

PREA Audit: Subpart A DHS Immigration Detention Facilities Audit Report



Homeland Security

AUDITOR INFORMATION

| | | | |
|-------------------------|-------------------------------|--------------------------|----------------------|
| Name of AUDITOR: | Alberto Caton and Doug Sproat | Organization: | Creative Corrections |
| Email [REDACTED] | [REDACTED] | Telephone number: | 916 717- [REDACTED] |

AGENCY INFORMATION

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

FIELD OFFICE INFORMATION

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|---|---|
| Name of Field Office: | Los Angeles |
| Field Office Director: | David Martin |
| ERO PREA Field Coordinator: | [REDACTED] |
| Field Office HQ physical address: | 300 North Los Angeles St. Los Angeles, CA 90012 |
| Mailing address: (if different from above) | |

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

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|---|--|
| Name of facility: | Theo Lacy Facility |
| Physical address: | 501 The City Drive South, Orange, CA 92868 |
| Mailing address: (if different from above) | |
| Telephone number: | (714) 935-6940 |
| Facility type: | IGSA |

Facility Leadership

| | | |
|---|--------------------------|-----------------------|
| Name of Official/Officer in Charge: [REDACTED] | Title: | Captain |
| Email [REDACTED] | Telephone number: | (714) 935- [REDACTED] |

Facility PSACM

| | | |
|---|--------------------------|------------------------|
| Name of PSA Compliance Manager: [REDACTED] | Title: | Administrative Manager |
| Email [REDACTED] | Telephone number: | (714) 935- [REDACTED] |

AUDIT FINDINGS

NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS:

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

From August 7 - 9, 2018, Alberto Caton and (b) (6), (b) (7)(C) Certified Prison Rape Elimination Act (PREA) auditors (Lead Auditor and Second Auditor), representing Creative Corrections of Beaumont, TX conducted the first PREA audit of the Theo Lacy Facility (TLF), located at 501 The City Drive South, Orange, CA 92868. This audit was conducted to determine the facility's level of compliance with the Department of Homeland Security's (DHS's) Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities. The audit period under review extends from August 6, 2017 to August 5, 2018.

TLF is one of five county jails operated by the Orange County Sheriff's Department (OCSd). The Immigration and Customs Enforcement (ICE) contracts with Orange County for detention beds pursuant to a Dedicated Intergovernmental Service Agreement. TLF houses ICE detainees in three dedicated housing areas of the facility; the rest of the facility houses county jail inmates. TLF operates with 247 sworn peace officers, 113 non-sworn uniformed correctional services assistants (CSA's) and correctional services technicians (CST's), and 30 ICE employees. CSA's are assigned guard station duties and do not have contact with detainees, while CSTs supervise detainees assigned to various work details. The Pre-Audit Questionnaire (PAQ) reflects that security is provided by ICE employees and OCSd supervisors and deputies. The shift roster reflects that the facility operates four shifts and the PAQ reflects that only male OCSd staff have contact with detainees. Health care services is provided by ten county employees assigned to the facility. Other non-security non-medical functions, such as administration, food services, etc. are performed by ICE and other county employees. Volunteers perform functions such as clergy and community resources. The facility is comprised of ten buildings with a design capacity of 3,442 inmates and detainees. There is a total of 13 housing units, nine multiple occupancy cell housing units and four open bay dorm housing units. There are 26 segregated housing cells, 120 medical/infirmar beds, and no dedicated mental health facility. The facility only houses adult male inmates and ICE detainees classified as low, medium or high security. In the past 12 months, the facility booked a total of 3,663 ICE detainees and its average daily population of ICE detainees for that period is 544. The average time detainees spend in custody is 125.8 days. (b) (7)(E)

The cameras operate 24 hours a day, seven days a week; they do not have the capability to pan, tilt or zoom and they do not record sound. OCSd security staff monitor the cameras from the East Front Watch Office and up to one year of video footage is stored digitally onsite. In the previous 12 months, there were two allegations of sexual abuse at the facility; both were detainee-on-detainee allegations and facility investigations determined one allegation to be unsubstantiated and the other unfounded.

PRE-ONSITE PHASE

On July 18, 2018, External Reviews and Analysis Unit Team Lead (b) (6), (b) (7)(C) provided an agenda for the onsite audit and requested, on behalf of the facility, a schedule identifying staff to be interviewed during the onsite phase. The facility provided staff rosters for the days in question and the Lead Auditor provided a detailed schedule of activities for the onsite audit. On July 23, 2018, (b) (6), (b) (7)(C) produced the PAQ and the following day, she provided supporting pre-audit documents to the Auditors via the SharePoint site. In addition to the PAQ, the document production included the facility's Organization Chart, a listing of allegations received, the facility's site plan and building floor plans.

The Lead Auditor previously visited the ICE ERO website at <https://www.ice.gov/contact/detention-information-line> and verified that there is a link to the ICE Detention Reporting and Information Line (DRIL) flyer; the flyer provides a toll-free number and information for stakeholders who wish to report sexual abuse of detainees in ICE custody. He called the number and spoke with a representative who verified that detainees and third parties can report allegations of sexual abuse of detainees in ICE custody by calling that number.

On August 6, 2018, the Lead Auditor contacted Waymakers, a local community-based service advocacy agency that provides services to families and victims. He interviewed a representative and she confirmed that her organization has a relationship with the facility in which Waymakers provides the services prescribed by the PREA standards to detainees at the facility.

ONSITE PHASE

Entry Briefing

On August 7, 2018, the two Auditors arrived at the facility and were greeted by (b) (6), (b) (7)(C) Supervisory Detention and Deportation Officer (SDDO) (b) (6), (b) (7)(C), Administrative Manager (b) (6), (b) (7)(C) and Deputy (b) (6), (b) (7)(C). The group proceeded to a reserved conference room where the Auditors were able to setup. After greetings and introductions, (b) (6), (b) (7)(C) provided housing unit rosters with detainees in alphabetical order and reported that the detainee count was 481 men. The Lead Auditor provided a form for (b) (6), (b) (7)(C) to list detainees who meet the following targeted categories:

- Disabilities (hearing, vision, speech, learning, developmental disability, or mental health)
- Limited English proficient (LEP)
- Identified as transgender or intersex
- Filed a grievance related to sexual abuse (if applicable)
- In segregated housing (risk of sexual victimization or alleged sexual abuse)
- Reported sexual abuse
- Disclosed sexual victimization history

After a brief meeting between (b) (6), (b) (7)(C) and the Auditors, invitees were admitted to the conference room for the entry briefing. In addition to individuals previously identified, the following representatives of ICE and the facility's leadership were present:

- (b) (6), (b) (7)(C) SDDO
- (b) (6), (b) (7)(C) SDDO
- (b) (6), (b) (7)(C) Assistant Field Office Director (AFOD)
- (b) (6), (b) (7)(C) Contracting Officer's Representative (COR)
- (b) (6), (b) (7)(C) Deportation Officer
- (b) (6), (b) (7)(C) Captain
- (b) (6), (b) (7)(C) Lieutenant

- (b) (6), (b) (7)(C) Commander
- (b) (6), (b) (7)(C) Compliance Lieutenant
- (b) (6), (b) (7)(C) Sergeant
- (b) (6), (b) (7)(C) Deputy

(b) (6), (b) (7)(C) opened the meeting with a few words; those present were asked to introduce themselves and state their titles, then (b) (6), (b) (7)(C) turned it over to the Lead Auditor for the briefing. He introduced himself and the Second Auditor, provided background information, explained the scope of the audit, and audit activities and expectations before turning it back to (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) concluded the briefing and dismissed the attendees.

Site Inspection

The Lead Auditor verified that facility staff received the schedule of activities and requested to start the site inspection. In addition to the two Auditors and (b) (6), (b) (7)(C) the following individuals participated in the site inspection: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) The inspection began with the vehicle sally port and detainee intake processing or booking. The vehicle sally port is a relatively open area outside the north end of the administration building where vehicles deliver inmates and detainees to the facility. Six cameras provided video surveillance of the area and the Lead Auditor did not notice any blind spots. The inspection moved back inside to the booking complex where there are 18 holding cells with glass doors and "pony walls" that provide privacy for detainees using the toilets. There are four classification rooms where detainees are interviewed privately. Supervision in booking is provided by three deputies and a CSA. The facility's PREA bulletin board with the OCSO and the ICE zero-tolerance posters, the DHS/ICE Sexual Abuse and Assault Awareness poster, the audit notice, and other relevant PREA information is posted on the wall in every holding cell. Only about three holding cells are used for detainees who are kept separate from inmates at all times. The Auditors noted the location of cameras and identified potential cross-gender viewing concerns. The inspection group proceeded to Module O, which houses inmates and detainees with medical concerns. Module O is divided into five housing "sectors" that wrap around (in a u-shape) the medical and guard station in the middle of the housing floor. Inmates and detainees are held in separate sectors and there is no contact between them at any time. In each sector, the Lead Auditor tested the telephones, identified the PREA bulletin boards and noted the placement of surveillance cameras. The Lead Auditor spoke with a detainee about sexual safety concerns and the detainee indicated that he did not have any, even after two years at the facility; he received the handbook and knows at least three methods for reporting sexual abuse. The medical stations are on the lower level of the housing unit and guard stations above. The Auditors toured the guard station where assigned security staff has a clear view into each sector. The Auditors also toured detainee visiting and program areas in Module O and noted the PREA information posters displayed in these program areas. Deputy (b) (6), (b) (7)(C) pointed out the locked grievance box and explained that only supervisors and the grievance coordinator have access. The inspection group proceeded to Module I. Module I has a capacity of 192; it is divided into six sectors and there are three deputies and a CSA assigned. Like the previous module, there is no contact between inmates and detainees. The Lead Auditor spoke with a supervising nurse in the medical office and he explained the medical screening process and how medical staff would respond to an incident of sexual abuse. The Lead Auditor also spoke with a detainee who has been at the facility six months and indicated that he does not have any concerns about sexual safety. He stated that he would report an incident of sexual abuse to the deputy, acknowledged the sexual safety information posters on the wall, and reported that he sees supervisors touring the housing module on a regular basis. He received the handbook and viewed the education video at the Intake Release Center (IRC). The Lead Auditor identified the PREA bulletin boards, tested the telephones, and identified the placement of surveillance cameras in each sector before leaving the module. The inspection continued with the law library, the security management unit or SMU and the dining hall. At each location, the Lead Auditor identified the bulletin board with PREA information posters and checked surveillance camera locations. The SMU is used only for disciplinary detention and staff reported that it is not used to protect a detainee with sexual victimization concerns. The inspection continued with the "A – E Barracks;" these are four barracks arranged in semicircle fashion with a guard station in the middle. Only detainees (no inmates) are housed in these barracks; there are four deputies assigned and a CSA provides visual coverage from the guard station. (b) (7)(E)

From the guard station, there is a clear view to the entrance of each barrack and monitoring screens provide video feed of the interior of the barracks. There are detainee bathrooms between A and B and between C and D Barracks; what was previously E-Barrack was reconfigured and is used as a law library. Each bathroom consists of banks of toilets, sinks and shower heads to accommodate several detainees at once; the Lead Auditor asked assigned deputies about staff supervision while the bathrooms are in use and they indicated that a deputy patrols the bathrooms when they are in use. The Lead Auditor spoke with a detainee about sexual safety concerns and he indicated that he did not have any such concern; he acknowledged the posters with sexual safety information and explained multiple methods of reporting. The detainee further stated there were supervisory tours of the barracks several times a day. He acknowledged receipt of the handbook and stated that the education video is played in the morning. The Lead Auditor identified the bulletin boards with PREA information posters, tested the telephones, and identified the placement of surveillance cameras before leaving the barracks. The inspection continued with the outdoor recreation yard where staff pointed-out the location of surveillance cameras. There are three deputies assigned and the Auditors spoke with them about supervision of detainee recreation activities and they explained that they are always at their posts while detainees are on the yard. The inspection continued with the chapel, detainee visiting, and the medical clinic. At each location, the Auditors identified camera placements, the bulletin board with PREA information posters, and asked about staff supervision. At the clinic, two detainee toilets were visible from the corridor; staff placed a medical consultation screen to provide privacy in one of the restrooms, but the other was yet to be corrected before the end of the onsite audit. After the clinic, staff escorted the Auditors to the classification office. The Lead Auditor spoke with classification deputies about detainee risk assessments, reassessments, and obtained blank copies of the detainee classification questionnaire. After the classification office, the group concluded the site inspection and returned to the conference room.

Staff Interviews

From the shift roster, the Second Auditor randomly selected deputies from each of the four shifts and assigned to each of the detainee housing units. Over the first two days, that Auditor interviewed ten deputies, as well as a day shift and a swing shift sergeant using the "security staff, including line staff and first-line supervisors" interview guides. During this period, the Lead Auditor interviewed all designees using the corresponding interview guides for each. On the second day, the Second Auditor also interviewed a religious service volunteer. During these interviews, the Second Auditor introduced himself and provided the introductory script to each interviewee before proceeding with the interview, according to PREA protocol.

Note: Compliance Lieutenant (CL) (b) (6), (b) (7)(C) upervises the de facto Prevention of Sexual Assault Compliance Manager (PSACM) (b) (6), (b) (7)(C) who is on the organizational chart as an Administrative Manager. The CL presented himself for the PSACM interview in place of (b) (6), (b) (7)(C) therefore, all references to interviews in which the CL was interviewed in lieu of the PSACM, or information was derived from the CL speaking in the place of the de facto PSACM, will use the term "CL (for PSACM)" for the sake of accuracy/clarity. Any use of the acronym PSACM by itself will denote either the specific job/function of a PSACM or the person at TLF who actually serves as the PSACM—regardless of his actual title. See Standard 115.11(d) for further information about the CL and the role of the facility PSACM.

Detainee Interviews

On the second day, (b) (6), (b) (7)(C) returned the form for listing targeted detainees; only detainees with disabilities were identified. The list included a detainee with mental health concerns, one with gout, and the others had mobility impairments. The Second Auditor randomly selected 30 detainees from the barracks and from Modules I and O, including the detainee with mental health concerns. He completed all detainee interviews over the last two days. In addition to the detainee with mental health concerns, he interviewed eight detainees with LEP using either Language Access, a telephone interpreter service contracted through Creative Corrections, or a detainee interpreter selected by the interviewee. He also interviewed a detainee from India in Punjab with the assistance of a detainee interpreter of the interviewee's choosing. The Lead Auditor is fluent in Spanish and interviewed a Spanish-speaking detainee with LEP in Spanish, along with interviewing two detainees from Algeria in Arabic. The 30 detainees interviewed originated from Mexico, El Salvador, Algeria, Colombia, Cambodia, Nepal, India, Belize, Cuba, Armenia, Vietnam, Jordan, and Fiji.

Document Reviews

The facility provided two binders with the documents produced via SharePoint. On the second day, the Lead Auditor reviewed employee training records and employee files at the Human Resources (HR) office. The HR manager provided a nameless list of employees hired or promoted during the previous 12 months and the Lead Auditor randomly selected a sample of 12 employees for file reviews. The HR manager did not allow the Lead Auditor to personally review employee files; therefore, two background investigators were brought in to review background investigation files and verify that each file included documentation of a background clearance and documentation reflecting that arrests and other law enforcement contacts would be automatically reported back to the agency; the latter is in lieu of quinquennial reinvestigations. The HR manager later followed-up by emailing additional documentation to the Lead Auditor including blank employee evaluation forms, a redacted sergeant's promotional application, a form new employees sign acknowledging that they read the agency's policy manual, and a few other documents provided to show compliance with the PREA standards on hiring and promotions. On the third day, the Lead Auditor reviewed the two allegations of sexual abuse received during the audit period with the compliance lieutenant.

POST ONSITE PHASE

After completing the onsite audit, the Auditors organized completed questionnaires for staff, volunteer and detainee interviews, site inspection notes, and documentation received during the onsite audit. The Lead Auditor completed the audit narrative and description of facility characteristics before proceeding with compliance determination for each standard. Upon completing compliance determination for each standard, he prepared the summary of overall findings on the next page. For compliance determination of each standard, he then used a template to ensure all relevant information is documented. The template provides the following information:

- POLICIES AND OTHER DOCUMENTS REVIEWED
- PEOPLE INTERVIEWED
- SITE INSPECTION OBSERVATIONS
- DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS
- RECOMMENDED CORRECTIVE ACTIONS

The Lead Auditor completed a final review of the audit report and submitted it according to established protocol for its initial review; the Second Auditor's involvement with the report occurred during the later stages of the review process. The Second Auditor made minor technical changes only (primarily regarding the labels of "Lead Auditor" and "Second Auditor") in all of the above narratives/descriptions, except for some small substantive additions in the "Staff Interviews" section. Although he was present/participated in the opening and the tour and in any actions attributed to "the Auditors" in the above narratives, he otherwise was not an observer of the Lead Auditor and did not review any documents or participate in any conclusions drawn by the Lead Auditor in this section of the report.

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.

From August 7 - 9, 2018, a Prison Rape Elimination Act audit of the Theo Lacy Facility in Orange, CA was conducted to determine the facility's compliance with Subpart A of the Department of Homeland Security's (DHS's) Standards to Prevent, Detect and Respond to Sexual Abuse and Assault in Confinement Facilities. Of the 41 standards listed in the DHS Immigration Detention Facilities Auditor Assessment Tool, the facility exceeded zero, met 22, and did not meet 17. Two of the standards were not applicable. The facility exceeded or met approximately 56% of the 39 standards that apply. Below is a summary of the standards exceeded, standards met, standards not met, and standards that did not apply.

****STANDARDS EXCEEDED****

- **None**

****STANDARDS MET****

PREVENTION PLANNING

- **§115.11 – Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator**
- **§115.13 - Detainee supervision and monitoring**
- **§115.15 – Limits to cross-gender viewing and searches**

RESPONSIVE PLANNING

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

TRAINING AND EDUCATION

- **§115.31 – Staff training**
- **§115.34 – Specialized training: Investigations**
- **§115.35 – Specialized training: Medical and mental health care**

ASSESSMENT FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

- **§115.41 – Assessment for risk of victimization and abusiveness**
- **§115.42 – Use of assessment information**

REPORTING

- **§115.51 Detainee reporting**
- **§115.52 – Grievances**

OFFICIAL RESPONSE FOLLOWING A DETAINEE REPORT

- **§115.61 – Staff and agency reporting duties**
- **§115.62 – Protection duties**
- **§115.63 – Reporting to other confinement facilities**
- **§115.64 – Responder duties**
- **§115.67 – Agency protection against retaliation**

INVESTIGATIONS

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

DISCIPLINE

- **§115.76 – Disciplinary sanctions for staff**

MEDICAL AND MENTAL HEALTH CARE

- **§115.81 - Medical and mental health screenings; 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**

DATEA COLLECTION AND REVIEW

- **§115.201 – Scope of Audits**

******STANDARDS NOT MET******

PREVENTION PLANNING

- **§115.16 – Accommodating detainees with disabilities and detainees who are limited English proficient**
- **§115.17 – Hiring and promotion decisions**

RESPONSIVE PLANNING

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

TRAINING AND EDUCATION

- **§115.32 – Other training**
- **§115.33 – Detainee education**

ASSESSMENT FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

- **§115.43 – Protective custody**

REPORTING

- **§115.53 – Detainee access to outside confidential support services**
- **§115.54 – Third-party reporting**

OFFICIAL RESPONSE FOLLOWING A DETAINEE REPORT

- **§115.65 – Coordinated response**
- **§115.66 – Protection of detainees from contact with alleged abusers**
- **§115.68 – Post-allegation protective custody**
-

INVESTIGATIONS

- **§115.71 – Criminal and administrative investigations**
- **§115.73 – Reporting to detainees**
-

DISCIPLINE

- **§115.77 – Corrective action for contractors and volunteers**
- **§115.78 – Disciplinary sanctions for detainees**

DATA COLLECTION AND REVIEW

- **§115.86 – Sexual abuse incident reviews**
- **§115.87 – Data collection**

******STANDARDS NOT APPLICABLE******

- **§115.14 – Juvenile and family detainees**
- **§115.18 – Upgrades to facilities and technologies**

AUDITOR RECOMMENDATIONS AND CORRECTIVE ACTION PLAN

The review of some standards includes an "AUDITOR RECOMMENDATION" at the end of the "DESCRIPTION OF KEY EVIDENCE RELIED UPON...;" these are just recommendations the Lead or Second Auditor believes could serve to reinforce the facility's institutionalization of practices that could lead towards a sustainable record of compliance with the standard. The facility may choose to adopt or not adopt the recommendation or may adopt a modified version of the recommendation.

The acceptance of this PREA audit report by ICE triggers the start of the corrective action period which shall not exceed 180 days. ICE and the facility shall work together on the development of a corrective action plan that addresses all standards not met. The Auditor will take the necessary steps to verify implementation of all corrective measures. Within 21 days of the conclusion of the 180-day corrective action period, the Auditor will issue a CAP Final Determination report with a determination of the facility's compliance with regard to standards that required a corrective action.

SUMMARY OF AUDIT FINDINGS

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|--------------------------------------|----|
| Number of standards exceeded: | 0 |
| Number of standards met: | 22 |
| Number of standards not met: | 17 |
| Number of standards N/A: | 2 |

PROVISIONS

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

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

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- Custody & Court Operations Manual (CCOM)
- Facility Organizational Chart

PEOPLE INTERVIEWED

- Prevention of Sexual Assault Compliance Manager (PSACM)

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.11(c)

The standard provision requires a written policy that mandates zero-tolerance toward all forms of sexual abuse and outlines the agency's approach to preventing, detecting and responding to such conduct. The PAQ reflects that the agency has a written policy mandating zero-tolerance towards all forms of sexual abuse. The CCOM specifies the agency's zero-tolerance policy under "General/Definitions." The policy specifies that all allegations of sexual conduct will be investigated, and the department will impose appropriate disciplinary sanctions and initiate criminal charges against individuals committing sexual assault/rape.

The CCOM's description of the agency's response to allegations of sexual abuse and consequences for those who violate the policy supports a determination of compliance with the standard provision.

115.11(d)

The standard provision requires each facility to employ or designate a Prevention of Sexual Assault Compliance Manager (PSACM) who shall serve as the facility's point of contact for the agency's PSA Coordinator and who has sufficient time and authority to oversee facility efforts to comply with facility sexual abuse prevention and intervention policies and procedures. The PAQ identifies [REDACTED] as the PSACM. [REDACTED] appears on the facility's organizational chart under the Compliance Lieutenant; his position is listed as ICE Contract Administrative Manager as opposed to PSACM. The CCOM does not specify the requirement to designate a PSACM or the minimum rank of the employee to be designated with this charge. Lt. [REDACTED] confirmed that [REDACTED] serves as the facility's PSACM, oversees PREA compliance, and tracks allegations and investigations; however, the lieutenant is not familiar with the ICE PREA Coordinator position. Lt. [REDACTED] confirmed that [REDACTED] has sufficient time and authority to oversee the facility's efforts to comply with established policies and procedures relative to PREA and that PREA compliance is his only responsibility.

The CCOM and the interview with Lt. [REDACTED] tend to support a determination of compliance with the standard provision. Although not required by the standard provision, the agency/facility should consider revising the CCOM to require designation of a PSACM with sufficient time and authority to oversee the facility's efforts to comply with sexual abuse prevention and intervention policies and procedures. The facility should also consider listing [REDACTED] as the PSACM on the organizational chart. Lt. [REDACTED] was not aware of the ICE PREA Coordinator position for whom [REDACTED] is supposed to serve as the facility's point of contact under the standard provision. Without evidence that [REDACTED] has failed to serve as the facility's point of contact for the agency's PSA Coordinator where required, the compliance determination stands; however, the facility's leadership and Mr. [REDACTED] should endeavor to ensure he is prepared to act in this capacity. [REDACTED], whether officially titled an Administrative Manager or PSACM, was very visible during the audit and provided answers to virtually any PREA-related questions the Auditors asked. Additionally, he provided considerable post-audit information to the Second Auditor and confirmed that he had ample time to perform the duties of a PSACM.

RECOMMENDED CORRECTIVE ACTIONS

115.11(c) – No corrective action required

115.11(d) – No corrective action required

§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:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Watch lists
- Housing deputy post orders

- 2017 emails on updated post orders
- Safety check logs
- Memorandum from AFOD

PEOPLE INTERVIEWED

- Captain or Officer in Charge (Captain)
- PSACM
- Sample of security staff, Including Line Staff and First-Line Supervisors

SITE INSPECTION OBSERVATIONS

- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.13(a)

The standard provision requires each facility to ensure that it maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse. The PAQ reflects that there is sufficient supervision of detainees, including through appropriate staffing levels, and where applicable, video monitoring at the facility to protect detainees against sexual abuse. The CCOM calls for frequent inspections of occupied areas to ensure safety and security and documentation of these inspections. The facility provided watch lists (rosters) of all staff assigned to each of its four shifts, 2017 emails reflecting that relevant post orders were updated, and shift staffing patterns for medical staff. Documentation produced also includes the post orders for deputies assigned to all detainee housing units; each post order specifies detainee supervision requirements and safety responsibilities for the assigned deputy. The CL (for PSACM) stated that the facility maintains sufficient supervision of detainees to protect them from sexual abuse and that this is accomplished through hourly security checks, video monitoring, and the comprehensive supervision guidelines, which are reviewed annually. The Captain confirmed the security checks and use of video monitoring and pointed out that there are at least three people on duty at any given time to provide adequate supervision of detainees. He reported that the facility is in the process of updating its video monitoring system from analog to digital and the new system will have greater capabilities. He also pointed out that staffing levels are not changed when the detainee population drops. During the site inspection, the Auditors noted the placement of surveillance cameras, the facility's video-monitoring capabilities and rather high staffing levels in booking and in detainee housing units, typically three deputies and a CSA and/or CST.

The CCOM, the staff rosters, the post orders, the Auditors' observations during the site inspection, as well as the interviews with the PSACM and the Captain support a determination of compliance with the standard provision. During the inspection of booking and detainee housing and program areas, the Auditors did not see any evidence of insufficient detainee supervision. Also, conversations with detainees in housing units reflect that they are generally not concerned about sexual safety or insufficient supervision levels.

115.13(b)

The standard provision requires the facility to develop and document comprehensive detainee supervision guidelines to determine and meet the facility's detainee supervision needs and review those guidelines at least annually. The PAQ reflects that comprehensive detainee supervision guidelines have been developed and documented to determine and meet the facility's detainee supervision needs, and that those guidelines and their application have been reviewed annually at the facility. The facility's supervision guidelines are documented in the CCOM and in each post order provided; these documents call for frequent inspections of occupied and unoccupied areas. The facility provided 2017 emails reflecting that the post orders had been updated. Both the Captain and the CL (for PSACM) indicated that they have been in their respective positions less than six months and were not involved in the last review of detainee supervision guidelines.

The post orders with detainee supervision guidelines and the emails support a determination of compliance with the standard provision.

115.13(c)

The standard provision requires the facility to take into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of each facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody, when determining adequate levels of detainee supervision and determining the need for video monitoring. The PAQ reflects that the facility employs 30 staff who may have contact with detainees; the Lead Auditor believes this number is inaccurate based upon the number of staff listed on the watch list. TLF operates with 247 sworn peace officers, 113 non-sworn uniformed CSA's and CST's, and 30 ICE employees. CSA's are assigned guard station duties and do not have contact with detainees, while CSTs supervise detainees assigned to various work details. The design capacity is 3,442; there are ten buildings, no single cell housing, four open bay dorms, nine multiple occupancy cells, 26 segregation housing cells, and 120 medical beds. The facility only houses adult male inmates, as well as, US Marshall and ICE detainees classified as low medium and high. The AFOD reported via memorandum that the agreement with ICE does not include beds for housing detainees identified as transgender or intersex and the average stay at the facility is 125.8 days. More than [REDACTED] video cameras are used for electronic monitoring; based upon observations during the site inspection, the Lead Auditor believes the actual amount is substantially higher. (b) (7)(E) [REDACTED] they monitor and record 24/7, do not have the capacity to pan, tilt, zoom or record sound and up to one year of video footage is stored digitally onsite. In the PAQ, the facility provided incident-based data relative to the allegations received during the last 12 months. It is not known whether the facility design included camera placements to satisfy PREA requirements; privacy screens, pony walls, and glass frosting provide privacy for detainee toilets. Detainees are screened and classified based upon information from ICE and are separated by security level and safety needs and do not have contact with inmates. Neither the Captain nor the CL (for PSACM) is aware of any judicial findings of inadequacy. The CL (for PSACM) stated that the facility is staffed to the maximum detainee capacity, that staffing does not change with fluctuation of detainee population and that the facility considers the recommendations of the incident review team. The Captain pointed out that the Board of State and Community Corrections conducts reviews at the facility, but he did not comment on any relevant findings; he added that the layout of the facility is superior to older designs, that the facility tracks allegations of sexual abuse and their corresponding investigations, and that vacant detainee beds are filled rather promptly. During the site inspection, the Auditors spoke with deputies and detainees, noted the physical layout of the facility, location of surveillance cameras and the composition of the detainee population and did not identify any inadequacies in the levels of detainee supervision.

The facility characteristics, the composition of detainee population, and the incident-based data provided in the PAQ, as well as the Auditors' observations during the site inspection, and the interviews with the CL (for PSACM) and the Captain support a determination of compliance with the standard provision. The Auditors recommended to the Captain that the facility document how the factors prescribed in this standard provision are taken into consideration in determining the need for, and placement, of surveillance cameras under the incoming digital video surveillance system. This information should be provided during the next PREA audit.

115.13(d)

The standard provision requires the facility to conduct frequent unannounced security inspections to identify and deter sexual abuse of detainees. Such inspections shall be implemented for night as well as day shifts. The facility shall prohibit staff from alerting others that these security inspections are occurring, unless such announcement is related to the legitimate operational functions of the facility. The PAQ reflects that frequent unannounced inspections are conducted on day and night shifts and that staff are prohibited from alerting others about these inspections. The facility provided July 2018 safety check logs for the barrack and Module I; the logs reflect the date and times the assigned sergeant visited the housing unit. During the site inspection, detainees confirmed that supervisors tour their respective units several times a day. In random interviews, supervisors reported that they conduct unannounced inspections randomly by showing-up without anyone being alerted and that these inspections are documented.

The safety check logs, detainee statements and supervisor interviews support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.13(a) – No corrective action required.

115.13(b) – No corrective action required.

115.13(c) – No corrective action required.

115.13(d) – No corrective action required.

§115.14 – Juvenile and family detainees.

Outcome: Not Applicable (provide explanation in notes)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- AFOD Memorandum

PEOPLE INTERVIEWED

- Captain
- Sample of security staff, Including Line Staff and First-Line Supervisors

SITE INSPECTION OBSERVATIONS

- Site inspection observations

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.14

The PAQ reflects that the facility does not house juveniles and the AFOD issued a memorandum reporting that the OCSO contract with ICE does not include detention beds for juvenile or family units. During the site inspection, the Auditors did not see any evidence of juvenile detainee housing and the Captain stated that the facility does not house juveniles.

RECOMMENDED CORRECTIVE ACTIONS

115.14 – No corrective action required.

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

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- ICE Compliance Sergeant Memorandum
- Deputy training records
- Memorandum from AFOD

PEOPLE INTERVIEWED

- Sample of security staff, Including Line Staff and First-Line Supervisors
- Training supervisor
- Random Sample of Detainees

SITE INSPECTION OBSERVATIONS

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.15(b)

The standard provision prohibits cross-gender pat-down searches of male detainees unless after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances. The PAQ reflects that the standard provision does not apply; the facility is all male detainees and all male security staff. The CCOM specifies that detainee body searches will be conducted by staff of the same gender as the detainee being searched. The ICE compliance sergeant reported via memorandum that the facility does not house female detainees, that there are no female deputies assigned and that there has never been a cross-gender search at the facility. The supervisors and deputies reported that they have neither conducted nor witnessed a cross-gender pat-down search of a detainee. During the site inspection, the Auditors did not see any female detainees or female security staff.

The CCOM, the memorandum, the Auditors' observations and the interviews of supervisors and deputies support a determination of compliance with the standard provision.

115.15(c)

The standard provision prohibits cross-gender pat-down searches of female detainees unless in exigent circumstances. The PAQ reflects that the standard provision does not apply because the facility is an all-male facility. See discussions in (b) above.

The CCOM, the memorandum, the Auditors' observations and the interviews of supervisors and deputies support a determination of compliance with the standard provision.

115.15(d)

The standard provision requires all cross-gender pat-down searches to be documented. The PAQ reflects that all such searches are documented, and the CCOM requires documentation of all cross-gender body searches in an information or incident report. Supervisors and deputies at the facility reported that cross-gender pat-down searches are not done; however, should there be a situation in which one is required, it would be documented.

The CCOM and the interviews with supervisors and deputies at the facility support a determination of compliance with the standard provision.

115.15(e)

The standard provision prohibits cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners. The PAQ reflects that such searches are conducted only in exigent circumstances or if performed by a medical practitioner. The CCOM defines extended correctional search as a search that requires removal of all garments except undergarments and reflects that such searches are not conducted on ICE detainees. The memorandum asserts that there has never been a strip or visual body cavity search of a detainee at the facility. The supervisors and deputies reported that they have neither conducted nor witnessed any cross-gender strip or visual body cavity searches.

The CCOM, the memorandum and interviews with sergeants and deputies support a determination of compliance with the standard provision.

115.15(f)

The standard provision requires all strip and visual body cavity searches to be documented. The PAQ reflects that all such searches are documented, and the CCOM requires documentation of all cross-gender searches. During the site inspection of the booking area, deputies stated that strip searches are not done at the facility.

The CCOM and the statement from deputies in booking support a determination of compliance with the standard provision.

115.15(g)

The standard provision requires each facility to implement policies and procedures that enable detainees to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing. The PAQ reflects that the facility implemented policies and procedures that enable detainees to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement; and, that staff of the opposite gender are required to announce their presence when entering the areas in question. The CCOM calls for detainees to be able to shower, perform bodily functions, and change clothing without being viewed by non-medical staff of the opposite gender, except in exigent circumstances. The procedure further requires staff of opposite gender to announce their presence when entering a housing unit. During interviews, detainees did not express any concern with cross-gender staff viewing while performing bodily functions. Supervisors and officers reported that they announce their presence when entering areas where detainees of the opposite gender may be performing bodily functions.

The CCOM, as well as detainee and staff interviews support a determination of compliance with the standard provision.

115.15(h)

The standard provision requires the facility to permit detainees in Family Residential Facilities to shower, perform bodily functions, and change clothing without being viewed by staff, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. The PAQ reflects that the facility is not a Family Residential Facility and the standard provision, therefore, does not apply. During the onsite review, the Auditors did not see any evidence of families being housed at the facility.

The assertion in the PAQ and the Auditors' observations during the site inspection support a determination of compliance with the standard provision.

115.15(i)

The standard provision prohibits the facility from searching or physically examining a detainee for the sole purpose of determining the detainee's genital characteristics. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a standard medical examination that all detainees must undergo as part of intake or other processing procedure conducted in private, by a medical practitioner. The PAQ reflects that such searches are not done at the facility and that the protocol specified in the standard provision is followed if the detainee's gender is unknown. The CCOM specifically prohibits staff from searching or physically examining a detainee for the sole purpose of determining genital characteristics. Security staff and supervisors reported that the facility would not search or physically examine a detainee just to determine genital status. The AFOD memorandum specifies that the agreement does not include beds for detainees identified as transgender or intersex; therefore, such searches are not likely to occur.

The CCOM, the AFOD memorandum, and the interviews with sergeants and deputies support a determination of compliance with the standard provision.

115.15(j)

The standard provision requires the agency to train security staff in proper procedures for conducting pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex detainees. All pat-down searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and agency policy, including consideration of officer safety. The PAQ reflects that security staff is trained on the prescribed procedures and that searches are conducted accordingly. The Lead Auditor reviewed a sample of five deputy training files and found that the prescribed training was provided in all five cases during initial and as refresher training. The training supervisor and security staff interviewees reported that the prescribed training is provided; deputies even explained how they conduct these searches in a professional and respectful manner.

The training records and the interviews with the training supervisor and deputies support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.15(b) – No corrective action required.

115.15(c) – No corrective action required.

115.15(d) – No corrective action required.

115.15(e) – No corrective action required.

115.15(f) – No corrective action required.

115.15(g) – No corrective action required.

115.15(h) – No corrective action required.

115.15(i) – No corrective action required.

115.15(j) – No corrective action required.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Just Detention International video "What you need to know"

PEOPLE INTERVIEWED

- Captain
- Sample of security staff, Including Line Staff and First-Line Supervisors
- Intake staff

SITE INSPECTION OBSERVATIONS

- Site inspection notes
- The Purple Network demonstration

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.16(a)

The standard provision requires the agency and each facility to take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with 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, the agency and facility shall ensure that any written materials related to sexual abuse are provided in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency or 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 (ADA), 28 CFR 35.164. The PAQ reflects that the prescribed steps are taken to ensure detainees with disabilities have equal opportunity to participate and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and that written materials are provided in formats to ensure effective communications with detainees.

The CCOM calls for the facility to take appropriate steps to ensure detainees with disabilities have equal opportunity to participate in or benefit from all aspects of the department's efforts to prevent, detect and respond to sexual abuse and sexual harassment; reflects that the video has closed captioning for detainees with hearing impairments; and states that detainees with visual impairments will receive accommodation via the ADA deputy. The handbook tells detainees to contact their housing officer if they need interpretive services and that there are staff members who speak most common languages, as well as telephonic services for other languages. During the site inspection, the Auditors noted that the zero-tolerance poster, as well as other information, is posted in large print and one deputy indicated that if needed, sign language interpreter services could be obtained through an outside provider. One deputy stated that he once had to communicate with a detainee who was deaf; the detainee used sign language and read lips, so he spoke slowly to facilitate lip-reading and used written communication. No deputy reported having to communicate with a detainee with blindness, although no one stated there had never been a blind detainee. The intake deputy reported that there is a deputy who is certified in American Sign Language (ASL) and a deputy identified as the ADA deputy provided a brief presentation of the "Purple Network," an iPhone application used to facilitate language interpretation and translation services for detainees; the ADA deputy explained that the Purple Network can be used for ASL interpretation. The Second Auditor contacted the Purple Network; a representative of the Network stated that its interpretive services are for ASL only. The intake deputy further explained that medical and mental health staff are available to provide the orientation program to detainees with intellectual, psychiatric or speech disabilities and that a detainee with limited reading skills would view the education video. After the site inspection, the CL (for PSACM) played the education video; the facility uses the Just Detention International video titled "What you need to know," which has closed captioning. The facility did not identify any detainees with communication disabilities for the Lead Auditor to interview.

Written responses from the PSACM to the Second Auditor refer to the previously-mentioned Orientation Video with both audio and visual components designed to address the problem of hearing- and vision-impaired inmates, although no information was supplied about how such a video would be used with an LEP detainee or an LEP detainee with additional communication difficulties. The PSACM indicated that "identifying a specific communication need will be conducted at initial screening. It is rare that we have trouble finding someone to communicate with a detainee, if ever." He reported that, if needed, the facility would find someone to sit down with the detainee and read the handbook to him.

The CCOM, the Purple Network demonstration, the site review observations, the interview with the intake deputy and random deputy interviews, and the written responses from the PSACM support a determination of substantial compliance with the standard provisions. Although the facility did not provide a contract for sign language interpreter services, the Lead Auditor finds that the Purple Network could be a viable tool for communicating with individuals who rely on such form of communication. The Purple Network is a relatively new tool at the facility and may not be commonly known to all staff; therefore, the facility should ensure all relevant staff are aware of its availability and its uses. In particular, the written responses of the PSACM indicating that one-on-one efforts to communicate meaningfully with a disabled detainee when necessary were helpful in a finding that the facility is substantially compliant, even though the facility's practices would be considerably strengthened if the Second Auditor's recommendations, set out below, are adopted.

AUDITOR RECOMMENDATION:

The facility is substantially compliant with this subsection and has apparently been able to address the needs of disabled detainees during the audit period. However, the facility seems not to have any generally-known step-by-step practices for dealing with how to detect or to accommodate detainees covering the broad range of disabilities that could be expected in a facility like Theo Lacy, where 3,600-plus detainees arrived in the 12 months preceding the audit. The information relevant to this subsection in the CCOM is only conveyed in relatively general language. It is strongly recommended that the facility develop adequate protocols for addressing these issues and then train staff that whoever happens to encounter the detainee during intake will know exactly what to do in advance. It is also recommended that in situations where a staff member must read the handbook to a detainee, the staff member also read to the detainee all facility posters or other such PREA material.

115.16(b)

The standard provision requires the agency and each facility to take steps to ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient, including steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. The PAQ reflects that steps are taken to ensure meaningful access for detainees with LEP and that the steps include providing in-person or telephonic interpretive services. The CCOM calls for PREA education material to be provided in English, Spanish, and Vietnamese and the ADA deputy provided a brief demonstration of the Purple Network and stated that it can be used to facilitate language interpretation and translation services for detainees. The intake deputy reported that written materials are available in other languages, that the orientation program is accessible to detainees with LEP who speak languages other than Spanish and that the facility provides telephone interpreter service, translation service and language interpreters. Deputies interviewed are aware of the use of the telephone interpreter service, the availability of bilingual staff and they reported that written materials are available in Spanish but could not identify any other language in which these materials are available. Interviews with detainees reflect that Spanish speaking detainees with LEP receive the PREA information in their language and in most cases are able to communicate with staff. However, detainees with LEP who speak other languages, are typically not as well informed about PREA and the information provided as part of the detainee education; most rely on bilingual detainees who speak their language for communications with staff and for understanding written materials.

The CCOM, the Purple Network demonstration, the handbooks in Spanish and the interviews with deputies and Spanish-speaking detainees support a determination of compliance. However, it appears detainees with LEP who speak other languages may be missing out on verbal and written information, including verbal announcements. If the Purple Network is a viable option, it should be used during risk-screening of detainees with LEP and to provide the PREA information to these detainees. Tracking detainees with LEP would be a good start towards ensuring they have meaningful access to all aspects of the facility's efforts to prevent, detect and respond to sexual abuse. Leaving it up to detainees to seek the necessary accommodation does not satisfy the intent of the DHS PREA standards; the standards require the facility to take steps to ensure meaningful access to all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse.

AUDITOR RECOMMENDATION: Staff who have contact with detainees, in particular security staff, should dedicate more time to providing necessary PREA-related information to these detainees using available resources. Where the handbook is not available in the detainee's language, staff should relay PREA information in the handbook to these detainees using an interpreter or through other means such as the Purple Network.

115.16(c)

The standard provision requires the agency and facility to, in matters related to sexual abuse, provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and the agency determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse. The PAQ reflects that the prescribed services are provided in matters related to sexual abuse and that the prohibited interpreter services are not allowed. Deputies interviewed reported that they would use the telephone interpreter service or a staff member in matters related to allegations of sexual abuse. A high percentage of detainees with LEP who speak languages other than Spanish, relied on bilingual detainees who speak their language to communicate with staff.

The interviews with the deputies support a determination of compliance with the standard provision. Deputies reported that they would use the telephone interpreter or a bilingual staff member in matters related to allegations of sexual abuse.

RECOMMENDED CORRECTIVE ACTIONS

115.16(a) – No corrective action required.

115.16(b) – The facility shall take steps to ensure detainees who are limited English proficient have meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse, including providing in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. The facility shall pay particular attention to detainees with LEP who speak languages other than Spanish.

115.16(c) – No corrective action required.

§115.17 – Hiring and promotion decisions.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Policy 1018: Rules of Conduct – General
- Performance evaluation forms
- Sergeant's promotional application
- Security Clearance Application
- Email from Personnel Security Unit (PSU)

PEOPLE INTERVIEWED

- Administrative/Human Resources (HR) Staff
- Inmate Services Deputy (volunteer security clearances)
- Volunteer

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.17(a)

The standard provision forbids the agency or facility from hiring or promoting anyone who may have contact with detainees, or enlisting the services of any contractor or volunteer who may have contact with detainees, who has 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); who has been convicted 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 who has been civilly or administratively adjudicated to have engaged in such activity. The PAQ reflects that the agency or facility refrains from hiring or promoting anyone or enlisting the services of any contractor or volunteer with the history of sexual misconduct specified in the standard provision. The CCOM reflects that measures have been implemented that require extensive criminal background and records check to prevent hiring, promoting and/or enlisting the services of anyone who may have contact with inmates who has engaged in the sexual misconduct specified in the standard provision. A review of 12 background investigation files selected randomly (six sworn, three promotional and three non-sworn) revealed documentation of a criminal records background clearance in all cases except the promotional; the HR office checks with Internal Affairs (IA) instead and the HR representative confirmed that the IA records check was completed for all three promotional cases. The HR representative stated that the agency does not hire or promote anyone with the aforementioned history of sexual misconduct and that the criminal records check would identify any history of sexual misconduct. During a training session on July 2, 2018, the Unit Chief of the Personnel Security Unit (PSU) stated that all ICE and contract employees complete an Electronic Questionnaire for Investigations Processing or e-QIP and must clear a background investigation. If the prospective employee does not clear the background investigation, he or she will not be hired to work for ICE; if it is a contract employee, the PSU would inform the contractor that the employee cannot perform work on behalf of ICE. The Unit Chief pointed out that the sexual misconduct questions are asked in the e-QIP.

The CCOM, files reviewed, the interview with the HR representative and the explanation provided by the Unit Chief support a determination of compliance with the standard provision.

115.17(b)

The standard provision states that an agency or facility considering hiring or promoting staff shall ask all applicants who may have contact with detainees directly about previous misconduct described in paragraph (a) of this section, 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. Agencies and facilities shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. The agency, consistent with law, shall make its best efforts to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse. The PAQ reflects that the all provisions of the standard are complied with. The HR Representative stated that the questions about sexual misconduct are answered on a questionnaire completed as part of the background investigation which the applicant submits with the personal history statement. A review of blank performance evaluation forms for deputies and sergeants reflect that the employee has the option of submitting a self-evaluation as part of the process; however, there is no indication that the employee is required to answer the sexual misconduct questions. Also, a review of a redacted sergeant's promotional application reflects that the sexual misconduct questions are not asked. The representative reported that employees are in fact required to report all contacts with law enforcement and provided Policy 1018, which requires employees to report arrests or allegations of criminal or other misconduct, which could result in prosecution.

The promotional application and the performance evaluation forms do not support a determination of compliance with the standard provision. The representative established that the sexual misconduct questions are asked of new applicants and that employees have a continuing affirmative duty to disclose such misconduct; however, no evidence has been provided to establish that the questions are asked in promotional applications and in written self-evaluations conducted as part of performance reviews.

115.17(c)

The standard provision states that before hiring new staff who may have contact with detainees, the agency or facility shall conduct a background investigation to determine whether the candidate for hire is suitable for employment with the facility or agency, including a criminal background records check. Upon request by the agency, the facility shall submit for the agency's approval written documentation showing the detailed elements of the facility's background check for each staff member and the facility's conclusions. The agency shall conduct an updated background investigation every five years for agency employees who may have contact with detainees. The facility shall require an updated background investigation every five years for those facility staff who may have contact with detainees and who work in immigration-only detention facilities. The PAQ reflects that background investigations are completed before hiring employees who may have contact with detainees; that written documentation is maintained showing the detailed elements and conclusions; and that the documentation is provided to the agency upon request. The PSACM supplied written information poston-ite stating that the Professional Standards Division conducts background investigations for staff, and the Inmate Services Division handles volunteer background investigations. He further indicated that no contractors have detainee contact. The same entities handle both the initial and the five-year background investigations.

The CCOM requires a background check for all individuals who may have contact with detainees. The sample of background files reviewed confirmed that the agency conducts background investigations and criminal records checks to determine whether candidates for hire, who would have contact with detainees, are suitable for employment. Instead of quinquennial updated background investigations, the agency receives automatic notifications whenever an employee is arrested. The HR representative stated those notifications are established when criminal history is requested from the Federal Bureau of Investigations and from the California Department of Justice; all files reviewed during the sample confirmed that automatic arrest notifications are in place. The Auditor selected the names of the SDDO and two deportation officers from the ICE organizational chart provided for the facility. The names were submitted to PSU Chief (b) (6), (b) (7)(C) for verification of timely background reinvestigations. The PSU reported that two were in compliance and one was not. Another organizational chart reflects that contract security services are provided by Spectrum Security and Group 4 Securicor (G4S). The Auditor randomly selected four names from Spectrum Security and three from G4S and submitted those names to PSU for verification of timely background reinvestigations. The PSU reported that one of the employees selected from Spectrum Security and one from G4S were not compliant, and that all others were.

The CCOM, the interview with the HR Representative and the files reviewed appear to support a determination of compliance with the standard provision; however, the email from PSU does not. Only 67% of the ERO employees sampled, 75% of the Spectrum Security employees sampled, and 67% of the G4S employees sampled are current with the required five-year background reinvestigations.

115.17(d)

The standard provision requires the agency or facility to perform a background investigation before enlisting the services of any contractor who may have contact with detainees. Upon request by the agency, the facility shall submit for the agency's approval written documentation showing the detailed elements of the facility's background check for each contractor and the facility's conclusions. The PAQ reflects that background investigations are completed before enlisting the services of contractors who may have contact with detainees; that written documentation is maintained showing the detailed elements and conclusions; and that the documentation is provided to the agency upon request. The CCOM requires a background check before enlisting the services of anyone who may have contact with detainees. The HR Representative indicated that security clearances for volunteers and contractors are handled at the facility. The Lead Auditor interviewed the employee who coordinates security clearances for contractors. Volunteers and contractors complete an application for security clearance and the information is used to run a background check through state and national databases. Clearances are good for one year and a second two-year clearance is processed if the volunteer chooses to continue their services after the first year. One volunteer reported that the facility runs background checks on him periodically. Although not required, the Lead Auditor reviewed the security clearance application and it does not include questions related to sexual misconduct.

The CCOM, the interview with inmate services and the volunteer, as well as the security clearance application support a determination of compliance with the standard provision. The background clearance would identify any history of sexual misconduct before enlisting the services of contractors and volunteers.

AUDITOR RECOMMENDATION:

The facility should consider revising the contractor and volunteer applications or use another method to ensure prospective contractors and volunteers are asked the three sexual misconduct questions prescribed by the standard before enlisting their services.

115.17(e)

The standard provision states that material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination or withdrawal of an offer of employment, as appropriate. The PAQ reflects that the agency and facility's practice comply with the standard provision. The CCOM does not include a reference to this standard provision; however, Policy 1018 specifies that material omissions or the provision of materially false information is prohibited, and the HR Representative stated that it is grounds for termination or withdrawal of an offer of employment.

The CCOM and the interview with the HR Representative support a determination of compliance with the standard provision.

115.17(f)

The standard provision states that unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. The PAQ reflects that the agency provides information to prospective institutional employers as specified in the standard provision. The CCOM does not include this provision; however, the HR Representative stated that the agency would disclose personnel records as authorized by a signed waiver from the former employee.

The interview with the HR representative supports a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.17(a) – No corrective action required.

115.17(b) – The agency shall demonstrate that written applications or interviews for promotion and written self-evaluations conducted as part of the performance review process include the three sexual misconduct questions. If the agency is unable to demonstrate compliance, it shall incorporate the three sexual misconduct questions in these two personnel processes.

115.17(c) – The agency shall ensure updated background reinvestigations are completed every five years for all agency staff and contract security staff who have contact with detainees.

115.17(d) – No corrective action required.

115.17(e) – No corrective action required.

115.17(f) – No corrective action required.

§115.18 – Upgrades to facilities and technologies.

Outcome: Not Applicable (provide explanation in notes)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM

PEOPLE INTERVIEWED

- Captain

SITE INSPECTION OBSERVATIONS

- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.18(a)

The standard provision states that when designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the facility or agency, as appropriate, shall consider the effect of the design, acquisition, expansion, or modification upon their ability to protect detainees from sexual abuse. The PAQ reflects that the facility or agency includes the prescribed considerations when designing or acquiring a new facility or in planning substantial expansion or modification of existing facilities. The CCOM reflects that modification or expansions will include consideration of the agency/facility's ability to protect detainees from sexual abuse. The Captain stated that there have not been any recent moves, new facility designs, or acquisitions. During the site inspection, the Auditor did not see any evidence of ongoing structural modifications.

The CCOM, the interview with the Captain, and the Auditors' observations during the site inspection support a determination of compliance with the standard provision.

115.18(b)

The standard provision states that when installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology in an immigration detention facility, the facility or agency, as appropriate, shall consider how such technology may enhance their ability to protect detainees from sexual abuse. The PAQ reflects that the facility or agency includes the prescribed considerations when installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology. The CCOM reflects that replacements or updates to the video monitoring system will include consideration of the agency/facility's ability to protect detainees from sexual abuse and potential cross-gender viewing. The Captain stated that the facility has not installed a new video surveillance system but will be replacing the current analog system with a new digital system. During the site inspection, the Auditor did not identify any evidence of a new video surveillance system.

The CCOM, the interview with the Captain, and the Auditors' observations during the site inspection support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.18(a) – No corrective action required.

§115.21 – Evidence protocols and forensic medical examinations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- Field Operations Manual (FOM)
- Agreement with local hospital
- Agreement with Waymakers (formerly Community Service Programs, Inc.)
- Two investigative reports

PEOPLE INTERVIEWED

- CL (FOR PSACM)
- Medical practitioner
- Waymakers representative
- Director at Anaheim Memorial Hospital (forensic medical examinations)

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.21(a)

The standard provision states that to the extent that the agency or facility is responsible for investigating allegations of sexual abuse involving detainees, it shall follow 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. The PAQ reflects that the agency or facility follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions and that development in coordination with DHS and appropriateness for juveniles does not apply. The FOM Section 19 specifies the agency's uniform evidence protocol in great detail and includes crime scene search, as well as evidence collection, identification, preservation, packaging and storage. The CL (for PASCAM) stated that the protocol requires responding staff to protect the crime scene, separate the victim, get a forensic examination if appropriate, collect evidence and document the chain of custody, that it includes the Sheriff's protocol only and was not developed in coordination with DHS.

Neither the FOM nor the interview with the CL (for PSACM) support a determination of compliance with the standard provision. The standard provision requires coordination with DHS on the development of the uniform evidence protocol and the Sheriff's protocol was not developed as prescribed by the standard provision.

115.21(b)

The standard provision requires the agency and each facility developing an evidence protocol referred to in paragraph (a) of this section, to consider how best to utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling to most appropriately address victims' needs. Each facility shall establish procedures to make available, to the full extent possible, outside victim services following incidents of sexual abuse; the facility shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall provide these services by making available a qualified staff member from a community-based organization, or a qualified agency staff member. A qualified agency 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. The PAQ reflects that in developing its uniform evidence protocol, the facility included the considerations prescribed by the standard provision, established the prescribed procedures and makes the prescribed community resources and services available to the victim. The facility provided its MOU with Waymakers, a local domestic violence victim advocacy organization. In the MOU, Waymakers agrees to provide a panoply of services that includes those prescribed by the standard provision. The Lead Auditor interviewed a representative of Waymakers and she confirmed that her organization provides services to detainee victims of sexual abuse at the facility and that the services prescribed by the standard provision are included; she did not know of any reports of sexual abuse at the facility for which Waymakers provided services to the victim. The CL (for PSACM) identified Waymakers as the community-based organization that provides the prescribed services to detainee victims pursuant to and MOU and stated that the facility does not have a staff member qualified to provide the services in question. The facility did not identify a victim of sexual assault for the Lead Auditor to interview. One investigative report alleges indecent exposure and the other alleges of inappropriate touching. The victim of alleged indecent exposure declined mental health services and the other case was unfounded.

The MOU and the interviews with the CL (for PSACM) and the Waymakers representatives support a determination of compliance with the standard provision.

115.21(c)

The standard provision states that where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the facility shall arrange for an alleged victim 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 PAQ reflects that the facility arranges for detainee victims of sexual assault to receive a forensic medical examination in the manner prescribe by the standard provision. The facility provided FOM Section 36 with a list of protocols for responding to sexual assault cases in the community; the procedure identifies Anaheim Memorial Hospital for forensic examinations, and includes a phone number for a nurse specialist. During a phone call to the hospital, the director of forensic services confirmed that there is a contract

with the agency for forensic medical examinations of detainees. During an interview, a medical practitioner at the facility stated that forensic medical examinations would be conducted at Anaheim Memorial Hospital.

The FOM and the interviews with the medical practitioner and the director at Anaheim Memorial support a determination of compliance with the standard provision.

115.21(d)

The standard provision states that 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. The PAQ reflects that a victim would be allowed the support specified in the standard provision if he or she requests it. The MOU with Waymakers includes the services prescribed by the standard provision and the representative confirmed that Waymakers provides that service. The CL (FOR PSACM) reported that a victim would receive the services described in the standard provision through Waymakers. The facility did not identify a victim of sexual assault for the Auditors to interview.

The MOU and the interviews with the CL (for PSACM) and the Waymakers representatives support a determination of compliance with the standard provision.

115.21(e)

The standard provision states that to the extent that the agency is not responsible for investigating allegations of sexual abuse, the agency or the facility shall request that the investigating agency follow the requirements of paragraphs (a) through (d) of this section. The PAQ reflects that the agency or the facility shall request that the investigating agency follow the requirements of the standard. The CCOM, which includes the FOM, did not address this standard provision and the CL (for PSACM) reported that the agency conducts its own investigations. According to a written response to an inquiry from the Second Auditor to the PSACM, adherence to PREA is required by the contract between OCSD and DHS. Additionally, SVD is a component of OCSD, which also follows PREA. According to the PSACM, the CCOM, under provision 2900, establishes the requirement for compliance.

The CL (for PSACM) interview support a determination of compliance with the standard provision. As a law enforcement agency with the authority to investigate allegations of sexual abuse, the Special Victims Detail of the OCSD does the investigations.

RECOMMENDED CORRECTIVE ACTIONS

115.21(a) – The Sheriff's department shall coordinate with DHS on the development of its uniform evidence protocol.

115.21(b) – No corrective action required.

115.21(c) – No corrective action required.

115.21(d) – No corrective action required.

115.21(e) – No corrective action required.

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

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- Sexual Abuse and Assault Prevention Intervention (SAAPI)
- CCOM
- OCSD online PREA protocol
- ICE Notification List for Watch Commanders
- Theo Lacy PREA Allegations

PEOPLE INTERVIEWED

- Captain
- CL (FOR PSACM)
- Sample of Investigative Staff

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.22(a)

The standard provision requires the agency to establish an agency protocol and require each facility to establish a facility protocol, to ensure that each allegation of sexual abuse is investigated by the agency or facility or referred to an appropriate investigative authority. The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse. The PAQ reflects that there is a facility protocol to ensure that each allegation of sexual abuse is investigated, that all related reports and documentation are maintained for at least five years and that an administrative or criminal investigation is completed for all allegations of sexual abuse. The CCOM specifies the protocol for referring all allegations of sexual abuse to agency investigative bodies and identifies the Special Victims Detail (SVD) as the office responsible for criminal investigations in jail facilities and Internal Affairs as the office responsible for administrative investigations. The Captain identified a section of the CCOM that lists the steps and notifications when an allegation of sexual abuse is received. The CL (for PSACM) explained that he and the supervisor are notified when an

allegation is received, that they make a determination of the need for investigative services and maintain a log of the allegations; the SVD investigator explained that the deputy interviews the victim, the sergeant reviews the deputy's report, refers the allegation to SVD and SVD determines the need for follow-up or specialized investigation. The indecent exposure case was referred to SVD for review and disposition.

The CCOM, the interviews with the Captain, the CL (for PSACM), the investigator and the investigations into the two allegations support a determination of compliance with the standard provision.

115.22(b)

The standard provision requires the agency to ensure that the agency and facility protocols required by paragraph (a) of this section, include a description of responsibilities of the agency, the facility, and any other investigating entities; and require the documentation and maintenance, for at least five years, of all reports and referrals of allegations of sexual abuse. The PAQ reflects that the protocol includes a description of the responsibilities of the agency, the facility, and other investigative entities. The Sexual Abuse and Assault Prevention Intervention (SAAPI) specifies the ICE protocols required by paragraph (a) above. The CCOM and the OCSO online protocol describe the responsibilities of agency investigative bodies but do not specifically include the responsibilities of ICE as an investigating entity. The Captain explained that during an investigation conducted by ICE, the facility would cooperate fully by providing witnesses, interview space, video footage, etc. The CL (for PSACM) reiterated the Captain's explanation and the investigator indicated that her office would serve as a resource, provide documentation, coordinate interviews, provide surveillance video, etc. Since neither of the two allegations are five years old, the Lead Auditor was unable to verify compliance with the retention schedule prescribed by the standard provision. However, the CCOM does prescribe a ten-year retention schedule unless there are prevailing laws requiring a different time period.

The SAAPI, the interviews with the Captain, the CL (for PSACM) and the investigator adequately support a determination of compliance with the standard provision. Although the CCOM and the OCSO online protocol do not appear to reference any investigatory role of ICE regarding sexual abuse allegations, such lack of information does not affect the facility's compliance with this subsection.

AUDITOR RECOMMENDATION: It would be appropriate to supplement at least the CCOM to reflect the investigatory role of ICE.

115.22(c)

The standard provision requires the agency to post its protocols on its website; each facility shall also post its protocols on its website, if it has one, or otherwise make the protocol available to the public. The PAQ reflects that the facility posted its protocol on its website. The Lead Auditor visited the agency's website at <http://www.ocsd.org/divisions/custody/prea> and verified that the protocols are posted.

The agency's website supports a determination of compliance with the standard provision.

115.22(d)

The standard provision requires each facility protocol to ensure that all allegations are promptly reported to the agency as described in paragraphs (e) and (f) of this section, and, unless the allegation does not involve potentially criminal behavior, is promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations. A facility may separately, and in addition to the above reports and referrals, conduct its own investigation. The PAQ reflects that the facility's protocol requires that all allegations are promptly reported to the agency; ensures that all allegations are promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior; and the facility conduct its own investigation, separate from any criminal investigation. The ICE notification list provides additional notification protocols and requires all allegations to be reported to the ICE, including to the AFOD, the COR, and ICE staff at the facility. The Captain stated that the facility reports allegations of sexual abuse to agency investigators and pointed out that the OCSO is a law enforcement agency with the authority to conduct criminal investigations. The CL (for PSACM) and the investigator also reported that the facility reports allegations to agency investigators and to ICE staff, who in turn, takes care of all notifications to specified ICE components. The indecent exposure case was referred to SVD for review and disposition.

The CCOM, the OCSO online protocol, the indecent exposure report, the ICE notification list, and interviews with the Captain, the CL (for PSACM) and the investigator support a determination of compliance with the standard provision.

115.22(e)

The standard provision states that when a detainee, prisoner, inmate, or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the facility 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 (OIG), as well as the appropriate ICE Field Office Director, and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation. The PAQ reflects that in the situation described in the standard provision, the facility reports the incident to the ICE OPR or the DHS OIG, to the appropriate ICE FOD, and to the appropriate law enforcement agency, if potentially criminal. The facility's PREA allegations spreadsheet includes a JICMS case number and a SAAPI tracking number for both allegations received during the audit period reflecting that the allegations were reported to ICE. The ICE notification list requires notification to ICE in all cases of sexual abuse. The Captain stated that the facility reports allegations of sexual abuse to the ICE FOD and to agency investigators. The CL (for PSACM) and the investigator reported that the facility reports allegations to ICE staff onsite and they take care of all ICE notifications.

The PREA allegations spreadsheet, the ICE notification list and interviews with the Captain, the CL (for PSACM) and the investigator support a determination of compliance with the standard provision.

115.22(f)

The standard provision states that when a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility 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 local government entity or contractor that owns or operates the facility. If the incident is potentially criminal, the facility shall ensure that it is promptly referred to an appropriate law enforcement agency having jurisdiction for investigation. The PAQ reflects that that in the situation described in the standard provision, the facility reports the incident to all ICE components prescribed by the standard provision and to the appropriate law enforcement agency if potentially criminal. The ICE notification list requires notification to ICE in all cases of sexual abuse. The Captain stated that the facility reports allegations of sexual abuse to the ICE FOD and to agency investigators. The CL (for PSACM) and the investigator reported that the facility reports allegations to ICE staff onsite and they take care of all ICE notifications.

The ICE notification list and interviews with the Captain, the CL (for PSACM) and the investigator support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.22(a) – No corrective action required.

115.22(b) – No corrective action needed.

115.22(c) – No corrective action required.

115.22(d) – No corrective action required.

115.22(e) – No corrective action required.

115.22(f) – No corrective action required.

§115.31 – Staff training.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- PREA 4-hour lesson plan
- PowerPoint presentation "Prison Rape Elimination Act"
- Employee training records

PEOPLE INTERVIEWED

- Training supervisor
- Sample of security staff, Including Line Staff and First-Line Supervisors -

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.31(a)

The standard provision requires the agency to train, or require the training of, all employees who may have contact with immigration detainees, and all facility staff, to be able to fulfill their responsibilities under this part, including training on:

- (1) The agency's and the facility's zero-tolerance policies for all forms of sexual abuse;
- (2) The right of all detainees and staff to be free from sexual abuse and from retaliation for reporting sexual abuse;
- (3) Definitions and examples of prohibited and illegal sexual behavior;
- (4) Recognition of situations where sexual abuse may occur;
- (5) Recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing and responding to such occurrences;
- (6) How to avoid inappropriate relationships with detainees;
- (7) How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees;
- (8) Procedures for reporting knowledge or suspicion of sexual abuse; and
- (9) 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.

The PAQ reflects that all employees who may have contact with detainees have been trained on the nine topics prescribe by the standard provision. The CCOM lists the ten training topics prescribed by the DOJ PREA standards; however, all nine topics prescribed by the DHS PREA standards are not included. The PREA 4-hour lesson plan lists 24 training learning objectives including the topics prescribed by the standard provision. The 15-slide PREA PowerPoint presentation includes key PREA information and addresses the prescribed training topics. Employee training records provided reflect that facility staff received training between April and June 2018; training topics included ICE/Criminal Investigation Intelligence Gathering and Correction Officer Supplemental Core Course. The agency/facility did not provide curriculum description for either of the two courses; therefore, it is not known if the prescribed topics were included. The Lead Auditor reviewed a sample of five training files for deputies and the files reflect that the deputies received initial and refresher PREA training. The training manager reported that facility staff who have contact with detainees received training on each of the nine topics prescribed by the standard provision. Sergeants and deputies interviewed also confirmed that they received PREA training on the nine topics prescribed by the standard provision.

The CCOM, the PowerPoint presentation, employee training records, and interviews with the training supervisor and security staff support a determination of compliance with the standard provision.

115.31(b)

The standard provision requires all current facility staff, and all agency employees who may have contact with immigration detention facility detainees, shall be trained within one year of May 6, 2014, and the agency or facility shall provide refresher information every two years. The PAQ reflects that all employees hired before May 6, 2014, who may have contact with detainees have been trained and receive biennial refresher training. The CCOM requires biennial refresher training. Training records reflect that deputies receive initial training, followed by annual refresher training. The training supervisor reported that refresher training on sexual abuse prevention is provided annually as classroom training.

The CCOM, the training records, and the interview with the training supervisor support a determination of compliance with the standard provision.

115.31(c)

The standard provision requires the agency and facility to document that staff who may have contact with immigration facility detainees have completed the training. The PAQ reflects that the facility documents that staff who may have contact with detainees completed the required training. The CCOM requires documentation through employee signature attesting that they understood the training received. The employee training records included documentation reflecting that employees completed the training.

The CCOM and employee training records support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.31(a) – No corrective action required.

115.31(b) – No corrective action required.

115.31(c) – No corrective action required.

§115.32 – Other training.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- PowerPoint presentation "ICE Health Service Corps"
- ICE PREA Training Certifications (Spectrum Security)

PEOPLE INTERVIEWED

- Training supervisor
- Sample of Non-Security Volunteers and Contractors who have Contact with Detainees

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.32(a)

The standard provision requires the facility to ensure all volunteers and other contractors (as defined in paragraph (d) of this section) who have contact with detainees have been trained on their responsibilities under the agency's and the facility's sexual abuse prevention, detection, intervention and response policies and procedures. The PAQ reflects that all volunteers and other contractors who have contact with detainees have been trained on the responsibilities prescribe by the standard provision. The CCOM calls for contractors and volunteers to be trained on the topics prescribed by the standard provision. The facility provided an ICE PREA PowerPoint presentation for employees and contract personnel and 40 ICE PREA Training Certification forms reflecting that contract personnel with "Spectrum Security" received training in December 2016. The training supervisor reported that not all contractors and volunteers who have contact with detainees have been trained on sexual abuse prevention and response and have not been informed of the zero-tolerance policy and how to report sexual abuse. A volunteer interviewed by the Second Auditor confirmed he has contact with detainees and he knows his responsibilities as it relates to reporting sexual abuse; he stated he had been a volunteer for over twenty years and had been through initial and refresher PREA training.

The PowerPoint presentation, the ICE PREA training certifications and the interview with the volunteer tend to support a determination of compliance with the standard provision; however, the training supervisor reported that all contractors and volunteers have not been trained.

115.32(b)

The standard provision states that the level and type of training provided to volunteers and other contractors shall be based on the services they provide and level of contact they have with detainees, but all volunteers and other contractors who have contact with detainees shall be notified of the agency's and the facility's zero-tolerance policies regarding sexual abuse and informed how to report such incidents. The PAQ reflects that the level and type of training provided to volunteers and other contractors is based on the services they provide and level of contact they have with detainees and that they have been notified of the zero-tolerance policy and how to report. The CCOM includes a requirement for contractors and volunteers to be trained as prescribed by the standard provision. The training supervisor reported that contractors and volunteers have not been trained.

The interview with the training supervisor does not support a determination of compliance with the standard provision.

115.32(c)

The standard provision requires the facility to receive and maintain written confirmation that volunteers and other contractors who have contact with immigration facility detainees have completed the training. The PAQ reflects that written confirmation is maintained when volunteers and other contractors who have contact with detainees complete the training. The CCOM requires documentation through contractor/volunteer signature that they understood the training received. The facility did not provide documentation of contractor and volunteer training.

The facility has not provided documentation to support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.32(a) – If contractors and volunteers have not been trained, the facility shall provide PREA training on their responsibilities under the agency's and the facility's sexual abuse prevention, detection, intervention and response policies and procedures. Upon completion of the training, the facility shall provide the lesson plan or training curriculum and participant sign-in sheets or other record of participation and completion of the prescribed training.

115.32(b) – If contractors and volunteers have not been trained, the facility shall provide PREA training on their responsibilities under the agency's and the facility's sexual abuse prevention, detection, intervention and response policies and procedures and ensure they are informed of the zero-tolerance policy and how to report sexual abuse. Upon completion of the training, the facility shall provide the lesson plan or training curriculum and participant sign-in sheets or other record of participation and completion of the prescribed training.

115.32(c) – The facility shall provide and maintain written confirmation that volunteers and other contractors who have contact with immigration facility detainees have completed the training.

§115.33 – Detainee education.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- ICE ERO National Detainee Handbook (English and Spanish)
- OCSO Detainee Orientation Handbook (English and Spanish)
- OCSO Detainee Handbook Acknowledgement Receipt
- Detainee education video (English and Spanish)
- DHS/ICE Sexual Abuse and Assault Awareness pamphlet (English and Spanish)
- ICE Zero-Tolerance poster
- Facility's Zero-Tolerance poster reporting instructions

PEOPLE INTERVIEWED

- Sample of Intake Staff
- Random Sample of Detainees
- Detainees with Disabilities or Limited English Proficient

SITE INSPECTION OBSERVATIONS

- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.33(a)

The standard provision states that during the intake process, each facility shall ensure that the detainee orientation program notifies and informs detainees about the agency's and the facility's zero-tolerance policies for all forms of sexual abuse and includes (at a minimum) instruction on:

- (1) Prevention and intervention strategies;
- (2) Definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity;
- (3) 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 compliance manager or a mental health specialist), the DHS Office of Inspector General, and the Joint Intake Center;
- (4) Information about self-protection and indicators of sexual abuse;
- (5) Prohibition against retaliation, including an explanation that reporting sexual abuse shall not negatively impact the detainee's immigration proceedings; and
- (6) The right of a detainee who has been subjected to sexual abuse to receive treatment and counseling.

The PAQ reflects that during the intake process, the detainee orientation program notifies and informs detainees of all six topics prescribed by the standard provision. The CCOM calls for detainees to be informed of the department's zero-tolerance policy as part of the intake process and it includes the six topics prescribed by the standard provision. Both the ICE and the OCSO detainee handbook and the DHS/ICE pamphlet include the topics prescribed by the standard provision; the education video includes all topics except #5 (retaliation). The intake deputy reported that detainees receive orientation on sexual abuse prevention when they arrive and are placed in a holding room; they receive PREA education through the video (which is played in English and Spanish), the pamphlet and the handbooks. He confirmed that the education includes the zero-tolerance policy, how to report sexual abuse and the six topics prescribed by the standard provision. The facility provided a completed detainee acknowledgement of receipt of both handbooks. Overwhelmingly, detainee interviews confirmed that they received PREA education during intake via the methods mentioned above. During the site inspection, the Auditor viewed the education video on televisions in the holding rooms.

The CCOM, the handbooks, the pamphlet, the education video, the detainee acknowledgement of receipt, Auditor's observations during the site inspection and interviews with the intake officer and detainees support a determination of compliance with the standard provision.

115.33(b)

The standard provision requires the facility to provide the detainee notification, orientation, and instruction in formats accessible to all detainees, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to detainees who have limited reading skills. The PAQ reflects that detainees receive notification, orientation, and instruction about sexual abuse prevention and response in formats accessible to all detainees, including those in the categories listed in the standard provision. The CCOM calls for PREA education material to be provided in English, Spanish, and Vietnamese and reflects that the video has closed captioning for detainees with hearing impairments. It adds that detainees with visual impairments will receive accommodation via the ADA deputy. The Lead Auditor viewed the Spanish version of the education video and the detainee handbooks; in every housing unit, there is a bulletin board with PREA information in large print and in other languages, and a deputy explained that the

facility uses an iPhone application called "The Purple Network," which detainees can use for translating documents and for language interpretation. Spanish-speaking detainees with LEP reported that they received the PREA orientation in their language via written materials and the video. They were able to communicate with Spanish-speaking deputies in booking; however, in the barracks, there is no Spanish-speaking staff, so they rely on bilingual detainees to interpret for them. Detainees with LEP who speak other languages reported that they did not receive PREA education or information in their language and they rely on bilingual detainees to interpret for them in the barracks. These detainees reported that a telephone interpreter was provided during their medical screening.

The CCOM, the Spanish versions of the education video and the written materials, as well as the bulletin board in housing units and interviews with the intake officer and Spanish-speaking detainees with LEP support a determination of compliance with the standard provision. However, interviews with detainees with LEP who speak other languages reflect that the facility could do more to provide the required PREA education and information in their languages.

115.33(c)

The standard provision requires the facility to maintain documentation of detainee participation in the intake process orientation. The PAQ reflects that detainee participation in the intake orientation process is documented. The CCOM requires the department to maintain documentation of detainee's participation in the PREA education. The facility provided one completed detainee acknowledgement of receipt of the handbooks.

The CCOM and the detainee signed acknowledgment support a determination of compliance with the standard provision. However, the intake orientation process involves more than just providing a handbook to detainees; therefore, the Auditor recommends revising the acknowledgment form to reflect all sources of information used to provide PREA education to detainees.

115.33(d)

The standard provision requires the facility to post on all housing unit bulletin boards the following notices:

- (1) The DHS-prescribed sexual assault awareness notice;
- (2) The name of the Prevention of Sexual Abuse Compliance Manager; and
- (3) The name of local organizations that can assist detainees who have been victims of sexual abuse

The PAQ reflects that all three notices are posted in all housing units. The facility provided the TLF Zero-Tolerance poster with phone numbers for Waymakers and the PSACM, but not the name of the PSACM. During the site inspection, the Auditors viewed the bulletin board in all housing units and verified that the DHS/ICE sexual assault awareness pamphlet, the facility's Zero-tolerance poster and the ICE Zero-tolerance poster were posted. The facility's zero-tolerance poster identifies Waymakers as a third-party independent reporting option and provides a phone number; the ICE Zero-tolerance poster provides the name of the CL (for PSACM) but does not identify him as the PSACM.

The bulletin boards with the sexual abuse and assault awareness pamphlet and the ICE Zero-tolerance poster tend to support a determination of compliance with the standard provision. However, the standard provision specifically requires the facility to post the name of the PSACM and the name of the local organizations that can assist detainees-victims of sexual abuse. Although the facility does not specifically state on its zero-tolerance policy poster that Waymakers is an entity that can help detainees, the Waymakers contact number is provided. The information says that reports can be made to Waymakers but does not otherwise explain the services provided. The name of the CL (for PSACM) on the ICE poster is acceptable because the lieutenant supervises the PSACM.

AUDITOR RECOMMENDATION:

It is strongly recommended that the name of the actual PSACM be immediately placed on the poster since the current arrangement makes the CL (for PSACM) a conduit for information that should go straight to the actual PSACM. Having one person pass on information to another always increases the chance of a miscommunication, and it can also contribute to a delay in passing on information. The name of the PSACM should replace the name of the CL (for PSACM) on the poster--not merely be added to it.

115.33(e)

The standard provision requires the facility to make available and distribute the DHS-prescribed "Sexual Assault Awareness Information" pamphlet. The PAQ reflects that the facility makes available and distributes the DHS-prescribed "Sexual Assault Awareness Information" pamphlet. During the site inspection, Auditors viewed the pamphlet on housing unit bulletin boards and detainees acknowledged receiving the pamphlet during orientation.

The Auditors' observations during the site inspection and detainee interviews support a determination of compliance with the standard provision.

115.33(f)

The standard provision states that information about reporting sexual abuse shall be included in the agency Detainee Handbook made available to all immigration detention facility detainees. The PAQ reflects that information about reporting sexual abuse is included in the handbook issued to detainees. The facility provided the ICE National Detainee Handbook and the OCSD detainee handbook, and both handbooks include information about reporting sexual abuse.

The ICE and the OCSD handbooks support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.33(a) – No corrective action required.

115.33(b) – The facility shall take steps to ensure all detainees with LEP receive the PREA education and PREA information in languages they understand. The facility shall provide LEP-detainees-signed acknowledgements of receiving the PREA education prescribed by the DHS standards. It appears the facility already has the resources to make this happen; therefore, this should not impose an undue burden on the facility.

115.33(c) – No corrective action required.

115.33(d) – No corrective action required.

115.33(e) – No corrective action required.

115.33(f) – No corrective action required.

§115.34 – Specialized training: Investigations.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Investigator training records

PEOPLE INTERVIEWED

- Training supervisor
- Sample of Investigative Staff

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.34(a)

The standard provision states that in addition to the general training provided to all facility staff and employees pursuant to §115.31, the agency or facility shall provide specialized training on sexual abuse and effective cross-agency coordination to agency or facility investigators, respectively, who conduct investigations into allegations of sexual abuse at immigration detention facilities. All investigations into alleged sexual abuse must be conducted by qualified investigators. The PAQ reflects that the prescribed training is provided to investigators who investigate allegations of sexual abuse. The CCOM calls for specialized training on techniques for interviewing sexual abuse victims, sexual abuse evidence collection in confinement, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The facility provided investigator training records including course training objectives and one certificate of completion for a 16-hour course titled PREA Investigator Training for Allegations of Sexual Abuse; the certificate reflects that the training was provided March 26 – 27, 2018. The facility also provided the training lesson plan for a four-hour PREA course with 35 attendees. Also provided are sign-in sheets dated May 9, 2018, for an eight-hour course titled "Immigration and Customs" and sign-in sheets dated May 8, 2018, for another eight-hour course titled "ICE Criminal Investigation Intelligence Gathering;" the latter has a sign-in sheet with 36 participants and another with 38 participants. It is not known how the Immigration and Customs course is related to the prescribed training. The training supervisor confirmed that the agency's sexual abuse investigators received specialized PREA training from an outside provider. The investigator reported that sexual abuse investigators receive specialized training on conducting sexual abuse investigations and effective cross-agency coordination methods. All deputies receive sex crimes investigation training at the academy and in-service training on PREA investigations; internal affairs investigators receive training on the application of the Garrity/Lybarger warning (Lybarger is a California ruling that requires the warning required under Garrity). The Lead Auditor finds that the training curriculum presented includes the prescribed topics.

The CCOM, the training records and interviews with the training supervisor and the investigator support a determination of compliance with the standard provision. Although the agency/facility did not provide training records to establish that investigators had been trained during the audit period, the Lead Auditor recognizes that local law enforcement agencies have been providing specialized sex crimes investigations training long before the DHS PREA standards.

115.34(b)

The standard provision requires the agency and facility to maintain written documentation verifying specialized training provided to investigators pursuant to this paragraph. The PAQ reflects that the facility maintains documentation of specialized training provided to investigators. The facility provided a training certificate, a lesson plan, and sign-in sheets for specialized training received by agency sexual abuse investigators.

The training records provided support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.34(a) – No corrective action required.

115.34(b) – No corrective action required.

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

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- Health Care Agency – Correctional Health Services (CHS) Policy 2002
- CHS employee training records

PEOPLE INTERVIEWED

- Training supervisor
- Medical and Mental Health Management team

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.35(a)

The standard provision requires the agency to provide specialized training to DHS or agency employees who serve as full- and part-time medical practitioners or full- and part-time mental health practitioners in immigration detention facilities where medical and mental health care is provided. The PAQ reflects that provisions (a) and (b) of the standard do not apply because medical and mental health practitioners are not employed by ICE and that medical staff is trained in procedures for examining and treating victims of sexual abuse.

During the onsite audit, the Lead Auditor verified that medical and mental health practitioners are not employed by ICE; therefore, the standard provision does not apply.

115.35(b)

The standard provision calls for the required training to cover, at a minimum, the following topics:

- (1) How to detect and assess signs of sexual abuse;
- (2) How to respond effectively and professionally to victims of sexual abuse,
- (3) How and to whom to report allegations or suspicions of sexual abuse, and
- (4) How to preserve physical evidence of sexual abuse. If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

The PAQ reflects that specialized training for medical and mental health covers the four prescribed topics.

During the onsite audit, the Lead Auditor verified that medical and mental health practitioners are not employed by ICE; therefore, the standard provision does not apply.

115.35(c)

The standard provision requires the agency to review and approve the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse, in facilities where medical staff may be assigned these activities. The PAQ reflects that medical and mental health staff is trained in procedures for examining and treating victims of sexual abuse. The training supervisor stated that he is not involved in coordinating training for medical or mental health staff and does not know about their training. The Auditor interviewed members of the medical and mental health management team and they reported that full and part-time medical and mental health practitioners receive specialized training on how to detect and assess signs of sexual abuse, how to respond effectively and professionally to victims, how and to whom to report allegations and suspicions and how to preserve evidence. The CHS policy reflects that all CHS staff receives orientation and on-going training and the list of training topics include PREA standards of care and the list of annual training topics include PREA as well. Training records provided include a list of CHS employees who completed PREA training between June 1 and December 31, 2017.

The CHS policy, the interview with the medical and mental health team and the CHS employee training records support a determination of compliance with the standard provision. The audit tool provides that a determination of non-compliance shall not be based solely on the absence of the agency's review.

RECOMMENDED CORRECTIVE ACTIONS

115.35(a) – No corrective action required.

115.35(b) – No corrective action required.

115.35(c) – No corrective action required.

§115.41 – Assessment for risk of victimization and abusiveness.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- Detainee risk-assessment form
- Redacted printout of detainee classification information
- Sample of 15 detainee risk-assessments

PEOPLE INTERVIEWED

- CL (for PSACM)
- Classification supervisor
- Intake deputy
- Random Sample of Detainees

SITE INSPECTION OBSERVATIONS

- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.41(a)

The standard provision requires the facility to assess all detainees on intake to identify those likely to be sexual aggressors or sexual abuse victims and shall house detainees to prevent sexual abuse, taking necessary steps to mitigate any such danger. Each new arrival shall be kept separate from the general population until he/she is classified and may be housed accordingly. The PAQ reflects that all detainees are assessed on intake to identify those likely to be sexual aggressors or sexual abuse victims; that detainees are housed to prevent sexual abuse, taking necessary steps to mitigate any dangers identified in the assessment; and, that new arrivals are kept separate from the general population until they are classified and may be housed accordingly. The Lead Auditor reviewed a sample of 15 detainee risk-assessments dating back to January 2018; the question about vulnerability to sexual assault was not answered in three of the 15 assessments. He requested risk-assessments completed about a year earlier to determine if these assessments were conducted throughout the audit period; however, the earliest assessment provided dates to January 2018. One of the deputies explained that the PREA risk-assessment was incorporated into the computerized system about six months prior to the onsite audit, but the risk assessment questions were always part of detainee intake processing. The CL (for PSACM) and the classification supervisor reported that detainees are housed separate from the general population during the initial classification process; this is consistent with the Auditors' observations during the site inspection where staff identified three tanks that are used for holding detainees separate from the general population; there was no risk-assessment in progress for the Lead Auditor to observe. Of the 30 detainees interviewed, approximately 60% recalled being asked the sexual safety questions during the intake process; the others did not recall being asked those questions and four asserted that the questions were not asked.

The sample of 15 completed risk-assessments, the Lead Auditor's observations during the site inspection and interviews with the classification supervisor, the CL (for PSACM) and detainees tend to support a determination of compliance with the standard provision. Although the Second Auditor to date has not seen any risk assessments for the period prior to January 2018, by all accounts given by the Lead Auditor, the facility has now been doing risk assessments that can be reviewed at least since January 2018. The current state of the risk assessment process and the accessibility of documents for review lead to a judgment that the facility is in substantial compliance with this portion of the standard.

115.41(b)

The standard provision states that the initial classification process and initial housing assignment should be completed within 12 hours of admission to the facility. The PAQ reflects that the initial classification process and initial housing assignment is completed within 12 hours of admission to the facility. The CCOM specifies that detainees will be processed for housing within 12 hours of arrival at the facility and requires documentation of the reason for the delay if the process takes longer. The classification supervisor reported that the initial classification and housing assignment is completed within 12 hours of admission to the facility, but typically much sooner and the intake deputy said four to six hours.

The PSACM, in response to a written request from the Second Auditor, has advised that detainee movement is tracked electronically in "the housing query." Although the detainees spend time at the OCSD's Intake Release Center or IRC (at a different location), that time is not figured into the 12 hour figure for a hold room. The PSACM noted, "It is rare that a detainee is held in a hold room for a combined 10 hours between the 2 facilities but never exceeds 12 hours as we use the same cells for court holding...." However, no documents were supplied in support of this information.

Six of 30 detainees interviewed reported that they were held in booking longer than 12 hours and five of those six said they were held for one day or more, up to three days. All detainees are delivered to the OCSD's Intake Release Center or IRC (at a different location) before being sent to TLF, where risk-assessment and classification are completed. The Auditors toured the intake processing area at the IRC and there were no detainees being processed there. According to the explanation provided, detainees undergo intake medical screening at the IRC before being transferred to other OCSD facilities. The facility did not have any detainees identified as transgender for interview.

The CCOM, the interviews with the classification supervisor, the intake deputy, and the written comments from the PSACM tend to support a determination of compliance with the standard provision. Although 20% of detainees interviewed by the Lead Auditor reported they were held in booking longer than 12 hours, it is not persuasive enough to negate a finding of substantial compliance with this subsection.

AUDITOR RECOMMENDATION:

Apparently the facility uses a computer tracking system to follow the detainee from his admission to his actual housing placement at the facility. If the date and time of admission and date and time of initial housing are not currently included in the detainee's files, the addition of such information should be considered.

115.41(c)

The standard provision requires the facility to also consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization:

- (1) Whether the detainee has a mental, physical, or developmental disability;
- (2) The age of the detainee;
- (3) The physical build and appearance of the detainee;
- (4) Whether the detainee has previously been incarcerated or detained;
- (5) The nature of the detainee's criminal history;
- (6) Whether the detainee has any convictions for sex offenses against an adult or child;
- (7) Whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- (8) Whether the detainee has self-identified as having previously experienced sexual victimization; and
- (9) The detainee's own concerns about his or her physical safety.

The PAQ reflects that staff considers all nine prescribed criteria when assessing detainees for risk of sexual victimization, if the information is available. The CCOM requires consideration of substantially similar case factors in classifying detainees. The facility's risk-assessment form includes all nine criteria prescribed by the standard provision and the 15 completed risk assessments provide evidence that the prescribed questions are asked. The classification supervisor reported that all nine prescribed criteria are used and provided examples of how staff would consider the information received in making classification and housing decisions. He explained that where the assessment identifies potential risks of victimization, the detainee would be placed in safe housing. Approximately 60% of detainees interviewed recalled being asked the risk assessment questions.

The CCOM, the facility's risk-assessment form, the 15 completed risk assessments, and the interviews with the classification supervisor and detainees support a determination of compliance with the standard provision.

115.41(d)

The standard provision requires the facility to consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the facility, in assessing detainees for risk of being sexually abusive. The PAQ reflects that the facility considers all three criteria when assessing detainees for risk of being sexually abusive. The CCOM requires consideration of past and current offenses, disciplinary history, and documented violence in the classification process. The facility's risk-assessment form includes all three criteria. The 15 completed risk assessments provide evidence that the prescribed questions are considered in assessing detainees for risk of being sexually abusive. The classification supervisor reported that all three criteria are considered and explained how staff would consider the information in making classification and housing decisions. He explained that where the assessment identifies potential risks of abusiveness, the detainee would be housed where he cannot have contact with potential victims.

The CCOM, the risk-assessment form, the 15 completed risk assessments, and the interview with the classification supervisor support a determination of compliance with the standard provision.

115.41(e)

The standard provision requires the facility to reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization. The PAQ reflects that each detainee's risk of victimization or abusiveness is reassessed between 60 and 90 days from the date of the initial assessment and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization. The classification supervisor reported that reassessments for risk of victimization or abusiveness are conducted within 90 days and again within 120 days, upon the receipt of additional relevant information, or immediately following an incident of abuse or victimization. The facility provided a redacted printout showing a detainee's reassessment within the first 90 days and again about 120 days later. A classification deputy reported that reassessments are done by reviewing the facility's automated jail system and do not include an interview with the detainee.

The redacted printout and the interview with the classification supervisor support a determination of compliance with the standard provision. The facility should conduct reassessments in similar fashion as initial assessments; that is, by interviewing detainees. A review of the agency's automated jail system would not produce the same sexual safety information as an interview with a detainee.

115.41(f)

The standard provision states detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (c)(1), (c)(7), (c)(8), or (c)(9) of this section. The PAQ reflects that the facility refrains from disciplining detainees for any of the reasons specified in the standard provision. Both the CL (for PSACM) and the classification supervisor reported that detainees are not disciplined for any of the reasons specified in the standard provision.

The interviews with the CL (for PSACM) and the classification supervisor support a determination of compliance with the standard provision.

115.41(g)

The standard provision requires the facility to implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees or detainees. The PAQ reflects that the facility implemented controls for the reasons specified in the standard provision. The CL (for PSACM) stated that only staff who need to know have access, that computer access is limited and that supervisors would have access if they need to know. The classification supervisor reported that only classification deputies and sergeants have access and others require approval from the classification sergeant. During the site inspection, the classification supervisor's approval was required before sharing information with the Lead Auditor.

The Lead Auditor's observations during the site inspection and interviews with the CL (for PSACM) and classification supervisor support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.41(a) – No corrective action is required.

115.41(b) – No corrective action is required.

115.41(c) – No corrective action required.

115.41(d) – No corrective action required.

115.41(e) – No corrective action required.

115.41(f) – No corrective action required.

115.41(g) – No corrective action required.

§115.42 – Use of assessment information.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM

- Classification screen printout
- ICE AFOD memorandum
- ICE Compliance sergeant memorandum

PEOPLE INTERVIEWED

- CL (for PSACM)
- Classification supervisor

SITE INSPECTION OBSERVATIONS

- Site Inspection observations

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.42(a)

The standard provision requires the facility to use the information from the risk assessment under § 115.41 of this part to inform assignment of detainees to housing, recreation and other activities, and voluntary work. The agency shall make individualized determinations about how to ensure the safety of each detainee. The PAQ reflects that the information from risk assessment under 115.41 is used as prescribed by the standard provision and individualized determinations are made to ensure the safety of each detainee. The CCOM requires detainees to be housed appropriately based upon the OCSD classification system, pursuant to the contract with ICE and calls for detainees to be housed only with detainees who are within one classification level. The facility provided a printout of the computer screen used to collect the information used to inform assignment of detainees to housing and program activities. The CL (for PSACM) stated that in making individualized assessments for housing and classification decisions, staff ask a series of questions and classification decisions, including housing, are made based upon information collected. The intake deputy stated that he is not involved in the classification of detainees. The classification supervisor explained how he would use risk-assessment information to assess detainees for risk of sexual victimization or abusiveness and to make housing and other classification decisions. He explained that a detainee identified as gay or bisexual would not be separated automatically; that the detainee's views on personal safety would be considered; that such detainee could be housed in Module O; and that if safety concerns were identified, the detainee would be placed in safe housing.

The CCOM, the computer screen printout, and interviews with the CL (for PSACM) and classification supervisor support a determination of compliance with the standard provision.

115.42(b)

The standard provision states that when making assessment and housing decisions for a transgender or intersex detainee, the facility shall consider the detainee's gender self-identification and an assessment of the effects of placement on the detainee's health and safety. The facility shall consult a medical or mental health professional as soon as practicable on this assessment. The facility should not base placement decisions of transgender or intersex detainees solely on the identity documents or physical anatomy of the detainee; a detainee's self-identification of his/her gender and self-assessment of safety needs shall always be taken into consideration as well. The facility's placement of a transgender or intersex detainee shall be consistent with the safety and security considerations of the facility, and placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee. The PAQ reflects that all considerations, assessments and consultations prescribed by the standard provision are done for transgender detainees. The CCOM reflects that transgender detainees will be assigned housing and programming on a case-by-case basis after consideration of the detainee's health and safety, as well as management and security concerns. The ICE AFOD reported via memorandum that the contract with OCSD does not include detention beds for detainees identified as transgender or intersex. The ICE Compliance sergeant reported via memorandum that the facility has never and will never house detainees identified as transgender or intersex. The classification supervisor and the CL (for PSACM) reported that the facility does not house transgender or intersex detainees.

The CCOM, the two memoranda, and the interviews with the classification supervisor and the CL (for PSACM) support a determination of compliance with the standard provision.

115.42(c)

The standard provision states that when operationally feasible, transgender and intersex detainees shall be given the opportunity to shower separately from other detainees. The PAQ reflects that the shower accommodations specified in the standard provision are allowed for transgender and intersex detainees. The facility does not house detainees identified as transgender or intersex.

The CCOM, the two memoranda, and the interviews with the classification supervisor and the CL (for PSACM) support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.42(a) – No corrective action required.

115.42(b) – No corrective action required.

115.42(c) – No corrective action required.

§115.43 – Protective custody.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM

- Memorandum from the ICE Compliance Sergeant
- ICE Notification List

PEOPLE INTERVIEWED

- Captain

SITE INSPECTION OBSERVATIONS

- SMU tour and conversation with deputy

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.43(a)

The standard provision requires the facility to develop and follow written procedures consistent with the standards in this subpart for each facility governing the management of its administrative segregation unit. These procedures, which should be developed in consultation with the ICE ERO FOD having jurisdiction for the facility, must document detailed reasons for placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault. The PAQ reflects that the facility has not placed a detainee in segregated housing in the last 12 months, that the procedures were developed in consultation with the ICE ERO FOD and that the procedures document the detailed reasons for placement of an individual in administrative segregation due to vulnerability to sexual abuse or assault. The CCOM requires a written order for placement in administrative segregation but does not specifically require documentation of detailed reasons for placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault. Neither the facility nor the ERO FOD provided documentation or other proof that the procedure was developed in consultation with the ERO FOD. The Captain stated that the facility does not have administrative segregation housing and that single cells in existing housing units are used instead.

The facility's ability to find alternatives to placing the alleged victim in administrative segregation in both cases during the audit period and the interview with the Captain tend to support a determination of compliance with the standard provision. However, the CCOM's failure to specifically require documentation of detailed reasons for placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault does not support a determination of compliance with the standard provision. The fact that the facility has not placed a detainee in the SMU does not exempt the facility from compliance with the specified provisions.

115.43(b)

The standard provision states that use of administrative segregation by facilities to protect detainees vulnerable to sexual abuse or assault shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, as a last resort. The facility should assign detainees vulnerable to sexual abuse or assault to administrative segregation for their protection until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days. The PAQ reflects that use of administrative segregation to protect detainees vulnerable to sexual abuse is restricted to the reasons specified in the standard provision, that it is used until an alternative means of separation from likely abusers can be arranged, and the assignment does not ordinarily exceed 30 days. The CCOM references protective custody and administrative segregation but does not distinguish between the two. The distinction is important because the standard is concerned with placement in administrative segregation for protection from sexual abuse, not with protective custody status in other housing areas. The CCOM specifies that a detainee will be placed in protective custody only when warranted by documentation and there is no other reasonable alternative. The Captain was not sure about protective custody housing for detainees vulnerable to sexual abuse and pointed out that classification deputies would try to use Module I to separate detainees for protection.

The CCOM, the facility's ability to find alternatives to placing the alleged victim in segregated housing in both cases reported during the audit period, and the interview with the Captain support a determination of compliance with the standard provision. The language in the CCOM does not include enough detail to ensure compliance with the standard provision. Revisions to the procedure under (a) above should include language to ensure the practice complies with the standard provision.

115.43(c)

The standard provision states that facilities that place vulnerable detainees in administrative segregation for protective custody shall provide those detainees access to programs, visitation, counsel and other services available to the general population to the maximum extent practicable. The PAQ reflects that vulnerable detainees in administrative segregation for protective custody receive access to programs and services as specified in the standard provision. The CCOM states that placement in administrative segregation shall not involve deprivation of privileges other than is necessary to obtain the objective of protecting detainees and staff. During the inspection of the SMU, the Auditor asked about privileges and a deputy reported that phone calls, shower, and visits are the only privileges allowed. There was a telephone assembly on casters for detainees in the SMU.

The CCOM, the Auditors' observations in the SMU and the deputy's explanation of privileges, support a determination of substantial compliance with the standard provision. However, it is strongly recommended that TLF document any reasons why the furnishing of all programs and services to detainees in the open population are not practicable for any given detainee in the SMU.

115.43(d)

The standard provision requires the facility to implement written procedures for the regular review of all vulnerable detainees placed in administrative segregation for their protection, as follows:

- (1) A supervisory staff member shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted; and
- (2) A supervisory staff member shall conduct, at a minimum, an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days, and every 10 days thereafter.

The PAQ reflects that the facility implemented procedures as prescribed and the procedures require the prescribed reviews by a supervisor. The CCOM requires the classification sergeant or designee conduct a review within 72 hours of placement for the reason specified by the standard provision. It also requires the sergeant or designee to conduct the same type of review after seven days and every week thereafter for the first 60 days and every 30 days thereafter. The Captain was not sure whether there were time limits on keeping detainees in protective custody due to vulnerability to sexual abuse.

The CCOM does not support a determination of compliance with the standard provision. The CCOM calls for 30-day reviews after the first 60 days in administrative segregation and the standard provision requires 10-day reviews after the first 30 days. The CCOM's timelines differ from those prescribed by the standard provision in a manner that is prejudicial to detainees because it calls for longer periods between reviews after the detainee is retained in segregated housing.

115.43(e)

The standard provision requires the facility to notify the appropriate ICE FOD no later than 72 hours after the initial placement into segregation, whenever a detainee has been placed in administrative segregation on the basis of a vulnerability to sexual abuse or assault. The PAQ reflects that the facility makes the notification prescribed by the standard provision. The CCOM does not require the notification prescribed by the standard provision and the ICE notification list does not include placement in segregated housing due to vulnerability to sexual abuse as an event for which notification to ICE is required.

The CCOM and the ICE notification list do not support a determination of compliance with the standard provision. If the requirements of the standard are not included in the CCOM or the ICE notification list and staff are expected to follow the CCOM and the notification list, the practice at the facility is not likely to meet the standard.

RECOMMENDED CORRECTIVE ACTIONS

115.43(a) – The agency/facility shall ensure its procedures governing the management of its SMU require documentation of detailed reasons for placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault.

115.43(b) – No corrective action required.

115.43(c) – No corrective action required.

115.43(d) – The agency/facility shall revise the CCOM to require periodic reviews, after the first 30 days, of the need for retention in administrative segregation; the period in between these reviews shall not exceed 10 days. The procedures shall require, at a minimum, the reviews prescribed by the standard provision and shall be developed in consultation with the ERO FOD. The facility shall provide documentation to prove that the procedures were developed or revised in consultation with the ERO FOD and ensure all relevant staff are trained on the procedures.

115.43(e) – The facility shall, at minimum, revise its ICE notification list, if not the CCOM, to require notification to the ICE FOD within 72 hours of a detainee's placement in administrative segregation due to vulnerability to sexual abuse.

§115.51 – Detainee reporting.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Zero-tolerance posters (ICE and TLF)
- DHS OIG poster
- Detainee handbooks (agency and facility)
- DHS/ICE Sexual Abuse and Assault Awareness pamphlet
- Education video
- Telephone calling instructions

PEOPLE INTERVIEWED

- CL (FOR PSACM)
- Sample of security staff, Including Line Staff and First-Line Supervisors
- Random Sample of Detainees

SITE INSPECTION OBSERVATIONS

- Site inspection observation

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.51(a)

The standard provision requires the agency and facility to develop policies and procedures to ensure that detainees have multiple ways to privately report sexual abuse, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents. The agency and each facility shall also provide instructions on how 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, reports these incidents. The PAQ reflects that the agency or facility developed the required policies and procedures, and informed detainees about how to contact the specified offices. The CCOM identifies multiple methods for detainees to report sexual abuse and assault, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents including privately and anonymously. The ICE and the TLF zero-tolerance poster, detainee handbooks, the DHS/ICE pamphlet, and the education video inform detainees of multiple methods of reporting. The Lead Auditor viewed the education video and verified that it informs detainees of multiple reporting methods. During the site inspection, the Auditors viewed the PREA posters and the pamphlet on bulletin boards in detainee housing and program areas and dialing instructions next to each detainee telephone tells them how to place phone calls. The CL (for PSACM) and deputies identified multiple methods detainees may use to report sexual abuse. Detainees interviewed also identified multiple methods they could use to report sexual abuse, including reporting to the Anaheim Police, to authorities at the facility, to medical staff, or to ICE.

Although included in the education video and written materials, not all detainees know how to contact their consular official, the DHS OIG, or another designated office, to confidentially or, anonymously, report these incidents. Some detainees acknowledged that they did not pay attention to the video and/or did not read the written materials.

The CCOM, the written materials provided to detainees, the education video, and interviews with the CL (for PSACM), deputies and detainees support a determination of compliance with the standard provision.

115.51(b)

The standard provision requires the agency to also provide, and the facility shall inform the detainees of, at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request. The PAQ reflects that detainees are informed about reporting to an entity that is not part of the agency and the option to remain anonymous if they choose as specified in the standard provision. The CCOM, which is not issued to detainees, includes the language of the standard provision verbatim and identifies the Orange County Sexual Assault Network; however, neither the pamphlet, the handbook, nor the posters reviewed identify this organization or provide contact information for this entity. The DHS written materials inform detainees about reporting anonymously and confidentially to the "DRIL Line" or the DHS OIG and provide contact information for that office. The National Detainee Handbook and the DHS/ICE Sexual Abuse and Assault Awareness pamphlet tells detainees they can report to their consular official. The DHS OIG poster tells readers to report a variety of crimes and misconduct. The CL (for PSACM) and deputies identified the DHS OIG and the "hotline" (DRIL Line) as outside entities to whom detainees can report sexual abuse anonymously and confidentially. During the onsite audit, the administrative manager revised the zero-tolerance poster by listing Waymakers as a third-party independent reporting entity with a phone number for contacting that organization

The documentation provided, along with the Lead Auditor's interview with the CL (for PSACM) and the Second Auditor's interviews with deputies and detainees, support a determination of compliance with the standard provision.

115.51(c)

The standard provision requires the facility's policies and procedures to include provisions for staff to accept reports made verbally, in writing, anonymously, and from third parties and to promptly document any verbal reports. The PAQ reflects that facility policies and procedures require staff to accept reports made as specified by the standard provision and promptly document any verbal reports. The CCOM requires staff to accept reports made through the specified methods and promptly document in all cases. The CL (FOR PSACM) and deputy interviews confirmed that staff accept reports of sexual abuse made verbally, in writing, anonymously, and from third parties and to promptly document any verbal reports.

The CCOM and interviews with the CL (for PSACM) and deputies support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.51(a) – No corrective action required.

115.51(b) – No corrective action required.

115.51(c) – No corrective action required.

§115.52 – Grievances.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- OCSO Detainee Handbook
- Grievance form

PEOPLE INTERVIEWED

- Grievance coordinator
- Sample of security staff, Including Line Staff and First-Line Supervisors
- Random Sample of Detainees

SITE INSPECTION OBSERVATIONS

- Observations in housing units
- Detainee statements

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.52(a)

The standard provision requires the facility to permit a detainee to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint. The PAQ reflects that the facility did not receive a grievance related to sexual abuse during the audit period and that detainees are permitted to file a formal grievance at any time and for the reason specified by the standard provision. The handbook tells detainees there are no time limits for filing a grievance related to sexual abuse. The grievance coordinator stated that he would accept an allegation of sexual abuse made through the formal grievance process and that there are no time limits on when a detainee may file a grievance regarding an allegation of sexual abuse. Deputies interviewed reported that they would accept a grievance alleging sexual abuse. A majority or 63% of the 30 detainees interviewed know they can report sexual abuse by filing a formal grievance and during the site inspection, the Lead Auditor asked, and detainees confirmed that grievance forms are readily available for their use. The Auditor noted that grievance forms are readily available in housing

units; there is a secured box for detainees to deposit their grievance forms and a deputy explained that only sergeants and the grievance coordinator have the key.

The handbook, observations during the site inspection, and interviews with the grievance coordinator, deputies and detainees support a determination of compliance with the standard provision.

115.52(b) The standard provision prohibits the facility from imposing a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse. The PAQ reflects that the facility refrains from imposing a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse. Neither the CCOM, the grievance form, nor the handbook impose a time limit on when a detainee may submit a grievance alleging sexual abuse and the grievance coordinator confirmed that policy.

The CCOM, the grievance form, the handbook and the interview with the grievance coordinator support a determination of compliance with the standard provision.

115.52(c)

The standard provision requires the facility to implement written procedures for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse. The PAQ reflects that there are written procedures for handling the time-sensitive grievances specified in the standard provision. The CCOM includes an "Emergency Grievance" procedure for grievances that involve an immediate threat to a detainee's health or safety. The grievance coordinator stated that there is not a different set of procedures for responding to a time-sensitive grievance related to sexual abuse. Grievances related to sexual abuse will be handled through the facility's emergency grievance procedure.

The CCOM and the interview with the grievance coordinator support a determination of compliance with the standard provision.

115.52(d)

The standard provision requires facility staff to bring medical emergencies to the immediate attention of proper medical personnel for further assessment. The PAQ reflects that facility staff brings medical emergencies to the immediate attention of proper medical personnel for further assessment. The emergency grievance procedure in the CCOM does not include medical emergencies; the facility pointed to medical staff coordinating medical and social services under staff response to incidents of sexual abuse, which is different from dealing with a grievance that involves a medical emergency. The grievance coordinator and deputies interviewed stated that they would notify medical immediately upon receiving a grievance related to sexual abuse.

The interviews with the grievance coordinator and the deputies support a determination of compliance with the standard provision. The facility should consider revising the emergency grievance procedure to include the requirement of this standard provision.

115.52(e)

The standard provision requires the facility to render a decision on the grievance within five days of receipt and respond to an appeal of the grievance decision within 30 days. Facilities shall send all grievances related to sexual abuse and the facility's decisions with respect to such grievances to the appropriate ICE FOD at the end of the grievance process. The PAQ reflects that decisions related to sexual abuse are not rendered within five days. Neither the CCOM nor the grievance form specify time frames for rendering a decision on a grievance or decision on an appeal of the grievance decision. The grievance coordinator stated that a decision on grievances related to sexual abuse is rendered within five days and appeal decisions on the grievance within 30 days. The facility supplied an internal memo verifying that there were no grievances during the audit period.

The interview with the grievance coordinator, supplemented by a facility internal memo verifying the absence of any grievances, support a determination of compliance with the standard provision. The facility should consider specifying grievance response time frames in the CCOM, the detainee handbook and on the grievance form.

115.52(f)

The standard provision states that to prepare a grievance, a detainee may obtain assistance from another detainee, the housing officer or other facility staff, family members, or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties. The PAQ reflects that a detainee can obtain the assistance specified in the standard provision and staff take reasonable steps to expedite those requests. The CCOM allows detainees to obtain assistance from another detainee, the housing officer or other facility staff, family members, or legal representatives. The grievance coordinator stated that he would contact the person requested and setup a phone call or visit with the detainee if the detainee requests assistance from a family member or legal representative. All Deputies interviewed indicated they would help a detainee obtain third-party assistance with filing a grievance; no responses suggested that the deputy would deny a detainee's request for third party assistance. Only one-third of 30 detainees interviewed know they could request third-party assistance with preparing a grievance.

The CCOM and the interviews with the grievance coordinator and the deputies support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.52(a) – No corrective action required.

115.52(b) – No corrective action required.

115.52(c) – No corrective action required.

115.52(d) – No corrective action required.

115.52(e) – No corrective action required.

115.52(f) – No corrective action required.

§115.53 – Detainee access to outside confidential support services.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- MOU with Waymakers
- Detainee Handbooks (ICE and OCSD)
- ICE Detainee Assistance Alternative
- Detainee Request Form

PEOPLE INTERVIEWED

- CL (FOR PSACM)
- Random Sample of Detainees
- Representative from Waymakers

SITE INSPECTION OBSERVATIONS

- Site inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.53(a)

The standard provision requires the facility to utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse perpetrators to most appropriately address victims' needs. The facility shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime. The PAQ reflects that the facility utilizes the required community resources and services as specified by the standard provision and has an MOU with community service providers. The facility provided its MOU with Waymakers, a local domestic violence victim advocate. In the contract, Waymakers agrees to provide a panoply of services that includes those prescribed by the standard provision. The Lead Auditor interviewed a representative of Waymakers and she confirmed that her organization provides services to detainee victims of sexual abuse at the facility and that the services prescribed by the standard provision are included. The CL (for PSACM) identified Waymakers as the community-based organization that provides the prescribed services to detainee victims pursuant to an MOU and stated that the facility does not have a staff member qualified to provide the services in question. The Waymakers representative was not able to confirm whether any calls received from OCSD jails came from detainees at TLF.

The MOU and the interviews with the PSACM and the Waymakers representative support a determination of compliance with the standard provision.

115.53(b)

The standard provision requires the facility's written policies to establish procedures to include outside agencies in the facility's sexual abuse prevention and intervention protocols, if such resources are available. The PAQ reflects that the facility's written policies establish procedures to include outside agencies in the facility's sexual abuse prevention protocols. The reporting and response protocol in the CCOM calls for notifying facility medical staff to coordinate necessary medical and social services and include transporting the victim to the hospital for forensic medical examination. The CL (for PSACM) reported that Waymakers role is formally incorporated in the facility's sexual abuse prevention and intervention protocols. The Waymakers representative confirmed that her organization is incorporated in the facility's formal sexual abuse prevention and intervention protocols.

The CCOM and the interviews with the CL (for PSACM) and the Waymakers representative support a determination of compliance with the standard provision.

115.53(c)

The standard provision requires the facility to make available to detainees, information about local organizations that can assist detainees who have been victims of sexual abuse, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). If no such local organizations exist, the facility shall make available the same information about national organizations. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible. The PAQ reflects that detainees are provided information about the organizations in question and that the facility enables reasonable communication with these organizations in as confidential a manner as possible. The OCSD detainee handbook does not provide the information prescribed by the standard provision; however, the TLF zero-tolerance poster identifies Waymakers as a 3rd party independent reporting option, provides a local phone number and reflects that calls are unmonitored; the poster, however, does not provide a mailing address for Waymakers. During the site inspection, the Lead Auditor identified the ICE Detainee Handbook and the ICE Detainee Assistance Alternative poster; both documents tell detainees about the services in question and tells them to contact facility staff to obtain assistance. The CL (for PSACM) reported that the facility informs detainees about the organization through the posters in housing units and through the Waymakers pamphlet, which is being revised. Only 12 (40%) of the 30 detainees interviewed recalled seeing or hearing about organizations that provide support services; however, they did not understand the information.

The ICE handbook, the ICE assistance alternative poster and the interview with the CL (for PSACM) tend to support a determination of compliance with the standard provision; however, the OCSD handbook, the TLF zero-tolerance poster, the Lead Auditor's observations and detainee interviews do not. The ICE written material informs detainees about the services and tells them to contact staff for assistance; however, because these are intended for distribution at all facilities holding ICE detainees, they do not provide information about local providers. The standard provision requires each facility to identify local organizations and provide mailing addresses and telephone numbers; this allows detainees to contact these organizations confidentially and obtain the services without going through a staff member. The poster identifies Waymakers, but not as a local organization that provides the services prescribed by the standard provision; so even if detainees learn about these services from the ICE written material, they may not recognize that Waymakers is the local organization that provides the services. Although the address for Waymakers is absent from the poster, should a detainee acquire the address and write to Waymakers, the out-going mail to Waymakers would be dealt with in accord with the standard's provision of "in as

confidential manner as possible.” According to the PSACM, mail to Waymakers would be treated like legal mail. All outgoing mail is monitored in some manner, but special mail (such as legal mail) would be opened to be inspected for contraband but not read.

115.53(d)

The standard provision requires the facility to inform detainees, prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The PAQ reflects that the facility informs detainees about monitoring communications and mandatory reporting, as required by the standard provision, prior to giving them access to outside resources. The TLF zero-tolerance poster identifies Waymakers as a 3rd party independent reporting option and tells detainees that calls are unmonitored. The CL (for PSACM) reported that calls to Waymakers are not monitored and stated that he would get back to the Lead Auditor on how detainees are informed about monitoring but did not. Only one of 30 detainees interviewed reported hearing about confidential contact with these organizations and phone-call monitoring by the facility.

The poster and the interviews with the CL (for PSACM) and detainees do not support a determination of compliance with the standard provision. The Lead Auditor recognizes that it is not unusual for people in detention to not know about confidential communications with service providers, facility monitoring of these communications and mandatory reporting laws, even after receiving this information during orientation and in written materials provided to them. The poster identifies Waymakers, provides a phone number and informs detainees that the calls are unmonitored, but does not inform detainees of the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The agency/facility may provide this information to detainees via a recording on the phone prior to contacting Waymakers or a poster next to the phones. It is possible that Waymakers may have identified a method of providing this information to detainees.

RECOMMENDED CORRECTIVE ACTIONS

115.53(a) – No corrective action required.

115.53(b) – No corrective action required.

115.53(c) – The agency/facility shall inform detainees about the services available to victims of sexual abuse, that those services are available confidentially through Waymakers and provide a mailing address for Waymakers along with telephone access to Waymakers, in as confidential a manner as possible. Private meetings at the facility with Waymakers representatives is also an option.

115.53(d) – The facility shall inform detainees, prior to giving them access to Waymakers, 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.

§115.54 – Third-party reporting

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- Agency website
- ICE DRIL Line flyer

PEOPLE INTERVIEWED

- Call to ICE DRIL line

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.54

The standard provision requires the facility to establish a method to receive third-party reports of sexual abuse in its immigration detention facilities and shall make available to the public information on how to report sexual abuse on behalf of a detainee. The PAQ reflects that the facility established a method to receive third-party reports of detainee sexual abuse and information has been made available to the public about how to report sexual abuse on behalf of a detainee. The Lead Auditor verified that the agency's website at <https://www.ice.gov/contact/detention-information-line> includes a link to the ICE DRIL line flyer; the flyer provides a toll-free number and information for stakeholders who wish to report sexual abuse of detainees in ICE custody. The Lead Auditor called the number, spoke with a representative who verified that detainees and third parties can report a case of sexual abuse of detainees in ICE custody by calling that number. The agency/facility provided the ICE Community Helpline flyer with the DRIL line number. The Lead Auditor was unable to find information or a link to the ICE DRIL line on the OCSO website.

The DRIL line flyer and the phone call to the DRIL line support a determination of compliance with the standard provision as it relates to ICE; however, it is not clear that the facility has established a method to receive third party reports of sexual abuse as prescribed by the standard provision. The facility provided DHS and ICE written materials that inform detainees about third party reporting; these do not satisfy the intent of the standard provision. The OCSO website would be an ideal tool for informing the public on how to report allegations of sexual abuse on behalf of a detainee.

RECOMMENDED CORRECTIVE ACTIONS

115.54 – If not yet in place, the OCSO shall establish a method to receive third-party reports of sexual abuse in its immigration detention facilities and shall make available to the public information on how to report sexual abuse on behalf of a detainee.

§115.61 – Staff reporting duties.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM

PEOPLE INTERVIEWED

- Captain
- CL (for PSACM)
- Sample of security staff, Including Line Staff and First-Line Supervisors -

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.61(a)

The standard provision requires the agency and the facility to require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in a facility; 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. The agency shall review and approve facility policies and procedures and shall ensure that the facility specifies appropriate reporting procedures, including a method by which staff can report outside of the chain of command. The PAQ reflects that staff are required to report immediately and according to agency policy, any knowledge, suspicion, or information regarding all events specified by the standard provision; that the facility provided such policies and procedures to the agency for review; and that the policies and procedures specify appropriate reporting procedures including how to report outside the chain of command. The CCOM requires all staff to immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment as specified by the standard provision to their sergeant, supervisor or directly to the Internal Affairs Bureau. The CL (for PSACM) stated that staff are aware of the requirement to report suspicion, retaliation and staff neglect as specified in the standard provision and reports can be done verbally, in writing, and anonymously outside the chain of command to the OIG. All deputies interviewed are aware of the requirement to report immediately any of the events specified by the standard provision. Deputies would report to their supervisor and supervisors would report to medical, the investigator, management, ICE, and law enforcement.

The CCOM and interviews with the CL (for PSACM) and deputies support a determination of compliance with the standard provision.

115.61(b)

The standard provision states that staff members who become aware of alleged sexual abuse shall immediately follow the reporting requirements set forth in the agency and facility's written policies and procedures. The PAQ reflects that staff members follow the reporting requirements immediately upon learning of a case of sexual abuse. The CCOM requires staff to immediately report all allegations of sexual abuse and harassment immediately to the sergeant or supervisor. All deputies interviewed indicated that they would report immediately to their supervisor any of the events specified by the standard provision.

The CCOM and interviews with deputies support a determination of compliance with the standard provision.

115.61(c)

The standard provision states that 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 detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions. The PAQ reflects that apart from reporting, staff is prohibited from revealing any information related to a sexual abuse report to anyone other than for the reasons specified in the standard provision. The CCOM specifically prohibits staff from revealing information related to a sexual abuse report to anyone other than to the extents specified by the standard provision. Interviews with deputies reflect that they would report to their supervisor and supervisors would report to medical, the investigating office, management, ICE, and law enforcement.

The CCOM and interviews with deputies support a determination of compliance with the standard provision.

115.61(d)

The standard provision states that if the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws. The PAQ reflects "N/A" indicating that the standard provision does not apply. The Captain stated that the facility reports incidents of sexual abuse immediately to local law enforcement and to the Field Office leadership, and that ICE takes care of other required reporting such as to the Joint Intake Center (JIC), to the OPR, to the OIG, etc.; he did not comment on reporting to local services agencies if the victim is considered a vulnerable adult.

According to the explanation on the PAQ, N/A is to be selected if the facility does not house juveniles or vulnerable adults as defined by State law. While the facility does not house juveniles, it has not been established that it does not house vulnerable adults as defined by State Law. During the onsite review, the Auditor determined that the facility houses detainees with physical disabilities, mental illness, and the elderly. The Auditor informed facility staff about county Adult Protective Services (APS) and recommended contacting them about reports of sexual abuse if the alleged victim is a vulnerable adult. Every county in California has an APS agency.

AUDITOR RECOMMENDATION:

The Lead Auditor recommends that the facility establish contact with the Orange County APS about their interest in receiving reports of sexual abuse involving detainees who meet the criteria for vulnerable adult under State law. Since the facility has not received an allegation of sexual abuse involving a detainee who meets the definition of vulnerable adult under State law, there is no evidence that the facility failed to comply with the standard provision during the audit period.

RECOMMENDED CORRECTIVE ACTIONS

- 115.61(a) – No corrective action required.
- 115.61(b) – No corrective action required.
- 115.61(c) – No corrective action required.
- 115.61(d) – No corrective action required.

§115.62 – Protection duties.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Two incident/investigative reports

PEOPLE INTERVIEWED

- Captain or Officer in Charge (OIC)
- Sample of security staff, Including Line Staff and First Line Supervisors

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.62

The standard provision states that if an agency employee or facility staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee. The PAQ reflects that facility staff takes immediate action to protect a detainee believed to be at substantial risk of imminent sexual abuse. The CCOM specifies that if a staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee. The Captain stated that under the circumstances described in the standard provision, an employee would immediately separate the detainee and report the information to a supervisor and to classification staff. All deputies interviewed indicated they would move the detainee to safety to protect him and report their reasonable belief to their supervisor. Neither of the two allegations received during the audit period reflect that the victim alleged substantial risk of imminent sexual abuse.

The CCOM and the interviews with the Captain and deputies support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

- 115.62 – No corrective action required.

§115.63 – Report to other confinement facilities.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Memorandum from the compliance sergeant

PEOPLE INTERVIEWED

- Captain
- CL (FOR PSACM) -

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.63(a)

The standard provision states that upon receiving an allegation that a detainee was sexually abused while confined at another facility, the agency or facility whose staff received the allegation shall notify the appropriate office of the agency or the administrator of the facility where the alleged abuse occurred. The PAQ reflects that the facility notifies the facility where the alleged abuse occurred upon receiving an allegation that a detainee was sexually abused at that facility. The CCOM specifies that, upon receiving notification of an allegation that a detainee was sexually abused or assaulted while confined at another facility, the staff who received the allegation shall notify the department commander; the department commander will notify in writing the head of the facility where the alleged abuse occurred. The Captain and the CL (for PSACM) stated that if their facility receives a report that a detainee was sexually abused at another facility, the incident would be reported to the administrator of the facility where the alleged abuse occurred and to ICE. The compliance sergeant reported via memorandum that the facility has never received an allegation of sexual abuse that required notification to an outside confinement facility.

The CCOM, the letter from the compliance sergeant and the interviews with the Captain and the CL (for PSACM) support a determination of compliance with the standard provision.

115.63(b)

The standard provision requires the notification in Paragraph (a) of this section to be provided as soon as possible but no later than 72 hours after receiving the allegation. The PAQ reflects that such notifications are provided as soon as possible but no later than 72 hours after receiving the allegation. The CCOM specifies that notification of the alleged sexual abuse shall occur as soon as possible but no later than 72 hours after receiving the allegation. The Captain and the CL (for PSACM) stated that such notifications would be made within 72 hours of receiving the allegation.

The CCOM and the interviews with the Captain and the CL (for PSACM) support a determination of compliance with the standard provision.

115.63(c)

The standard provision requires the agency or facility to document that it provided such notification. The PAQ reflects that the facility documents such notifications and the CCOM requires written notifications.

The CCOM support a determination of compliance with the standard provision.

115.63(d)

The standard provision states that the agency or facility office that receives such notification, to the extent the facility is covered by this subpart, shall ensure that the allegation is referred for investigation in accordance with these standards and reported to the appropriate ICE FOD. The PAQ reflects that the facility ensures the allegation is investigated and reported to the appropriate ICE FOD. The CCOM does not specifically include language related to the requirements of this standard provision. The Captain and the CL (for PSACM) confirmed that a report that a detainee was sexually abused at TLF would be immediately referred for investigation; they also asserted that no such report has been received.

The interviews with the Captain and the CL (for PSACM) support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.63(a) – No corrective action required.

115.63(b) – No corrective action required.

115.63(c) – No corrective action required.

115.63(d) – No corrective action required.

§115.64 – Responder duties.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Card with steps
- Administrative Manager memorandum

PEOPLE INTERVIEWED

- Sample of security staff, Including Line Staff and First Line Supervisors

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.64(a)

The standard provision states that upon learning of an allegation that a detainee was sexually abused, the first security staff member to respond to the report, or his or her supervisor, shall be required to:

- (1) Separate the alleged victim and abuser;
- (2) Preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence;

- (3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
- (4) 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.

The PAQ reflects that upon learning of an allegation that a detainee was sexual abused, the first security staff member or his or her supervisor is required to take all four steps prescribed by the standard provision. The CCOM lists a number of steps for first responder duties and all four steps prescribed by the standard provision are included. Some deputies interviewed displayed a card with the first security staff responder duties listed and overall, deputies were generally knowledgeable of the first security responder duties prescribed by the standard provision. The two allegations reported during the audit period did not involve a defined crime scene or physical evidence; therefore, the duties in question may not have been required.

The CCOM, the cards and interviews with the deputies support a determination of compliance with the standard provision.

115.64(b)

The standard provision states that if the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff. The PAQ reflects that a non-security staff first responder is required to perform the duties prescribed by the standard provision. The CCOM does not distinguish between responsibilities for a security first responder and those of a non-security first responder and the administrative manager reported via memorandum that non-sworn security staff do not write or investigate sexual abuse reports. There is no subsection with instructions for a non-security first responder and the facility did not have any incident in which the first responder was a non-security staff member; therefore, such interview was not conducted. However, during a post-audit telephone interview with the administrative manager, the Second Auditor learned that all non-security staff receive the same first responder training as security staff. Although the administrative manager thought it would be unlikely in the law enforcement environment of TLF that a non-security employee would actually become a first responder, he noted that the training provided would ensure that whether security or not, the person would be aware of the evidence protocols set out in the standard. The Second Auditor also questioned a religious volunteer mentioned previously in the report about responding to an emergency. The volunteer related that even though he was not trained as a first responder, he had been trained to immediately notify security staff in the event of an emergency.

The memorandum does not address the first responder duties prescribed by the standard provision and is, therefore, irrelevant to a determination of compliance. Without guaranteeing that a non-sworn employee could never be the first to learn about or witness an incident of sexual abuse or sexual assault, the facility does not have a legitimate basis for exempting non-sworn security staff from the first responder duties prescribed by the standard provision. Given that there has not been an incident with a non-sworn security first responder who did not perform the prescribed duties, there is no evidence in support of a determination that the standard was not met. The facility is required to ensure non-sworn security staff are trained and prepared to perform the first responder duties in question, and the Second Auditor's telephone interview with the Administrative Manager confirmed the practice.

RECOMMENDED CORRECTIVE ACTIONS

115.64(a) – No corrective action required.

115.64(b) – No corrective action required.

§115.65 – Coordinated response.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- OCSD 1st First Responder (Patrol Deputies) to Sexual Assaults
- Administrative Manager memorandum

PEOPLE INTERVIEWED

- Captain

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.65(a)

The standard provision requires the facility to develop a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. The PAQ reflects that the facility has developed the plan in question. The facility provided the OCSD "1st First Responder (Patrol Deputies) to Sexual Assaults" procedure which is tailored for response to incidents in the community and seems to focus on juvenile victims. The Captain stated that the watch commander coordinates with all entities, including medical and would ensure all notifications are done; he added that Policy 2900 (the CCOM) is extensive and includes PREA response.

The procedure provided does not support a determination of compliance with the standard provision. The standard provision calls for a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. The procedure submitted by the facility is not an institution plan and does not include the institution first responders prescribed by the standard provision. A plan that coordinates the actions to be taken by the first responders referenced in the standard provision should list the actions to be taken by all identified staff first responders in a coordinated fashion. If the response is coordinated, all responders

should know what actions are taken by other first responders to ensure the response is organized and efficient. To ensure all designated staff first responders are prepared to respond to an actual incident according to the institutional plan, copies of the plan should be distributed to every staff first responder's post or worksite.

115.65(b)

The standard provision requires the facility to use a coordinated multidisciplinary team approach for responding to sexual abuse. The PAQ reflects that the facility uses the approach prescribe by the standard provision. The Captain stated that the watch commander coordinates with all entities including medical but did not elaborate on the other entities and the procedure submitted (OCSD 1) does not identify multidisciplinary responders at the facility.

The interview with the Captain and the OCSD 1 procedure do not support a determination of compliance with the standard provision.

115.65(c)

The standard provision states that if a victim of sexual abuse is transferred between facilities covered by 6 CFR part 115, subpart A or B, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services. The PAQ reflects that the facility provides the prescribed information to the receiving DHS facility as permitted by law. The administrative manager reported via memorandum that the Sheriff's Department receives detainees from ICE, releases them to ICE and has no knowledge of future destinations. The Captain stated that if a victim is transferred to a DHS facility, his facility would provide the information to ICE and ICE would provide the information to the receiving facility; he pointed out that ICE conducts all detainee transportation. A telephone interview with the Administrative Manager (who actually carries out the role of the PSACM) by the Second Auditor verified that the ICE notification list is the mechanism triggering the call to ICE about a sexual assault, which would automatically mean a transfer of the detainee. As indicated, all detainee victims of sexual assault are transferred; the TLF medical department would provide any necessary medical information relevant to the assault.

The interview with the Captain supports a determination of compliance with the standard provision.

115.65(d)

The standard provision states that if a victim is transferred from a DHS immigration detention facility to a facility not covered by paragraph (c) of this section, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise. The PAQ reflects that the facility provides the prescribed information to the receiving non-DHS facility as permitted by law. The Captain indicated that OCSD does not transport detainees and that ICE handles all detainee transportation; the administrative manager's memorandum reiterated the Captain's statement.

The interview with the Captain supports a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.65(a) – The facility shall develop a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. The plan should identify all staff first responders and actions each of them is expected to take during a coordinated response to an incident of sexual assault at the facility. Then ensure each first responder performs the actions specified in the plan during an actual incident [115.65(b)], the plan should be kept at each staff first responder's post or worksite.

115.65(b) – The facility shall ensure its coordinated institutional plan uses a multidisciplinary approach for responding to sexual abuse.

115.65(c) – No corrective action required.

115.65(d) – No corrective action required.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM

PEOPLE INTERVIEWED

- Captain

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.66

The standard provision states that staff, contractors, and volunteers "suspected of perpetrating sexual abuse" shall be removed from all duties requiring detainee contact pending the outcome of an investigation. The PAQ reflects that staff contractors, and volunteers suspected of perpetrating sexual abuse are removed from duties as specified by the standard provision. The provisions cited by the facility in the CCOM for this standard do not actually address the standard. The Captain explained that the detainee would be moved to another location and the staff member would not be allowed contact with the detainee. He added that deputies could be placed on administrative leave and non-custody staff would be barred from the facility or reassigned to another facility. Of course, "could be placed on administrative leave" doesn't rise to the level of "shall be removed from all duties requiring detainee contact."

Through a post-audit written request, the Second Auditor requested material either from the CCOM or some other written source to clarify the practice of the facility. No supplementary materials were provided, but the PSACM responded by explaining how the facility would handle a situation with a suspected staff abuser: "This refers to somebody that we suspect did indeed violate [the standard], not just a mere allegation. This would be a crime involving a staff member. In this case the staff would be placed on Administrative Leave thus restricting him or her from any of our facilities." This statement can certainly be interpreted to mean that the administrative leave might only occur after an investigation. However, the PSACM also noted in the context of a related standard (115.77(b)) that if "Staff, Contractors, or Volunteers" were involved in "Any violation of suspected offences, [they] would be investigated fully and the involved party would be removed from duty during the investigation." The latter statement suggests that an allegation alone would be sufficient to trigger the removal.

The interview with the Captain does not support a determination of compliance with the standard provision. Restricting contact between the employee and the detainee alone does not satisfy the requirement of the standard to remove the employee from duties requiring contact with all detainees. Moving one detainee obviously does not protect other detainees who might be in contact with the employee. Additionally, although placing a deputy on administrative leave would satisfy the requirement of the standard provision, that's only insofar as a staff member is concerned. There appears to be no requirement at the facility based on this standard-either in the CCOM or practice--for contractors or volunteers to be removed from all duties requiring detainee contact in the event he or she is suspected of sexual abuse. The information furnished post-audit by the PSACM is also insufficient to support compliance since one statement seemed to contradict the requirement of the standard while another statement (in reference to a different standard) seemed to support it. Additionally, the standard specifically mandates the removal of staff, contractors, and volunteers "pending an investigation."

RECOMMENDED CORRECTIVE ACTIONS

115.66 – The CCOM and facility practice should be immediately supplemented or corrected to comply with the standard. Staff, contractors, and volunteers suspected of perpetrating sexual abuse should promptly be removed from all duties requiring contact with any detainees, pending the outcome of an investigation. It is further suggested that the facility train/inform everyone involved of what the standard requires.

§115.67 – Agency protection against retaliation.

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

Notes: POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Retaliation Monitoring form
- Administrative Manager memorandum
- Incident/investigative report

PEOPLE INTERVIEWED

- Captain
- CL (for PSACM)

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.67(a)

The standard provision states that staff contractors, and volunteers, and immigration detention facility detainees shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual activity as a result of force, coercion, threats, or fear of force. The PAQ reflects that staff contractors, and volunteers, and immigration detention facility detainees refrain from retaliation as specified by the standard provision. The CCOM forbids retaliation against inmates/detainees who report sexual abuse or cooperate with an investigation. The Captain indicated that the facility's PREA team handles retaliation monitoring; this PREA team is comprised of non-ICE employees at the Theo Lacy Facility. The administrative manager reported via memorandum that the facility has not had any claims of retaliation following an allegation of sexual abuse. The memo also indicated that the PREA coordinator monitors retaliation; as noted elsewhere in the report, the administrative manager himself serves in the role of the PREA coordinator at the facility. The CCOM, the memorandum and the interview with the Captain support a determination of compliance with the standard provision.

115.67(b)

The standard provision requires the facility to employ multiple protection measures, such as housing changes, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or for cooperating with investigations. The PAQ reflects that the facility employs multiple protection measures including those prescribed by the standard provision. The CCOM and the administrative manager's memorandum provide examples of monitoring measures, including those prescribed by the standard provision. The Captain and the CL (for PSACM) reported the multiple protection measures during interviews with the Lead Auditor, including classification reviews, rehousing the victim and/or the perpetrator, and emotional support services. The victim in the indecent exposure case was already on total separation status and would not have required housing change for protection. The other allegation was unfounded; therefore, protection measures were not required.

The CCOM, the memorandum and interviews with the Captain and CL (for PSACM) support a determination of compliance with the standard provision.

115.67(c)

The standard provision states that for at least 90 days following a report of sexual abuse, the agency and facility shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff and shall act promptly to remedy any such retaliation. Items the agency should monitor include any detainee disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. DHS shall continue

such monitoring beyond 90 days if the initial monitoring indicates a continuing need. The PAQ reflects that the facility monitors for retaliation for at least 90 days, acts promptly to remedy any such retaliation, and monitors the activities prescribed by the standard provision. The CCOM does not require monitoring for 90 days but the memorandum does. The Captain stated that the facility would monitor for 90 days; the CL (for PSACM) said 45 days followed by 90 days and explained that his office uses a tracking log on the computer for retaliation monitoring.

The PSACM confirmed that retaliation monitoring is tracked on this log and is reviewed by the PSACM. The CCOM and interviews with the Captain and CL (for PSACM) support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.67(a) – No corrective action required.

115.67(b) – No corrective action required.

115.67(c) – No corrective action required.

§115.68 – Post-allegation protective custody.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- ICE Compliance Sergeant memorandum
- ICE Notification List

PEOPLE INTERVIEWED

- Captain or Officer in Charge (OIC)
- CL (FOR PSACM)

SITE INSPECTION OBSERVATIONS

- Tour of detainee housing units

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

116.68(a)

The standard provision requires the facility to take care to place detainee victims of sexual abuse in a supportive environment that represents the least restrictive housing option possible (e.g., protective custody), subject to the requirements of §115.43. The PAQ reflects that the facility places detainee victims of sexual abuse in a supportive environment as prescribed by the standard provision. The CCOM subsection identified does not specifically require the type of housing prescribed by the standard provision for detainee victims of sexual abuse. The CL (for PSACM) stated that there is no designated housing, that a detainee victim would be classified to a security level that ensures protection from further victimization and pointed out that the facility has alternatives to protective housing. The ICE sergeant reported via memorandum that the facility has not used segregated housing to protect a detainee victim of sexual abuse. During the site inspection, the Auditors verified that the facility has multiple alternatives to protective custody housing. The facility has single rooms just off two of the living units that are suitable for placement of detainee victims. Based on the Auditors' inspections of the facility, these rooms represent the least restrictive housing options for detainees at TLF.

The memorandum, the Auditors' observations during the site inspection and the CL (for PSACM) interview support a determination of compliance with the standard provision.

116.68(b)

The standard provision states that detainee victims shall not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances or at the request of the detainee. The PAQ reflects that the facility ensures detainee victims are not held in administrative segregation longer than the number of days specified by the standard provision. The CCOM does not specifically prohibit holding a detainee victim in administrative segregation longer than five days. The CL (for PSACM) reported that the facility does not have segregated housing other than the SMU, which is used only for disciplinary reasons.

The memorandum and the CL (for PSACM) interview support a determination of compliance with the standard provision. The information received establishes that the facility would not use its SMU housing to protect a detainee from sexual abuse.

116.68(c)

The standard provision states that a detainee victim 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 detainee as a result of the sexual abuse. The PAQ reflects that the facility ensures detainee victims in protective custody due to sexual abuse are properly reassessed before returning to the general population and that the reassessment takes into consideration any increased vulnerability as specified by the standard provision. The CCOM requires the classification sergeant's review within 72 hours of placement in administrative segregation to determine if segregation is still warranted; review shall include an interview with the detainee and the justification for the decision must be documented. The CL (FOR PSACM) indicated that classification deputies would complete a reassessment as required by the standard provision and he identified dedicated protective custody housing in Module I.

The CCOM and the CL (for PSACM) interview support a determination of compliance with the standard provision. Although the CCOM does not specifically require the reassessment to consider any increased vulnerability of the detainee, the classification sergeant's review to determine if segregated housing is still warranted would have to consider any increased vulnerability.

116.68(d)

The standard provision requires the facility to notify the appropriate ICE FOD whenever a detainee victim has been held in administrative segregation for 72 hours. The PAQ reflects that the facility notifies the ICE FOD when a detainee victim has been held in administrative segregation for 72 hours. Neither the CCOM nor the ICE notification list requires this notification. The Captain did not provide a response on how this notification is accomplished. The CL (for PSACM) reported that the facility provides the notification in question.

Although the interview with the CL (for PSACM) supports a determination of compliance with the standard provision, the failure of the Captain to provide information on how the notification is accomplished appears to undermine the statement of the CL (for PSACM). The silence of the CCOM on this requirement, the absence of the required 72-hour notification on the important ICE notification list, along with the facility's not having offered any further information to establish that an appropriate process exists, lead to a conclusion that the facility does not meet this subsection of the standard. The fact that the facility did not hold a detainee in segregated housing for 72 hours and therefore did not have to make a notification does not provide any evidence of there being a process in place.

RECOMMENDED CORRECTIVE ACTIONS

115.68(a) – No corrective action required.

115.68(b) – No corrective action required.

115.68(c) – No corrective action required.

115.68(d) – The facility must create or identify a viable methodology for ensuring the ICE FOD is notified when a detainee is held in administrative segregation for 72 hours. The CCOM and any relevant written procedures should be revised or supplemented to include the requirement for this notification.

§115.71 – Criminal and administrative investigations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Investigator training records
- Two investigative reports

PEOPLE INTERVIEWED

- Captain
- CL (FOR PSACM)
- Sample of Investigative Staff

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.71(a)

The standard provision states that if the facility has responsibility for investigating allegations of sexual abuse, all investigations into alleged sexual abuse must be prompt, thorough, objective, and conducted by specially trained, qualified investigators. The PAQ reflects that all facility investigations are prompt, thorough, objective, and conducted by specially trained, qualified investigators. The CCOM includes all requirements prescribed by the standard provision for sexual abuse investigations as well as the specialized training for investigators. The investigator stated that all facility investigations are prompt, thorough, objective, and conducted by specially trained, qualified investigators and that all allegations are reviewed up the chain of command and could involve the district attorney. The facility provided course training objectives and one certificate of completion for a 16-hour course titled PREA Investigator Training for Allegations of Sexual Abuse; the certificate reflects that the training was provided March 26 – 27, 2018. The facility also provided the training lesson plan for a four-hour PREA course with 35 attendees. Also provided are sign-in sheets dated May 8, 2018, for an eight-hour course titled "ICE Criminal Investigation Intelligence Gathering." The CL (for PSACM) indicated that to ensure investigations are prompt, thorough and objective, the facility uses an incident log for tracking the status of each investigation. The Lead Auditor finds that the training curriculum presented includes the prescribed topics. He reviewed the investigative reports for the two allegations received during the audit period and in both cases, the allegation was investigated the same day it was received.

The CCOM, the investigative reports, the training records and the interview with the investigator support a determination of compliance with the standard provision.

115.71(b)

The standard provision states that upon conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations

shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. The PAQ reflects that administrative investigations are completed upon conclusion of a criminal investigation as required by the standard provision and include the required consultations. The CCOM subsection provided does not include the investigative follow-ups prescribed by the standard provision. The Captain verified that the facility conducts an administrative investigation if a criminal investigation is unsubstantiated. The CL (FOR PSACM) and the investigator reported that an administrative investigation is conducted after a substantiated as well as unsubstantiated criminal investigation. Neither of the two allegations reported at the facility resulted in a criminal investigation and the facility conducted an administrative investigation in both cases.

The interviews with the Captain, the investigator and the CL (for PSACM) support a determination of compliance with the standard provision.

115.71(c)

The standard provision requires the facility to:

- (1) Develop written procedures for administrative investigations, including provisions requiring:
 - i. Preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;
 - ii. Interviewing alleged victims, suspected perpetrators, and witnesses;
 - iii. Reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator;
 - iv. Assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph;
 - v. An effort to determine whether actions or failures to act at the facility contributed to the abuse; and
 - vi. 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
 - vii. Retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years.
- (2) Such procedures shall govern the coordination and sequencing of the two types of investigations, in accordance with paragraph (b) of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation.

The PAQ reflects that the written procedures for investigations include all requirements of the standard provision. The CCOM includes all topics prescribed by the standard provision except (1) g. The Captain stated internal affairs investigators would attempt to determine whether any failures at the facility led to the abuse. The CL (for PSACM) identified some of the evidence collected as part of administrative investigations, including preserving direct and circumstantial evidence and interviewing the victim, alleged perpetrator and witnesses; he stated that it is not standard procedure to review prior sexual abuse complaints involving the alleged perpetrator, but he would review his tracking of sexual abuse allegations and issue documentation to be paired with the investigative report. With regard to retaining investigative reports, he stated that they are retained for five years. The investigator pointed out that her office is responsible for criminal investigations, but still identified information and evidence collected during administrative investigations and confirmed that a written investigative report is prepared for all investigations. The two investigative reports generated for the two allegations confirm this practice.

The interviews with the Captain and the investigator tend to support a determination of compliance with the standard provision; however, the CCOM and the interview with the CL (for PSACM) do not. The facility did not produce the written procedures for administrative investigations with the specific investigative tasks prescribed by the standard provision; instead, the CCOM only reflects that administrative investigations include the investigative tasks prescribed by the standard provision without explaining how each task is to be performed and by whom. For instance, the first task calls for "Preservation of direct and circumstantial evidence, including any available physical and deoxyribonucleic acid or DNA evidence and any available electronic monitoring data;" however, there is no explanation of how to preserve the different types of evidence, how to maintain and document the chain of custody, how to safely store evidence, how to collect electronic monitoring footage and data, etc. Most of these investigative activities are already written into existing investigator training curriculum, so the facility should not have to develop these procedures from scratch.

115.71(e)

The standard provision states that the departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. The PAQ reflects that the facility ensures investigations are not terminated for the reasons stated in the standard provision and the CCOM states the language of the standard provision. The Captain, the investigator and the CL (for PSACM) confirmed that an investigation would not be terminated based upon the departure of the alleged abuser or victim from the employment or control of the facility or agency.

The CCOM and interviews with the Captain, the investigator and the CL (for PSACM) support a determination of compliance with the standard provision.

115.71(f)

The standard provision states that when outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. The PAQ reflects that the facility cooperates with outside investigators as specified by the standard provision. The CCOM subsection provided does not include language related to coordination with outside investigative agencies. The Captain reiterated that as a law enforcement agency, OCSA conducts its own investigations. The investigator and CL (for PSACM) indicated that the agency/facility would provide witnesses, space for interviews, video footage, etc. to DHS/ICE investigators.

The interviews with the Captain, the investigator and the CL (for PSACM) support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.71(a) – No corrective action required.

115.71(b) – No corrective action required.

115.71(c) – The facility shall develop written procedures for administrative investigations, including provisions requiring the investigative tasks prescribed by the standard provision. The written procedures should explain how each task is to be completed and include relevant information that explain who, when, where, etc.

115.71(e) – No corrective action required.

115.71(f) – No corrective action required.

§115.72 – Evidentiary standard for administrative investigations.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Two investigative reports

PEOPLE INTERVIEWED

- Sample of Investigative Staff

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.72

The standard provision states that when an administrative investigation is undertaken, the agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated. The PAQ reflects that for administrative investigations, the agency imposes no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated. The CCOM subsection provided does not include a statement about the standard of proof used in determining whether allegations of sexual abuse are substantiated. The Facility Investigator stated that no standard higher than a preponderance of the evidence is used in determining whether allegations of sexual abuse are substantiated.

The interview with the investigator supports a determination of compliance with the standard provision. Neither of the two investigative reports nor any other documentation reviewed included a statement regarding the standard of proof used in arriving at the investigative finding. The Auditor recognizes that the standard provision does not specifically require documentation of the standard of proof; however, the agency/facility should consider requiring investigators to include a statement about the standard of proof used in determining whether allegations of sexual abuse are substantiated. This could be used to show compliance during an audit.

RECOMMENDED CORRECTIVE ACTIONS

115.72 – No corrective action required.

§115.73 – Reporting to detainees.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Two investigative reports
- Case clearance for one of the two allegations received

PEOPLE INTERVIEWED

- Captain

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.73

The standard provision requires the agency to, when the detainee is still in immigration detention, or where otherwise feasible, following an investigation into a detainee's allegation of sexual abuse, notify the detainee as to the result of the investigation and any responsive action taken. The PAQ reflects that the faculty notifies detainees of the results of the investigation into their allegations of sexual abuse as prescribed by the standard provision. The CCOM requires the notification to the detainee as prescribed by the standard provision. The facility provided a "case clearance" summary reflecting that the victim in one of the two allegations was notified of the district attorney's decision to reject the case for criminal prosecution. The Captain did not comment on detainee victim notification under this standard provision. The Auditor discussed the investigative reports for the two allegations with the CL (FOR PSACM) and asked about victim notifications and he did not provide proof of victim notification for either case.

The CCOM and the case clearance tend to support a determination of compliance with the standard provision; however, the interview with the Captain and the review of the two investigative reports with the CL (for PSACM) do not. The standard provision requires the agency (ICE) to notify the victim of the investigative finding and any responsive action taken. The case clearance informing the victim of the outcome of the referral for criminal prosecution is also required by the standard provision; however, it does not inform the victim of the investigative finding. The OCSD/facility should implement a

system for notifying ICE of investigative findings and the outcome of referrals for criminal prosecution, allowing ICE to process the victim notification required by the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.73 – The agency shall notify the detainee victim as to the result of the investigation and any responsive action taken when the detainee is still in immigration detention, or where otherwise feasible.

§115.76 – Disciplinary sanctions for staff.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Administrative Manager Memorandum

PEOPLE INTERVIEWED

- Captain

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.76(a)

The standard provision states that staff shall be subject to disciplinary or adverse action up to and including removal from their position and the Federal service for substantiated allegations of sexual abuse or for violating agency or facility sexual abuse policies. The PAQ reflects that staff is subject to the penalties specified in the standard provision for substantiated allegations of sexual abuse or for violating agency or facility sexual abuse policies. The CCOM states the language of the standard provision. The administrative manager reported via memorandum that there have been no allegations involving staff sexual misconduct. The Captain stated that staff is subject to the penalties specified in the standard provision for substantiated allegations of sexual abuse or for violating OCSD sexual abuse policies.

The CCOM and the interview with the Captain support a determination of compliance with the standard provision.

115.76(b)

The standard provision requires the agency to, review and approve facility policies and procedures regarding disciplinary or adverse actions for staff and shall ensure that the facility policy and procedures specify disciplinary or adverse actions for staff, up to and including removal from their position and from the Federal service, when there is a substantiated allegation of sexual abuse, or when there has been a violation of agency sexual abuse rules, policies, or standards. Removal from their position and from the 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, paragraphs (1)-(4) and (7)-(8) in §115.6. The PAQ reflects that the policies and procedures in question were provided to the agency for review and approval and that removal from their position and from the 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, paragraphs (1)-(4) and (7)-(8) in §115.6. The CCOM does not include the requirement for ICE to review and approved the OCSD's or the facility's policies and procedures specified by the standard provision. The administrative manager reported via memorandum that there have been no allegations involving staff sexual misconduct.

The memorandum is not relevant to a determination of compliance with the standard provision. ICE has not approved the policies and procedures in question and the audit tool precludes a finding of non-compliance based solely on the absence of the agency's review.

115.76(c)

The standard provision requires the facility to report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to appropriate law enforcement agencies, unless the activity was clearly not criminal. The PAQ reflects that the facility reports all removals or resignations in lieu of removal to law enforcement agencies as specified by the standard provision. The CCOM does not include this requirement. The Captain pointed out that the OCSD is a law enforcement agency; if the conduct that leads to the removal or resignation is criminal, it would be referred to the district attorney.

The interview with the Captain supports a determination of compliance with the standard provision.

115.76(d)

The standard provision requires the facility to make reasonable efforts to report removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to any relevant licensing bodies, to the extent known. The PAQ reflects that the facility makes reasonable efforts to report removals or resignations in lieu of removal, for reasons specified by the standard provision, to any relevant licensing bodies to the extent known. The CCOM does not require reporting removals or resignation in lieu of removals to licensing bodies. The Captain stated that the OCSD counterparts would notify the licensing bodies in situations such as those described by the standard provision.

The interview with the Captain supports a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.76(a) – No corrective action required.

115.76(b) – No corrective action required.

115.76(c) – No corrective action required.

115.76(d) – No corrective action required.

§115.77 – Corrective action for contractors and volunteers.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- ICE Compliance Sergeant memorandum

PEOPLE INTERVIEWED

- Captain or Officer in Charge (OIC)

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.77(a)

The standard provision states that any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees. Each facility shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. Such incidents shall also be reported to law enforcement agencies, unless the activity was clearly not criminal. The PAQ reflects that the facility ensures that any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees; makes reasonable efforts to report to any relevant licensing body, to the extent known; and reports activities that are clearly criminal to law enforcement agencies. The CCOM requires removing any contractor or volunteer who has engaged in sexual abuse or assault from contact with detainees, and it calls for reporting unless the activity was clearly not criminal but does not specify who the misconduct would be reported to. The ICE compliance sergeant reported via memorandum that there have been no allegations of sexual abuse involving a contractor or volunteer. The Captain stated that contractors or volunteers would be prohibited from contact with detainees and substantiated incidents would be reported to relevant licensing bodies.

The CCOM and the interview with the Captain support a determination of compliance with the standard provision.

AUDITOR RECOMMENDATION:

Because the CCOM, 2900.13(c), is silent on where to report sexual abuse or assaults by contractors and/or volunteers, it should be supplemented to conform to the standard. The supplementary language should convey that the facility "shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated abuse by a contractor or volunteer," as stated in the standard. Supplementary language in the CCOM should also include the standard's directive to report such violations to law enforcement when required.

115.77(b)

The standard provision states that contractors and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation. The PAQ reflects that the facility takes the actions prescribed by the standard provision in response to contractors and volunteers suspected of perpetrating sexual abuse. The CCOM states that contractors or volunteers who have engaged in sexual abuse or assault ("unless the conduct was clearly not criminal") will be removed from duties requiring contact with detainees. This is clearly a different concept from a removal based on suspicion, and there is no indication that removal is pending an investigation. The Captain stated that the facility's response to contractors and volunteers suspected of perpetrating sexual abuse would be to remove them from contact with detainees. The PSACM, although he did not offer any documentation supporting subsection (b), replied to the Second Auditor's written questions about this subsection; he indicated that staff, contractors, or volunteers suspected of abuse would in fact "be investigated fully and the involved party would be removed from duty during the investigation."

The CCOM's wording requiring the removal of actual (not suspected) abusers who are staff (not contractors or volunteers) does not support compliance with this subsection. However, the interview with the Captain and the written response of the PSACM support a determination of compliance with the standard provision and are sufficient to establish substantial compliance with this section of the standard.

AUDITOR RECOMMENDATION: Since the practice of the facility appears to reflect the wording of the standard rather than the wording of the CCOM, the facility should immediately correct the CCOM to reflect the standard and the practice of the facility regarding contractors and volunteers. Careful attention to the wording should eliminate any confusion that may exist about the mandatory removal during an investigation of any **suspected** contractor or volunteer abusers—not the after-the-fact removal of one who has actually been determined to be an abuser.

115.77(c)

The standard provision requires the facility to take appropriate remedial measures and consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse but have violated other provisions within these standards. The PAQ reflects that the facility takes appropriate remedial measures as specified by the standard provision in response to contractors or volunteers who have not engaged in sexual abuse but have violated other provisions within these standards. The relevant portion of the CCOM as highlighted in the facility documents is

2900.13. It has three sections, but none of them pertain to remedial measures for contractors or volunteers, even though one of the sections gives detailed instructions on what would happen to a staff member involved in the kind of violation described in this subsection. Even though the Captain indicated that in the kind of situation covered by this subsection the facility would take remedial measures, including prohibiting further contact with detainees, there is insufficient information to make a judgment that the facility is in substantial compliance.

RECOMMENDED CORRECTIVE ACTIONS

115.77(a) – No corrective action required.

115.77(b) – No corrective action required.

115.77(c) – The facility must revise the CCOM to address what remedial measures shall be taken with contractors or volunteers who have not engaged in sexual abuse but have violated other provisions of the PREA standards.

§115.78 – Disciplinary sanctions for detainees.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- OCSD Detainee Handbook
- ICE Compliance Sergeant memorandum
- ICE Compliance Deputy memorandum

PEOPLE INTERVIEWED

- Captain

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.78(a)

The standard provision requires the facility to subject a detainee to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse. The PAQ reflects that the facility subjects a detainee to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse. The CCOM specifies the OCSD's formal disciplinary process. The Captain stated that the classification sergeant hands-out various levels of disciplinary sanctions. The OCSD detainee handbook informs detainees of the formal disciplinary process. The compliance sergeant reported via memorandum that a detainee found in violation of any type of sexual abuse/assault will receive a major rules violation and cited OCSD jail rules that prohibit all forms of sexual behavior. The compliance deputy reported via memorandum that no detainees have been found to have engaged in sexual abuse during the audit period. Neither of the two allegations received during the audit period were substantiated by investigations; thus, disciplinary action against the alleged perpetrators were not in order.

The CCOM, the handbook and the interview with the Captain support a determination of compliance with the standard provision.

115.78(b)

The standard provision states that at all steps in the disciplinary process provided in paragraph (a), any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future. The PAQ reflects that sanctions are imposed commensurate with the severity of the committed prohibited act and encourage detainees to conform with rules and regulations in the future. Neither the CCOM nor the handbook include the requirement of the standard provision. The Captain commented on this issue in (a) above.

The interview with the Captain supports a determination of compliance with the standard provision.

115.78(c)

The standard provision requires the facility to have a detainee disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedure. The PAQ reflects that the facility's disciplinary process provides the elements of fundamental fairness specified in the standard provision. The CCOM requires the hearing officer to prepare a disciplinary hearing report and submit it for final disposition by the disciplinary officer and the detainee has the right to appeal the action. The disciplinary process outlined in the detainee handbook includes the elements of fundamental fairness prescribed by the standard provision. The Captain stated that there are progressive levels of review, as well as the appeal procedure and the process is documented.

The CCOM, the handbook and the interview with the Captain support a determination of compliance with the standard provision.

115.78(d)

The standard provision requires the disciplinary process to consider whether a detainee's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. The PAQ reflects that the disciplinary process considers the detainee factors prescribed by the standard provision when determining sanctions. The CCOM includes protections under the Americans with Disabilities Act and the California Disabled Persons Act for detainees with disabilities and prohibits discrimination in services, programs and activities of a public entity. The Captain indicated that mental illness is considered in almost every decision regarding a detainee.

The CCOM and the interview with the Captain support a determination of compliance with the standard provision.

115.78(e)

The standard provision prohibits the facility from disciplining a detainee for sexual contact with staff unless there is a finding that the staff member did not consent to such contact. The PAQ reflects that the facility refrains from disciplining a detainee under the circumstances specified by the standard provision. Both the CCOM and the local supplement to the ICE detainee handbook state that detainee sexual contact will lead to discipline. Even though one particular provision may specifically prohibit sexual contact with another detainee, other provisions are broad enough to cover sexual contact with anyone. The Captain indicated that a detainee would be disciplined for any sexual contact with staff and pointed-out that it is a violation of policy and jail rules.

The interview with the Captain does not support a determination of compliance with the standard provision, and the CCOM and the local supplement to the detainee handbook are consistent with the Captain's comments. The DHS standards note that existing federal and state laws preclude the possibility of consent by a detainee to sexual relations with a staff member while in custody; thus, a detainee cannot consent and is not deemed to be at fault, unless there is a finding that the staff member did not consent, in which case the detainee is subject to criminal prosecution and disciplinary action. Compliance with this standard will require a change in the CCOM and in certain revisions to the detainee local supplement.

115.78(f)

The standard provision states that for the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. The PAQ reflects that the facility refrains from disciplining a detainee under the circumstances specified by the standard provision. The CCOM is silent on this issue; however, the Captain confirmed that the facility would not discipline a detainee under the circumstances specified by the standard provision.

The interview with the Captain supports a determination of compliance with the standard provision.

AUDITOR RECOMMENDATION:

The facility should revise the CCOM to include this standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.78(a) – No corrective action required.

115.78(b) – No corrective action required.

115.78(c) – No corrective action required.

115.78(d) – No corrective action required.

115.78(e) – The facility must revise the CCOM and the local supplement to the detainee handbook to conform to this subsection.

115.78(f) – No corrective action required.

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

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Redacted Detainee Receiving Screening form
- Administrative Manager memorandum

PEOPLE INTERVIEWED

- Sample of Intake Staff
- Sample of Medical and Mental Health Care Staff

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.81(a)

The standard provision states that if the assessment pursuant to §115.41 of this part indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/or mental health follow-up as appropriate. The PAQ reflects that if the 115.41-assessment indicates that a detainee experienced prior sexual victimization or perpetrated sexual abuse, staff ensures the referral prescribe by the standard provision is made. The CCOM subsection provided does not include any reference to the standard provision. The intake officer was unable to report on this issue. The medical and mental health practitioners stated that if the medical intake risk assessment process, in which the detainee receiving screening form is completed, identify a detainee with a history of sexual victimization or history of perpetrating sexual abuse, the detainee would be referred to medical and mental health for follow-up the same day. A medical practitioner provided a redacted detainee receiving screening form and page seven asks detainees about

having been a victim of sexual assault or perpetrating sexual assault towards others and offers follow-up mental health services. In one of the two allegations received during the audit period, the detainee made the allegation during a visit for medical and mental health services.

The redacted screening form and the interview medical and mental health practitioners support a determination of compliance with the standard provision. The risk-assessment requires consideration of prior sexual victimization; however, classification officers and medical conduct risk-assessments, not the intake deputy.

115.81(b)

The standard provision states that when a referral for medical follow-up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of assessment. The PAQ reflects that when a medical referral is initiated, the detainee receives the health evaluation no later than two working days after the assessment. The CCOM subsection provided does not include any reference to the standard provision. The medical practitioner reported that referrals for medical follow-up are seen the same day.

The medical screening form and the interview medical and mental health practitioners support a determination of compliance with the standard provision.

115.81(c)

The standard provision states that when a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral. The PAQ reflects that when a mental health referral is initiated, the detainee receives the mental health evaluation within no later than 72 hours after the referral. The CCOM subsection provided does not include any reference to the standard provision. The mental health practitioner reported that mental health referrals are seen within 48 hours. During the inspection of the clinic, the Auditor requested documentation of these referrals; the supervising nurse asked an employee to search their records and the employee did not find any.

The interview with the mental health practitioner supports a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.81(a) – No corrective action required.

115.81(b) – No corrective action required.

115.81(c) – No corrective action required.

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

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- ICE Compliance Deputy memorandum

PEOPLE INTERVIEWED

- Sample of Medical and Mental Health Care Staff

SITE INSPECTION OBSERVATIONS

- Site Inspection notes

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.82(a)

The standard provision states that 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. The PAQ reflects that detainee victims of sexual abuse receive timely, unimpeded access to the emergency medical treatment prescribed by the standard provision. The CCOM specifies that victims of sexual abuse shall have timely, unimpeded access to emergency medical treatment and mental health services. During the site inspection, the Auditor asked, and medical staff confirmed that detainee victims of sexual assault receive the emergency medical treatment in question. The medical practitioners reported that detainee victims of sexual assault receive all the emergency medical treatment prescribed by the standard provision. The case of indecent exposure did not require emergency medical treatment and the alleged victim declined mental health services.

The CCOM, the statement from medical staff during the site inspection, and the interview with the medical and mental health practitioners support a determination of compliance with the standard provision.

115.82(b)

The standard provision states that emergency medical treatment services provided to the victim shall be without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The PAQ reflects that emergency medical treatment services are provided to victims without financial cost, regardless of whether they cooperate as indicated by the standard provision. The CCOM specifies that treatment services shall be provided to the victim regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident; it does not require the treatment services to be provided without financial cost to the victim. The ICE compliance deputy reported via memorandum that there were no detainees requiring emergency medical or mental health services during the audit period. Medical and mental health practitioners stated that victims receive free medical treatment.

The CCOM, the interview with medical and mental health practitioners and the memorandum support a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.82(a) – No corrective action required.

115.82(b) – No corrective action required.

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

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- Administrative Manager memorandum
- Prison Rape Elimination Act procedures
- Incident/investigative reports

PEOPLE INTERVIEWED

- Sample of Medical and Mental Health Care Staff

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.83(a)

The standard provision requires the facility to offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while in immigration detention. The PAQ reflects that the facility offers the medical and mental health evaluation and the treatment prescribed by the standard provision. The medical PREA procedures call for medical and mental health services to be provided to detainee victims of sexual abuse upon return from the hospital. Medical and mental health practitioners reported that the facility offers follow-up services and treatment plans. The administrative manager reported via memorandum that detainee victims in the two cases reported, received follow-up medical and mental health care. The report in the case of indecent exposure reflects that the victim declined mental health services and the unfounded case was reported to medical and mental health staff.

The PREA procedures, the memorandum, the incident/investigative reports, and the interview with the medical and mental health practitioners support a determination of compliance with the standard provision.

115.83(b)

The standard provision states that the evaluation and treatment 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. The PAQ reflects that the facility offers all evaluation and treatment prescribed by the standard provision. The medical and mental health practitioners confirmed that the facility offers all evaluation and treatment prescribed by the standard provision and that follow-up treatment was provided to the alleged victims in the two cases reported during the audit period. The Auditor did not review medical records to confirm the follow-up treatment.

The interview with the medical and mental health practitioners supports a determination of compliance with the standard provision.

115.83(c)

The standard provision requires the facility to provide such victims with medical and mental health services consistent with the community level of care. The PAQ reflects that the health care services provided to detainee victims is consistent with community level of care. The medical and mental health practitioners confirmed that the facility provides community level of care to detainee victims.

The interview with the medical and mental health practitioners supports a determination of compliance with the standard provision.

115.83(d)

The standard provision states that detainee 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. The PAQ reflects that female victims of sexual abuse by a male abuser are offered the tests, information and access to medical services prescribed by the standard provision. The medical and mental health designees confirmed that female victims of sexual abuse by a male abuser are offered the tests, information and access to medical services prescribed by the standard provision. The facility does not house female detainees.

The interview with the medical and mental health practitioners supports a determination of compliance with the standard provision.

115.83(e)

The standard provision states that detainee victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate. The PAQ reflects that detainee victims of sexual abuse are offered the tests prescribed by the standard provision. The medical PREA

procedures call for additional sexually transmitted diseases testing, and the medical and mental health practitioners confirmed that treatment services include testing for infections as appropriate. Neither of the two allegations received during the audit period involved sexual contact.

The PREA procedures and the interview with the medical and mental health practitioners support a determination of compliance with the standard provision.

115.83(f)

The standard provision states that 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 PAQ reflects that treatment services are provided to the victim without financial cost as specified by the standard provision. The CCOM specifies that treatment services shall be provided to the victim regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident; it does not require the treatment services to be provided without financial cost to the victim. Medical and mental health practitioners stated that victims receive free medical treatment.

The CCOM and the interview with the medical and mental health practitioners support a determination of compliance with the standard provision.

115.83(g)

The standard provision requires the facility to attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners. The PAQ reflects that the facility attempts to conduct the mental health evaluation of detainee abusers in the instances described by the standard provision. The mental health practitioners reported that detainee perpetrators of sexual abuse are offered mental health evaluation. Neither of the two allegations reported during the audit period resulted in a substantiated case of sexual abuse; therefore, there was no known abuser to be evaluated as prescribed by the standard provision.

The interview with the mental health practitioners supports a determination of compliance with the standard provision.

RECOMMENDED CORRECTIVE ACTIONS

115.83(a) – No corrective action required.

115.83(b) – No corrective action required.

115.83(c) – No corrective action required.

115.83(d) – No corrective action required.

115.83(e) – No corrective action required.

115.83(f) – No corrective action required.

115.83(g) – No corrective action required.

§115.86 – Sexual abuse incident reviews.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM

PEOPLE INTERVIEWED

- Captain
- CL (FOR PSACM)

SITE INSPECTION OBSERVATIONS

- Review of investigative files

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.86(a)

The standard provision requires the facility to conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and, where the allegation was not determined to be unfounded, prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the agency PSA Coordinator. The PAQ reflects that the facility conducts a sexual abuse incident review at the conclusion of every investigation of sexual abuse; prepares a written report with recommendations within 30 days of the conclusion of the investigation if the allegation is substantiated or unsubstantiated; implements the recommendations or documents reasons for not doing so; and forwards the report and response to the agency PSA Coordinator. The CCOM subsection provided only includes a topic that says "2900.14 – Review;" if the facility intended to provide other pages, they were not included in the pre-audit document production. The Captain reported that the facility conducts an incident review at the conclusion of every investigation of sexual abuse but did not elaborate on what the report includes. The PSACMCL (for PSACM) stated that he coordinates incident reviews and the team looks at the credibility of the allegation, district attorney referral, areas of vulnerability, changes needed, etc. The reviews are done monthly and the incident review report is sent to ICE. The Lead Auditor requested to review the files for the two allegations and the CL (for PSACM) produced them after the interview. One allegation was unsubstantiated and the other was unfounded; the file for the

unsubstantiated allegation did not include an incident review report; the Lead Auditor asked if there was anything else and the CL (for PSACM) said "No."

The interviews with the Captain and the CL (for PSACM) tend to support a determination of compliance with the standard provision; however, the facility's failure to produce an incident report for the unsubstantiated case does not support a determination of compliance with the standard provision.

AUDITOR RECOMMENDATION:

The facility should consider identifying the composition of the incident review team. Given the considerations prescribed for the team's review in Subsection (b) of this standard, the composition of the team should include the most experienced minds at the facility, such as the Captain, the CL (for PSACM), training supervisor, classification supervisor, Medical and Mental Health practitioners, investigators and even the Gang Intelligence Officer where appropriate. Someone should be designated to schedule team incident reviews after the closure of every sexual abuse investigation. It is advisable to designate someone to record meeting minutes during team incident reviews and provide those minutes to the person responsible for preparing the written incident review report. It is also advisable to create a template for incident review reports to ensure consistency in the information reported, including review findings, team recommendations and the names and titles of participating team members.

115.86(b)

The standard provision requires the team to 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. The PAQ reflects that the team makes the considerations prescribed by the standard provision. The CL (for PSACM) stated that in considering whether the incident or allegation was motivated by either of the group dynamics specified by the standard provision, the team reviews the investigative report, victim's statements, demographics on both sides, and video footage.

The interviews with the CL (for PSACM) tend to support a determination of compliance with the standard provision; however, the facility did not provide documentation or other evidence that these reviews were conducted.

115.86(c)

The standard provision requires the facility to conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the facility administrator, FOD or his or her designee, and the agency PSA Coordinator. The PAQ reflects that the facility conducts an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts, including preparation of a negative report if the facility does not have any reports of sexual abuse during the reporting year and that the results and findings are provided to the facility administrator, the FOD and the agency PSA Coordinator. The Captain said he was not sure if the annual review is conducted and the CL (for PSACM) reported that annual reviews have not been conducted in the past, but the facility will be starting soon.

The interviews with the Captain and CL (for PSACM) do not support a determination of compliance with the standard provision. The facility should consider developing a template for annual review reports to ensure all relevant information is addressed.

RECOMMENDED CORRECTIVE ACTIONS

115.86(a) – The facility shall conduct a sexual abuse incident review at the conclusion of every investigation into an allegation of sexual abuse; where the investigation finds the allegations to be substantiated or unsubstantiated, the facility shall issue a written incident review report within 30 days of the completion of the investigation. The report shall include the review team's finding on whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse and any corresponding recommendations from the team. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the agency PSA Coordinator and the facility should be prepared to provide documentation of the transmission of the report and response to the PSA Coordinator.

115.86(b) – The review team shall 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. The incident review report should reflect these considerations.

115.86(c) – The facility shall conduct an annual review of all sexual abuse investigations and resulting incident reviews completed during the reporting year. The annual review shall assess and improve sexual abuse intervention, prevention and response efforts. If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the Captain, the FOD or his or her designee, and to the ICE PSA Coordinator.

§115.87 – Data collection.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- PAQ
- CCOM
- PREA Allegations spreadsheet
- Administrative manager memorandum

PEOPLE INTERVIEWED

- CL (FOR PSACM)

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.87(a)

The standard provision requires the facility to maintain in a secure area all case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary, and/or counseling in accordance with these standards and applicable agency policies, and in accordance with established schedules. The DHS Office of Inspector General shall maintain the official investigative file related to claims of sexual abuse investigated by the DHS Office of Inspector General. The PAQ reflects that the facility maintains in a secure area all case records associated with claims of sexual abuse, including all reports and information prescribed by the standard provision, and in accordance with established schedules. The facility provided its watch list, medical staff roster, detainee roster, facility site plan, and organizational charts. The CL (for PSACM) reported that he maintains case records related to sexual abuse allegations as a computerized log secured in his office and produced paper files for the two allegations received; the files include the incident report, which is also submitted as the investigative report. The PREA allegations spreadsheet provides case numbers, tracking numbers, submitter's name, name of facility, area of responsibility (AOR), incident date, date reported, case summary, case status, date closed, investigative finding, incident review date and the number of days it took to conduct the incident review.

The interview with the CL (for PSACM) tends to support a determination of compliance with the standard provision. However, files for the two cases and the PREA allegations spreadsheet do not. The spreadsheet reports relevant data, but all data prescribed by the standard provision is not included. The administrative manager reported via memorandum that detainee victims in the two cases reported, received follow-up medical and mental health care. Although the standard provision calls for this information to be included in case records associated with allegations of sexual abuse, neither this information nor offender information is reported in the case records provided. The Lead Auditor recognizes that all prescribed information will not apply in every case; therefore, case records should include negative reporting when this is the case. Case records could also include other relevant information such as detainee victim notifications under 115.73, retaliation monitoring under 115.67, detainee discipline under 115.78, prior allegations of sexual abuse involving the perpetrator under 115.71(c), etc. A comprehensive case records management system could serve as a valuable resource for demonstrating compliance with the standards during future audits.

RECOMMENDED CORRECTIVE ACTIONS

115.87(a) – If not yet in place, the facility shall maintain all case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary, and/or counseling in accordance with these standards and applicable agency policies, and in accordance with established schedules. These case files shall be kept in a secure location.

§115.201 – Scope of audits.

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

Notes:

POLICIES AND OTHER DOCUMENTS REVIEWED

- None required

PEOPLE INTERVIEWED

- None required

SITE INSPECTION OBSERVATIONS

- None required

THE FOLLOWING IS A DESCRIPTION OF KEY EVIDENCE RELIED UPON IN ARRIVING AT THE COMPLIANCE DETERMINATION, AS WELL AS THE AUDITOR'S ANALYSIS, REASONING AND CONCLUSIONS

115.201

The standard provision states:

- (d) The Auditor shall have access to, and shall observe, all areas of the audited facilities.
- (e) The agency shall provide the Auditor with relevant documentation to complete a thorough audit of the facility.
- (i) The Auditor shall be permitted to conduct private interviews with detainees.
- (j) Detainees shall be permitted to send confidential information or correspondence to the Auditor.

After completing all audit steps and evaluating the facility's compliance with each provision of the PREA standard, the Auditor:

- Had access to, and the opportunity to observe, all areas of the facility.
- Had access to relevant documentation to complete a thorough audit of the facility.
- Was able to conduct private interviews with detainees.
- Was able to receive confidential information or correspondence from detainees.

The facility posted the audit notice with the Lead Auditor's name and a mailing address for detainees to mail confidential correspondence; however, he did not receive any correspondence from detainees.

RECOMMENDED CORRECTIVE ACTIONS

115.201 – No corrective action required.

AUDITOR CERTIFICATION:

As the Second Auditor, I accept the information provided by and the conclusions reached by the Lead Auditor for the following standards §§115.11, .13, .14, .15, .17, .18, .31, .32, .34, .35, .42, .43, .52, .54, .61, .62, .63, .64, .65, .68, .71, .72, .73, .76, .81, .82, .83, .86, .87, and .201. Although I may have slightly changed the wording of these standards or added minor supplemental material, my signing of this report does not represent that I have any personal knowledge of the interviews conducted, documents reviewed, or judgments reached by the Lead Auditor concerning these standards. With other standards, while still having the same lack of knowledge specified in the preceding sentence about the work of the Lead Auditor regarding the following standards, I accept his work but have made varying degrees of changes and revisions—much of it substantive—based on information I gathered after the on-site audit: §§115.16, .21, .22, .33, .41, .51, .53, .66, .67, .77, and .78.

Except as detailed above, 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 or have otherwise been authorized for use in this report.

Douglas K Sproat, Jr.

April 16, 2019

AUDITOR's Signature & Date



U.S. Immigration
and Customs
Enforcement

June 19, 2019

MEMORANDUM FOR:

(b) (6), (b) (7)(C)
Program Manager
Prevention of Sexual Assault – West
Washington, D.C. (b) (6), (b) (7)(C)

FROM:

(b) (6), (b) (7)(C)
Field Office Director
Los Angeles Field Office

SUBJECT:

Cancellation Request of the Prison Rape Elimination Act, 6 CFR Part 115
Subpart A, audit Corrective Action Plan; of the Orange County Sheriff's
Department, Theo Lacy Facility FY19

During the period of August 7-9, 2018, Creative Corrections performed an inspection for compliance with the Department of Homeland Security (DHS), Prison Rape Elimination Act (PREA) of 2003 on the Orange County Sheriff's Department (OCSD), Theo Lacy Facility (TLF) in Orange, California. The TLF is operated by the OCSD as an Intergovernmental Service Agreement (IGSA) facility in contract with U.S. Immigration and Customs Enforcement (ICE) for the housing of adult male detainees.

On March 27, 2019, OCSD submitted a notice of intent to terminate the IGSA between ICE and the County of Orange, effective August 1, 2019, in accordance with Article IX of the IGSA. Once formally terminated, ICE has 120 days to transfer all detainees housed by OCSD to other facilities.

The TLF's PREA Corrective Action Plan (CAP) was initially assigned to OCSD on April 18, 2019. OCSD worked diligently in ensuring all requested documentation and concerns were addressed and/or answered. OCSD submitted all required documentation to include the initial CAP on May 3, 2019.

Due to OCSD's notice of intent to terminate the IGSA with ICE and the length of time required to assess, review, and analyze the final CAP; the Los Angeles Field Office respectfully requests the cessation of the CAP for the TLF PREA Audit.



U.S. Immigration
and Customs
Enforcement

AUG 7 2019

MEMORANDUM FOR: Tae D. Johnson
Assistant Director
Custody Management Division
Office of Enforcement and Removal Operations
(b) (6), (b) (7)(C)

FROM: (b) (6), (b) (7)(C)
Acting Assistant Director
Inspections and Detention Oversight Division
Office of Professional Responsibility

SUBJECT: Cancellation of the Theo Lacy Facility Prison Rape Elimination
Act Audit Corrective Action Plan

Purpose

This memorandum addresses the request from Enforcement and Removal Operations (ERO) to cancel the Corrective Action Plan (CAP) for the Theo Lacy Facility (TLF), which is owned and operated by the Orange County Sheriff's Department (OCSD) in Orange, California. TLF was governed under an Intergovernmental Service Agreement (IGSA) until August 1, 2019, and has housed U.S. Immigration and Customs Enforcement (ICE) detainees since July 20, 2010.

Background

On September 10, 2015, TLF signed a contract modification establishing its contractual obligation to comply with the U.S. Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) Standards (6 CFR Part 115 Subpart A). As such, the Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU), which is the ICE entity responsible for managing the DHS PREA audit portfolio, scheduled TLF for an official DHS PREA audit during the week of August 6, 2018.

From August 7 to 9, 2018, Creative Corrections, a national management consulting firm contracted to perform DHS PREA audits, conducted a PREA audit of TLF; the audit determined TLF was non-compliant with the DHS PREA Standards.

On March 27, 2019, OCSD submitted a notice of intent to terminate the IGSA between ICE and the County of Orange, effective August 1, 2019, in accordance with Article IX of the IGSA.

Once formally terminated, ICE has 120 days to transfer all detainees housed by OCSD to other facilities.

On April 17, 2019, ERAU provided official notification of TLF's DHS PREA non-compliance to ERO's Detention and Evaluation Analysis Division. In accordance with the DHS PREA Standards, TLF transitioned into a 180-day corrective action period, set to expire on October 14, 2019. On April 18, 2019, ERO assigned TLF's CAP to OCSD for action and response. On May 3, 2019, OCSD submitted an initial CAP for review and approval.

On June 19, 2019, Acting Field Officer Director (FOD) for the Los Angeles Field Office, Thomas P. Giles, sent a cancellation request of TLF's PREA CAP to Rosemary Galvan, Program Manager for ERO Prevention of Sexual Assault – West (*see attachment*). The request stated that due to OCSD's notice of intent to terminate the IGSA with ICE and the length of time required to assess, review, and analyze TLF's final CAP, the Los Angeles FOD requested cessation of the TLF PREA CAP.

Discussion

Upon review, in light of the fact that TLF's CAP period would end after their contract termination date and in consideration of the PREA audit contract costs associated with the review of TLF's CAP, OPR agrees to the cancellation request. However, to ensure future compliance with the DHS PREA Standards, OPR has outlined additional conditions TLF would be required to comply with, were they to become an authorized PREA facility again.

1.

2.



If you have any questions or concerns, please contact me or have a member of your staff contact ERAU Acting Unit Chief (b) (6), (b) (7)(C)

Attachment