

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



**Homeland  
Security**

**AUDITOR INFORMATION**

<b>Name of auditor:</b>	Elisabeth Copeland	<b>Organization:</b>	Creative Corrections, LLC
<b>Email:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	785-294-(b) (6), (b) (7)(C)

**AGENCY INFORMATION**

<b>Name of agency:</b>	U.S. Immigration and Customs Enforcement
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**FIELD OFFICE INFORMATION**

<b>Name of Field Office:</b>	New York City
<b>ICE Field Office Director:</b>	Thomas Decker
<b>PREA Field Coordinator:</b>	(b) (6), (b) (7)(C)
<b>Field Office HQ physical address:</b>	26 Federal Plaza, Suite 1005, New York, NY 10278
<b>Mailing address: (if different from above)</b>	Same as above

**INFORMATION ABOUT THE FACILITY BEING AUDITED**

<b>Basic Information About the Facility</b>			
<b>Name of facility:</b>	Varick Street Detention Center		
<b>Physical address:</b>	201 Varick Street, 4 <sup>th</sup> Floor, New York, NY 10014		
<b>Mailing address: (if different from above)</b>	Same as above		
<b>Telephone number:</b>	212-863-3593		
<b>Facility type:</b>	ICE Holding Facility		
<b>Facility Leadership</b>			
<b>Name of Officer in Charge:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Assistant Field Office Director (AFOD)
<b>Email:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	212-863-(b) (6), (b) (7)(C)
<b>Facility PSA Compliance Manager</b>			
<b>Name of PSA Compliance Manager:</b>	(b) (6), (b) (7)(C)	<b>Title:</b>	Prevention of Sexual Assault (PSA) Coordinator
<b>Email:</b>	(b) (6), (b) (7)(C)	<b>Telephone number:</b>	212-863-(b) (6), (b) (7)(C)

## 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.

The Prison Rape Elimination Act (PREA) on-site audit of the Varick Street Detention Center (VSDC) in New York, New York was conducted on June 26 – 27, 2018, by Elisabeth Copeland, PREA Auditor contracted through Creative Corrections, LLC. This is the first PREA audit for VSDC. VSDC is an Immigration and Customs Enforcement (ICE) holding facility. At any given time, the detainee population at VSDC can contain adults, male and female, as well as juveniles, male and female. Detainees are only at VSDC for a maximum of 12 hours before being moved to another facility. The purpose of the audit was to determine compliance with The Department of Homeland Security (DHS) PREA Standards.

The point of contact established for VSDC was through the External Reviews and Analysis Unit (ERAU) Team Lead (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) provided the completed Pre-Audit Questionnaire (PAQ) along with supporting documentation approximately 10 days prior to the on-site portion of the audit. Pre-Audit preparation by the Auditor included a thorough review of all documentation and materials submitted by the facility along with the date included on the completed PAQ. The documentation reviewed included agency policies with corresponding attachments, procedures, forms, training records and curriculum, facility layouts and other PREA related materials that were provided to demonstrate compliance with the PREA standards. The documentation submitted, to include the questionnaire, was well organized and provided a picture of PREA implementation at VSDC.

An entry-briefing, led by the ERAU Team Lead (b) (6), (b) (7)(C) was conducted shortly after arrival at the facility on June 26, 2018, day one of the on-site review. Those in attendance at the entry-briefing were as follows: (b) (6), (b) (7)(C), AFOD. (b) (6), (b) (7)(C) advised that due to the protestors located across the street who are protesting against ICE, the facility did not currently have detainees onsite for interview. He advised detainees were currently being housed elsewhere. With no detainees onsite, there were no detention officers. The only staff onsite were supervisors.

Once introductions were given, the Auditor introduced herself and provided an overview of the audit process.

Immediately following the entry-briefing, the AFOD led the Auditor and the ERAU Team LEAD on a tour of the facility. The facility consists of areas on the 4<sup>th</sup> and 11<sup>th</sup> floor of this building. All areas of the facility were toured to include intake, holding areas for adult males, adult females and juveniles, attorney rooms, sally port and medical. Each holding area consisted of a large open room with large windows to allow for supervision. (b) (6), (b) (7)(C) and toilet located behind a half wall. The toilet could not be viewed by the camera or by staff viewing through the window or when they entered the room to conduct security checks. In the intake area, juvenile detainees remain under constant direct supervision and are required to sit in chairs (outside of the adult holding rooms on the 4<sup>th</sup> floor) until they are moved to the 11<sup>th</sup> floor to be monitored by staff trained to supervised juvenile detainees. Detainees do not shower at VSDC.

During the tour of the facility, the Auditor noted multiple postings of the audit notices, PREA posters highlighting reporting methods for sexual abuse and or assault and zero tolerance for sexual abuse and assault, as well as having notices of possible phone monitoring by all phones.

Over the preceding year, the number of adult detainees booked into VSDC was 3,632 and zero juvenile detainees. On day one of the audit, zero detainees were on-site.

Immediately following the tour, the Auditor began interviewing available staff. The Auditor was provided a conference room to conduct interviews. This room was located in the administrative area and allowed for confidentiality.

VSDC reported they have never had an allegation of sexual abuse or sexual assault since May 2014.

**SUMMARY OF OVERALL 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.

On Wednesday, June 27, 2018, (day two), an exit briefing was conducted at approximately 9:30 a.m. local time. The exit-briefing was opened by the ERAU Team Lead (b) (6), (b) (7)(C) and then turned over to the Auditor for an overview of an on-site findings and a close-out summary. Those in attendance for the exit-briefing were as follows:

(b) (6), (b) (7)(C)	AFOD
(b) (6)	Intake, VSDC
(b) (6), (b) (7)(C) (via phone)	ICE Health Services Corps, Clinical Director

During the exit-briefing, the Auditor discussed her observations made during the on-site review. The Auditor praised the facility for the multiple postings of the audit notices, PREA posters highlighting reporting methods for sexual abuse and/or assault and zero tolerance for sexual abuse and/or assault. Notices of possible phone monitoring were also present by all phones. The Auditor also commented on the facility’s ability to keep juveniles under constant direct supervision as well as limiting cross-gender viewing when detainees need to use the restroom.

Of the 41 standards reviewed, the Auditor found that VSDC met 41 standards and one standard (115.118) was non-applicable. While onsite the Auditor reviewed three training records of medical personnel, juvenile supervision staff and contract staff. This review also included PREA related curriculums.

SUMMARY OF AUDIT FINDINGS	
Number of standards exceeded:	0
Number of standards met:	41
Number of standards not met:	0
Number of standards N/A:	1

## 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.

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

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

#### Notes:

(a) U.S Immigration and Customs Enforcement (ICE) directive 11.062.2: Sexual Abuse and Assault Prevention and Intervention, effective date May 22, 2018 mandates zero tolerance towards all forms of sexual abuse, "ICE has a zero-tolerance policy for all forms of sexual abuse or assault. It is the ICE policy to provide effective safe guards against sexual abuse and assault of all individuals in ICE custody, including with respect to screening, staff training, detainee education, response and intervention, medical and mental health care, reporting, investigation and monitoring and oversight, as outlined in this Directive, in the requirements of PBNDS (Performance Based National Detention Standards) 2011 standard 2.11, and in other related detention standards and ICE policies."

ICE directive 11087.1: Operations of ERO (Enforcement and Removal Operations) Holding Facilities, effective September 22, 2014 also mandates zero tolerance towards all forms of sexual abuse, "...The requirements of this Directive apply to all holding facilities operated by ERO, located in ERO field offices, or jointly operated by ERO and Homeland Security Investigations (HSI) in shared offices. This Directive also incorporates requirements for holding facilities contained in the U. S. department of Homeland Security (DHS) regulation, titled, "Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinements Facilities, 79 Fed. Reg. 13100 (Mar. 7, 2014), codified at 6 C.F.R. Part 115, and supplements other U. S. Immigration and Customs Enforcement (ICE) policies and procedures for responding to sexual abuse and assault incidents contained in ICE Directive 11062.2, Sexual Abuse and Assault Prevention and Intervention (May 22, 2014).

During the tour of the facility, the Auditor noted multiple postings of the audit notices, PREA posters highlighting reporting methods for sexual abuse and or assault and zero tolerance for sexual abuse and assault, as well as having notices of possible phone monitoring by all phones. Interviews with available supervisors supported this practice.

### §115.113 – Detainee supervision and monitoring.

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

#### Notes:

(a)(c) ICE directive 11087.1 states, "The FOD (Field Office Director) shall ensure that each holding facility maintains sufficient supervision of detainees, including through appropriate staff levels, and where applicable, video monitoring, to protect detainees against sexual abuse and assault. In so doing, the FOD shall take into consideration: the physical layout of each holding facility; the composition of the detainee population; the prevalence of substantiated and unsubstantiated incidents of sexual abuse and assault; the findings and recommendations of sexual abuse and assault incident review reports; and any other relevant factors, including but not limited to, the length of time detainees spend in custody at the holding facility."

While VSDC has a total capacity of 60 detainees, in the past 12 months, VSDC's average daily population included 35 adults and zero juveniles. VSDC currently has 60 security contract personnel, 18 sworn facility management personnel, four supervisory personnel, and three civilian personnel all who may have contact with detainees. VSDC hours of operation are from 0000 hours Monday through 2400 hours on Friday. This facility operates on [REDACTED] hours shifts covering the following hours: (b) (7)(E)

[REDACTED] These shifts cover security personnel, facility management, supervisory personnel, civilian personnel and medical staff.

The AFOD reports that this facility is all direct supervision. He states, "The court and intake areas get checked by staff every 15 minutes. Any juvenile that is brought in is always under constant supervision."

VSDC has had no reports of sexual abuse or sexual assault in the past 12 months.

(b) The AFOD reported, "We rely on HQ to disseminate information. We have an excellent relationship with the Office of Chief Counsel which allows for great communication. We have weekly meetings with staff to discuss any new issues or directives. We also meet quarterly. The FOD meets with each AFOD to discuss staffing and projections for future quarters." The AFOD reported that supervision guidelines for detainees is reviewed annually. During the interview the AFOD presented an example of this report.

**§115.114 – Juvenile and family detainees.**

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

**Notes:**

(a) ICE directive 11087.1 states, "The FOD shall ensure that unaccompanied minors, elderly detainees or family units are not placed in hold rooms, unless they have demonstrated or threatened violent behavior, have a history of criminal activity, or pose an escape risk. Detainees not placed in a hold room shall be seated in a designated area outside the hold rooms, under direct supervision and control. If the physical layout of the holding facility precludes holding such individuals outside the hold rooms, they may be held in a separate room. The FOD shall ensure that minors are detained in the least restrictive setting appropriate to his or her age and special needs, provided that such setting is consistent with the need to protect the minor's well-being and that of others, as well as with any other laws, regulations, or legal requirements."

During the tour of VSDC, the Auditor observed several chairs along a wall, outside of the holding rooms, in the intake area. The Auditor was advised by the AFOD that these chairs are where juvenile detainees are placed when the intake process is complete. These chairs are in direct sight of the detention staff.

The juvenile and family detainee supervisor reported, "Juveniles are taken to the 4<sup>th</sup> floor (intake), and turned over to officers for supervision, then bed space is requested at another facility. Once they are processed, we move them to the 11<sup>th</sup> floor (away from the adult detainees). We try to limit their stay on the 4<sup>th</sup> floor."

(b) ICE directive 11087.1 also states, "Unaccompanied minors will generally be held apart from adults. The unaccompanied minors may temporarily remain with a non-parental adult family member where: the family relationships have been vetted to the extent feasible, and it has been determined that remaining with the non-parental adult family member is appropriate, given the totality of the circumstances. To the extent practicable, unaccompanied minors who may be vulnerable to their young age should be held separate from older minors."

Interviews with the juvenile and family detainee supervisor and the AFOD supported this practice at VSDC.

**§115.115 – Limits to cross-gender viewing and searches.**

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

**Notes:**

(b) ICE directive 11087.1 states, "The FOD shall ensure that when pat searches indicate the need for a more thorough search, an extended search (i.e. strip search) is conducted in accordance with ICE policies and procedures, including that: cross gender strip searches or cross gender visual body cavity searches are not conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners; and visual body cavity searches of minors are conducted by a medical practitioner and not by law enforcement personnel."

Interviews with staff revealed that strip searches and cavity searches are not done by staff. They shared that only pat searches are done and they are done by the same gender.

(c) ICE directive 11087.1 also states, "All strip searches and visual body cavity searches are documented."

The AFOD advised there have been zero strip searches or visual body cavity searches in the past 12 months.

(d) ICE directive 11087.1 states, "The FOD shall ensure that detainees are permitted to shower (where showers are available), perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine hold room checks, or is otherwise appropriate

in connection with a medical exam or monitored bowl movements under medical supervision. The FOD will also ensure the ERO personnel of the opposite gender announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing."

There are no shower facilities inside the holding rooms at VSDC. This was verified by the Auditor during the tour of VSDC. Interviews with the AFOD, Juvenile and Family Supervisor and Intake Supervisor supported the practice of detainees not changing clothes while at this facility. The Auditor was advised that if clothes need to be changed or collected for evidence, this will be done in medical.

There were no detainees on-site to interview.

(e) ICE directive 11087.1 also states, "The FOD shall ensure that ERO personnel do not search or physically examine a detainee for the sole purpose of determining the detainee's gender. If the detainee's gender is unknown, it may be determined during conversations with the detained, by reviewing medical records (if available), or, if necessary, learning that information as part of a broader medical examination conducted in private, by a medical practitioner."

There were no detainees on-site to interview.

Interviews with staff revealed that searching a detainee solely to determine gender is not allowed.

(f) Auditor reviewed the curriculum, "Search of Detainees," with the following objectives: You will be able to conduct a pat search and you will be able to identify the two types of contraband. This curriculum also covered logging all cross-gender searches. The Auditor reviewed training logs for a pat search refresher training dated: June 6, 2018, June 7, 2018 and June 8, 2018. The staff person conducting the training at VSDC advised that all law enforcement officers at VSDC received this training as she is the one that provides it. Training logs were provided to the Auditor for review while onsite. The trainer also advised the Auditor that training on pat searching transgender or intersex detainees is provided during the initial pat search training that is delivered at the facility. The Auditor reviewed this curriculum and found this information was included.

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

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

**Notes:**

(a) ICE directive 11087.1 states, "The FOD shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to participate in and benefit from processes and procedures in connection with placement in an ERO holding facility, consistent with established statutory, regulatory, DHS and ICE policy requirements."

During the tour, the Auditor noted "Keep Detention Safe" posters, in English and Spanish, posted in the intake area and in each holding room. The poster, "ICE has Zero Tolerance", also in English and Spanish, were found in the same areas.

During the interview with intake staff, it was shared that if a detainee with disabilities was arrested and brought to VSDC, alternative methods would be used so that they would not stay. He advised that they would look at getting an O.R. (own recognizance) bond set for their release or some type of electronic monitoring would be established so that they would not be a VSDC for any length of time. The Auditor was advised that disabilities included those detainees who are blind, deaf, had mobility issues and those detainees with observable behaviors that may indicate severe psychiatric illnesses. VSDC does not have the ability to accommodate detainees with these types of disabilities.

(b) ICE directive 11087.1 also states, "The FOD shall take reasonable steps to ensure meaningful access to detainees who are limited English proficient, consistent with established regulations and DHS policy requirements."

VSDC uses ERO Language Services as interpretive services for detainees who are limited English proficient, hard of hearing or deaf. This service provides interpretation, translation and sign-language services. Intake staff stated that if sign-language services were needed, they could access the service via the internet.

During the tour, the Auditor noted that each intake station had a phone available for interpretive services. After speaking with an intake officer, it was learned that the detainee handbook was available in multiple languages.

Intake staff advised that if written material was not available in a language the detainee spoke, they would contact the Language Services and have it interpreted in the language the detained needed to understand.

(c) ICE Directive 11062.2 states, "In matters relating to allegations of sexual abuse or assault, ensure the provisions of 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 ICE 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 or assault, and detainees who have a significant relationship with the alleged abuser, is not appropriate in matters relating to allegations of sexual abuse or assault."

Interviews with staff supported this practice. They advised that interpretive services are available for detainees to use to make reports of sexual abuse. They shared that multiple employees and contractors are also bilingual and could take a report verbally from the detainees. They also shared that another option the detainee could use was another detainee as an interpreter.

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

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

#### **Notes:**

(a)(b)(e) 5 Code of Federal Regulations part 73 states, "§731.202 Criteria for making suitability determinations. (a) General OPM (Office of Personal Management), or an agency to which OPM has delegated authority, must base its suitability determination on the presence or absence of one or more of the specific factors (charges) in paragraph (b) of this section. (b) Specific factors. In determining whether a person is suitable for Federal employment, only the following factors will be considered a basis for finding a person unsuitable and taking a suitability action: (1) Misconduct or negligence in employment; (2) Criminal or dishonest conduct..."

All potential ICE employees and contractors must complete the self-declaration form titled, "Department of Homeland Security, 6 Code of Federal Regulations Part 115 (Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities)." This self-declaration form asks potential employees and contractors about any prior sexual abuse allegations they may have had in the past. These questions are also asked directly to the employee and contractor during their personal interview as part of the required background investigation.

If it is learned that an employee omitted information, the offer of employment would be withdrawn.

The AFOD reports that all employees and contractors at VSDC have been vetted and completed the required background checks. There have been zero employees or contractors terminated due to sexual misconduct since May 2014.

(c) ICE Directive 6-7.0: ICE Personnel Security and Suitability Program, effective date February 4, 2008 states, "Investigations conducted on job applicants and employees that serve as the basis for determinations of suitability for employment and eligibility for assignment to, or retention in, sensitive national security positions. These investigations focus on an individual's character and past conduct that may have an impact on the integrity and efficiency of the service. Types of investigations and histories covered: Background Investigation (BI): Consists of a National Agency Check (NAC); a personal Subject Interview and source interviews; employment - 5 years; education 5 years/most recent degree; residence - 3 years; law enforcement agency checks - 5 years; and credit check - 5 years. Child Care National Agency Check and (written) Inquiries: An enhanced National Agency Check with Inquiries (NACI) that, to meet special investigation requirements for those in child care provider positions, searches records of State Criminal History repositories of the state where the subject resides..."

There were no employee files onsite to be reviewed. The Auditor verified with with headquarters point of contact that every staff person interviewed had a background check completed.

(d) ICE Directive 6-8.0: ICE Suitability Screening Requirements for Contractual Personnel, effective date May 29, 2011 states, "Investigations conducted on contractor personnel that serve as the basis for determinations of suitability for employment and eligibility for access to ICE facilities and sensitive information. These investigations focus on an individual's character and past conduct that may have an impact on the integrity and efficiency of ICE. Types of investigations are as follows... Background Investigation (BI): Coverage period is 10 years. Consists of a National Agency Check (NAC) (see Section 5.13(5) below); a personal Subject Interview and source interviews; employment (5 years); education (5 years and most recent degree); residence (3 years); law enforcement agency checks (5 years);



and a credit check (5 years). Child Care National Agency Check and (written) Inquiries: An enhanced National Agency Check with Inquiries (NACI) (see Section 5.13(6) below) that, to meet special investigation requirements for those in child care provider positions, searches records of State Criminal History repositories of the state where the subject resides..."

(f) During the interview with the AFOD, it was revealed that DHS would report information on substantiated sexual abuse allegations if it was requested by an institution on a former employee. He advised that this would not be handled at his level. He advised that this would be handled at headquarters.

**§115.118 – Upgrades to facilities and technologies.**

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

**Notes:**

(a)(b) This standard is non-applicable to VSDC as there has been no substantial expansion or modification of the existing building nor have they updated a video monitoring system, electronic surveillance system, or other monitoring technology since May 2014.

**§115.121 – Evidence protocols and forensic medical examinations.**

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

**Notes:**

(a)(b) These subsections are non-applicable as VSDC does not conduct criminal or administrative investigations.

(c)(d) VSDC is staffed by IHSC (ICE Health Service Corps). Based on this fact, ICE directive 11082.2 states, "In detention facilities staffed by IHSC, the IHSC Clinical Director or designee shall ensure that the IHSC clinic complies with the health care services mandates of PBNDS 2011 Standard 2.11, including, by: When appropriate, initiating a referral to a hospital emergency department, or to a designated specialized facility for evaluation and forensic examination, to include testing for sexually transmitted diseases and infections, and offering prophylactic treatment, emergency contraception, follow-up examinations for sexually transmitted diseases, and referrals for counseling and victim advocacy and services; and ensuring that a mental health professional evaluates the victim's need for crises intervention counseling and long-term follow-up."

IHSC Clinical Director advised that all services are provided at no charge to the detainees. The Clinical Director also reports, "We have entered into a MOU with Beth Israel (hospital) to conduct forensic exams, provide crises intervention, counselors and psychologists. All of these services can come directly to the ER if a detainee is brought in due to a sexual assault." The Clinical Director stated they entered this MOU with Beth Israel as they can provide services to adult and juvenile victims. VSDC reports there have been no detainees sent out for a forensic exam since May 2014.

(e) This sub-section is non-applicable as VSDC has not had any reports or sexual abuse or assault since May 2014.

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

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

**Notes:**

(a)(b)(c)(d)(f) ICE Directive 11062.2 states, "When the incident occurs in ERO custody, the FOD shall: When feasible, securing and preserving the crime scene and safeguarding information and evidence consistent with established protocols; conducting a prompt, thorough and objective investigation by qualified investigators; arranging for the victim to undergo a forensic medical examination, where appropriate, ensuring that the presence of the victim's outside or internal victim advocate, as requested by the victims, is allowed for support during forensic exams and investigatory interviews..."

This same directive also states, "When the incident occurs in ERO custody, the FOD shall: Ensure the appropriate law enforcement agency having jurisdiction for the investigation has been notified by the facility administrator of the alleged sexual abuse or assault. The FOD shall notify the appropriate law enforcement agency directly if necessary; Notify ERO's Assistant Director for Field Operations telephonically within two hours of the alleged sexual abuse or assault or as soon as practical thereafter, according to procedures...Notify the ICE Joint Intake Center (JIC)



telephonically within 2 hours of the alleged sexual abuse or assault, in writing within 24 hours via the ICE SEN Notification Database, according to procedures outlined in the Torres Memorandum...

The AFOD and PSA Coordinator both stated the outside law enforcement agency contacted would be the New York City Police Department.

In addition, this directive states, "All sexual abuse and assault data collected pursuant to this Directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise.

In interviewing the AFOD, he reported "First line supervisors have to contact JIC and cc (carbon copy) me on the emails if they receive an allegation. I then would follow up with OPR to make sure they have everything they need. I would also make sure the necessary information is passed onto the detainee" He added that the PSA Coordinator would also be notified by him. He reported that that the detainees are only here for up to 12 hours that there really wasn't much information that he could provide to them regarding the allegation. He also stated that any information provided to them on their nonimmigrant status would be given to them at the facility they are being sent to upon transfer.

VSDC has not had any reports or sexual abuse or assault since May 2014.

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

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

**Notes:**

(a) ICE Directive 11062.2 states, "All personnel who may have contact with individuals in ICE custody, including all ERO officers and HIS special agents, shall receive training on..." This directive lists all eight required components of this sub-section.

The Auditor reviewed the PREA curriculum and found that it supports this directive.

(b) ICE Directive 11062.2 also states, "...All current employees required to take the training...shall be trained as soon as practicable, but no later than May 1, 2015, and ICE shall provide each employee with biennial refresher training to ensure that all employees know ICE's current sexual abuse and assault policies and ensure that all employees know ICE's current sexual abuse and assault policies and procedures. All newly hired employees who may have contact with individuals in ICE custody shall also take the training within one year of their entrance on duty."

The Auditor interviewed a staff person who provided training and was advised that all staff have received the required PREA training.

(c) This same directive states, "The agency shall document that all ICE personnel who may have contact with individuals in ICE custody have completed the training.

The Auditor spoke with a staff person who is a PREA instructor at VSDC. They advised that all staff and contractors at VSDC have received training.

The Auditor reviewed two training reports dated June 5, 2018 and November 11, 2015 listing all employees who have completed the PREA training. The Auditor also reviewed four PREA training certifications signed by staff.

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

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

**Notes:**

ICE Directive 11087.1 states, "The FOD shall ensure that key information regarding ICE's zero-tolerance policy for sexual abuse and assault is visible or continuously and readily available to detainees (e.g. through posters, detainee handbooks, or other written formats.)

During the tour of the facility, the Auditor noted multiple postings of the audit notices, PREA posters highlighting reporting methods and sexual abuse assault and zero tolerance. The Auditor reviewed the National Detainee Handbook (April 2016) that is given to each detainee that enters through intake. Information on sexual abuse and

assault awareness can be found on pages 21 – 23 of this handbook. The Auditor reviewed the ICE website ([www.ice.gov/prea](http://www.ice.gov/prea)), which is a public website, and found that the policy for zero tolerance against sexual abuse and assault was posted.

**§115.134 – Specialized training: Investigations.**

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

**Notes:**

There have been no allegations of sexual abuse or assault reported at VSDC since May 2014.

(a) ICE Directive 11087.1 states, "OPR shall provide specialized training to OPR investigators who conduct investigations of sexual abuse and assault, as well as Office of Detention Oversight staff, and other OPR staff as appropriate. The training should cover, at a minimum, interviewing sexual abuse and assault victims, sexual abuse and assault evidence collection in confinement settings, the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process."

The Auditor reviewed the following curriculum: Implementing DHS PREA Investigative Requirements, Introduction to Advanced Forensic Techniques in Crime Scene Investigations, Legal Issues in PREA Administrative Investigations, Lessons Learned through Positive PREA Outcomes, PREA Training for Fact Finders and Supervisors, Requirements and Best Practices – LEP and Disability Accommodations and PREA, and Specialized Sexual Abuse and Assault Training for ERO Fact Finders and Supervisors.

(b) The Auditor reviewed the sign in sheet for training titled, "Specialized Sexual Abuse and Assault Training for ERO Personnel" dated January 9 -10, 2017. This sign in sheet contained signatures from ERO Fact Finders from across the nation.

**§115.141 – Assessment for risk of victimization and abusiveness.**

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

**Notes:**

(a) ICE Directive 11087.1 states, "The FOD should ensure that before placing detainees together in a hold room, there shall be consideration of whether a detainee maybe at a high risk of being sexually abuse or assaulted, and when appropriate, shall take necessary steps to mitigate any such danger to the detainee."

(b) This same directive also states, "The FOD shall ensure that detainees who may be held overnight with other detainees are assessed to determine their risk of being either sexually abused or assaulted or sexually abusive, to include being asked about their concerns for their physical safety."

The Auditor was advised that detainees are not held overnight at VSDC.

(c) ICE Directive 11087.1 states, "The FOD shall ensure that the following criteria are considered in assessing detainees for risk of sexual victimization, to the extent that the information is available..." This directive contains all of the required components of this subsection. The Auditor also reviewed the ICE Risk Classification Assessment and found all required components listed with the corresponding questions in the Risk Classification Assessment, "Special Vulnerabilities Quick Reference Guide."

There were no detainees on-site to interview. The Auditor reviewed a documentation sample and found that detainees brought in on arrest had an assessment completed before they transferred.

The intake officer interviewed stated the assessment for risk of abuse is completed as part of intake. He said that detainees are separated out between hold rooms based on their level of risk.

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

There were no detainees on-site to interview.

The intake officer interviewed stated they always take into consideration the detainee's view of their own safety. He stated that detainees who identify as LGBTI are not automatically separated from the rest of the detainees. He said, "We would only place them by themselves if they feared for their safety." The intake officer also stated this same practice would be in place for any detainee who may be at a higher risk for victimization or expresses concerns about their safety.

(e) ICE Directive 11087.1 states, "The FOD shall implement appropriate controls on the dissemination of any sensitive information regarding a detainee provided pursuant to screening procedures." All records are kept in secure area and only accessible by approved staff.

#### **§115.151 – Detainee reporting.**

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

#### **Notes:**

(a) ICE Directive 11087.1 states, "The FOD shall ensure that detainees are provided instructions on how they can privately report incidents of sexual abuse or assault, retaliation for reporting sexual abuse or assault, or staff neglect or violations of responsibilities that may have contributed to such incidents to ERO personnel."

There were no detainees on-site to interview.

The PSA Coordinator advised that detainees have multiple ways to report sexual abuse. He reports, "They can talk to any officer or contractor here. They can call the number listed on the posters, which is a free phone call and can be anonymous." He also shared that VSDC will receive third party reports. "This is the most common way field offices receive reports."

(b) This same directive states, "The FOD shall ensure that detainees are provided with instruction on how they can contact the DHS/Office of Inspector General (OIG) (or, as appropriate, another public or private entity which is able to receive and immediately forward detainee reports of sexual abuse or assault to agency officials) to confidentially and, if desired, anonymously, report these incidents."

During the tour of the facility, the Auditor noted multiple PREA posters highlighting reporting methods and sexual abuse assault and zero tolerance, as well as having notices of possible phone monitoring by all phones.

There were no detainees on-site to interview.

(c) ICE Directive 11087.1 states, "The FOD shall implement procedures for ERO personnel to accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports."

The PSA Coordinator advised that that VSDC will receive third party reports. "This is the most common way field offices receive reports." He advised that staff can also accepts reports made verbally and in writing.

There have been no reports of sexual abuse or sexual assault made at VSDC since May 2014.

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

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

#### **Notes:**

VSDC has established more than one method for third parties to report incidents of sexual abuse. The Auditor reviewed the ICE website ([www.ice.gov/prea](http://www.ice.gov/prea)), which is a public website, and found various ways family members and friends could make a report of suspected sexual abuse.

#### **§115.161 – Staff reporting duties.**

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

#### **Notes:**

(a)(b) A memo dated November 10, 2010 to all ICE Employees states, "Employees must report to the JIC (Joint Intake Center), OPR, or OIG allegations for misconduct that constitute any of the following...physical or sexual abuse of a detainee or anyone else."

ICE Directive 11062.2 also supports this statement. It states, "All ICE employees shall immediately report to a supervisor or a designated official any knowledge, suspicion, or information regarding an incident of sexual abuse or assault of an individual in ICE custody, retaliation against detainees or staff who report 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."

ICE Directive 11087.1 states, "The FOD shall ensure that all allegations of sexual abuse and assault occurring in holding facilities are immediately reported pursuant to the notification requirements of the ICE Directive on Sexual Abuse and Assault Prevention and Intervention."

The PSA Coordinator reports that staff report allegations to the JIC and OIG. An interview with the AFOD confirms this practice. Other staff interviewed stated that reports of sexual abuse would be made to the supervisor and would then move up the chain of command until the JIC was notified.

The PSA Coordinator and the AFOC advised there have been no incidents of sexual abuse or sexual assault reported to VSDC since May 2014.

(c) ICE Directive 11062.2 states that the requirement to limit to reporting of sexual abuse or assault with a need-to-know basis is a part of the required PREA training that all staff received upon reporting to duty.

(d) This same directive also states, "If the alleged victim is under the age of 18 or determined, after consultation with the relevant OPLA Office of Chief Counsel (OCC), to be a vulnerable adult under a State or local vulnerable persons statute, report the allegation to the designated State or local services agency as necessary under applicable mandatory reporting laws." The PSA Coordinator advised that juvenile detainees have the same reporting procedures as the adults. There have been no incidents of sexual abuse or sexual assault reported to VSDC since May 2014.

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

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

#### **Notes:**

ICE Directive 11062.2 states, "If an ICE employee has a reasonable believe that a detainee is subject to a substantial risk of imminent sexual abuse or assault, he or she shall take immediate action to protect the detainee." There have been no incidents of sexual abuse or sexual assault reported to VSDC since May 2014.

Interviews with the AFOD, Juvenile and Family Detainee Supervisor and Intake supported this practice. The AFOD states, "The safety of the detainees is very important."

#### **§115.163 – Report to other confinement facilities.**

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

#### **Notes:**

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

The AFOD reports that VSDC has not received any such reports in the past 12 months or made any reports to another facility.

(d) The interview with AFOD revealed that if VSDC receives notification that a detainee reported a sexual abuse allegation that happened at VSDC, they are required to follow the ICE directive that outlines how to respond to this allegation to the JIC. (see ICE Directive 11062.2) The AFOD reports that VSDC has not received any such reports in the past 12 months.

ICE Directive 11062.2 states, "If the alleged assault occurred at a different facility from the one where it was reported, ensure that the administrator at the facility where the assault is alleged to have occurred is notified as soon as possible, by no later than 72 hours after receiving the allegation, and document such notification."

**§115.164 – Responder duties.**

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

**Notes:**

(a) ICE Directive 11087.1 contains all four sub-components required in this subsection as it relates to the requirements for the first law enforcement staff member to respond to a report of sexual abuse or sexual assault.

The PSA Coordinator reports that staff are required to act if they receive a report "They are law enforcement officers. They must separate the victim from the abuser and when they (the victim) are safe then report the incident. They need to preserve as much evidence as possible by securing the scene and making sure the detainee does not drink anything or use the toilet."

There have been no reports of sexual abuse or sexual assault at VSDC since May 2014.

(b) This same directive also states, "If the first responder is not an officer or agent, the responder shall request the alleged victim not to take any actions that could destroy physical evidence, and then notify an officer or agent."

Interviews with staff onsite confirmed this practice at VSDC. Each staff member was able to articulate the steps required by staff responding to a sexual abuse allegation or incident to the Auditor.

There have been no reports of sexual abuse or sexual assault at VSDC since May 2014.

**§115.165 – Coordinated response.**

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

**Notes:**

(a) ICE Directive 11087.1 states, "The FOD shall ensure a coordinated, multidisciplinary team approach to responding to allegations of sexual abuse and assault occurring in holding facilities, or in the course of transit to or from holding facilities or sexual abuse or assault that occurred in ICE custody." This directive outlines procedures for first responder duties, first responder duties for non-officer or agents, medical and mental health care, forensic examinations and sexual abuse and assault incident reviews.

(b)(c) Auditor reviewed an email exchange between VSDC and other agencies demonstrating communication between facilities regarding notification of victimization and placement when three victims were transferred to VSDC for court. This email exchange occurred on November 17, 2017 and included information that medical assistance and social services were not needed.

The PSA Coordinator shared that this information would be sent with the classification sheet and that this information would be with any transfer from VSDC. This information would then be used to ensure proper housing placement at the receiving facility.

**§115.166 – Protection of detainees from contact with alleged abusers.**

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

**Notes:**

ICE Directive 11062.2 states, "Ensure that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring detainee contact pending the outcome of an investigation.

The PSA Coordinator and the AFOD both confirmed there have been no reports of sexual abuse or sexual assault at VSDC since May 2014.

**§115.167 – Agency protection against retaliation.**

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

**Notes:**

ICE Directive 11062.2 states, "ICE employees shall not retaliate against any person, including a detainee who reports, complains about, or participates in an investigation into an allegation of sexual abuse or assault, or for participating in sexual activity as a result of force, coercion, threats, or fear or force. However, ICE prohibits deliberately making false sexual abuse or assault allegations, as well as deliberately providing false information during an investigation, and such misconduct will be addressed through appropriate processes."

There have been no reports of sexual abuse or sexual assault at VSDC since May 2014. The PSA Coordinator and the AFOD both confirmed there have been no reports of sexual abuse or sexual assault at VSDC since May 2014. Thus, there was no documentation of VSDC monitoring for retaliation.

**§115.171 – Criminal and administrative investigations.**

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

**Notes:**

(a)(b)(c)(d) ICE Directive 111062.2 states, "When the incident occurs in ERO custody, the FOD shall: Ensure that the facility complies with the investigation mandates established by PBNDS 2011 Standard 2.11, as well as other revelation detention standards and contractual requirements...Conducting a prompt, thorough, and objective investigation by qualified investigators...Pursuing internal administrative investigations and disciplinary sanctions in coordination with the assigned criminal investigative entity to ensure non-interference with criminal investigations."

(e) ICE Directive 11062.2 states, "The FOD shall...When outside agencies investigator sexual abuse or assault, cooperate with law enforcement agencies, OPR and other outside investigators and endeavor to remain informed about the progress of the investigation, and ensure the detention facilities do the same."

The PSA Coordinator reports that staff report allegations to the JIC and OIG. An interview with the AFOD confirms this practice. Other staff interviewed stated that reports of sexual abuse would be made to the supervisor and would then move up the chain of command until the JIC was notified.

There have been no sexual abuse or sexual assault allegations reported to VSDC since May 2014.

**§115.172 – Evidentiary standard for administrative investigations.**

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

**Notes:**

There have been no allegations of sexual abuse or assault have been reported at VSDC since May 2014.

The PSA Coordinator reports the agency does not impose a standard higher than preponderance of the evidence in determining whether an allegation of sexual abuse is substantiated during an administrative investigation.

**§115.176 – Disciplinary sanctions for staff.**

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

**Notes:**

(a)(c)(d) There have been no substantiated allegations of sexual abuse or assault at VSDC since May 2014.

The AFOD and PSA Coordinator reported that staff would be disciplined for substantiated allegations of sexual abuse of detainees. They confirmed that this could include termination and reporting this information to law enforcement agencies if the substantiated allegation was criminal in nature.

The PSA Coordinator reported that human resource personnel at headquarters would be responsible for reporting any information terminations or resignations due to substantiated allegations to any required licensing bodies.

**§115.177 – Corrective action for contractors and volunteers.**

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

**Notes:**

(a)(b) ICE Directive 11082.2 states, "The FOD shall...When a non-ICE employee, contractor, or volunteer is alleged to be the perpetrator of the sexual abuse or assault, ensure that the facility administrator has also contacted the corporation or locality that operates the facility...Ensure that an ICE employee, contractor or volunteer suspected of perpetrating sexual abuse or assault is removed from all duties requiring detainee contact pending the outcome of an investigation..."

There have been no non-ICE employees or contractors removed from duties due to a sexual abuse or sexual assault allegation. There have been no reports at VSDC since May 2014.

**§115.182 – Access to emergency medical services.**

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

**Notes:**

(a) IHSC Directive 03-01: Sexual or Physical Assault, Abuse and/or Neglect, effective dated March 28, 2016 states, "Victims of sexual abuse shall have timely, unlimited access to emergency medical treatment, and crises intervention services including emergency contraception, sexually transmitted infections testing and prophylaxis."

IHSC Clinical Director advised that all services are provided at no charge to the detainees. The Clinical Director also reports, "We have entered into a MOU with Beth Israel (hospital) to conduct forensic exams, provide crises intervention, counselors and psychologists. All of these services can come directly to the ER if a detainee is brought in due to a sexual assault." The Clinical Director stated they entered this MOU with Beth Israel as they can provide services to adult and juvenile victims.

He also advised that emergency contraception and sexually transmitted infections testing would be done at the hospital. This would also include prophylaxis. He stated his staff at VSDC would be responsible for emergency care and stabilization before transporting the detainee to the hospital.

(b) IHCS Directive 03-01 also states, "All treatment services will be provided to the victim without financial cost, regardless..." Medical personnel reported that detainees are never charged for any care they receive while at VSDC.

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

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

**Notes:**

ICE Directive 11087.1 states, "The FOD shall conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault occurring at a holding facility and, unless the allegation was determined to be unfounded, prepare a written report recommending whether the allegation or investigation indicates that change in policy or practice could better prevent, detect, or response to sexual abuse and assault. Such review shall ordinarily occur within 30 days of ERO's receipt of the investigation results from the investigating authority. The FOD shall implement the recommendations for improve, or shall document its reasons for not doing so, in a written justification. Both the report and the justification shall be forwarded to the ICE PSA Coordinator."

There have been no reports of sexual abuse or sexual assaults at VSDC since May 2014. Due to this fact, the Auditor had no sexual abuse and assault incident reviews to review. The Auditor, however, did review a blank Sexual Abuse or Assault Incident Review Form.

**§115.187 – Data collection.**

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

**Notes:**

(a) ICE Directive 11062.2 states, "Data collected pursuant to this Directive shall be securely retained in accordance with agency record retention policies and the agency protocol regarding investigation of allegations...All sexual abuse and assault data pursuant to this directive shall be maintained for at least 10 years after the date of initial collection, unless Federal, State, or local law requires otherwise."

Interview with the PSA Coordinator confirmed this practice.



**§115.193 –Audits of standards.**

**Outcome:** Low risk

**Notes:**

VSDC is a low risk facility for incidence of sexual abuse. There have been no reports of sexual abuse or sexual assaults at this facility since May 2014. This is also VSDC's first PREA audit. While detainees are at VSDC, whether it is due to arrest or court, they are under constant direct supervision.

**§115.201 – Scope of audits.**

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

**Notes:**

The Auditor was able to tour VSDC and observe all areas of the facility. The Auditor was also allowed to revisit areas if requested. The Auditor was provided relevant documentation for review in order to determine VSDC's level of compliance. The Auditor was able to conduct private and confidential interviews with ICE staff and contractors. The audit notice was posted in all hold rooms and the Auditor did not receive any letters of correspondence from any detainee or staff person.

**AUDITOR CERTIFICATION:**

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

/s/ Elisabeth M. Copeland

October 16, 2018

**Auditor's Signature & Date**