt to enter into memorandum of understanding or other agreements with community service providers that are able to provide inmates/detainees with confidential emotional support services related to sexual abuse. Copies of agreements or documentation showing attempts to enter into such agreements will be maintained. Inmates/Detainees who have been victims of sexual abuse will be given access to local organizations that can assist them, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). Reasonable communication between inmates/detainees and these organizations and agencies will be permitted in as confidential a manner as possible. Inmates/Detainees will be informed, prior to being given access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.” During the onsite review the Auditor noticed postings for CMSAC located on the walls within the intake area, holding cells and housing units that contained a mailing address and telephone number for detainee use. The Auditor reviewed an MOU with CMSAC that confirms this organization provides expertise and support for crisis intervention, counseling and investigation and the prosecution of sexual abuse. Review of SCJ PREA confirms that the facility has written policies that establish procedures for utilizing CMSAC. Detainees are notified in the facility handbook and from a notice on the poster that calls may be monitored or recorded and the state law concerning mandatory reporting. The Auditor called CMSAC during the audit and confirmed that a victim advocate or other qualified representative would be available to accompany a detainee through a forensic examination, emotional support, or crisis intervention and information or referrals would be provided. An interview with the PSA Compliance Manager confirmed that CMSAC would be and has been utilized for services. The facility records a telephone number called but does not associate the number called with a detainee’s identification. Interview with two detainees revealed that they have seen the posters within the housing unit. There were four allegations of sexual abuse during the audit period. Review of the investigative files confirm that in one case CMSAC was utilized. There were no instances of reports learned through monitoring communication between a detainee and CMSAC. Detainees involved in the allegations could not be interviewed because they were no longer housed at the facility.

**Corrective Action:**

No corrective action needed.

### **§115.54 - Third-party reporting**

**Outcome:** Meets Standard

**Notes:**

SCJ PREA mandates, “The Sherburne County Sheriff’s Office website includes information about how a third-party may report incidents of sexual abuse and sexual harassment involving an inmate/detainee and/or on behalf of an inmate/detainee within the facility.” During the onsite audit the Auditor observed third party reporting posters in English and Spanish located in the holding cells, intake area and housing units. The Auditor reviewed SCJ’s website, [www.co.sherburne.mn.us/319/Prison-Rape-Elimination-Act-Prea](http://www.co.sherburne.mn.us/319/Prison-Rape-Elimination-Act-Prea) and confirmed it contains two different avenues for third party reporting. A review of the ICE web page ([www.ice.gov/](http://www.ice.gov/)) confirmed it provides a means for the public to report incidents of sexual abuse/harassment on behalf of any detainee.

**Corrective Action:**

No corrective action needed.

**§115.61 - Staff and Agency Reporting Duties**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d): ICE Policy 11062.2 mandates, “All ICE employees shall immediately report to a supervisor or a designated official any knowledge, suspicion, or information regarding an incident of sexual abuse or assault of an individual in ICE custody, retaliation against detainees or staff who reported or participated in an investigation about such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.” SCJ PREA mandates, “All employees, agency representatives, volunteers or contractors are required to report any knowledge, suspicion, or information regarding an incident of sexual abuse or harassment that occurred in a facility; retaliation against inmates/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. Reports should be made to a facility supervisor who will forward the matter to a sexual abuse investigator. When making such reports, following the chain of command is not required. Apart from such reporting, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other inmates/detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security management decisions. If a victim is under 18 or considered a vulnerable adult under state law, the assigned investigator shall report the allegation to the designated social services agency as required.” The facility has forwarded it’s PREA policy to the Agency for review and approval, however; the Agency had not responded by the end of the onsite audit. In an interview with the JC and PSA Compliance Manager it was confirmed that in addition to making a report of sexual abuse involving a vulnerable adult as required by State and local vulnerable persons statutes they would also report the incident to the Agency. These interviews also confirmed that staff may go outside their chain of command to make a report internally or they may use any of the methods that are available to detainees which includes contacting the DRIL or OIG. Interviews with four DOs confirmed that all were aware they could report misconduct to the state or city police with one DO stating they would utilize the PREA hotline. Interviews with the PSA Compliance Manager, Classification Staff and four Detention Officers confirmed that reports of sexual abuse would be reported immediately and that they would not reveal any information to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation law enforcement or other security and management decisions. The facility does not house juvenile detainees.

**Corrective Action:**

No corrective action needed.

**§115.62 - Protection Duties**

**Outcome:** Meets Standard

**Notes:**

SCJ PREA mandates, “If a staff member has a reasonable belief that an inmate/detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the inmate/detainee by separating

the inmate/detainee from the potential abuser and notifying a supervisor who will then take appropriate action to protect the inmate/detainee from becoming a victim.” Interviews with the JC, PSA Compliance Manager and four DOs confirmed that should a staff member become aware that a detainee is subject to a substantial risk of imminent sexual abuse the detainee would be removed from the situation immediately. The facility had four sexual abuse allegations during the audit period. A review of investigatory documents confirmed that all alleged victims were removed from the situation immediately.

**Corrective Action:**

No corrective action needed.

**§115.63 - Reporting to other Confinement Facilities**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d): SCJ PREA mandates, “Upon receiving an allegation that an inmate/detainee was sexually abused while he/she was confined at another facility, the Jail Commander shall notify the head of that facility as soon as possible, but not later than 72 hours, after receiving the allegation. If the allegation involved an ICE detainee, the Jail Commander shall notify the local ICE Field Office Director as well as the head of the other facility. The Jail Commander shall ensure that all notifications are documented.” An interview with the PSA Compliance Manager confirmed that should SCJ receive information that a detainee was sexually abused at another facility notifications would be made to the PSA Compliance Manager who in turn would notify the facility where the abuse occurred and the ICE FOD within 72 hours. In addition, the PSA Compliance Manager indicated the notification would be documented by email and should SCJ be notified of an allegation that happened at their facility, the FOD would be notified, and appropriate notifications would be made, and an investigation would be initiated immediately upon being notified.

**Corrective Action:**

No corrective action needed.

**§115.64 - Responder Duties**

**Outcome:** Meets Standard

**Notes:**

(a)(b) SCJ PREA mandates, “Upon learning of an allegation that an inmate/detainee was sexually abused, the first security staff member to respond to the report, 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; If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating); If the sexual abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; Notify a facility supervisor of the report if one is not present; and Draft a report documenting actions taken upon receiving the reported allegation of sexual abuse prior to the end of their shift. Incident reports involving only inmates/detainees will be documented in the facility’s jail management system (JMS). Incidents involving staff will be forwarded to a

facility supervisor in a word document. If the first responder is not a security staff member, the responder shall request that the alleged victim not take any actions that could destroy physical evidence and then immediately notify a security staff member. Once notification of the alleged incident is received, the supervisor shall utilize the PREA Allegation Response Form to ensure all steps of the coordinated response are completed and documented.” Review of staff and medical training confirmed that all staff are trained to separate, secure, and protect the scene and request the alleged victims not take action and ensure alleged abusers do not take action to destroy potential physical evidence. Interviews with four DOs confirmed that should an incident occur, the parties would be separated, the scene would be secured and protected, and staff would report the incident immediately. Staff further confirmed that they would request the alleged victim not to take actions and ensure the alleged abuser not take any actions to destroy evidence if time still allowed for evidence collection. An interview with a medical staff member confirmed that she would request the victim not to take actions to destroy physical evidence and she would report the incident immediately to security staff. SCJ reported there were four allegations during the audit cycle. A review of the investigative files confirmed that victim and abuser were separated and if required the crime scene was protected and evidence collected.

**Corrective Action:**

No corrective action needed.

**§115.65 - Coordinated Response**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d): SCJ PREA mandates, “The PREA Allegation Response Form is a written plan for the facility that coordinates actions taken by staff first responders, medical and mental health staff, investigators, and facility leadership in response to an incident of sexual abuse. Response to sexual abuse will use a coordinated, multidisciplinary team approach. If an ICE detainee, who was a victim of sexual abuse, is transferred from this facility to another detention facility covered by DHS PREA Standards, facility staff, as permitted by law, shall inform the receiving facility of the incident and the victim’s potential need for medical or social services. If an ICE detainee, who was a victim of sexual abuse, is transferred from this facility to another detention facility not covered by DHS PREA Standard, facility staff, as permitted by law, shall inform the receiving facility of the incident and the victim’s potential need for medical or social services, unless the victim requests otherwise.” SCJ utilizes a PREA Allegation Response form which outlines responsibilities for first responders, medical and mental health staff, investigators, and facility leadership should an incident occur. Interview with the JC confirmed that the facility would use this coordinated response plan. The JC further confirmed that should a detainee be transferred to a DHS facility SCJ would inform the receiving facility of the detainee’s need for potential medical or social services. The JC further confirmed that should a detainee be transferred to a non-DHS facility they would provide the same information unless the detainee requested otherwise. A review of four investigative files for SCJ confirmed that SCJ utilized a coordinated response to all four allegations.

**Corrective Action:**

No corrective action needed.

### **§115.66 - Protection of detainees from contact with alleged abusers**

**Outcome:** Meets Standard

**Notes:**

SCJ PREA mandates,” Staff, contractors, and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring inmate/detainee contact pending the outcome of an investigation.” Interviews with the JC, PSA Compliance Manager and Investigator confirmed that any staff, contractor, or volunteer suspected of perpetrating sexual abuse would be removed from all duties requiring detainee contact pending the outcome of the investigation. SCJ had two allegations of sexual abuse involving a staff member during the audit period. A review of investigatory documents confirmed that both staff members were removed from duties with detainee contact and did not return until the investigation was completed.

**Corrective Action:**

No corrective action needed.

### **§115.67 - Agency protection against retaliation**

**Outcome:** Does Not Meet Standard

**Notes:**

(a)(b)(c): ICE Policy 11062.2 mandates, “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 assault, or for participating in sexual activity as a result of force, coercion, threats, or fear of force.” SCJ PREA mandates, “Staff, contractors, volunteers, and inmates/detainees, shall not retaliate against any person, including an inmate/detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse or sexual harassment, or for participating in sexual activity as a result of force, coercion, threats, or fear of force. Protective measures, including housing changes, transfers, removal of alleged abusers from contact with victims, administrative reassignment or reassignment of the victim or alleged perpetrator to another housing area, and support services for inmates/detainees or staff who fear retaliation shall be utilized. For at least 90 days following a report of sexual abuse, the Jail Commander, or authorized designee, shall assign a supervisor to monitor the conduct and treatment of inmates/detainees or staff who report sexual abuse and of inmates/detainees who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates/detainees or staff, and act promptly to remedy any such retaliation. The assigned supervisor should consider inmate/detainee disciplinary reports, housing or program changes, or negative performance reviews or reassignment of staff members. Monitoring, to include periodic status checks, shall continue beyond 90 days if the initial monitoring indicates a continuing need. The Jail Commander should take reasonable steps to limit the number of people with access to the names of individuals being monitored and should make reasonable efforts to ensure that staff members who pose a threat of retaliation are not entrusted with monitoring responsibilities. If any other individual who cooperates with an investigation expresses a fear of retaliation, the facility shall take reasonable measures to protect that individual against retaliation.” There were no grievances filed for retaliation within the last 12 months for the Auditor to review. SCJ utilizes a Sexual Abuse Retaliation Monitoring form to document retaliation monitoring following a report of sexual abuse. The facility monitors disciplinary reports, program changes, housing changes, performance evaluations and review of staff reassignments with a block to add comments and a box to check if the monitor met with the detainee or staff member in person. The facility provided a completed retaliation monitoring form for the Auditor to review. Interview with the staff member

designated to monitor for retaliation also confirmed that monitoring would occur for 90 days. Interviews with the JC, PSA Compliance Manager and four DOs confirmed that the facility does not tolerate retaliation. The Auditor learned that SCJ did not conduct retaliation monitoring on unfounded cases and is found non-compliant with subsection (c) of this standard.

**Corrective Action:**

(c): Although SCJ is conducting retaliation monitoring now on unfounded cases, previously they did not. In order to become compliant, the facility must provide the Auditor with documentation to show that all reported cases of sexual abuse during the CAP period are being monitored for retaliation.

**§115.68 - Post-allegation protective custody**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d): SCJ PREA mandates, “Inmates/Detainees that have been a victim of sexual abuse shall be housed in a supportive environment that represents the least restrictive housing option available (e.g., protective custody), subject to the requirements of PREA standard 115.43. Victims of sexual abuse shall not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances or at the request of the inmate/detainee. An inmate/detainee who is in protective custody after having been subjected to sexual abuse shall not be returned to the general population until completion of a proper re-assessment, taking into consideration any increased vulnerability of the inmate/detainee as a result of the sexual abuse. The Jail Commander shall notify the local ICE Field Office Director whenever an ICE Detainee victim has been held in administrative segregation for 72 hours.” SCJ provided the Auditor with a blank Seg Status Notification form that would be utilized for post-allegation protective custody. The form has areas for detainee identification, date, reason for placement and level of segregation. Although SCJ had four allegations during the audit period, none of the detainees were placed in any type of protective custody as a result. Interviews with the JC and PSA Compliance Manager confirmed that detainee victims would be held in the least restrictive environment and would not be held any longer than five days except in unusual circumstances or if the detainee requested it. Interviews additionally confirmed that a reassessment would be completed before returning the detainee to general population. The JC further confirmed that ICE would be notified should a detainee be held in segregation for 72 hours.

**Corrective Action:**

No corrective action needed.

**§115.71 - Criminal and administrative investigations**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(e)(f): SCJ PREA mandates, “1. The Sherburne County Sheriff’s Office is responsible for investigating allegations of sexual abuse and sexual harassment. Investigations will be conducted promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports, by specially trained, qualified investigators. Upon conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. 2. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to

determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the assigned criminal investigative entity and, when an ICE detainee is involved, the appropriate investigative office within DHS. 3. When practicable, an investigator of the same sex as the victim should be assigned to the case. Sexual abuse and sexual harassment investigations should be conducted promptly and continuously until completed. Investigators should evaluate reports or threats of sexual abuse and sexual harassment without regard to an inmate/detainee's sexual orientation, sex, or gender identity. Investigators should not assume that any sexual activity among inmates/detainees is consensual. 4. Administrative investigations require: 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 inmate/detainee, staff, or employee, and without requiring any inmate/detainee who alleges sexual abuse to submit to a polygraph or other truth-telling device as a condition for proceeding with an investigation; An effort to determine whether the 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 facility, plus five years. 5. Administrative investigation procedures shall govern the coordination and sequencing of the two types of investigations, in accordance with part (2) of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation. 6. The departure of the alleged abuser or victim from employment or control of the facility shall not provide basis for terminating an investigation. 7. All completed administrative investigations and written reports shall be forwarded to the Jail Commander, or if the allegations may reasonably involve the Jail Commander, to the Chief Deputy, and Sheriff.” SCJ utilizes 17 investigators to conduct administrative investigations. Review of all four investigative files confirmed that all administrative investigations, were completed promptly, thoroughly, objectively and were conducted by specially trained and qualified investigators. Additionally, all files followed the written procedures for administrative investigations and provisions as required by subsection (c) of the standard. An interview with one facility investigator confirmed that he has completed the specialized investigator training required under standard 115.34. The investigator further confirmed that should an allegation result in a criminal investigation an administrative investigation would be completed at the conclusion. The investigator confirmed that there are written procedures that would be utilized for administrative investigations and even if the alleged victim or abuser left the facility or control of the facility the investigation would continue until it was finished. Should a criminal investigation need to be conducted, SCJ would remain informed through telephone calls, emails or in person updates with the SCSO.

**Corrective Action:**

No corrective action needed.

**§115.72 - Evidentiary standard for administrative investigations**

**Outcome:** Meets Standard

**Notes:**

SCJ PREA mandates, “The Jail Commander, Chief Deputy, or County Attorney shall review the investigation and written report to determine whether any allegations of sexual abuse or sexual harassment have been substantiated

by a preponderance of the evidence.” Interviews with the PSA Compliance Manager and a facility investigator confirmed that there is no standard higher than a preponderance of the evidence when determining whether allegations of sexual abuse are substantiated. The facility had four allegations of sexual abuse during the audit period. A review of the investigatory documentation confirmed that no standard higher than a preponderance of evidence was utilized to determine the outcome.

**Corrective Action:**

No corrective action needed.

**§115.73 - Reporting to detainees**

**Outcome:** Meets Standard

**Notes:**

SCJ PREA mandates, “After an investigation into an inmate/detainee’s allegation that he or she suffered sexual abuse in the facility, the Jail Commander, or authorized designee, shall inform the inmate/detainee whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. If a staff member is the accused (unless the Office has determined that the allegation is unfounded), the inmate/detainee shall also be informed whenever: The staff member is no longer assigned to the inmate/detainee's unit or employed at the facility; and The Office learns that the staff member has been indicted or convicted on a charge related to sexual abuse within the facility. If another inmate/detainee is the accused, the alleged victim shall be notified whenever the Office learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility. All notifications or attempted notifications shall be documented.” Interview with the JC and PSA Compliance Manager confirmed that once an investigation was completed notification would be made to the detainee if they were still housed at the facility. If a detainee was no longer housed at the facility notification of the completed investigation would be made to ICE/ERO. The facility had four allegations of sexual abuse during the audit period. In three cases the detainees were still housed at the facility and documentation confirms notification of the investigation results. In one case the detainee was no longer housed at SCJ, and documentation confirms that notification was made to ICE/ERO.

**Corrective Action:**

No corrective action needed.

**§115.76 - Disciplinary sanctions for staff**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d): SCJ PREA mandates, “Staff shall be subject to disciplinary sanctions, up to and including termination, when there is a substantiated allegation of sexual abuse, or when there has been a violation of facility sexual abuse or sexual harassment rules, policies, or standards. Termination shall be the presumptive disciplinary sanction for staff members who have engaged in or attempted or threatened to engage in sexual abuse. Disciplinary sanctions for violations of facility policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, the sanctions imposed for comparable offenses by other staff with similar histories, and consistent with applicable bargaining units and agreements. All terminations for violations of sexual abuse or sexual harassment policies, or resignations by staff that would have been terminated

if not for their resignation, shall be reported to the law enforcement agency that would handle any related investigation, unless the activity was clearly not criminal, and to any relevant licensing bodies." The Agency has forwarded its PREA policy to the Agency for review and approval; however, the Agency had not responded by the end of the onsite audit. A review of SCJ PREA confirms it does not contain the verbiage, "including removal from their federal service for allegations of sexual abuse or for violating Agency or facility sexual abuse policies" or "removal from Federal service is the presumptive disciplinary sanction for staff who have engaged in or attempted or threatened to engage in sexual abuse, as defined under the definition of sexual abuse of a detainee by a staff member, contractor, or volunteer." However, as termination is greater than removal from Federal Service, the Auditor finds SCJ PREA in substantial compliance with the wording required by subsection (b) of the standard. An interview with the JC confirms that staff will be disciplined to include termination for any PREA related actions. SCJ had four allegations during the audit period. Two allegations involved staff, and both were unfounded. Further interview with the JC confirmed that efforts would be made to contact any licensing bodies should the staff member resign or be terminated.

**Corrective Action:**

No corrective action needed.

**§115.77 - Corrective action for contractors and volunteers**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c): SCJ PREA mandates, "Any contractor or volunteer who has engaged in sexual abuse within the facility shall be immediately prohibited from having any contact with inmates/detainees. Reasonable efforts will be made to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. Such incidents shall also be reported to the law enforcement agency that investigates such allegations unless the activity was clearly not criminal. Contractors and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring inmate/detainee contact pending the outcome of an investigation. The facility shall take appropriate remedial measures and considers whether to prohibit further contact with inmates/detainees by contractors or volunteers who have not engaged in sexual abuse but have violated other sexual abuse or sexual harassment policies." SCJ did not have any allegations involving a contractor or volunteer during the audit period. The facility provided a blank template that would be used for reporting a substantiated sexual abuse allegation to law enforcement agencies and or any relevant licensing bodies. The facility additionally provided a blank template that would be given to the volunteer in the event SCJ terminates their services and would also provide a reason for the termination. An interview with the JC confirmed that any contractor or volunteer suspected of engaging in or suspected of perpetrating sexual abuse would be removed from detainee contact immediately. Should a contractor or volunteer violate other PREA related provisions SCJ would review the action to determine if they would prohibit further detainee contact.

**Corrective Action:**

No corrective action needed.

**§115.78 - Disciplinary sanctions for detainees**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d)(e)(f): SCJ PREA mandates, “Inmates/Detainees will be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate/detainee engaged in inmate-on-inmate sexual abuse as defined in this policy or following a criminal finding of guilt for inmate-on-inmate sexual abuse. Sanctions imposed shall be commensurate with the nature and circumstances of the abuse committed, the inmate/detainee’s disciplinary history, the sanctions imposed for comparable offenses by other inmates/detainees with similar histories and are intended to encourage the inmate/detainee to conform with rules and regulations in the future. The facility has an inmate/detainee disciplinary system with progressive levels of reviews, appeals, procedures, and documentation process as outlined in Policy 14.05 Inmate/Detainee Discipline. Consideration will be given to whether an inmate/detainee’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. An inmate/detainee will not be disciplined for sexual contact with staff unless there is a finding that the staff member did not consent to such contact. Sexual activity between inmates/detainees is prohibited and disciplinary sanctions shall be imposed for such activity, however, such activity will not be deemed sexual abuse if it is determined that the activity was not coerced. For the purpose of disciplinary action, a report of sexual abuse in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.” The Auditor reviewed the facility handbook and confirmed that A-21, a major offense, is a disciplinary infraction for “Engaging others in sexual acts with or without consent. Kissing, hugging, intercourse, sodomy, forced masturbation, masturbation of others or any sexual behaviors are considered sexual acts.” Further review of the handbook confirms it does list the progressive disciplinary steps with reviews and appeals afforded to the detainee. An interview with the JC confirmed the facility follows a formal disciplinary process and no detainee would be disciplined for submitting a report in good faith. In determining appropriate sanctions SCJ would also consider if the detainee had a mental disability or illness that contributed to the behavior. The Auditor reviewed four investigative files in which none resulted in disciplinary sanctions for the detainee. The facility provided the Auditor with a “Disciplinary Tracking Sheet/Disciplinary Segregation Order form. The form is utilized to document the rule violation, sanction imposed, additional blocks for information should a detainee be placed into a lockdown status, date and time of disciplinary hearing and signature lines for staff and detainee. At the bottom of the form is a statement that lets the detainee know the decision can be appealed through the grievance process. In an interview with the JC, it was confirmed a detainee’s mental disability or illness would be considered in determining sanctions, a detainee would not be disciplined for sexual contact with a staff member unless the contact was coerced, and reports made in good faith and later found to have insufficient evidence to substantiate the investigation would not constitute falsely reporting an incident or lying. Interviews with the JC, PSA Compliance Manager, and two first-line security supervisors confirmed the disciplinary process is progressive with increasing penalties and several layers of appeals.

**Corrective Action:**

No corrective action needed.

**§115.81 - Medical and mental health screening; history of sexual abuse**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c): SCJ PREA mandates, “If, during the initial intake screening process, an inmate/detainee indicates they have experienced prior sexual victimization or perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall, as appropriate, ensure that the inmate/detainee is referred to qualified medical or mental health personnel for medical and/or mental health follow-up as appropriate. When a referral for medical follow-up is initiated, the inmate/detainee shall receive a health evaluation no later than two working days from the date of assessment. When a referral for mental health follow-up is initiated, the inmate/detainee shall receive a mental health evaluation no later than 72 hours after the referral.” The Auditor reviewed an intake video that confirmed that medical is part of the team that meets with detainees in the sallyport . Medical staff take an initial assessment and then meet with the detainee during the booking process. Intake staff complete the PREA screening which specifically states “if a detainee answers yes to question 2 (Have you ever been charged or convicted/adjudicated for a sex offense?) or to question 13 (Have you ever been the victim of, or threatened with sexual abuse/harassment, including any sexual activity with staff?) the detainee must be offered a medical/mental health evaluation. If they decline, route the form as normal, if they accept notify the on-duty RN.” The assessment form is routed to Classification staff who confirmed in an interview that they send an email to medical/mental health. Interviews with three medical staff and the mental health professional confirmed that upon referral medical would complete an evaluation within two working days and mental health would complete an evaluation with three working days.

**Corrective Action:**

No corrective action needed.

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

**Outcome:** Meets Standard

**Notes:**

(a)(b): SCJ PREA mandates, “Inmates/Detainees who are victims of sexual abuse shall be transported to the nearest appropriate location to handle the treatment of injuries, collection of evidence, and to receive crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. Depending on the severity of the injuries, transportation may occur by a staff member or by ambulance, in either case with appropriate security to protect the staff, the inmate/detainee and the public, and to prevent escape. Inmate/Detainee victims of sexual abuse shall have timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. Emergency treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.” The Auditor reviewed an MOU between SCJ and Mercy Hospital that provides for SAFE/SANE services in the event of a sexual assault. A nurse in the emergency room at Mercy confirmed that emergency contraception and sexually transmitted infections prophylaxis is available as needed. An MOU with CMSAC similarly provides a telephone number to call for crisis intervention services and a qualified representative to accompany the detainee through a forensic medical examination and investigative interviews as

needed. Interviews with three medical staff and a mental health professional also confirmed that any treatment plans prescribed through Mercy Hospital would be continued and emergency treatment is provided without cost and whether the detainee cooperates with the investigation. Review of all four investigation files confirmed that the detainees were brought to medical, triaged for medical or mental health as requested and then given information for the next steps. None of the four allegations required the use of a SANE/SAFE examination. The facility provided a Wellpath PREA Incident Progress Note containing medical information, notification list and a list for what referrals were made if requested.

**Corrective Action:**

No corrective action needed.

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

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c)(d)(e)(f)(g): SCJ PREA mandates, “A medical and mental health evaluation and, as appropriate, treatment will be offered to all inmates/detainees who have been victimized by sexual abuse. The evaluation of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. Medical and mental health services will be provided to such victims consistent with the community level of care. Victims of sexually abusive vaginal penetration by a male abuser while incarcerated shall be offered pregnancy tests. If pregnancy results from an instance of sexual abuse, the victim shall receive timely and comprehensive information about lawful pregnancy-related medical services and timely access to all lawful pregnancy-related medical services. Inmates/Detainees victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. An attempt shall be made to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by the mental health provider.” The Auditor reviewed all four investigative files. All four files confirmed that medical and mental health services were offered. In three cases the victim denied medical and mental health services and one case accepted services. The detainee that accepted services received a mental health evaluation from the facility and continued to receive follow-up care, a treatment plan, and referrals upon release. During the onsite audit there were no detainees that had reported abuse. Interviews with three medical staff confirmed that detainees are provided services consistent with care in the community, that females would be offered pregnancy tests, comprehensive pregnancy-related education and timely access and comprehensive education about lawful pregnancy-related services. Services would also include tests for sexually transmitted infections. All treatment would be free of cost to the detainee whether they cooperate with the investigation. Interview with the mental health provider confirmed that detainee care is consistent with care received in the community and that PREA mental health evaluations are a priority. The facility uses several different checks and balances to ensure that medical and mental health care is provided timely. Should services be needed, Classification will send an email to both medical and mental health. If identification is made during intake the forms would be sent to medical and mental health. Medical staff is present during the intake process and after their evaluation, if services are identified they also will send an email to mental health. Referrals would also be made to mental health for detainees that have abusers, and an evaluation will be attempted within 60 days.

**Corrective Action:**

No corrective action needed.

**§115.86 - Sexual abuse incident review**

**Outcome:** Meets Standard

**Notes:**

(a)(b)(c): SCJ PREA mandates, “A sexual abuse incident review shall be conducted at the conclusion of every investigation of sexual abuse and, where the allegation was not determined to be unfounded, a written report will be prepared within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates a change in policy or practice could better prevent, detect, or respond to sexual abuse. Recommendations for improvement shall be implemented, or reasons for not implementing improvement recommendations shall be documented in a written response. When the incident review involves an ICE detainee, the report and response shall be forwarded to the local ICE Field Office Director. The review team shall include upper-level management officials, with input from line supervisors, investigators, and qualified health care and or mental health professionals, as appropriate. The review team shall: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse; Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers may enable abuse; Assess the adequacy of staffing levels in the area during different shifts; Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and Prepare a written report of its findings, including, but not limited to, determinations made pursuant to the incident review and any recommendations for improvement. The report and response shall be submitted to the Jail Commander and the PREA Coordinator. The facility shall conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention, and response efforts. If there were no reports of sexual abuse during the annual period, a negative report will be prepared. The results and findings of the annual review shall be provided to the Jail Commander and the local ICE Field Office Director, or his or her designee.” The Auditor was provided with one sexual abuse incident review/written report that occurred within 30 days of the conclusion of an investigation. . The review team considered if the incident was motivated or caused by race, ethnicity, gender identification or any other group dynamics. This report also concluded that no recommendations for policy or procedural changes were warranted. The Auditor reviewed the PREA annual review in which 2022 allegations were compared to previous years. The annual review discussed detainee areas, possible facility improvements and the addition of two new social workers. The team did not find any deficiencies or recommend corrective action during the annual review. The facility annual report from the JC was sent to the FOD and the agency PSA Coordinator. Interviews with the JC and the PSA Compliance Manager confirmed that a sexual abuse incident review was conducted on all four allegations that occurred during the audit cycle. Additionally, interviews confirmed that all four allegations had completed reviews conducted within 30 days upon conclusion of the investigation. Staff confirmed that an annual review would be conducted, and a report prepared and forwarded to required ICE personnel if the facility had no reports of sexual abuse during the reporting period.

**Corrective Action:**

No corrective action needed.

**§115.87 - Data collection**

**Outcome:** Meets Standard

**Notes:**

(a): SCJ PREA mandates, “All case records and reports associated with a claim of sexual abuse and sexual harassment, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment or counseling, shall be retained in a secure area for at least 10 years after the date of the initial collection, unless federal, state, or local law requires otherwise.” Interviews with the JC, PSA Compliance Manager and investigator confirm that associated case records and reports with a claim of sexual abuse will be maintained in the (b) (7)(E) in a locked file cabinet. The Auditor observed the locked file cabinet during an interview with the JC.C.

**Corrective Action:**

No corrective action needed.

**§115.201 - Scope of Audit**

**Outcome:** Meets Standard

**Notes:**

(d)(e)(i)(j): The Auditor was able to observe all areas of the audited facility. All policies, memorandums, staff files, records and other relevant documentation were provided for review to complete a thorough audit. Audit notice signs were posted throughout the facility in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese. The Auditor was allowed to interview staff and detainees in private. The Auditor did not receive correspondence from any detainee, staff, or outside entity prior to the on-site review.

**Corrective Action:**

No corrective action needed.

**AUDITOR CERTIFICATION:**

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

*Jodi Upshaw* Click or tap to enter a date.

**Auditor’s Signature & Date**

08/01/23

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

**Program Manager’s Signature & Date**

08/02/23

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

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

08/02/23