

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



**Homeland
Security**

AUDIT DATES

From:	5/7/2019	To:	5/8/2019
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AUDITOR INFORMATION

Name of auditor:	Barbara A. King	Organization:	Creative Corrections LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	409-866-(b) (6), (b) (7)(C)

AGENCY INFORMATION

Name of agency:	U.S. Immigration and Customs Enforcement (ICE)
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FIELD OFFICE INFORMATION

Name of Field Office:	Washington Field Office
Field Office Director:	Jeffrey Jacoff
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C) Assistant Field Office Director
Field Office HQ physical address:	2675 Prosperity Ave, 3rd Floor, Fairfax, Virginia 20598
Mailing address: (if different from above)	Click or tap here to enter text.

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

Name of facility:	Washington Hold Room
Physical address:	2675 Prosperity Ave, C-Level, Fairfax, Virginia 20598
Mailing address: (if different from above)	Click or tap here to enter text.
Telephone number:	703-285-6304
Facility type:	HOLD

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Assistant Field Office Director
Email address:	(b) (6), (b) (7)(C)	Telephone number:	703-285-(b) (6), (b) (7)(C)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Supervisory Detention and Deportation Officer
Email address:	(b) (6), (b) (7)(C)	Telephone number:	202-345-(b) (6), (b) (7)(C)

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Notes:	

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) audit of the Washington Hold Room (Washington) in Fairfax, Virginia was conducted on May 7-8, 2019, by Auditor Barbara King, a certified Department of Justice (DOJ) and Department of Homeland Security (DHS) PREA Auditor through Creative Corrections, LLC. The purpose of the audit was to determine compliance with the Department of Homeland Security (DHS) PREA Standards for a Subpart – B facility. The Washington Hold Room is operated by U.S. Immigration and Customs Enforcement (ICE) for the holding of both adult male and female detainees for less than 12 hours. This was the first DHS ICE PREA audit of the facility. The audit period covered the previous twelve months from May 2018 through May 7, 2019.

Two weeks prior to the audit, External Review and Analysis Unit (ERAU) Team Lead, (b) (6), (b) (7)(C) provided the Auditor with the facility's Pre-Audit Questionnaire (PAQ), agency policies, and other pertinent documents. The documentation was provided through the ICE SharePoint. The PAQ and supporting documentation was organized with the PREA Pre-Audit Policy and Document Request, DHS Holding Facilities form and within folders for ease of auditing. The main policies that provide facility direction for PREA are:

- 11062.2 Sexual Abuse and Assault Prevention and Intervention
- 11087.1 Operations of Enforcement and Removal Operations (ERO) Holding Facilities

The Team Lead forwarded the audit notification poster to the facility. The poster included the dates of the audit, the purpose of the audit, the Auditor contact information through Creative Corrections LLC, and a statement regarding the confidentiality of any communication received. The facility staff placed posters throughout the facility, including all hold rooms. All the documentation, policies, and PAQ was reviewed by the Auditor. The Auditor communicated with the ERAU Team Lead requesting further documentation for clarification and review on April 28, 2019. Responses to the request was provided by uploading to the ICE SharePoint on April 30, 2019 by the ERAU Team Lead. Facility staff provided additional documentation during the onsite portion of the audit, and the Auditor also received additional audit documentation materials post audit inspection. A tentative daily time schedule was provided by the ERAU Team Lead for the on-site audit.

Before the start of the audit, the Auditor met with agency and facility staff. The Team Lead opened the entry briefing at 8:00 am on the first day of the on-site visit. In attendance were:

- (b) (6), (b) (7)(C) Management and Program Analyst/Team Lead, ICE Office of Professional Responsibility (OPR)/ERAU
- (b) (6), (b) (7)(C) Assistant Field Office Director (AFOD) ICE ERO
- (b) (6), (b) (7)(C) Prevention of Sexual Assault (PSA) Compliance Manager/Supervisory Detention and Deportation (SDDO), ICE ERO
- (b) (6), (b) (7)(C) Inspections and Compliance Specialist (ICS), ICE OPR ERAU
- (b) (6), (b) (7)(C) Senior Policy Advisor, DHS Office for Civil Rights and Civil Liberties (CRCL)

Brief introductions were made and the detailed schedule for the audit was covered. The Auditor provided an overview of the on-site audit process and methodology used to demonstrate PREA compliance. The Auditor explained that the audit process is designed to not only assess compliance through written policies and procedures but also to ascertain whether such policies and procedures are reflected in the knowledge and day-to-day practices of staff at all levels. The Auditor further explained compliance with the PREA standards will be determined based on the review of policy and procedures, observations made during the facility tour, additional onsite documentation review, and conducting both staff and detainee interviews. It was shared that no correspondence was received from a detainee, outside individual, or staff member. The facility provided the requested information to be used for the random selection of staff to be interviewed (random and specific category). The facility staff indicated there were no allegations during the audit period and for the last 16 years. Since detainees are held for a short period of time, the Auditor informed the staff when a detainee arrived at the facility, the Auditor would like to observe the intake process and would be interviewing any detainees onsite.

A facility tour was completed by the Auditor with key staff. All areas of the holding facility were toured including the sallyport (where intake occurs), the four holding cells, the processing area, interview rooms, fingerprint/storage room, and control room. During the tour, the Auditor made visual observations of the service areas and holding rooms including bathrooms, officers post sight lines, and camera locations. Sight lines were closely examined as was the potential for blind-spots throughout the areas where the detainees are held or have accessibility. The Auditor verified the placement of the audit notification poster during the facility tour. The Auditor spoke to random staff and detainees regarding PREA education and facility practices during the tour. Review of the supervision logs was conducted to verify staff rounds for security staff and supervisors. Key facility staff during the audit included the AFOD, PSA Compliance Manager/SDDO, and Team Lead. All facility staff were very cooperative and informative during the audit process.

The facility is located on the bottom floor of a multi-floor building off the building's restricted underground parking area. The facility has a design capacity of 75 adults. The facility holds no juveniles or pregnant females. The facility booked 4,360 detainees in the last 12 months. On the first day of the audit, the facility population was four male detainees. The average detainee population for the last twelve months was 20. The average time in custody is six hours. The staff indicated that the highest detainee nationalities are Mexican and Salvadorian. The facility operates from 7:00 am to 3:00 pm. If a detainee is still in the facility at 3:00 pm, staff continue to perform their functions and supervision until the detainee is transferred.

The facility administrative offices and ICE offices are located on the third floor of the building. Entrance into the facility for staff and detainees is through a secure door located off the restricted parking area on the lowest level of the building. (b) (7)(E)

The sallyport is the entry area, this is also where all intake arrivals are processed. Off the sallyport is the control center through a secure sallyport vestibule. Another door leads into the facility holding area which is controlled by the control center. The holding and processing area has four holding cells labeled 1 through 4. Holding Cell 1 is the largest holding cell and is utilized for staging. This is where detainees are held until processed through the risk screening process and general intake. Holding Cell 2 is utilized for detainees processed for transport. Holding Cell 3 holds detainees that need separation and/or waiting services from another facility. Holding Room 4 is utilized for female holding. There are two interview rooms and a storage room that use to be the fingerprint room. The open area in front of the holding cells is the processing desk with multiple computer stations where the Detention and Deportation Officers (DDO) interview,

conduct the risk screening, and general paperwork for each detainee. (b) (7)(E)

The cameras are monitored by the control center and the AFOD and PSA Compliance Manager/SDDO have monitoring capabilities in their offices.

All the holding cells have toilets behind a half wall barrier, a drinking fountain, a telephone, and benches. (b) (7)(E)

The cameras are viewed in the control center. The phones are available for the detainees providing reporting accessibility. The holding cells also had the audit notices and PREA information posted on the walls and windows. The PREA information posted includes the ICE Zero Tolerance poster with reporting numbers, the Sexual Abuse and Assault Awareness Brochure, and foreign consulates with addresses and phone numbers.

The Auditor informed the facility the posting on the windows blocked the visual viewing in to the holding rooms. The facility removed most of the postings from the window and placed them on the walls inside the holding cell. There was one layer of posting left on the window one sheet of paper high. The movement of the paper postings allowed viewing into the holding cells.

(b) (7)(E) . The cameras do not have sound capability.

(b) (7)(E)

The cameras are monitored by two officers working in the control center and the AFOD and PSA Compliance Manager/SDDO have monitoring capabilities in their offices. The Auditor observed the viewing in the control center and in the AFOD office. The monitor in the control center is located (b) (7)(E) and does not provide easy viewing for the officers. The monitor contains six camera views with changing camera views. The auditor recommended that the monitor be lowered to allow easier and constant viewing for the officers.

All required facility staff and detainee interviews were conducted on-site during the two-day audit. Three detainee interviews were conducted of the four detainees held on the first day. One detainee was released before the audit interviews could be conducted. The detainee interviews began immediately following the facility tour. All of the interviews were conducted in the interview office that provided privacy for the interviews. The Auditor utilized Language Services Associates (LSA) through the Creative Corrections LLC contract for translation services for two limited English proficient (LEP) detainees interviewed who spoke Spanish. Two of the detainees spoke Spanish, the other one was bilingual in English and Spanish; they were from Honduras (1) and El Salvador (2).

A total of eight formal staff interviews were conducted and five informal staff interviews were also conducted during the facility tour and revisits to the secure facility area (86% of the 15 staff who may have contact with detainees). Staff were randomly selected from the personnel roster: five random staff interviews consisting of Detention and Deportation Officer (2), Detention Enforcement Transportation Officer (2), and a contract security staff (1). Additionally, specialized staff were interviewed including the AFOD for 11 specialized interviews, PSA Compliance Manager for 8 specialized interviews, and the Contracting Officer's Representative (COR) for the specialized interview as the Designee on Contractor and Volunteer Training on Sexual Abuse. An interview with the Chief of Personnel Security Unit (PSU) was conducted over the phone after the on-site audit.

The Auditor also reviewed staff personnel records, staff training records, and detainee files. Three detainee intake, risk screening, and classifications were observed by the Auditor in the intake/processing area for the new detainee intakes. The facility has not had any PREA related allegations over the past 36 months; the AFOD stated the facility has not had a PREA allegation in 16 years.

The Auditor based compliance on observations during the onsite audit, review of policies and procedures, interviews with staff and detainees, and documentation review. There was minimal documentation to review since there was no allegations; which meant practice and processes could not be reviewed or verified. The Auditor's compliance is based heavily on agency policy and procedures to document the procedural direction to be taken in a case of an allegation and the staff's knowledge of the policy and procedural responsibilities.

An exit briefing was conducted by the Auditors at the completion of the on-site audit. The following participants were in attendance:

- (b) (6), (b) (7)(C) Management and Program Analyst/Team Lead ICE, OPR, ERAU
- (b) (6), (b) (7)(C) AFOD, ICE ERO
- (b) (6), (b) (7)(C) PSA Compliance Manager/SDDO
- (b) (6), (b) (7)(C) Acting Field Officer Director (FOD), ICE ERO
- (b) (6), (b) (7)(C) DFOD, ICE ERO
- (b) (6), (b) (7)(C) DFOD, ICE ERO

While the Auditor could not give the facility a final finding per standard, the Auditor did provide a preliminary status of their findings. There were six standards with outstanding issues at the end of the site visit, 115.116, 115.121, 115.131, 115.141, 115.171, and 115.182.

- Standard 115.116: documentation was not provided to show procedures on how 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 efforts to prevent, detect, and respond to sexual abuse; and documentation was not provided to show procedures on how detainees who are LEP have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse.
- Standard 115.121: The facility has not requested the Fairfax County Police Department to follow the requirements of paragraphs (a) through (d) of the standard. The facility needs to request the Fairfax County Police Department to follow the requirements of the standard if a case is referred to them for investigation.
- Standard 115.131: The facility staff have not completed the required biennial refresher training.

- Standard 115.141: Detainees are not screened prior to placement in a holding cell with other detainees and the detainees are not always screened for the risk elements in the standard. Two of the four intakes observed, the detainee was not asked the risk screening questions.
- Standard 115.171: The policy provided did not address the administrative investigation process and if the agency provides information on substantiated cases involving a former employee upon receiving a request from an institutional employer.
- Standard 115.182: The policy did not address the second section of the standard "whether the victim names the abuser or cooperates with an investigation arising out of the incident." Although policy is not required, there is a policy and it does not address the second half of the standard.

The Auditor made a few recommendations to the facility administration:

- To remove posting on the windows to allow visual supervision and lower the camera monitor to allow easier and constant viewing for the officers. The facility addressed removing the posting from the windows during the audit. The facility needs to ensure the windows stay clear of postings and maintain visual observation into the cells.
- To lower the video monitor in the control center to allow easier and constant viewing for the officers of the holding cells.
- For the facility to conduct mock exercises and drills to become familiar with the policies and procedures for sexual abuse and assault allegations. The facility staff although interviewed well, the information was not common knowledge on preventing, detecting, and responding to an allegation of sexual abuse and assault. A number of staff had to review notes and policies brought into the interview in order to answer questions. With the facility not having an allegation in 16 years, the staff's compliancy needs to be addressed. The mock exercises and drills will make the staff work through the staff duties/responsibilities in responding to an incident.
- The facility is not required to have a policy for Standard 115.182(b), however, there is a policy in place. The Auditor recommends the policy to be expanded to address the second section of the standard "whether the victim names the abuser or cooperates with an investigation arising out of the incident."

The Auditor shared with those in attendance the appreciation of the hospitality received and for the professionalism provided by all staff during the visit. The Auditor observed constant interactions between staff and detainees in a positive manner throughout the on-site audit. Those interviewed understood PREA and knew the methods in place to report incidents of sexual abuse, assault, harassment, and misconduct, if needed. The Auditor shared with the facility's administration the positive interviews with staff and the professionalism demonstrated by staff during the audit. The Auditor thanked the AFOD, PSA Compliance Manager, and all the facility staff of the Washington Hold Room for their hard work and commitment to the Prison Rape Elimination Act.

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.

Upon completion of the Pre-Audit and Onsite Audit phases, the Auditor conducted a systematic evidence review of all the information obtained during the audit process. The Auditor utilized the PREA Audit: Auditor Assessment Tool for DHS Holding Facilities as a guide to ensure that all aspects of each standard were met. This assurance is made by a triangulation of the policies and procedure reviewed, observations during the on-site audit, additional documentation review, and information from the detainee and staff interviews.

Number of Standards Exceeded: 0

Number of Standards Met: 23

- § 115.111 Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator
- § 115.113 Detainee supervision and monitoring.
- § 115.115 Limits to cross-gender viewing and searches.
- § 115.117 Hiring and promotion decisions
- § 115.122 Policies to ensure investigation of allegations and appropriate agency oversight
- § 115.132 Notification to detainees of the agency's zero-tolerance policy
- § 115.134 Specialized training: Investigations
- § 115.151 Detainee reporting
- § 115.154 Third-party reporting
- § 115.161 Staff reporting duties
- § 115.162 Agency protection duties
- § 115.163 Reporting to other confinement facilities
- § 115.164 Responder duties
- § 115.165 Coordinated response
- § 115.166 Protection of detainees from contact with alleged abusers
- § 115.167 Agency protection against retaliation
- § 115.172 Evidentiary standard for administrative investigations
- § 115.176 Disciplinary sanctions for staff
- § 115.177 Corrective action for contractors and volunteers
- § 115.182 Access to emergency medical services
- § 115.186 Sexual abuse incident reviews
- § 115.187 Data collection
- § 115.201 Scope of audits.

Does Not Meet Standard: 5

- § 115.116 Accommodating detainees with disabilities and detainees who are limited English proficient
- § 115.121 Evidence protocols and forensic medical examinations
- § 115.131 Employee, contractor, and volunteer training
- § 115.141 Assessment for risk of victimization and abusiveness
- § 115.171 Criminal and administrative investigations

Not Applicable Standard: 2

- § 115.114 Juvenile and family detainees
- § 115.118 Upgrades to facilities and technologies

Summary of Corrective Action

Standard 115.116(a): documentation was not provided to show procedures on how 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 efforts to prevent, detect, and respond to sexual abuse; and documentation was not provided to show procedures on how detainees who are LEP have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse.

- The facility needs to expand policy and procedures to outline how 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 efforts to prevent, detect, and respond to sexual abuse. The procedure should provide direction to staff for interacting with detainees with disabilities to ensure the detainee understands PREA information. The facility needs to demonstrate this procedure through written documentation that notes how the PREA information was shared with a detainee that has a disability. Facility procedures need to be developed to provide staff direction on how to handle PREA information sharing with detainees with disabilities.

Standard 115.121: The facility has not requested the Fairfax County Police Department to follow the requirements of paragraphs (a) through (d) of the standard.

- The facility needs to request the Fairfax County Police Department to follow the requirements of the standard if a case is referred to them for investigation.

Standard 115.131(b): The facility staff have not completed the required biennial refresher training.

- The facility needs to provide training records from ten staff that demonstrate the biennial PREA training/refresher.

Standard 115.141(a): Detainees are not screened prior to placement in a holding cell with other detainees and the detainees are not always screened for the risk elements in the standard. Two of the four intakes observed, the detainee was not asked the risk screening questions.

- The facility needs to follow policy and complete risk screening on all detainees during the intake processing through asking the detainees the questions on the risk screening. The screening needs to occur prior to placing any detainee together in a holding cell with another detainee. The facility needs to provide a daily intake roster and the risk screening for those detainees, the date will be provided by the auditor.

Standard 115.171(b): The policy provided did not address the administrative investigation process.

- The subpart B of the standard requires at the conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation. In cases, where the investigation is unsubstantiated, the facility should review any available completed criminal investigative reports to determine where an administrative investigation is necessary or appropriate. Administrative investigations are to be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. This protocol is not in the policy describing when an administrative investigation is to be completed. The policy needs to be expanded to include the language of the standard and the process for administrative investigations.

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:

The agency has two policies that incorporates the DHS PREA requirements; policy 11062.2 Sexual Assault and Abuse Prevention and Intervention (SAAPI) and policy 11087.1 Operations of ERO Holding Facilities. The SAAPI directive incorporates DHS PREA requirements applicable to ICE at the agency level and extends SAAPI protections to all individuals in ICE custody. The 11087.1 policy outlines DHS PREA requirements and protections for all individuals at ERO holding facilities. The policies mandate zero tolerance toward all forms of sexual abuse and outline the agency's approach to preventing, detecting, and responding to such conduct. The policies also define all sexual abuse and sexual harassment. Through observation of postings in the holding cells (ICE Zero Tolerance poster with reporting numbers, the Sexual Abuse and Assault Awareness Brochure, and foreign consulates with addresses and phone numbers), the availability of the ICE National Detainee Handbook, and interviews with staff and detainees it was apparent that the agency and the facility are committed to zero tolerance of sexual abuse, sexual assault, and sexual harassment. Each staff member was knowledgeable of the zero tolerance policy and their first responder requirements. Interviews with staff demonstrated the agency and staff overall commitment to sexual safety in their facilities. The zero-tolerance policy is publicly posted on the agency website, www.ice.gov/prea, as well as policies 11087.1 and 11062.2.

§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) The agency has developed facility staffing guidelines that provide for adequate levels of staffing, and, where applicable, video monitoring, to protect detainees against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, the facility has taken into consideration all areas enumerated under this standard through the annual Holding Facility Self-Assessment Tool (HFSAT), which is completed by the facility and used to meet the facility's detainee supervision needs. The facility operations are supported by DDOs and contracted Immigration Centers of America (ICA) Detention Officers. The PSA/SDDO explained the ICA officers are responsible for the transportation and custody supervision of the detainees when at the facility. The staffing guidelines provide direct supervision at all times while detainees are present at the facility. The facility provides physical checks of each of the holding cells every 15 minutes by looking into the cell through the windows. The 15-minute checks are documented on the Hold Room Detention Log, which were reviewed by the Auditor during the tour and found complaint with the policy. The front wall of the cells are windows from midway up the wall to the top of the wall that allow easy visibility into the cell. The intake/officer's desk area is located in front of the cells, so beyond the 15-minute checks the cells have constant staff visibility into the cells. (b) (7)(E)
- (b) The agency's policy 11087.1 covers the supervision requirements for the holding facilities. The policy states that the FODs shall ensure that detainees placed into holding facilities are: accounted for and continuously monitored and that holding facilities are emptied upon the conclusion of daily operations in those field office locations operating on a daily schedule. The agency's policy also states absent exceptional circumstances; no detainee should be housed in a holding facility for longer than 12 hours; monitored for any apparent indications of a mental or physical condition or signs of hostility that may require closer supervision or emergency medical care; subject to direct supervision, (b) (7)(E); all physical hold room checks shall be logged, including the time of each check and any important observations; and when detainees in a holding facility are placed in rooms not originally designed for holding detainees (e.g., interview rooms or offices), the FOD shall ensure that the detainees remain under constant direct supervision.
- (b) The annual HFSAT, which is completed by the facility and used to meet the facility's detainee supervision needs was approved on May 7, 2018. ICE Headquarters reviews and approves the HFSAT depending on information provided. The HFSAT is developed with the facility administration with input from supervisors and reviewed annually with the FOD. The PSA Compliance Manager/SDDO stated the facility's staffing includes seven ICA detention officers, six DDO officers, and one SDDO. The minimum staffing of the facility would be four ICA and three DDO officers. However, the PSA Compliance Manager/SDDO stated the staffing is usually two ICA contractors for facility supervision, two ICA officers for transportation, two officers for control, and one ICA officer supervising the floor. (b) (7)(E)
- The staff interviews indicated that there are usually two officers assigned to the supervision of the holding cells, but there will be at least one assigned per the minimum staffing requirement. The DDOs are also at the facility during the operational hours and are on-call during the non-operational hours. The operating hours of the facility is 7:00 am to 3:00 pm, if a detainee is still in custody at 3:00 pm, staff are retained to provide supervision coverage until the transfer of the detainee. There is always a female staff available to conduct pat down searches, if a female DDO is not present on shift, a female DDO officer or supervisor is required to report to the facility location per interviews with AFOD and PSA Compliance Manager/SDDO. The PSA Compliance Manager/SDDO reviews the staffing plan daily to ensure proper coverage is achieved.
- (c) The facility has established adequate supervision and the need for video monitoring, while taking into consideration the physical layout of the holding 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. This was supported through the annual HFSAT. The PSA Compliance Manager/SDDO stated the supervision is driven by directives and policies. If the facility has a large intake of detainees, additional officers are assigned to the supervision of holding cells for the day. It was also indicated that the prevalence of substantiated and unsubstantiated allegations would be considered, however,

the facility has had no allegations in 16 years. It was determined during the onsite audit that the facility has adequate video monitoring throughout the facility that is constantly monitored, through the staffing plan coverage, and the staff conducting 15-minute visual observations in holding cells. The Auditor confirmed that all of the aspects of this subsection were taken into consideration when determining supervision levels.

§115.114 - Juvenile and family detainees.

Outcome: Not Applicable (provide explanation in notes)

Notes:

The facility does not hold juveniles or family detainees. The AFOD/Officer in Charge stated no juveniles are brought onto the intake floor. As noted in the memo to file. It states the facility does not hold juveniles in custody. During the past 12 months, there were 3 instances where juveniles in the custody of the Office of Refugee Resettlement, an agency within the Department of Health and Human Services have been transported to the Washington Hold Room. This was for purpose of fingerprinting and photo taking. The juveniles never enter ERO custody. The AFOD/Officer in Charge stated juveniles would not enter the holding area of the facility. If a juvenile was brought to the facility, they would be fingerprinted and photographed in another area of the facility that is sight and sound separated from any other detainees. The juveniles would be transferred in less than an hour. When a juvenile becomes 18 at another facility, they would be brought to the holding facility for processing as an adult. The agency's policy 11087.1 addresses the procedures to be followed if a juvenile is held at a facility which mirrors the standard language.

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

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

Notes:

- (b/c) The agency's policy 11087.1 outlines that when a pat down search indicates the need for a more thorough search, an extended search is conducted in accordance with ICE policies and procedures including that all strip searches are documented; 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 law enforcement personnel. The staff at the facility will conduct pat-down searches of detainees upon entering the facility in the sallyport area. This was observed by the Auditor during the onsite audit. The pat searches were conducted by the same gender staff member. The contract officers are not permitted to conduct pat searches on female detainees, these searches would be conducted by a female ICE DDO or female supervisor. The PSA Compliance Manager/SDDO stated all strip searches are prohibited. If a strip search was necessary, the detainee would be transported to a local detention facility with medical staff or to a local emergency room for the search to be conducted by medical staff. The staff at the facility does not conduct cross-gender strip searches or cross-gender visual body cavity searches nor do they conduct same-gender strip searches as a general practice. During interviews with DDO and ICA officers, they indicated they have received training on how to conduct pat down searches and that a female staff member would only conduct pat searches on female detainees. They also indicated a transgender detainee would be asked what gender staff they prefer to conduct the pat down search. They were able to explain the process to conduct a pat search including using the back of the hand, if they had to conduct a transgender or female pat search. A wand may also be utilized for transgender detainees. A memo to file stated no strip searches have been conducted in the preceding 12-month period. There was no documentation to review, due to a search of this nature has not taking place.
- (d) The agency's policy 11087.1 states that the FOD shall ensure that detainees are permitted to shower, perform bodily functions, and change clothes without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine hold room checks. The agency shall implement policies and procedures that enable detainees 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 cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement under medical supervision. The policy further states that 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. The PSA Compliance Manager/SDDO stated if a detainee needs to change their clothing, they are escorted to a vacant cell or room to change clothes and outside the view of the opposite gender staff members. The Auditor was unable to observe opposite gender announcements taking place during the audit, the facility had only male detainees and male staff working on the supervision floor. A female officer was working in the control center and would be utilized for pat downs and supervision if a female detainee arrived at the facility. The detainees at the facility do not shower and privacy for performing bodily functions is provided through the half walls blocking the toilets from view. The officers interviewed acknowledged the requirement of knock and announce which includes the opposite gender staff announcing before entering a holding cell.
- (e) The agency's policy 11087.1 outlines personnel shall 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 will be determined during conversations with the detainee, by reviewing available medical records, or, if necessary, learning that information as part of a broader medical examination conducted in private, by a medical practitioner. During the interview with the PSA Compliance Manager/SDDO, it was stated a preliminary screening including visual appearance is documented. They also ask the detainee privately what gender they identify as. If the information does not determine the gender, the detainee is housed separately and then transferred to a facility with medical staff to conduct a medical examination to determine the detainee's gender. The PSA Compliance Manager/SDDO indicated they have not had to transfer a detainee for this purpose. The DDO and ICA officers stated they had not witnessed or participated in a search to determine a detainee's gender.
- (f) The agency has trained all contractors and employees in the proper procedures for conducting pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex detainees. The training curriculums are Physical Searches in Detention Facilities, Hold Rooms, and Staging Facilities; Transgender and Intersex Searches; and Cross Gender Pat Search Requirements. The Training Certificate Form is signed and dated by the staff member. Training was conducted in August 2018 for Cross-Gender, Transgender, and Intersex Searches which is a PowerPoint training session through a computer training module. Fourteen staff training certificates were reviewed for documentation compliance. All interviewed officers stated during their interviews that they had received the training. The Auditor confirmed the daily practices of pat down searches by observing pat down searches conducted in a professional and respectful manner during a detainee's intake into the facility.

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

Outcome: Does not Meet Standard (requires corrective action)

Notes:

- (a) The agency policies 11087.1 and 11062.2 state the detainees with disabilities will have an equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse. The facility does post the ICE Zero Tolerance Poster, and Sexual Abuse and Assault Awareness pamphlet in the holding cells in English and Spanish for those detainees that can read those languages. There is no facility direction on how to provide PREA information to detainees that are blind, have low vision, limited reading skills, or those who have intellectual, psychiatric, or speech disabilities. The officers interviewed were not able to provide how PREA information is shared with detainees that have these disabilities. The interview with the AFOD stated that detainees that are deaf or hard of hearing are provided written materials; those who are blind or have low vision would have a staff member read the information to the detainee; those who have intellectual, psychiatric, or speech disabilities would be referred to a supervisor who would reach out to field medical staff for assistance; and those who have limited reading skills would have staff read the information to the detainee. Although the AFOD was able to provide the procedures to inform detainees with disabilities PREA information; the staff performing the intake processing was not aware of the methods. The AFOD also shared the facility utilizes a Communication Board card for the deaf and hard of hearing that allows detainees to point at a service they may need. This card does have a picture for assault. Other staff did not mention or reference this card. The staff working in the facility had no direction on how to handle this population. The facility does not meet the standard; there was no documentation provided to show procedures on how 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 efforts to prevent, detect, and respond to sexual abuse.

For compliance, the facility needs to expand the policy and procedures to outline how 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 efforts to prevent, detect, and respond to sexual abuse. The procedure should provide direction to staff for interacting with detainees with disabilities to ensure the detainees understands the PREA information. The facility needs to demonstrate this procedure through written documentation that notes how the PREA information was shared with a detainee that has a disability. Facility procedures need to be developed to provide staff direction on how to handle PREA information sharing with detainees with disabilities. Staff training needs to be conducted and documented on the expanded policy and procedures.

- (b) The agency policies 11087.1 and 11062.2 state the detainees with limited English proficiency will have an equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse. The facility does post the ICE Zero Tolerance Poster, and Sexual Assault Awareness Information pamphlet in the holding cells are in English and Spanish for those detainees that can read and understand those languages. It was stated during interviews that most detainees processed are Spanish speaking. The facility can communicate with those detainees through staff interpreters and the language line. The facility usually has at least one staff member that can speak Spanish available. A language line is available for interpretation through the 24-Hour Language Line: ERO Language Access Resource Center. To request translation or transcription, a staff member must submit a request, Translation Request Form, through an email. The interpretation services are available 7 days a week, 24 hours a day through the ERO Language Access Resource Center 24-hour Language Line. Interpretation services are also available through U.S. Citizenship and Immigration Services (USCIS) Language Line through a request Monday through Friday 7:30 am to 5:00 pm Eastern time. The facility does not have ICE National Detainee Handbooks in other languages than English and Spanish. And those two handbooks are only available to the detainee at the processing desk when they are being processed. This does not provide the detainee information since the detainee is answering questions and unable to read the information. The staff working in the facility had no direction on how to provide information to detainees that communicated in other languages than English and Spanish. The AFOD stated other language handbooks can be ordered if needed. However, ordering handbooks when a detainee is processed that does not understand or communicate in English or Spanish, would not provide the detainee at intake the necessary PREA information. All detainees interviewed indicated they saw information in a language they understood, two in Spanish and one in English. They referenced the information posted on the holding cells walls.

For compliance, the facility needs to expand the policy and procedures to outline how detainees who are LEP other than Spanish have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse. The procedure should provide direction to staff for interacting with these detainees to ensure the detainee receives the PREA information in a language they understand. The facility needs to demonstrate this procedure through written documentation that notes how the PREA information was shared with a detainee that has LEP other than Spanish and facility procedures need to be developed to provide staff direction on how provide LEP detainees with the PREA information. Staff training needs to be conducted and documented on the expanded policy and procedures. The facility needs to obtain the National Detainee Handbooks in other languages.

- (c) In matters relating to allegations of sexual abuse or assault, the AFOD stated the facility would provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee. It was also stated they would not use another detainee unless the detainee requests another detainee to provide interpretation. In that case, they would get a 3rd party with no interest or stake in the allegation. The agency's policy 11062.2 would allow, if 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 Auditor further verified this during the interviews with officers that explained they would not utilize another detainee, a minor, the alleged abuser, a detainee witness, or a detainee who has significant relationship to the alleged abuser which may compromise the investigation. The officers indicated they would use a staff interpreter or the translation services.

§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) Through review of Executive Order 10450 Security Requirements for Government Employment and the Office of Personal Management Section Part 731 Suitability; and ICE Policy system Directive Title ICE Personnel Security and Suitability Program, it was determined that the agency has established a system of conducting criminal background checks for new employees, contractors, and volunteers who have contact with detainees to ensure they do not hire or promote anyone who engaged in sexual abuse in a prison or other confinement settings; been convicted of engaging

or attempting to engage in sexual activity in the community facilitated by force, coercion, or if the victim did not consent or was unable to consent to refuse; or had civilly or administratively adjudicated to have engaged in such activity. The interview with the Unit Chief of Personal Security Unit (PSU) stated that all new employees are required to answer the three questions to ensure that they have not: engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt, or implied threats of force, coercion, or if the victim did not consent or was unable to consent or refuse; and have not been civilly or administratively adjudicated to have engaged in the activity described within the standard. He indicated this is completed on the job application form and at the beginning of the criminal background check interview. This is also reviewed as part of the background process. The standard addresses the utilization of this process in the promotional system, after reviewing the above policies, and during the SDDO interview, if any employee or contractor were involved in any misconduct of this nature, they would not be employed or contracted by ICE. Employees also have a continuing affirmative duty to report misconduct. The Unit Chief of PSU stated staff are required to report any misconduct to their supervisor and to the Joint Intake Center (JIC) managed by ICE. This requirement is shared with staff in the PREA training. If the agency receives an arrest notification, this will be forwarded to OPR Investigation Unit and Labor Relations.

(c/d) Background checks are conducted through the PSU prior to an employee or contractor being approved for hire. The agency conducts personnel security reviews on everyone that works for ICE by ensuring they are suitable for the position selected and they maintain a high level of character. During the background process the applicant, employee or contractor is asked questions directly related to sexual abuse in confinement settings enumerated in the standard, these questions are asked both in a written form and in person by the assigned investigator who conducts the interviews. The background check consists of a National Agency Check (NAC), education checks, residence checks, personal reference checks, and fingerprint check. The background coverage period is five years. The interview with the COR and the Unit Chief of PSU stated that contractors are background checked by their company and asked the three questions during the application process. The agency also conducts background checks on the contractors. The background coverage period is determined by the risk of the position. Low or moderate risk positions have background checks completed every ten years. Positions that are considered high risk have background checks every five years. The Auditor completed a request through PSU for background information on seven facility staff. The Auditor confirmed the background investigations and five-year reinvestigation for seven staff at the facility: five ICE employees and two contractors. The facility does not utilize volunteers. All backgrounds were conducted and two within the specified time limit of five years due to their five-year anniversary. Two of the contractors were hired within the audit period and had background checks completed prior to work assignment.

(e/f) Auditors attended training in Arlington, Virginia in September 2018, where PSU Unit Chief presented information on the background investigation process. During this training, he confirmed that any material omissions, intentional false statement, or deception is a factor that would make an applicant, employee, or contractor unsuitable for employment. He further confirmed that the agency would, unless prohibited by law, provide information on a substantiated allegation of sexual abuse involving a former employee or contractor, to any requesting confinement facility. This was confirmed again through the interview with the Unit Chief of PSU.

§115.118 - Upgrades to facilities and technologies.

Outcome: Not Applicable (provide explanation in notes)

Notes:

(a) The facility has not undergone any substantial expansion or modifications. The AFOD indicated the facility will be moving to a new location by May 2020. The PSA Compliance Manager/SDDO shared that there have been no substantial expansion or modifications to the current facility, the only item added was a monitor upgrade. He explained as the facility prepares for the new location, the administration is reviewing the facility for PREA concerns including blind spots, monitors needed, and cameras to provide continuous monitoring. The Auditor reviewed the HSAT that noted no expansion or modifications have occurred.

Recommendation: The facility administration staff should capture the reviews and decisions based on the new facility around PREA concerns and keeping detainees safe through meeting notes to document the process for future audits.

(b) The facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since May 2014.

(b) (7)(E) [REDACTED] The cameras do not have sound capability. (b) (7)(E) [REDACTED]

[REDACTED] None of the cameras provide viewing of the toilets in the holding rooms. The cameras are monitored by the control center and the AFOD and PSA Compliance Manager/SDDO have monitoring capabilities in their offices. The Auditor observed the viewing in the control center and in the AFOD office. The monitor contains six camera views with changing camera views. The monitor in the control center is located above the windows and does not provide easy viewing for the officers.

Recommendation: The auditor recommended that the monitor be lowered to allow easier and constant viewing for the officers.

§115.121 - Evidence protocols and forensic medical examinations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) The agency's policy 11062.2 outlines the investigative process for the agency to maximize the potential for obtaining usable physical evidence for administrative and criminal investigations. It was indicated in the interview with the AFOD and PSA Compliance Manager/SDDO, the facility begins the first responder duties and begins the investigation process immediately following an allegation. The Auditor confirmed with the PSA Compliance Manager/SDDO that he would be the initial responder and would make notifications of the allegation to the appropriate entity who would assume investigative jurisdiction of the case. The allegations are reported to OPR and DHS Office of the Inspector General (OIG). Per the policy, when a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility incident review personnel in accordance with OPR policies and procedures. If the OPR, OIG, or outside law enforcement does not accept the case, the facility AFOD or PSA Compliance Manager/SDDO would conduct an administrative investigation. The OPR would coordinate with the FOD and/or PSA Compliance Manager/SDDO to

ensure evidence is appropriately secured and preserved pending an investigation by federal, state, or local law enforcement, including the OIG. The policy also outlines the agency's evidence and investigation protocols. The facility utilizes the DOJ's National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents 2nd Edition for the uniform evidence protocol as indicated by the PSA Compliance Manager/SDDO. The protocols are incorporated into the facility's Coordinated Response Plan and in policies. The facility does not hold juvenile detainees.

- (b) The policy further outlines the availability of community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling to most appropriately address victims' needs. The facility does not have a memorandum of understanding with an outside community resource for crisis intervention and counseling. An attempt has been made with the Domestic Violence and Sexual Assault Services to obtain a MOU as documented through an email chain. As of April 24, 2019, the contact from the Domestic Violence and Sexual Assault Services stated she has reached out to a county funded program that provides crisis intervention for assistance and has not heard back. The PSA Compliance Manager/SDDO stated the hospital has advocacy services available to the victim of sexual abuse. The AFOD stated the victim advocacy services would be started at the hospital during the forensic exam and treatment services. The detainee may be transferred to a facility that has a victim advocate, if services can't be provided locally.

Recommendation: The facility needs to continue to try to establish a partnership/agreement with an outside community resource for crisis intervention and counseling.

- (c/d) All forensic exams and emergency medical treatment is provided by a local hospital. The facility would utilize INOVA Fairfax Hospital, which has two locations in the area, with one of them about two blocks from the facility and the other facility within four miles. The alleged victim would receive services through the emergency room only after the detainee's consent. If a Forensic Nurse Examiner (FNE) is not onsite, the victim would be referred to the other location or an FNE would be called to report. The Auditor interviewed a representative from the hospital. It was stated that FNEs are available 24 hours, 7 days a week at one of their facilities. It was suggested during the interview and in the email, documentation supplied by the facility; that the facility should call ahead to determine the location of the FNE on duty. The hospital representative also acknowledged that an FNE can be called in to report. This evaluation would be at no cost to the detainee. In the state of Virginia, all victims of sexual abuse are provided free exams and medical treatment per state policy the PSA Compliance Manager/SDDO and FOD shared. INOVA Fairfax Hospital also has a Forensic Assessment and Consultant Team (FACT) that offers expert medical evaluation, forensic evidence collections, and provide expert interpretation based on training, experience, and medical data as stated on their website. The FNEs are specially trained to provide emotional support; they may also make referrals to outside support services. The facility has had no allegations in the last 36 months.

- (e) The facility is not responsible for investigating allegations that are criminal. The PSA Compliance Manager/SDDO would make notifications of the allegation to the appropriate entity who would assume jurisdiction of the case; OPR, OIG and/or local law enforcement which would be the Fairfax County Police Department. The AFOD stated the contact at the Fairfax County Police Department is a detective in the sex crimes unit. The facility has not developed or requested a MOU to document the working partnership with the Fairfax County Police Department. OPR and OIG would follow the requirements of the standard.

Does Not Meet: The facility has not requested the Fairfax County Police Department to follow the requirements of paragraphs (a) through (d) of the standard. The facility needs to request the Fairfax County Police Department to follow the requirements of the standard if a case is referred to them for investigation.

Recommendation: If the facility is going to conduct administrative investigations as noted in the interviews, the staff responsible for conducting those investigations must complete the specialized investigator training.

It should be noted that the audited facility has not had any allegations within the past 36 months.

§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) The agency's policy 11062.2 outlines the investigative process for the agency. The policy further outlines the responsibilities of the DHS investigative entities, OPR, and the facility. The AFOD stated all allegations would be referred for investigation. The allegation would be reported to a supervisor by staff. The AFOD stated the supervisor will notify the AFOD, PSA Compliance Manager/SDDO, and Duty Agent. The AFOD explained the Duty Agent would determine who the allegation would be referred to for investigation; the local law enforcement (Fairfax County Police Department) or agency investigators. If the allegation is staff on detainee, the allegation would always be referred to OPR for investigation. All criminal sexual abuse investigations are conducted by a law enforcement agency, DHS OIG, or OPR agency investigators. The policy 11062.2 also outlines the agency's evidence and investigation protocols. If OPR investigates the allegation, the investigation is conducted in accordance with OPR policies and procedures and coordination with law enforcement and facility staff. If the allegation is not referred or accepted by DHS OIG, OPR, or local law enforcement agency, the PSA Compliance Manager/SDDO or the AFOD would complete an administrative investigation.

- (b) The agency's policy 11062.2 includes that documentation of all reports and referrals of allegations of sexual abuse be maintained for at least five years. The agency's protocol is posted on the agency's website; www.ice.gov/prea. The website includes information on the agency's PREA overview, PREA policies, reporting methods with addresses and phone numbers, SAAPI standards, ICE National Detainee Handbook, ICE PREA Zero Tolerance poster, and Sexual Abuse and Assault Awareness pamphlet. This process for the facility was developed in coordination with DHS and includes uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions as defined in policies 11062.2 and 11087.1. There had been no allegations in the past 36 months as noted by memo to file. During the interview with the AFOD, it was stated there has been no allegations in over 16 years, therefore the Auditor could not confirm the five-year maintenance of sexual abuse files.

- (c) The agency's policy 11062.2 states that the AFOD is to be notified telephonically within two hours, as well as, the JIC is to be notified telephonically within two hours and in writing within 24 hours via the ICE Significant Event Notification (SEN) Database. The Auditor confirmed during the PSA Compliance Manager/SDDO interview that the procedure would be followed if an incident does occur. All criminal sexual abuse investigations are conducted by a law enforcement agency (Fairfax County Police Department), OPR, and/or OIG investigators. If the allegation is not referred, the PSA Compliance Manager/SDDO or the AFOD would complete an administrative investigation per the AFOD interview.

Recommendation: If the facility is going to conduct administrative investigations as noted in the interviews, the staff responsible for conducting those interviews must complete the specialized investigator training. Facility staff cannot begin the interviews or the investigation process without specialized training.

- (d) The agency's policy 11062.2 states that the facility will submit briefings and provide information to ICE Senior Management, including the PSA Coordinator, and the ICE Detention Monitoring Council, as appropriate and in accordance with the policy to ensure appropriate oversight of the investigation. The AFOD stated the allegation would be reported to the appropriate offices within the agency and a SEN would be completed in the database.
- (e) The agency provides any alleged detainee victim of sexual abuse that is criminal in nature the USCIS, Immigration Options for Victims of Crimes pamphlet. This was confirmed during the policy 11062.2 review and the PSA Field Coordinator/SDDO interview. This facility has not had any incidents where a USCIS, Immigration Options for Victims of Crimes pamphlet had to be issued to a detainee.

It should be noted that the audited facility has not had any allegations within the past 36 months.

§115.131 - Employee, contractor and volunteer training.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

- (a) The agency's policy 11062.2 and training curriculums, Immigration and Customs Enforcement Prison Rape Elimination Act Virtual University Training and ICE Prison Rape Elimination Act Training for Contractors and Volunteers, outlines the PREA training requirements for staff, contractors, and volunteers. The training curriculum for staff, Immigration and Customs Enforcement Prison Rape Elimination Act Virtual University Training, address all the PREA training requirements. The review of the training curriculum components included: the zero tolerance policy; definitions and examples of prohibited and illegal sexual behavior; right of detainees and staff to be free from sexual abuse and from retaliation for reporting of prohibited and illegal sexual behavior; recognition of situations where sexual abuse may occur; recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences; how to communicate effectively and professionally with detainees; and 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 training curriculum for volunteers and contractors, ICE Prison Rape Elimination Act Training for Contractors and Volunteers includes the zero-tolerance policy; first responder duties; definitions and examples of prohibited and illegal sexual behavior; reporting requirements; causes of sexual abuse; prevention, detection signs, effective communication with detainees; protection duties, and sanctions for misconduct. The ICA detention officers at the facility take the same PREA training as staff in the electronic DHS Performance and Learning Management System (PALMS) system. This facility has no volunteers.
- (b/c) The agency's policy 11062.2 outlines all staff are required to be trained and all staff must be initially trained by May 1, 2015. The agency will provide each employee with biennial refresher training to ensure 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 take the training within one year of their entrance on duty. Agency staff interviewed indicated they have received training with the electronic PALMS system. The contractors indicated they receive training from their company prior to assignment and then also completed the required training through ICE. The staff and contractors indicated they receive updates as needed. The Auditor requested training records of four ICE staff and two contractors. Training records could not be provided to show compliance of the biennial training on any of the ICE staff. They provided a training record roster that documented training for 2019, however the training certificates could not be provided. Three of the ICE staff only had training for 2019 and could not provide any historical training records. For the other ICE staff member, only training records for 2018 could be provided. The interview with the COR stated he works with the contracting company to ensure the contractors have cleared background checks and completed training by the company. This training is verified prior to the start date at the facility. The company provides a two-week training that includes PREA and then the contractor is responsible to complete the PREA training in the electronic PALMS system. Both contractors have completed the training for this year, they both have been with the facility for less than six months. The training is documented electronically through the PALMS system. Certificates are issued when the class is completed and passed. All training is maintained in this training database. Staff also document the completion of training through a signature on the Training Roster. The facility has no volunteers. The facility is non-compliant with the standard, ICE staff training has not been conducted and documented biennial as required by the policy and standard.

For compliance the facility must demonstrate at least seven employees' training from the initial training prior to May 2015 and biennial to date. And that all ICE staff have completed the training the PREA training through PALMS for 2019 documented by the PALMS training certificates and develop a plan to ensure staff training is occurring biennial.

§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:

The facility provides all detainees at the facility the zero-tolerance policy through postings in the holding cells. Within the holding cells, the ICE Zero Tolerance Poster and Sexual Abuse and Assault Awareness pamphlet in English and Spanish are posted. The facility has ICE National Detainee Handbooks in English and Spanish; however, they are not distributed to the detainees. The pages of the handbook that outline PREA are taped at each processing desk station for detainees to review while being processed. This does not provide the detainee information since the detainee is answering questions and unable to read the information. The DDO interviewed during the intake process stated the PREA information is only provided to the detainee if they are going to be detained. All detainees interviewed indicated they saw information in a language they understood, in Spanish and English. They referenced the information posted on the holding cell's walls. The Auditor saw the information posted in all the holding cells during the tour. Staff indicated that the Sexual Abuse and Assault Awareness pamphlet was just received by the facility a week ago and they posted them at that time. All the detainees interviewed stated they did not get a handbook. Two of them indicated they had received one at another facility. Staff are not notifying the detainee of PREA information or providing PREA information. PREA information was just received prior to the Auditor's on-site audit. The facility is only in compliance because the PREA information is posted in the holding cells in a language that the detainees during the onsite audit could understand.

Recommendation: Staff must provide PREA information to the detainee in a language they understand. (This was cited as non-compliant under 115.116) The facility must maintain PREA information at all times in the facility that is available and provided to the detainee in a language they understand.

§115.134 - Specialized training: Investigations.

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

Notes:

(a/b) The agency's policy 11062.2 states OPR shall provide specialized training to OPR investigators who conduct investigations into allegations of sexual abuse and assault, as well as, Office of Detention Oversight staff, and other OPR staff, as appropriate. The lesson plan is the ICE OPR Investigations Incidents of Sexual Abuse and Assault; that covers in depth investigative techniques, evidence collections, and covers all aspects to conduct an investigation of sexual abuse in a confinement setting. The agency offers another level of training, the Fact Finders Training which provides information needed to conduct the initial investigation at the facility to determine if an incident has taken place. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP; Lesbian, Gay, Bi-sexual, Transgender, Intersex (LGBTI), and disabled detainees; and an overall view of the investigative process. The agency has provided training records for agency investigators on the SharePoint to document compliance with the standard. The facility does not have staff trained in investigations or completed the specialized training.

Recommendation: If the facility is going to conduct administrative investigations as noted in the interviews, the staff responsible for conducting those interviews must complete the specialized investigator training.

§115.141 - Assessment for risk of victimization and abusiveness.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

(a) The agency's policy 11087.1 Operations of ERO Holding Facilities states the facility should ensure that before placing detainees together in a hold room whether a detainee may be at a high risk of being sexually abused or assaulted, and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee. The PSA Compliance Manager/SDDO indicated most intakes are from local jails with the following information provided at intake: alien number, previous immigration contact, and previous criminal charges. If the detainee is being received from a facility, the information provided is the behavior at the facility and housing needs. The facility utilizes the Risk Classification Assessment, Special Vulnerabilities Section to determine vulnerability during processing. During the on-site audit, detainees were held together in a holding cell prior to the risk assessment. Staff interviewed indicated they can always complete the risk assessment prior to placing detainees together based on the number of detainees admitted through intake. The Risk Classification Assessment is completed by the DDO. On the day of the onsite audit, the detainees processing that included the Risk Classification Assessment was at least two hours after the detainee arrived at the facility. Part of that delay was due to a fire drill for the building. From the process observed and information shared by the DDO staff interviewed while observing the intake process, the detainees are placed in holding cells (Holding Cell 1) prior to information from the local jails or other available information is reviewed. The DDO that is assigned the case conducts the risk assessment and has the jail information and other detainee information. This information is reviewed in their office outside the secure facility prior to the Risk Classification Assessment is completed. This information is not shared with the facility staff that processes the detainee into the facility and place.

Does Not Meet: The facility does not meet the standard by placing detainees together in a holding cell prior to reviewing and considering available detainee information to ensure that before placing detainees together in a hold room whether a detainee may be at a high risk of being sexually abused or assaulted, and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee. For compliance the facility must complete a review of information from local jails or other available information to ensure that before placing detainees together in a hold room whether a detainee may be at a high risk of being sexually abused or assaulted, and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee.

(b) The facility does not hold detainees overnight. The facility operates from 7:00 am to 3:00 pm. If a detainee is still in the facility at 3:00 pm, staff continue to perform supervision of the detainees and other duties until the detainee is transferred. The agency's policy 11087.1 addresses the requirements of the standard.

(c) The detainees are assessed utilizing the Risk Classification Assessment (RCA) that is included in the electronic processing system by the DDO assigned the case. The Special Vulnerabilities form asks questions related to mental, physical, or developmental disability; age; physical build; criminal history; past incarcerations; convictions of sex offenses; sexual orientation; previous sexual victimization; and the detainee's own concerns over safety. The PSA Compliance Manager/SDDO stated if the detainee indicated they are transgender; staff are to ask what gender they prefer and try to place them in a holding cell by themselves. The transportation team would also be notified so the detainee is placed in front and kept separate during transport. The Auditor observed the processing of three detainees. The detainees are not always screened for the risk elements in the standard. Two of the three intakes observed, the detainees were not asked the Special Vulnerabilities questions. The staff members completed the forms without interviewing the detainee. Staff also indicated that the Special Vulnerabilities questions are not asked of detainees that are to be released. Two of the three detainees interviewed stated they were not asked questions when they arrived. The Auditor reviewed ten detainee files, only five of the files had the Risk Classification Assessment Form.

Does Not Meet: The facility does not meet the standard by staff not completing the Risk Classification Assessment Form through an interview with the detainee. For compliance the facility staff must complete the Risk Classification Assessment Form through an interview with every detainee admitted to the facility and ask the detainee about his/her own concerns about physical safety and prior to placing in a holding cell with other detainees.

(d) If a detainee is considered at high risk for victimization or abusiveness they will be placed in a single cell while they are at the facility. The staff indicated the holding cell placement is usually in holding cell 3; which is utilized for many different separation reasons including criminal history, gang affiliation, and high risk of vulnerability. The agency's policy 11087.1 states detainees identified as being at high risk for victimization will be provided 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. The facility's holding cells are monitored by video into the control center that is in close proximity to the holding cells, also the contract staff are continuously monitoring the cells through rounds and direct supervision from the processing desk.

- (e) The agency's policy 11087.1 states the FOD shall implement appropriate controls on the dissemination of any sensitive information regarding a detainee provided pursuant to screening procedures. The Risk Classification Assessment Form is a computerized system that cannot be accessed by the general staff which controls the dissemination of sensitive information. The PSA Compliance Manager/SDDO stated the information is maintained in the computer, if there are any hard copies, they would be stored in his locked office in a cabinet. He stated the information is available to DDOs as part of the intake processing and case managers on a need to know basis. This was confirmed during the interviews with the DDOs who create the entries into the computer.

§115.151 - Detainee reporting.

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

Notes:

- (a) The facility has established procedures allowing for multiple internal and external ways for detainees to report sexual abuse, retaliation, staff neglect, and violations of responsibilities that may have contributed to such incidents including anonymously. PREA reporting methods are shared with detainees through postings in the holding cells which are the ICE Zero Tolerance Poster and Sexual Abuse and Assault Awareness pamphlet in English and Spanish. The ICE Zero Tolerance Poster contains the name of the facility's PSA Compliance Manager. The Sexual Abuse and Assault Awareness pamphlet informs the detainee that reporting can be completed through reporting to the facility; reporting to the ICE Field Office; reporting to DHS or ICE Headquarters; and reporting to the consular official. The Auditor during the tour viewed information on reporting methods posted in the holding cells. Detainees can report verbally and in writing to facility staff; utilize third party reporting; call the DHS OIG toll-free hotline; verbally and in writing to ICE/ERO staff member; letter to the DHS OIG; and call or write a Consular Official. The detainees can report anonymously on the hotline. The phone does not require a pin or identification number to contact the hotline. During the formal detainee interviews the detainees acknowledged they could report by calling the number posted. That was the only way each of the detainees knew to report. The Auditor tested the hotline during the tour, at first the Auditor could not connect to any phone numbers. The facility staff were also unable also; after researching the problem, we were putting the wrong number combination in. The Auditor tested the phones again and was able to connect to the reporting line.
- (b) Detainees may report outside the facility to an entity that is not part of the facility by calling the DHS OIG toll-free hotline, write a letter to DHS OIG, and call the ICE Detention Reporting and Information Line. The ICE National Detainee Handbook, ICE Sexual Abuse and Assault Awareness pamphlet, and posters provide information to the detainee on how to report anonymously. There is a poster posted by the phone that provides toll-free phone numbers to numerous outside agencies including Consulates, ICE, community organizations, national rape crisis line, advocacy organizations, and the American Bar Association. The detainees has access to victim advocacy resources by calling the national rape crisis line whose number is provided to the detainees on a poster listing available resources. The DHS OIG poster provides a hotline and states calls can be made anonymously and confidentially. The PSA Compliance Manager/SDDO indicated anonymous reports could be made through the phone system. There were no reported allegations at the facility for the last 36 months.
- (c) Staff indicated through interviews they were aware of the methods available for detainees to report sexual abuse allegations including the reporting hotlines and tell a staff member. Staff interviewed stated they would accept sexual abuse allegations verbally, in writing, anonymously, and by a third party. Also, they would report immediately any allegation to a supervisor and document it through an incident report. Policy 11087.1 indicates 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 report. There were no reported allegations at the facility for the last 36 months.

§115.154 - Third-party reporting.

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

Notes:

Third party reporting methods are posted on the agency's website, www.ice.gov/prea. It states "ICE provides detainees and their attorneys, family, friends, and associates multiple ways to report sexual abuse, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents. Third parties not connected to a detainee can also report these allegations. Reports are confidential and may be made anonymously, both verbally and in writing. The following offices accept reports of sexual abuse or assault: The DHS OIG, the ICE ERO Detention Reporting and Information Line (DRIL), ICE OPR, and/or emailing the JIC." All the contact numbers and address information is posted on the agency website. The ICE DRIL and DHS OIG poster provides phone numbers to call for third party reporting. The Auditor tested the phones and was able to connect to the reporting line. There was no third-party reporting during the audit period.

§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) The agency's policy 11062.2 states all ICE employees shall immediately report to a supervisor or a designated official knowledge, suspicion, or information regarding sexual abuse or assault of an individual in ICE custody, retaliation against detainees or staff who reported or participated in an investigation about such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Employees are required to report to designated supervisors or officials. The supervisor will report the incident to the AFOD. Random staff interviewed indicated they would report immediately to their supervisor and then write an incident report. Reporting requirements are covered during PREA training. Specialized and random staff interviews confirm that staff are knowledgeable in their reporting duties, the process of reporting, and to whom to report. The AFOD stated staff are to report an allegation immediately to the supervisor and take steps to protect the detainee. The AFOD stated the staff can report privately outside the chain of command by calling the JIC. This is supported by the memo dated November 10, 2010 directing staff complaints appropriately to the JIC, OPR, DHS OIG, or local management. During the interviews, most staff indicated they would report privately through a hotline. The staff also have the ability to report directly to the DHS OIG Hotline or email DHSOIGHOTLINE@DHS.GOV. This information is posted within the facility and was viewed during the facility tour. The facility must notify the AFOD and JIC within two hours of an allegation.

(c) The agency's policy 11062.2 states apart from reporting, ICE employees shall not reveal any information related to a sexual abuse or assault allegation to anyone other than the extent necessary to protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, and other security and management decisions. Reporting requirements including confidentiality are covered in the PREA training. Staff interviewed indicated information would only be shared with the supervisor and other staff on a need-to-know basis. The AFOD stated staff are informed only on a need to know basis and staff are informed not to share detainee information.

(d) The agency's policy 11062.2 states if the alleged victim is under the age of 18 or determined, after consultation with the relevant Office of Chief Counsel, to be a vulnerable adult under a state or local vulnerable persons statute, the AFOD will report the allegations to the designated state or local services agency as necessary under applicable mandatory reporting laws and document the efforts taken. The facility does not house juvenile detainees. The AFOD stated if a vulnerable detainee is assaulted the facility relies on the hospital FNE or the investigating agency staff to report to the appropriate agency.

§115.162 - Agency protection duties.

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

Notes:

The agency's policy 11062.2 states if an ICE employee has a reasonable belief that a detainee is subject to substantial risk of imminent sexual abuse, the staff member will take immediate action to protect the detainee. Staff interviewed indicated they would take immediate action to protect the detainee by separating the detainee from other detainees and maintain the detainee in a safe location under supervision. Then report the incident to the supervisor for further action and write an incident report. These responsibilities are covered in the PREA training. All staff interviewed knew the steps to take to protect a detainee at risk for sexual abuse; to immediately separate the detainee from the area to keep the detainee safe and separate from other detainees; notify the supervisor; and write an incident report.

There were no incidents of substantial risk of sexual abuse at the facility during the audit time period.

§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) The agency's policy 11062.2 states if the alleged assault occurred at a different facility from the one where it was reported, the FOD will 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 stated she or the PSA Compliance Manager/SDDO is responsible for making the notification to the other facility as soon as possible and definitely within that day. An email documentation will be maintained of the notification. A memo to file noted there were no reportable incidents which occurred at another facility as noted on the PAQ also.

(d) The AFOD interview further indicated, if the facility was to receive notification from another facility of an allegation of sexual abuse that occurred at the facility, notifications would be made to the JIC within two hours and inform the chain of command, complete a SEN, and notify investigators to start the investigation. A memo to file noted there were no notifications from other facilities that a reportable incident occurred at the facility.

§115.164 - Responder duties.

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

Notes:

(a/b) The agency's policy 11087.1 outlines the first responder duties and clearly specifies the detailed procedures for officers and agents and non-security staff when responding to an allegation of sexual abuse. The staff member responding to the report is required to separate the alleged victim and abuser; preserve and protect the crime scene; and ensure the alleged victim and alleged abuser take no action to destroy evidence. Through interviews with random staff it was demonstrated that staff was knowledgeable in the steps as a first responder: to separate the alleged victim and abuser; preserve and protect the crime scene; and request the alleged victim and alleged abuser to take no action to destroy evidence and contact a supervisor. Staff further stated that the detainees are always under direct visual supervision when not with an officer, if something was reported to someone other than an officer, they would be notified immediately and take appropriate action. Policy outlines 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. First responder responsibilities are covered in the PREA training. There were no allegations in the last 36 months.

§115.165 - Coordinated response.

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

Notes:

(a) The agency's policy 11087.1 outlines the agency coordinated, multidisciplinary team approach to responding to sexual abuse. The AFOD stated the facility would follow the incident command plan, in which the AFOD would be the command coordinator for the incident. The AFOD will coordinate the response team actions. This would include first responders, investigators, PSA Compliance Manager, medical care, and victim advocacy services.

(b/c) The agency's policy 11062.2 outlines if a victim is transferred between detention facilities or holding facilities, or to any non-DHS facility, the AFOD shall ensure that, as permitted by law, the receiving facility is informed of the incident and the victim's potential need for medical or mental health care or victim services; unless, in the case of transfer to a non-DHS facility and the victim requests otherwise. The AFOD stated a call would be made to the director of the receiving facility to provide information about the allegation and the information about the victim's potential need for medical and social services. The AFOD stated they would try to transfer the detainee to a facility that would provide easy accessibility for medical services and investigation. A transfer of a sexual abuse victim has not occurred at this facility within the last 36 months, this was confirmed during the AFOD interview.

§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:

The agency's policy 11062.2 states the facility will ensure that an ICE employee, facility employee, contractor, or volunteer suspected of perpetrating sexual abuse or assault is removed for all duties requiring detainee contact pending the outcome of an investigation. This was confirmed during the PSA Compliance Manager/SDDO interview; it was stated the victim would be separated to a safe location and the staff member/contractor would be interviewed by the first line supervisor. The staff member/contractor would be removed from the facility while the investigation is occurring. If the case was substantiated, the staff member/contractor would be terminated. The facility has not had any incidents within the last 36 months.

§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:

The agency's policy 11062.2 states that ICE employees shall not retaliate against any person, including a detainee who reports, complains about or participates in an investigation into an allegation of sexual abuse or assault, or for participating in sexual activity as a result of force, coercion, threats, or fear of force. The PSA Compliance Manager/SDDO stated his position is responsible for the monitoring for retaliation. When asked, the PSA Compliance Manager/SDDO stated the policy also applies to contractors working within the facility. It was stated that if retaliation is suspected a separation order would be initiated to avoid contact; staff would be interviewed and advised not to interact with the detainee or staff. The retaliation would be referred for investigation and he would contact the PSA Coordinator and AFOD. The PSA Compliance Manager/SDDO shared that status checks would be conducted on the alleged staff member and contractor. If a detainee would return to the facility, staff and/or contractor would be advised not to interact with the detainee. The staff and/or contractor would be assigned duties to separate the staff/contractor from any interaction with the detainee. The PSA Compliance Manager would monitor negative performance reviews or reassignments of staff for retaliation. The random staff interviewed indicated they would report any information regarding retaliation to their supervisor immediately. Staff is informed of protection from retaliation through PREA training.

The audited facility has had any no incidents of retaliation within the last 36 months.

§115.171 - Criminal and administrative investigations.

Outcome: Does not Meet Standard (requires corrective action)

Notes:

- (a) The agency's policy 11062.2 outlines the investigative process for the agency which includes the FOD shall ensure that the facility complies with the investigation mandates including conducting a prompt, thorough, and objective investigation by qualified staff. There were no allegations for the last 36 months, therefore there was no investigative files to review for promptness, thoroughness, and objectiveness.
- (b) The agency's policy 11062.2 states the FOD shall ensure pursuing internal administrative investigations and disciplinary sanctions in coordination with the assigned criminal investigation entity to ensure non-interference with criminal investigations. It was indicated in the interview with the AFOD and PSA Compliance Manager/SDDO, the facility begins the first responder duties and the investigation process immediately following an allegation. The Auditor confirmed with the PSA Compliance Manager/SDDO that he would be the initial responder once an allegation is reported and would make notifications of the allegation to the appropriate entity who would assume jurisdiction of the case. If the OPR, OIG, or outside law enforcement does not accept the case, the facility AFOD or PSA Compliance Manager/SDDO would conduct an administrative investigation.
- (c) The standard requires the agency to develop written procedures to include: preservation of direct and circumstantial evidence; interviewing alleged witnesses, victims and perpetrators; reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator; assessment of the credibility of the alleged victim without regard to the individual's status as a detainee, staff or employee and without requiring any detainee to submit to a polygraph; documentation of each investigation by written report which shall include a description of physical and testimonial evidence, the reason behind the credibility assessments, investigative facts and findings and retention of reports for as long as the abuser is detained or employed by the agency plus 5 years, such procedures shall establish the coordination and sequencing of the two types of investigations. The agency does not meet the standard; the agency's policy 11062.2 does not address the written procedures for administrative investigations provisions.

Does Not Meet: The facility does not have written procedures for administrative investigations. For compliance, the agency needs to provide standard language in the policy that outlines the administrative investigation process and procedures including when an administrative investigation will be conducted; to review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate; and administrative investigations shall be conducted after consultation with the appropriate investigation office within DHS and the assigned criminal investigative entity.
- (d) The agency's policy 11062.2 ensured that an OPR review or investigation will be conducted in accordance with OPR policies and procedures and may not be terminated solely due to the departure of the alleged abuser, or victim from the employment or control of ICE. The AFOD confirmed that the investigations will be completed to a final outcome. The facility has had no allegations in the last 36 months; therefore, no investigation files are available for review.
- (e) The agency's policy 11062.2 states the FOD shall ensure the cooperation with outside investigations and endeavor to remain informed about the progress of the outside investigations. The AFOD interviewed stated the facility will maintain contact on the progress of the investigation by contacting the Field Command Center for agency investigations and would contact the Major Crimes Division of the Fairfax County Police Department. There were no allegations for the last 36 months; therefore, no investigations.

§115.172 - Evidentiary standard for administrative investigations.

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

Notes:

The agency's policy 11062.2 states that administrative investigations will impose no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse or assault. The facility has had no allegations within the last 36 months; therefore, there are no investigations to review. The Auditor finds compliance based on the policy.

§115.176 - Disciplinary sanctions for staff.

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

Notes:

(a/c/d) The agency's policy 11062.2 addresses the requirements of the standard. Staff are subject to disciplinary or adverse action up to and including removal from their position for substantiated allegations of sexual abuse or violations of agency sexual abuse policies. The policy requires that OPR shall upon receiving notification from a FOD or SAC of the removal or resignation in lieu of removal of staff for violating agency or facility sexual abuse and assault policies to report to the appropriate law enforcement agencies unless the activity was clearly not criminal and make reasonable efforts to report that information to any relevant licensing bodies, to the extent known. It also states the facility will ensure that an ICE employee and/or a facility employee suspected of perpetrating sexual abuse or assault is removed for all duties requiring detainee contact pending the outcome of an investigation.

There have not been any incidents of sexual abuse at the facility within the audit period per memo. The AFOD stated there has been no allegations the last 36 months, no staff have been disciplined for a violation of the agencies policies or a criminal offense.

§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) The agency's policy 11062.2 states the facility will ensure that a contractor or volunteer suspected of perpetrating sexual abuse or assault is removed for all duties requiring detainee contact pending the outcome of an investigation. This was confirmed during the PSA Compliance Manager/SDDO interview; he stated the victim would be separated to a safe location and the contractor would be interviewed by the first line supervisor. The contractor would be removed from the floor supervising detainees until the investigation is completed and would not have any contact with a detainee. An investigation of a contractor would be conducted by OPR or the local law enforcement agency. If the case was substantiated, the contractor would be removed from the facility and the contracting agency would be notified to remove the employee from the ICE contract. The AFOD stated the investigating entity would make reasonable efforts to report that information to any relevant licensing bodies, to the extent known. It was also stated the AFOD in coordination with management would consider if the contractor could have further contact with detainees who have not engaged in sexual abuse but have violated other provisions within DHS PREA; each case would be considered on their own merit. The facility has not had any incidents within the last 36 months. No contractors have been removed from the facility for a violation of agency policy or criminal offense. The facility does not have volunteers.

§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/b) The agency's policy 11087.1 states that the FOD ensures that detainee victims of sexual abuse or assault have timely, unimpeded access to emergency medical and mental health treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. The PSA Compliance Manager/SDDO stated if an allegation occurred, a notification would be made to the chain of command and the Immigration Health Service Corp. nurse in the building would respond. All forensic exams and emergency medical treatment is provided by a local hospital. The facility would utilize INOVA Fairfax Hospital, which has two locations in the area, with one of them about two blocks from the facility and the other facility within four miles. The alleged victim would receive services through the emergency room only after the detainee's consent. The hospital would be called notifying them of the transport of the detainee for medical services and/or forensic exam. Medical treatment would be at no cost to the detainee. In the state of Virginia, all victims of sexual abuse are provided free exams and medical treatment per state policy the PSA Compliance Manager/SDDO and AFOD shared. The INOVA Fairfax Hospital also has a FACT that offers expert medical evaluation, forensic evidence collections, and provides expert interpretation based on training, experience, and medical data as stated on their website. The FNEs are specially trained to provide emotional support; they may also make referrals to outside support services. The PSA Compliance Manager/SDDO stated treatment would be provided regardless of whether the victim names the abuser or cooperates with the investigation. The facility has had no allegations in the last 36 months.

Recommendation:

- The policy does address the second section of the standard "whether the victim names the abuser or cooperates with an investigation arising out of the incident." Although a policy is not required, there is a policy and it does not address the second half of the standard. It is recommended the policy to be expanded to address the language of the standard; "whether the victim names the abuser or cooperates with an investigation arising out of the incident."

§115.186 - Sexual abuse incident reviews.

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

Notes:

(a) The agency's policy 11087.1 outlines the requirements of the Sexual Abuse and Assault Incident Reviews. The AFOD confirmed that an incident review would be conducted at the conclusion of every investigation of sexual abuse or assault. The review would include the AFOD, the PSA Compliance Manager/SDDO, and other staff as needed. The incident reviews would occur within 30 days of ERO's receipt of the investigation. A written report must be prepared for substantiated and unsubstantiated allegations recommending whether the allegation or investigation indicates

that a change in policy or practice could better prevent, detect, or respond to sexual abuse and assault. The FOD shall implement recommendations for improvement, or shall document its reason for not doing so, in a written justification. The incident review report will be forwarded to the PSA Coordinator. The memo to file stated there were no incidents/reviews within the audit period.

The facility has not had any allegations within the past 36 months; therefore, no incidents reviews were conducted.

§115.187 - Data collection.

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

Notes:

(a) The agency's policy 11062.2 outlines the data collection, annual review, and reporting process. On a monthly basis, the ICE PSA Coordinator prepares a report to the Detention Monitoring Council (DMC) compiling information received about all incidents or allegations of sexual abuse or assault of individuals in ICE custody during that period, as well as ongoing investigations, and other pending cases. On an annual basis, the ICE PSA Coordinator shall conduct a review of all data received regarding incidents of sexual abuse or assault of individuals in ICE custody during that audit period, including the number of reported sexual abuse and assault allegations determined to be substantiated, unsubstantiated, or unfounded, or for which an investigation is ongoing. The ICE PSA Coordinator prepares a report for the ICE Director identifying problem areas and recommending corrective actions for the agency as well as for each ICE detention facility and providing an assessment of the agency's progress in addressing sexual abuse and assault based on a comparison of the current year's data and corrective actions with those from prior years. The AFOD stated the facility's case records are securely stored in the AFOD office. The records are maintained for at least ten years after the date of initial collection.

§115.193 - Audits of standards.

Outcome: Not Low Risk

Notes:

The PREA audit conducted at the Washington Hold Room was the first audit for this facility. After the review of all documentation, the staff and detainee interviews, review of policies and procedures, and the observations during the on-site portion of the audit, the Auditor has determined that the facility is not in compliance with four of the standards, and therefore not in compliance with the DHS PREA Standards. This facility has not had any sexual abuse or sexual harassment allegations in the past 36 months.

§115.201 - Scope of audits.

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

Notes:

- (d) During the audit, the facility and agency provided the Auditor full access to all areas of the facility and the Auditor were able to observe practices and tour the facility.
- (e) Prior to the audit, during the audit, and after the on-site audit, the agency and facility provided the Auditor requested documents. Policies and documentation were made available through the ICE ERAU SharePoint.
- (i) Private interview space was provided to the Auditor for conducting staff and detainee interviews. Staff and detainee interviews were held in administrative interview room within a secure section of the facility. The room provided privacy to conduct confidential interviews. The AFOD and COR were interviewed in their offices.
- (j) Posted signs advised detainees they could send confidential information or correspondence to the Auditor. The Auditor did not receive any correspondence from detainees.

Based on the above information, the agency/facility meets the Standard 115.201 Scope of Audits.

AUDITOR CERTIFICATION

Update Audit Findings Outcome Counts by Clicking Button:

Update Outcome Summary

SUMMARY OF AUDIT FINDINGS (Use the Update Outcome Summary button, Do Not Manually Enter)	
Number of standards exceeded:	0
Number of standards met:	23
Number of standards not met:	5
Number of standards N/A:	2
Number of standard outcomes not selected (out of 31):	0

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

Barbara A. King
Auditor's Signature & Date

7/18/2019

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



**Homeland
Security**

AUDITOR INFORMATION			
Name of auditor:	Barbara King	Organization:	Creative Corrections LLC
Email address:	(b) (6), (b) (7)(C)	Telephone number:	202-381-(b) (6), (b) (7)(C)
AGENCY INFORMATION			
Name of agency:	U.S. Immigration and Customs Enforcement (ICE)		
FIELD OFFICE INFORMATION			
Name of Field Office:	Washington Field Office		
ICE Field Office Director:	Jeffrey Jacoff		
PREA Field Coordinator:	(b) (6), (b) (7)(C) Assistant field Office Director		
Field Office HQ physical address:	3675 Prosperity Ave, 3 rd Floor, Fairfax, Virginia 20598		
Mailing address: (if different from above)			
INFORMATION ABOUT FACILITY BEING AUDITED			
Basic Information About the Facility			
Name of facility:	Washington Hold Room		
Physical address:	2675 Prosperity Ave, C-Level, Fairfax, Virginia 20598		
Mailing address: (if different from above)			
Telephone number:	703-285-6304		
Facility type:	ICE Holding Facility		
Facility Leadership			
Name of Officer in Charge:	(b) (6)	Title:	Assistant Field Office Director
Email address:	(b) (6), (b) (7)(C)	Telephone number:	703-285-(b) (6), (b) (7)(C)
Facility PSA Compliance Manager			
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	Supervisory Detention and Deportation Officer
Email address:	(b) (6), (b) (7)(C)	Telephone number:	202-345-(b) (6), (b) (7)(C)

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS:

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

The Prison Rape Elimination Act (PREA) audit of the Washington Hold Room (Washington) in Fairfax, Virginia was conducted on May 7-8, 2019, by Auditor Barbara King, a certified Department of Justice (DOJ) and Department of Homeland Security (DHS) PREA Auditor through Creative Corrections, LLC. The purpose of the audit was to determine compliance with the 31 DHS PREA Standards for a Subpart – B facility. The Washington Hold Room is operated by U.S. Immigration and Customs Enforcement (ICE) for the holding of both adult male and female detainees for less than 12 hours. This was the first DHS ICE PREA audit of the facility. The audit period covered the previous twelve months from May 2018 through May 7, 2019.

Of the 31 standards reviewed, the Auditor found the facility compliant with 23, 2 non-applicable (115.114, 115.118), and 5 non-compliant (115.116, 115.121, 115.131, 115.141, and 115.171).

The Auditor received and reviewed documentation to establish compliance on the outstanding standards from September 3, 2019 through January 9, 2020. The facility met compliance with four of the standards (115.116, 115.121, 115.131, and 115.141). The corrective action plan period (CAP) ended on January 29, 2020. The facility remains non-compliant with one of the DHS PREA Standard, 115.171. The facility is determined Not Low Risk with the non-compliance of one standard.

PROVISIONS

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

§115. 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) The agency policies 11087.1 Operations of ERO Holding Facilities and 11062.2 Sexual Assault and Abuse Prevention and Intervention (SAAPI) state that detainees with disabilities will have an equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse. The facility does post the ICE Zero Tolerance Poster, and Sexual Abuse and Assault Awareness pamphlet in the holding cells in English and Spanish for those detainees that can read those languages. There is no facility direction on how to provide PREA information to detainees that are blind, have low vision, limited reading skills, or those who have intellectual, psychiatric, or speech disabilities. The officers interviewed were not able to provide how PREA information is shared with detainees that have these disabilities. The interview with the AFOD stated that detainees that are deaf or hard of hearing are provided written materials; those who are blind or have low vision would have a staff member read the information to the detainee; those who have intellectual, psychiatric, or speech disabilities would be referred to a supervisor who would reach out to field medical staff for assistance; and those who have limited reading skills would have staff read the information to the detainee. Although the AFOD was able to provide the procedures to inform detainees with disabilities PREA information; the staff performing the intake processing was not aware of the methods. The AFOD also shared the facility utilizes a Communication Board card for the deaf and hard of hearing that allows detainees to point at a service they may need. This card does have a picture for assault. Other staff did not mention or reference this card. The staff working in the facility had no direction on how to handle this population. The facility does not meet the standard; there was no documentation provided to show procedures on how 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 efforts to prevent, detect, and respond to sexual abuse.

Does Not Meet: For compliance, the facility needs to expand the policy and procedures to outline how 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 efforts to prevent, detect, and respond to sexual abuse. The procedure should provide direction to staff for interacting with detainees with disabilities to ensure the detainees understands the PREA information. The facility needs to demonstrate this procedure through written documentation that notes how the PREA information was shared with a detainee that has a disability. Facility procedures need to be developed to provide staff direction on how to handle PREA information sharing with detainees with disabilities. Staff training needs to be conducted and documented on the expanded policy and procedures.

(b) The agency policies 11087.1 and 11062.2 state the detainees with limited English proficiency will have an equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse. The facility does post the ICE Zero Tolerance Poster, and Sexual Assault Awareness Information pamphlet in the holding cells are in English and Spanish for those detainees that can read and understand those languages. It was stated during interviews that most detainees processed are Spanish speaking. The facility can communicate with those detainees through staff interpreters and the language line. The facility usually has at least one staff member that can speak Spanish available. A language line is available for interpretation through the 24-Hour Language Line: ERO Language Access Resource Center. To request translation or transcription, a staff member must submit a request, Translation Request Form, through an email. The interpretation services are available 7 days a week, 24 hours a day through the ERO Language Access Resource Center 24-hour Language Line. Interpretation services are also available through U.S. Citizenship and Immigration Services (USCIS) Language Line through a request Monday through Friday 7:30 am to 5:00 pm Eastern time. The facility does not have ICE National Detainee Handbooks in other languages than English and Spanish. And those two handbooks are only available to the detainee at the processing desk when they are being processed. This does not provide the detainee information since the detainee is answering questions and unable to read the information. The staff working in the facility had no direction on how to provide information to detainees that communicated in other languages than English and Spanish. The AFOD stated other language handbooks can be ordered if needed. However, ordering handbooks when a detainee is processed that does not understand or communicate in English or Spanish, would not provide the detainee at intake the necessary PREA information. All detainees interviewed indicated they saw information in a language they understood, two in Spanish and one in English. They referenced the information posted on the holding cells walls.

Does Not Meet: For compliance, the facility needs to expand the policy and procedures to outline how detainees who are LEP other than Spanish have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse. The procedure should provide direction to staff for interacting with these detainees to ensure the detainee receives the PREA information in a language they understand. The facility needs to demonstrate this procedure through written documentation that notes how the PREA information was shared with a detainee that has LEP other than Spanish and facility procedures need to be developed to provide staff direction on how provide LEP detainees with the PREA information. Staff training needs to be conducted and documented on the expanded policy and procedures. The facility needs to obtain the National Detainee Handbooks in other languages.

(c) In matters relating to allegations of sexual abuse or assault, the AFOD stated the facility would provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee. It was also stated they would not use another detainee unless the detainee requests another detainee to provide interpretation. In that case, they would get a 3rd party with no interest or stake in the allegation. The agency's policy 11062.2 would allow, if 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 Auditor further verified this during the interviews with officers that explained they would not utilize another detainee, a minor, the alleged abuser, a detainee witness, or a detainee who has significant relationship to the alleged abuser which may compromise the investigation. The officers indicated they would use a staff interpreter or the translation services.

CAP Action:

- (a) The facility has provided training to the staff on communicating with detainees that are deaf, hard of hearing, blind, low vision, or those with who have intellectual, psychiatric, or speech disabilities. The training conducted included Effective Communications with Persons Who are Deaf, Hard-of-Hearing, or Deaf-Blind; Cognitive Impairments and Effective Communication; Communications Board for Detainees; Communication Tools/Devices Available for ERO Personnel; Guide to Interacting with People Who Have Disabilities; A Guide on When to Submit Disability Accommodation; and Technical Assistance Brief – TTY. The new directive provided to staff states "For detainees who are blind or have low vision, staff members will read appropriate information to the detainee in a language the detainee understands. When necessary for both blind or low vision detainees or detainees who are limited English proficient, staff members will use an interpreter from an ICE approved services. If a staff member suspects a detainee has intellectual, psychiatric, or speech disabilities, staff must immediately notify the Supervisory Detention and Deportation Officer (SDDO). The SDDO will provide immediate guidance in order to develop a communication strategy for the detainee." The facility provided documentation of training through the submittal of Training Record/Roster for the subjects listed above and the handouts/flyers providing direction to the staff.
- (b) The facility submitted photographs documenting the Zero Tolerance Poster and Sexual Abuse and Awareness pamphlet posted in the holding rooms in English and Spanish. The facility has also obtained copies of the various languages ICE National Detainee Handbooks and have been placed in a binder for easy access. The staff can copy a handbook as needed on the twelve available languages or print from the ICE website. Staff have been trained and have readily accessible Sign Interpretation Services, the Video Relay Service and the Video Remote Interpreting Services. The Communication Board cards have been distributed to officers that can be used for detainees to identify an item/action by pictures. The cards have a picture of an assault that the detainee can point to. The new directive provided to staff states "As a reminder, the ICE National Detainee Handbook must be available to detainees held in Intake. Currently, there are hard copies in both Spanish and English available for use by the detainees in the sally port and processing areas. Additional languages of the ICE National Detainee Handbook are available on the ICE Intranet in Arabic, Chinese, Haitian Creole, Hindi, French, Portuguese, Punjabi, Russian, and Vietnamese. In the event a detainee requires a handbook in one of the aforementioned languages, intake staff must print out a hardcopy and provide that copy to the detainee. Place new handbooks in appropriate binders for future use. The electronic versions of the handbook are available here: (b) (7)(E) the "Tools and Forms" tab. In the event a handbook is required in a language which is unavailable, an alternative is to use the language line to read the handbook to the detainee via an interpreter. Please note, Intake staff members should make every attempt to identify detainees who speak languages outside of the readily available languages as early in the process as possible. Once identified, notify the Intake Supervisor who can work with the HQ Language Access Resource Center to request translations into more languages." The facility provided documentation of training through the submittal of Training Record/Roster for the subjects listed above and the handouts/flyers providing direction to the staff.

§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) The agency's policy 11062.2 outlines the investigative process for the agency to maximize the potential for obtaining usable physical evidence for administrative and criminal investigations. It was indicated in the interview with the AFOD and PSA Compliance Manager/SDDO, the facility begins the first responder duties and begins the investigation process immediately following an allegation. The Auditor confirmed with the PSA Compliance Manager/SDDO that he would be the initial responder and would make notifications of the allegation to the appropriate entity who would assume investigative jurisdiction of the case. The allegations are reported to OPR and DHS Office of the Inspector General (OIG). Per the policy, when a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility incident review personnel in accordance with OPR policies and procedures. If the OPR, OIG, or outside law enforcement does not accept the case, the facility AFOD or PSA Compliance Manager/SDDO would conduct an administrative investigation. The OPR would coordinate with the FOD and/or PSA Compliance Manager/SDDO to ensure evidence is appropriately secured and preserved pending an investigation by federal, state, or local law enforcement, including the OIG. The policy also outlines the agency's evidence and investigation protocols. The facility utilizes the DOJ's National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents 2nd Edition for the uniform evidence protocol as indicated by the PSA Compliance Manager/SDDO. The protocols are incorporated into the facility's Coordinated Response Plan and in policies. The facility does not hold juvenile detainees.
- (b) The policy further outlines the availability of community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling to most appropriately address victims' needs. The facility does not have a memorandum of understanding with an outside community resource for crisis intervention and counseling. An attempt has been made with the Domestic Violence and Sexual Assault Services to obtain a MOU as documented through an email chain. As of April 24, 2019, the contact from the Domestic Violence and Sexual Assault Services stated she has reached out to a county funded program that provides crisis intervention for assistance and has not heard back. The PSA Compliance Manager/SDDO stated the hospital has advocacy services available to the victim of sexual abuse. The AFOD stated the victim advocacy services would be started at the hospital during the forensic exam and treatment services. The detainee may be transferred to a facility that has a victim advocate, if services can't be provided locally.
- Recommendation:** The facility needs to continue to try to establish a partnership/agreement with an outside community resource for crisis intervention and counseling.
- (c/d) All forensic exams and emergency medical treatment is provided by a local hospital. The facility would utilize INOVA Fairfax Hospital, which has two locations in the area, with one of them about two blocks from the facility and the other facility within four miles. The alleged victim would receive services through the emergency room only after the detainee's consent. If a Forensic Nurse Examiner (FNE) is not onsite, the victim would be referred to the other location or an FNE would be called to report. The Auditor interviewed a representative from the hospital. It was stated that FNEs are available 24 hours, 7 days a week at one of their facilities. It was suggested during the interview and in the email, documentation supplied by the facility; that the facility should call ahead to determine the location of the FNE on duty. The hospital representative also acknowledged that an FNE can be called in to report. This evaluation would be at no cost to the detainee. In the state of Virginia, all victims of sexual abuse are provided free exams and medical treatment per state policy the PSA Compliance Manager/SDDO and FOD shared. INOVA Fairfax Hospital also has a Forensic Assessment and Consultant Team (FACT) that offers expert medical evaluation,

forensic evidence collections, and provide expert interpretation based on training, experience, and medical data as stated on their website. The FNEs are specially trained to provide emotional support; they may also make referrals to outside support services. The facility has had no allegations in the last 36 months.

- (e) The facility is not responsible for investigating allegations that are criminal. The PSA Compliance Manager/SDDO would make notifications of the allegation to the appropriate entity who would assume jurisdiction of the case; OPR, OIG and/or local law enforcement which would be the Fairfax County Police Department. The AFOD stated the contact at the Fairfax County Police Department is a detective in the sex crimes unit. The facility has not developed or requested a MOU to document the working partnership with the Fairfax County Police Department. OPR and OIG would follow the requirements of the standard.

Does Not Meet: The facility has not requested the Fairfax County Police Department to follow the requirements of paragraphs (a) through (d) of the standard. The facility needs to request the Fairfax County Police Department to follow the requirements of the standard if a case is referred to them for investigation.

Recommendation: If the facility is going to conduct administrative investigations as noted in the interviews, the staff responsible for conducting those investigations must complete the specialized investigator training.

It should be noted that the audited facility has not had any allegations within the past 36 months.

CAP Action:

The facility received confirmation from the Fairfax County Police Department, Major Crimes Division, Sex Crimes Squad on January 2, 2020 that the agency will follow the requirements of paragraphs (a) through (d) of the standard if a case were referred for investigation. Documentation was provided through an email chain between the Assistant Field Office Director (AFOD) and the Fairfax County Police Department.

The facility has provided documentation of specialized investigative training for an ICE staff member through the National Institute of Corrections (NIC) and agency training. The training PREA: Investigating Sexual Abuse in a Confinement Setting through NIC was conducted on December 16, 2019 and documented through a certificate. Also, agency OPR Management Inquiry Training Program was conducted on April 20, 2018 and documented through a certificate.

§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) The agency's policy 11062.2 and training curriculums, Immigration and Customs Enforcement Prison Rape Elimination Act Virtual University Training and ICE Prison Rape Elimination Act Training for Contractors and Volunteers, outlines the PREA training requirements for staff, contractors, and volunteers. The training curriculum for staff, Immigration and Customs Enforcement Prison Rape Elimination Act Virtual University Training, address all the PREA training requirements. The review of the training curriculum components included: the zero tolerance policy; definitions and examples of prohibited and illegal sexual behavior; right of detainees and staff to be free from sexual abuse and from retaliation for reporting of prohibited and illegal sexual behavior; recognition of situations where sexual abuse may occur; recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences; how to communicate effectively and professionally with detainees; and 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 training curriculum for volunteers and contractors, ICE Prison Rape Elimination Act Training for Contractors and Volunteers includes the zero-tolerance policy; first responder duties; definitions and examples of prohibited and illegal sexual behavior; reporting requirements; causes of sexual abuse; prevention, detection signs, effective communication with detainees; protection duties, and sanctions for misconduct. The ICA detention officers at the facility take the same PREA training as staff in the electronic DHS Performance and Learning Management System (PALMS) system. This facility has no volunteers.

(b/c) The agency's policy 11062.2 outlines all staff are required to be trained and all staff must be initially trained by May 1, 2015. The agency will provide each employee with biennial refresher training to ensure 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 take the training within one year of their entrance on duty. Agency staff interviewed indicated they have received training with the electronic PALMS system. The contractors indicated they receive training from their company prior to assignment and then also completed the required training through ICE. The staff and contractors indicated they receive updates as needed. The Auditor requested training records of four ICE staff and two contractors. Training records could not be provided to show compliance of the biennial training on any of the ICE staff. They provided a training record roster that documented training for 2019, however the training certificates could not be provided. Three of the ICE staff only had training for 2019 and could not provide any historical training records. For the other ICE staff member, only training records for 2018 could be provided. The interview with the COR stated he works with the contracting company to ensure the contractors have cleared background checks and completed training by the company. This training is verified prior to the start date at the facility. The company provides a two-week training that includes PREA and then the contractor is responsible to complete the PREA training in the electronic PALMS system. Both contractors have completed the training for this year, they both have been with the facility for less than six months. The training is documented electronically through the PALMS system. Certificates are issued when the class is completed and passed. All training is maintained in this training database. Staff also document the completion of training through a signature on the Training Roster. The facility has no volunteers. The facility is non-compliant with the standard, ICE staff training has not been conducted and documented biennial as required by the policy and standard.

Does Not Meet: The facility staff have not completed the required biennial refresher training.

CAP Action:

(b/c) The facility has provided training logs and certificates to demonstrate staff have completed SA-API training through the PALMS training modules.

§115. 141 - Assessment or 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) The agency's policy 11087.1 Operations of ERO Holding Facilities states the facility should ensure that before placing detainees together in a hold room whether a detainee may be at a high risk of being sexually abused or assaulted, and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee. The PSA Compliance Manager/SDDO indicated most intakes are from local jails with the following information provided at intake: alien number, previous immigration contact, and previous criminal charges. If the detainee is being received from a facility, the information provided is the behavior at the facility and housing needs. The facility utilizes the Risk Classification Assessment, Special Vulnerabilities Section to determine vulnerability during processing. During the on-site audit, detainees were held together in a holding cell prior to the risk assessment. Staff interviewed indicated they can always complete the risk assessment prior to placing detainees together based on the number of detainees admitted through intake. The Risk Classification Assessment is completed by the DDO. On the day of the onsite audit, the detainees processing that included the Risk Classification Assessment was at least two hours after the detainee arrived at the facility. Part of that delay was due to a fire drill for the building. From the process observed and information shared by the DDO staff interviewed while observing the intake process, the detainees are placed in holding cells (Holding Cell 1) prior to information from the local jails or other available information is reviewed. The DDO that is assigned the case conducts the risk assessment and has the jail information and other detainee information. This information is reviewed in their office outside the secure facility prior to the Risk Classification Assessment is completed. This information is not shared with the facility staff that processes the detainee into the facility and place.

Does Not Meet: The facility does not meet the standard by placing detainees together in a holding cell prior to reviewing and considering available detainee information to ensure that before placing detainees together in a hold room whether a detainee may be at a high risk of being sexually abused or assaulted, and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee. For compliance the facility must complete a review of information from local jails or other available information to ensure that before placing detainees together in a hold room whether a detainee may be at a high risk of being sexually abused or assaulted, and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee.

- (b) The facility does not hold detainees overnight. The facility operates from 7:00 am to 3:00 pm. If a detainee is still in the facility at 3:00 pm, staff continue to perform supervision of the detainees and other duties until the detainee is transferred. The agency's policy 11087.1 addresses the requirements of the standard.

- (c) The detainees are assessed utilizing the Risk Classification Assessment (RCA) that is included in the electronic processing system by the DDO assigned the case. The Special Vulnerabilities form asks questions related to mental, physical, or developmental disability; age; physical build; criminal history; past incarcerations; convictions of sex offenses; sexual orientation; previous sexual victimization; and the detainee's own concerns over safety. The PSA Compliance Manager/SDDO stated if the detainee indicated they are transgender; staff are to ask what gender they prefer and try to place them in a holding cell by themselves. The transportation team would also be notified so the detainee is placed in front and kept separate during transport. The Auditor observed the processing of three detainees. The detainees are not always screened for the risk elements in the standard. Two of the three intakes observed, the detainees were not asked the Special Vulnerabilities questions. The staff members completed the forms without interviewing the detainee. Staff also indicated that the Special Vulnerabilities questions are not asked of detainees that are to be released. Two of the three detainees interviewed stated they were not asked questions when they arrived. The Auditor reviewed ten detainee files, only five of the files had the Risk Classification Assessment Form.

Does Not Meet: The facility does not meet the standard by staff not completing the Risk Classification Assessment Form through an interview with the detainee. For compliance the facility staff must complete the Risk Classification Assessment Form through an interview with every detainee admitted to the facility and ask the detainee about his/her own concerns about physical safety and prior to placing in a holding cell with other detainees.

- (d) If a detainee is considered at high risk for victimization or abusiveness they will be placed in a single cell while they are at the facility. The staff indicated the holding cell placement is usually in holding cell 3; which is utilized for many different separation reasons including criminal history, gang affiliation, and high risk of vulnerability. The agency's policy 11087.1 states detainees identified as being at high risk for victimization will be provided 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. The facility's holding cells are monitored by video into the control center that is in close proximity to the holding cells, also the contract staff are continuously monitoring the cells through rounds and direct supervision from the processing desk.

- (e) The agency's policy 11087.1 states the FOD shall implement appropriate controls on the dissemination of any sensitive information regarding a detainee provided pursuant to screening procedures. The Risk Classification Assessment Form is a computerized system that cannot be accessed by the general staff which controls the dissemination of sensitive information. The PSA Compliance Manager/SDDO stated the information is maintained in the computer, if there are any hard copies, they would be stored in his locked office in a cabinet. He stated the information is available to DDOs as part of the intake processing and case managers on a need to know basis. This was confirmed during the interviews with the DDOs who create the entries into the computer.

CAP Action:

- (a/c) The facility has established a process of screening the detainees prior to placing in a holding cell with other detainees. The facility will screen the detainee prior to placing in a holding cell with the ERO Washington In-Processing Health and Screening Form and Special Vulnerabilities Form. Examples of the screening forms were provided for compliance. The directive states if the detainee answers "yes" to any questions, staff members must notify the SDDO without delay. Detainees who answer "yes" may not be placed into a cell with other detainees without the SDDO concurrence. Detainees may be placed in an individual cell until the SDDO reviews the placement. The facility staff were also trained on the new Booking Procedures and Updated Intake Screening Form. Training documentation was provided through the Training Record/Roster for training conducted on January 7, 2020.

§115. 171 - Criminal and administrative investigations

Outcome: Does not Meet Standard

Notes:

- (a) The agency's policy 11062.2 outlines the investigative process for the agency which includes the FOD shall ensure that the facility complies with the investigation mandates including conducting a prompt, thorough, and objective investigation by qualified staff. There were no allegations for the last 36 months, therefore there was no investigative files to review for promptness, thoroughness, and objectiveness.
- (b) The agency's policy 11062.2 states the FOD shall ensure pursuing internal administrative investigations and disciplinary sanctions in coordination with the assigned criminal investigation entity to ensure non-interference with criminal investigations. It was indicated in the interview with the AFOD and PSA Compliance Manager/SDDO, the facility begins the first responder duties and the investigation process immediately following an allegation. The Auditor confirmed with the PSA Compliance Manager/SDDO that he would be the initial responder once an allegation is reported and would make notifications of the allegation to the appropriate entity who would assume jurisdiction of the case. If the OPR, OIG, or outside law enforcement does not accept the case, the facility AFOD or PSA Compliance Manager/SDDO would conduct an administrative investigation.
- (c) The standard requires the agency to develop written procedures to include: preservation of direct and circumstantial evidence; interviewing alleged witnesses, victims and perpetrators; reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator; assessment of the credibility of the alleged victim without regard to the individual's status as a detainee, staff or employee and without requiring any detainee to submit to a polygraph; documentation of each investigation by written report which shall include a description of physical and testimonial evidence, the reason behind the credibility assessments, investigative facts and findings and retention of reports for as long as the abuser is detained or employed by the agency plus 5 years, such procedures shall establish the coordination and sequencing of the two types of investigations. The agency does not meet the standard; the agency's policy 11062.2 does not address the written procedures for administrative investigations provisions.
- Does Not Meet:** The facility does not have written procedures for administrative investigations. For compliance, the agency needs to provide standard language in the policy that outlines the administrative investigation process and procedures including when an administrative investigation will be conducted; to review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate; and administrative investigations shall be conducted after consultation with the appropriate investigation office within DHS and the assigned criminal investigative entity.
- (d) The agency's policy 11062.2 ensured that an OPR review or investigation will be conducted in accordance with OPR policies and procedures and may not be terminated solely due to the departure of the alleged abuser, or victim from the employment or control of ICE. The AFOD confirmed that the investigations will be completed to a final outcome. The facility has had no allegations in the last 36 months; therefore, no investigation files are available for review.
- (e) The agency's policy 11062.2 states the FOD shall ensure the cooperation with outside investigations and endeavor to remain informed about the progress of the outside investigations. The AFOD interviewed stated the facility will maintain contact on the progress of the investigation by contacting the Field Command Center for agency investigations and would contact the Major Crimes Division of the Fairfax County Police Department. There were no allegations for the last 36 months; therefore, no investigations.

CAP Action:

A facility or agency policy has not been provided to address the administrative investigation procedures of sexual abuse allegations as outlined in the standard. The standard requires the facility shall develop written procedures for administrative investigations which includes the provisions listed in the standard. The facility stated they will not be updating the policy addressing the administrative investigation procedures outlined in 115.171 or creating a local policy.

§115.193

Outcome: Not Low Risk

Notes:

The PREA audit conducted at the Washington Hold Room was the first audit for this facility. After the review of all documentation, the staff and detainee interviews, review of policies and procedures, and the observations during the on-site portion of the audit, the Auditor has determined that the facility is not in compliance with four of the standards, and therefore not in compliance with the DHS PREA Standards. This facility has not had any sexual abuse of sexual harassment allegations in the past 36 months.

CAP Action:

After the review of the additional documentation, the Auditor has determined that the facility is not in compliance with one standard, and therefore not in compliance with the DHS PREA Standards.

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.

Barbara King

Auditor's Signature & Date

February 17, 2020