

Office of Professional Responsibility

CAP Final Determination Report and PREA Compliance Audit Report Buffalo (Batavia) Service Processing Center

May 21 - 23, 2024



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



**Homeland
Security**

AUDITOR INFORMATION

Name of auditor:	James McClelland	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone #:	(409) 866- (b) (6), (b) (7)(C)

PROGRAM MANAGER INFORMATION

Name of PM:	(b) (6), (b) (7)(C)	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone #:	(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:	Buffalo
Field Office Director:	Thomas Brophy
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	250 Delaware Avenue, Floor 7 Buffalo, NY 14202

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

Name of facility:	Buffalo (Batavia) Service Processing Center
Physical address:	4250 Federal Drive Batavia, New York 14020
Telephone number:	
Facility type:	Service Processing Center
PREA Incorporation Date:	11/26/2014

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Officer In Charge (OIC)
Email address:	(b) (6), (b) (7)(C)	Telephone #:	
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	PSA Compliance Manager
Email address:	(b) (6), (b) (7)(C)	Telephone #:	

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS

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

During the audit, the Auditor found Buffalo (Batavia) Service Processing Center met 36 standards, had 1 standards that exceeded, had 1 standard that was non-applicable, and had 3 non-compliant standards. As a result of the facility being out of compliance with 3 standards, the facility entered into a 180-day corrective action period which began on July 16, 2024, and ended on January 12, 2025. The purpose of the corrective action period is for the facility to develop and implement a Corrective Action Plan (CAP) to bring these standards into compliance.

Number of Standards Initially Not Met: 3

- §115.16 - Accommodating detainees with disabilities and detainees who are limited English proficient.
- §115.41 - Assessment for risk of victimization and abusiveness.
- §115.67 - Agency protection against retaliation.

Number of Standards Exceeded: 0

Number of Standards Met: 3

- §115.16 - Accommodating detainees with disabilities and detainees who are limited English proficient.
- §115.41 - Assessment for risk of victimization and abusiveness.
- §115.67 - Agency protection against retaliation.

Number of Standards Not Met: 0

PROVISIONS

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

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

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

Notes:

(a)(b): BSSC policy 4.5.12 states, "The facility shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, or detainees who have intellectual, psychiatric, or speech disabilities, limited reading skills, or who are blind or have low vision, (a) Providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. (b) Providing access to written materials related to sexual abuse in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. The facility shall take steps to ensure meaningful access to all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient, including steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In matters relating to allegations of sexual abuse, each facility shall employ effective expressive and receptive verbal communication techniques while communicating with detainees with disabilities in accordance with professionally accepted standards of care. Each facility shall provide detainees with disabilities and detainees with Limited English Proficiency with in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. Interpretation services shall be provided by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and the agency determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse. Where practicable, provisions for written translation of materials related to sexual abuse or assault shall be made for other significant segments of the population with limited English proficiency. Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate." Interviews with two AGS Intake staff indicated, during the intake process detainees are given the ICE National Detainee Handbook, and the DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet in their preferred language. AGS Intake staff further indicated the detainee will receive a copy of the facility detainee handbook (Local Supplement), available in English, Spanish, Mandarin, Haitian Creole, and Arabic, and will watch a PREA Video available in English, and Spanish. In addition, interviews with AGS Intake staff and five random AGS security line staff indicated, if a detainee is LEP, they utilize pocket translation or available ERO Language Line Interpretation Services. However, a review of the facility Translation Use Log found that intake staff are not consistently documenting use. AGS Intake staff and five random AGS security line staff further indicated, if the detainee speaks a language other than Spanish or English, staff would utilize language line services provided through the ERO Interpretation Services Lionbridge. Staff interviewed also articulated how PREA information would be provided to detainees who are

deaf or hard of hearing or who were blind or had low vision in a format they would understand. In interviews with AGS Intake staff, it was further indicated if a detainee had limited reading skills, or had intellectual, psychiatric, or other disabilities staff would seek assistance from medical staff. In an interview with two processing AGS Intake Officers it was confirmed the detainee would receive the ICE National Detainee Handbook and the DHS-prescribed SAA Information pamphlet in their preferred language. In an interview with the AGS Intake Officer, it was confirmed he could articulate how the information in the facility handbook would be provided to the detainee using the language line or how the detainee would receive the information available through the video. During the on-site audit the Auditor observed a facility PREA information sheet and the facility handbook in English, Spanish, Mandarin, Haitian Creole and Arabic and the ICE National Detainee Handbook in English and Spanish; however, AGS Intake staff were able to articulate their ability to print the ICE National Detainee Handbook in any of the most prevalent languages encountered by ICE, specifically English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, and Vietnamese. During the initial on-site tour, the Auditor observed the DHS-prescribed SAA Information pamphlets available in the 15 most prevalent languages encountered by ICE, specifically, English, Spanish, Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, Punjabi, Bengali, Romanian, Russian, Turkish, Ukrainian, and Vietnamese in the processing area. The Auditor observed the facility PREA information sheet on the detainee tablets; and instructions sheets were available in the 15 most prevalent languages encounter by ICE. The Auditor reviewed 10 detainee files and based on information provided in the files, and on-site observations, the Auditor confirmed that detainees who were LEP, or who were deaf or hard of hearing, were blind or had low vision, or had speech, intellectual, or psychiatric difficulties had received the PREA information in a format they could understand.

(c): BSPC policy 4.5.12 states, "Interpretation services shall be provided by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and the agency determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse." Interviews with five random AGS security line staff indicated they would not use a detainee to interpret for another detainee unless the detainee expresses a preference for another detainee to provide interpretation and the Agency determines that such interpretation is appropriate and consistent with DHS policy.

Corrective Action:

The facility is not in compliance with subsection (b) of the standard. While onsite, the auditor viewed the Facility Translation Log and found that intake staff do not consistently log the use of available translation services. Additionally, the facility could not provide any documentation supporting the documentation of translation services use prior to March of 2024. During the interview of 11 LEP detainees, four stated that intake staff did not communicate with them in their preferred language. To become compliant, the facility must provide the Auditor documentation to confirm that available translation line or pocket translator services are utilized for every arriving LEP detainee. The facility must submit to the Auditor the Facility's Translation Log form for a period of ten consecutive days during the corrective action period. In addition, the facility must submit Intake Logs noting which LEP detainees arrived at the facility during this same ten-day period. In addition, the facility must train all intake staff to document translation services for LEP detainees during intake and provide evidence this training has occurred.

Corrective Action Taken:

The facility submitted and the auditor viewed 10 consecutive days of Translation Logs and corresponding facility In and Out logs noting consistent use of translation services for LEP detainees. Additionally, the facility provided both the lesson plan and corresponding sign in sheets noting 46 intake staff members completing Language Access and Cross-Cultural Communication training. The Auditor now finds that the facility has demonstrated compliance with provision (b) and is now compliant with this standard.

§115.41 - Assessment for risk of victimization and abusiveness.

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

Notes:

(a)(b)(c)(d)(e): BSPC policy 4.2.2, Classification, states, "All detainees shall be screened upon arrival at the facility for potential risk of sexual victimization or sexually abusive behavior and shall be housed to prevent sexual abuse or assault, taking necessary steps to mitigate any such danger. Each new detainee shall be kept separate from the general population until they have been classified and may be housed accordingly. The initial classification process and initial housing assignment should be completed within twelve hours of admission into the facility. The facility shall consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization: (1) Whether the detainee has a mental, physical, or developmental disability; (2) The age of the detainee; (3) The physical build and appearance of the detainee; (4) Whether the detainee has previously been incarcerated or detained; (5) The nature of the detainee's criminal history; (6) Whether the detainee has any convictions for sex offenses against adult or child; (7) Whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; (8) Whether the detainee has self-identified as having previously experienced sexual victimization; (9) The detainee's own concerns about his or her physical safety. The initial screening will take into account prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the facility, in assessing detainees for risk of being sexually abusive." BSPC policy 4.2.2 further states, "The detainee's risk of victimization or abusiveness will be reassessed between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization." Interviews with Intake staff indicated that AGS staff screen detainees for special vulnerabilities upon intake into the facility, which is reflected on an Admission Initial PREA Vulnerability Assessment Questionnaire. The assessment screening takes into consideration whether the detainee has a mental, physical or developmental disability, the age of the detainee, whether the detainee has been previously incarcerated or detained, the nature of the detainee's criminal history, how the detainee wishes to be identified (gender), whether the detainee has any previous convictions, whether the detainee has self-identified as having previously experienced sexual victimization, and the detainee's own concerns about his or her physical safety. A review of the assessment form confirms it considers the detainee's physical build, appearance and specifically asks the detainee if they identify as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming or whether the detainee has any prior convictions for sexual abuse against an adult or child. In interviews with Intake staff, it was further indicated the facility IHSC staff utilizes an additional facility IHSC Intake Screening form to supplement the facility assessment form. In an interview with the Intake Lieutenant, it was further indicated the initial classification process, and the detainee's initial housing assignment are completed within 12 hours of the detainee's arrival at the facility and detainee files are kept in a locked room accessible to only the classification staff. An interview with the Classification Manager indicated a detainee's risk of victimization or abusiveness is reassessed between 60 to 90 days, at any other time the facility receives additional relevant information and following an incident of sexual abuse or victimization. During the on-site audit the Auditor reviewed 10 detainee files and confirmed an initial risk assessment and initial housing had been completed within 12 hours of the detainee's admission into the facility. However, during the review of 10 detainee classification files, 2 of 10 had been assigned to BSPC for over 90 days and the facility could not produce documentation supporting the detainees had been reassessed for risk of victimization or abusiveness. The Auditor then requested to view 5 additional files for detainees with stays at the facility for more than 90 days and 3 files did not include documentation supporting reassessment within 60-90 days. During the on-site audit the Auditor reviewed 9 investigative files and confirmed each detainee victim of sexual abuse had been reassessed following an allegation of sexual abuse.

(f): BSPC policy 4.5.12 states, "Detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked pursuant to paragraphs (c)(1), (c)(7), (c)(8) or (c)(9) of this

section." During interviews with an Intake Officer, Classification Officer, and Disciplinary Officer, it was indicated detainees are not disciplined for refusing to answer questions or for not disclosing complete answers during the screening process. Additionally, during the onsite audit, the auditor observed an intake where the detainee refused to answer all questions and no disciplinary action was taken

(g): BSPC policy 4.2.2 states, "The facility shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees or inmates." An interview with the facility Classification Supervisor indicated all detainee files are kept in a locked cabinet and the auditor observed the secured area within the Intake area during the onsite audit.

Corrective Action:

(e): The facility is not in compliance with subsection (e) of the standard. During the onsite review of 10 detainee classification files, 5 of 15 had been assigned to BSPC for over 90 days and the facility could not produce documentation supporting the detainees had been reassessed for risk of victimization or abusiveness. To become compliant, the facility must provide the Auditor with 10 detainee files that confirm that the facility reassesses each detainee's risk of victimization or abusiveness between 60-90 days from the date of the initial assessment. Additionally, the facility must submit documentation which confirms all classification staff have received training on the subsection (e) of the standard which requires reassessment of each detainee's risk of victimization or abusiveness between 60-90 days from the date of initial assessment, and at any other time when warranted.

Corrective Action Taken:

The facility provided 10 completed Vulnerability Reassessment Questionnaires with the corresponding Reclassification-Reassessment Population report which documented consistent reassessments of each detainee's risk of victimization or abusiveness between 60-90 days from the date of initial assessment, and at any other time when warranted. Additionally, the facility provided the staff training sign in sheet and corresponding lesson plan for six Classification staff responsible for detainee victimization or abusiveness reassessments. The Auditor now finds that the facility has demonstrated compliance with provision (e) and is now compliant with this standard.

§115.67 - Agency protection against retaliation.

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

Notes:

(a)(b)(c): Agency policy 11062.2 mandates, "ICE employees shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse or assault, or for participating in sexual activity as a result of force, coercion, threats, or fear of force." BSPC Policy 4.5.12 states, "Staff, contractors, volunteers, and detainees shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual abuse as a result of force, coercion, threats, or fear of force. The facility shall employ multiple protection measures, such as housing changes, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or for cooperating with investigations. For at least 90 days following a report of sexual abuse, the facility shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff and shall act promptly to remedy any such retaliation. Items the facility should monitor include any detainee disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The facility shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need." An interview with the PSA Compliance Manager/Retaliation Monitor indicated that detainees would be monitored for up to 90 days for retaliation following an allegation of sexual abuse. The PSA Compliance Manager/Retaliation Monitor further indicated he or his designee meet with the detainee; and he reviews housing changes, programming changes, and disciplinary reports. In addition, in an interview with the PSA Compliance Manager/Retaliation

Monitor it was confirmed he could articulate, what protective measures would be reviewed for staff. He further confirmed what emotional support services were available for detainees or staff who fear retaliation for reporting sexual abuse or for cooperating with a sexual abuse allegation investigation. However, when the Auditor reviewed the facility Retaliation Monitoring log, he could not determine the date(s) retaliation monitoring was conducted nor what staff member conducted the retaliation monitoring. Additionally, none of the nine closed investigations included retaliation monitoring documentation. In addition, a review of the log confirmed it did not include documentation to confirm monitoring of staff to include negative performance reviews or reassignments of staff as required by the standard.

Corrective Action:

The facility is not in compliance with subsection (c) of the standard. A review of the Retaliation Monitoring log could not confirm specific date(s), nor did it include the retaliation monitoring staff member's name or if further monitoring was required. In addition, a review of the log confirmed it did not include documentation to suggest the possible monitoring of staff to include, but not limited to, a review of negative performance reviews or reassignments of staff as required by the standard. To become compliant, the facility must submit documentation to confirm the development of a process to monitor staff for retaliation and to act promptly to remedy any such retaliation as required by BSPC policy 4.5.12 and the standard. Once implemented the facility must train all staff involved in retaliation monitoring on the new process. In addition, if applicable, the facility must provide the Auditor with five sexual abuse allegation investigation files, and the corresponding Retaliation Monitoring forms/log, to include both detainees and staff, where indicated, to confirm retaliation monitoring was conducted and continued for at least 90 days, longer if the initial monitoring indicates a continuing need as required by subsection (c) of the standard.

Corrective Action Taken:

The facility submitted and the auditor viewed the submitted BFDF Retaliation Tracker, Detainee Interview form and the Retaliation Tracking Spreadsheet and found both contained the required information to meet compliance of component (c) of the standard. On 12/3/2024, the auditor again viewed the updated Retaliation Detainee Monitoring form and the BFDF SAA Tracking spreadsheet and found both remained compliant with the standard. Based on the completion of retaliation monitoring over a 60 to 90-day period and no new reported investigative cases, the Auditor now finds that the facility has demonstrated compliance with provision (c) and is now compliant with this standard.

AUDITOR CERTIFICATION:

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

James McClelland

12/15/2024

Auditor's Signature & Date

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

12/15/2024

Program Manager's Signature & Date

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

12/15/2024

Assistant Program Manager's Signature & Date

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



**Homeland
Security**

AUDIT DATES

From:	5/21/2024	To:	5/23/2024
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AUDITOR INFORMATION

Name of auditor:	James McClelland	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone #:	(409) 866-(b) (6), (b) (7)(C)

PROGRAM MANAGER INFORMATION

Name of PM:	(b) (6), (b) (7)(C)	Organization:	Creative Corrections, LLC
Email address:	(b) (6), (b) (7)(C)	Telephone #:	(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:	Buffalo
Field Office Director:	Thomas Brophy
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	250 Delaware Avenue, Floor 7, Buffalo, NY 14202

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

Name of facility:	Buffalo (Batavia) Service Processing Center
Physical address:	4250 Federal Drive, Batavia, New York 14020
Telephone number:	585-344-6500
Facility type:	Service Processing Center
PREA Incorporation Date:	11/26/2014

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Officer In Charge (OIC)
Email address:	(b) (6), (b) (7)(C)	Telephone #:	585-344-(b) (6), (b) (7)(C)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	PSA Compliance Manager
Email address:	(b) (6), (b) (7)(C)	Telephone #:	585-344-(b) (6), (b) (7)(C)

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 Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of Buffalo (Batavia) Service Processing Center (BSPC) was conducted May 21, 2024, through May 23, 2024, by U.S. Department of Justice (DOJ) and DHS Certified PREA Auditor James McClelland, Program Manager (PM) employed by Creative Corrections, LLC. The Auditor was provided support and review during the audit report writing and review process by ICE PREA Contract Assistant Program Manager (APM) (b) (6), (b) (7)(C), a DOJ and DHS Certified PREA Auditor. The PM's role is to provide oversight for the ICE PREA audit process and liaison with ICE Office of Professional Responsibilities (OPR), External Reviews and Analysis Unit (ERAU) during the audit review process. The purpose of the audit was to assess the facility's compliance with the DHS PREA Standards. BSPC is owned by ICE and operated by Akima Global Services (AGS) and is located in Batavia, New York. The audit period is between June 8, 2021, and May 23, 2024. This is the facility's third PREA audit.

Approximately 30 days prior to the on-site audit, ERAU Inspections and Compliance Specialist (ICS) and Team Lead (TL) (b) (6), (b) (7)(C) provided the Auditor with the facility Pre-Audit Questionnaire (PAQ), Agency policies, facility's policies, and other supporting documentation through the ICE SharePoint. The PAQ, policies, and supporting documentation had been organized utilizing the PREA Pre-Audit: Policy and Document Request DHS Immigration Detention Facilities form and placed into folders for ease of auditing. The main policy that governs BSPC's PREA Program is policy 4.5.12, Sexual Abuse and Assault Prevention and Intervention (SAAPI). It should be noted that BSPC is referred to as Buffalo Federal Detention Facility (BFDF) in its policies. All documentation, policies, and the facility PAQ were reviewed by the Auditor. In addition, the Auditor reviewed the Agency website (www.ice.gov/prea) and the facility website (<https://www.ice.gov/detain/detention-facilities/buffalo-batavia-service-processing-center>).

BSPC processes detainees who are pending immigration review or deportation. The facility houses adult male detainees with high, medium, or low custody levels; BSPC does not house females, juveniles, or family unit detainees. The PAQ indicates 2,813 detainees have been booked into the facility in the last 12 months. The average length of stay in custody is 56 days. According to the PAQ, the top three nationalities held at BSPC are from Mexico, El Salvador and Jamaica. On the first day of the on-site audit, the facility reported 551 detainees were housed at the facility, including 1 transgender detainee.

An entry briefing was held in the BSPC training room on Tuesday, May 21, 2024, at 8:15 a.m. The ICE ERAU TL opened the briefing. In attendance were:

(b) (6), (b) (7)(C), Assistant Field Office Director (AFOD), Officer in Charge (OIC), ICE/OPR
(b) (6), (b) (7)(C) Supervisory Detention and Deportation Officer (SDDO), ICE/Enforcement and Removal Operations (ERO)

(b) (6), (b) (7)(C), SDDO, Prevention of Sexual Assault (PSA) Compliance Manager, ICE/ ERO

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

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

(b) (6), (b) (7)(C), Program Manager, AGS

(b) (6), (b) (7)(C), Deputy Program Manager, AGS

(b) (6), (b) (7)(C), Health Services Administrator (HSA), ICE Health Service Corps (IHSC)

(b) (6), (b) (7)(C), Behavior Health Psychiatrist (BHP), IHSC

(b) (6), (b) (7)(C) Captain, AGS

(b) (6), (b) (7)(C), Corrections Detention Officer (CDO), AGS

(b) (6), (b) (7)(C), CDO, AGS

(b) (6), (b) (7)(C), Detention Officer (DO), ICE/ERO

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

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

James McClelland, PM, Certified DOJ/DHS Auditor, Creative Corrections, LLC

The Auditor introduced himself and provided an overview of the audit process and the methodology to be used to demonstrate PREA compliance to those present. The Auditor explained that the audit process is designed to not only assess compliance through written policies and procedures but also to determine whether such policies and procedures are reflected in the general knowledge of staff at all levels employed at the facility. He further explained compliance with the PREA standards will be determined based on a review of the policies and procedures, observations made during the facility on-site audit, documentation review, and interviews conducted with staff and detainees.

An on-site tour was conducted by the Auditor with key staff from ICE. All housing units utilized by ICE detainees were viewed, as well as program areas, booking/intake, recreation areas, and medical areas. All areas of the facilities where detainees are afforded the opportunity to go or are provided services were observed by the Auditor. During the tour, the Auditor made visual observations of the housing units including bathrooms and shower areas, officer post sight lines and camera locations. Sight lines were closely examined, as was the potential for blind spots, throughout areas where detainees are housed or have access. There were no notable blind spots observed by the Auditor. The administration building is comprised of a lobby and reception area, central control room, court rooms, administrative and attorney offices, classrooms, mail room, staff restrooms, locker room, and serves as the pedestrian point of entry. The back portion of the administration building is located inside the secure perimeter of the facility and includes a medical area, visitation area, and a detainee in-processing area. There are three general population housing units, a special housing unit, a transition housing unit, food service, laundry, law and leisure library and chapel area that also serves as an indoor detainee gym. Each of the three-housing areas have an outdoor recreation area. BSPC utilizes (b) (7)(E)

(b) (7)(E)

(b) (7)(E)

. During the on-site audit, the Auditor (b) (7)(E)

(b) (7)(E)

(b) (7)(E)

. The Auditor observed opposite gender announcements being made as opposite gender staff entered the housing areas as well as opposite gender announcement posters on each dorm entry door. The DHS-prescribed sexual assault awareness notice, methods for reporting sexual misconduct, and victim advocacy contact information was posted in both English & Spanish, languages that are most prevalent in the facility, on bulletin boards, and on the walls in the housing units. The Auditor spoke to random staff and detainees regarding PREA education and the facility practices during the on-site tour. Reviews of the facility comprehensive guidelines and the housing unit logbooks were conducted to verify rounds were being conducted by both security line staff and supervisory staff. The Auditor observed the Audit Notice posted in the housing units and in the most common areas outside visitors would be permitted. No correspondence was received prior to the on-site audit, during the on-site audit, or after the on-site audit was completed. The Auditor tested the posted telephone numbers to determine if they were in good working order. Successful calls were made to the DHS OIG, the Detention Reporting and Information Line (DRIL), the victim advocacy line, and the facility PREA hotline.

During the on-site audit, the Auditor conducted 20 detainee interviews, utilizing multiple interview protocols. Interviews included 4 random English-speaking detainees, 1 transgender detainee, 2 detainees with a history of sexual abuse, 1 gay detainee, 1 disabled detainee, and 11 Limited English Proficient (LEP) detainees. Each LEP interview was conducted with the use of a language line through Language Services Associates (LSA) provided by Creative Corrections, LLC. All interviews were conducted in a private setting

allowing confidentiality for those participating in the interview process.

BSPC PAQ indicates the facility employs 322 employees who may have reoccurring contact with detainees, consisting of 238 security staff, (211 males and 37 females); Medical and Mental Health staff (40 medical and 14 mental health) employed by IHSC, Public Health Services (PHS) and STG International. Additional staff include AGS food service, maintenance staff through Chenga Facilities Management, LLC, and commissary staff are employed by AGS. Volunteer religious services are provided by Church World Services, USA and the facility utilizes Talton Communications Systems for phone service. BSPC has three shifts which include 8:00 a.m.-4:00 p.m., 4:00 p.m.-12:00 a.m., and 12:00 a.m.-8:00 a.m. During the on-site audit, the Auditor conducted 30 staff interviews utilizing various interview protocols, which included the AFOD/Officer in Charge (OIC), PSA Compliance Manager/Retaliation Monitor, 3 AGS Captains, Grievance Officer (GO), AGS Disciplinary Officer (DO), 3 AGS Intake Officers, IHSC HSA, 1 IHSC Registered Nurse (RN), 1 Behavioral Health Provider employed by IHSC, 1 Investigator, AGS Human Resource Manager (HRM), AGS Classification Supervisor, 1 AGS Segregation Officer, 1 Sexual Assault Review Team member, Pastor Volunteer, 2 AGS security First Responders, 2 non-security First Responders, and 6 random AGS security line staff. All interviews were conducted in a private setting allowing confidentiality for those participating in the interview process.

The facility PAQ reported there are two specially trained Investigators to complete all allegations of sexual abuse. The PREA Allegation Spreadsheet indicated there were nine PREA allegations closed during the reporting period. The Auditor reviewed all nine closed investigative files. The files reviewed included six staff-on-detainee allegations, and three detainee-on-detainee allegations, with all nine being found as unsubstantiated.

An exit briefing was conducted on Thursday, May 23, 2024, at 12:35 p.m. The ICE ERAU TL opened the briefing and turned it over to the Auditor. In attendance were:

(b) (6), (b) (7)(C), AFOD, OIC, ICE/OPR

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

(b) (6), (b) (7)(C), SDDO, PSA Compliance Manager, ICE/ERO

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

(b) (6), (b) (7)(C), CDO, AGS

(b) (6), (b) (7)(C), Deputy Program Manager, AGS

(b) (6), (b) (7)(C), BHP, IHSC

(b) (6), (b) (7)(C), Captain, AGS

(b) (6), (b) (7)(C), CDO, AGS

(b) (6), (b) (7)(C), DO, ICE

(b) (6), (b) (7)(C), AGS, Lieutenant (LT)

(b) (6), (b) (7)(C), DO, ICE

(b) (6), (b) (7)(C), AGS, LT

(b) (6), (b) (7)(C), DO, ICE

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

James McClelland, PM, Certified DOJ/DHS Auditor, Creative Corrections, LLC

The Auditor spoke briefly and informed those present that it was too early in the process to formalize a determination of compliance on each standard. The Auditor further advised he would review all documentation, interview notes, file review notes, and on-site observations to determine compliance. The Auditor thanked all facility staff for their cooperation in the audit process. The ICE ERAU TL explained the audit report process, timeframes for any corrective action imposed, and the timelines for the final report.

SUMMARY OF AUDIT FINDINGS

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

Number of Standards Exceeded: 1

- §115.31 - Staff training.

Number of Standards Met: 36

- §115.11 - Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator.
- §115.13 - Detainee supervision and monitoring.
- §115.15 - Limits to cross-gender viewing and searches.
- §115.17 - Hiring and promotion decisions.
- §115.18 - Upgrades to facilities and technologies.
- §115.21 - Evidence protocols and forensic medical examinations.
- §115.22 - Policies to ensure investigation of allegations and appropriate agency oversight.
- §115.32 - Other training.
- §115.33 - Detainee education.
- §115.34 - Specialized training: Investigations.
- §115.35 - Specialized training: Medical and mental health care.
- §115.42 - Use of assessment information.
- §115.43 - Protective custody.
- §115.51 - Detainee reporting.
- §115.52 - Grievances.
- §115.53 - Detainee access to outside confidential support services.
- §115.54 - Third-party reporting.
- §115.61 - Staff reporting duties.
- §115.62 - Protection duties.
- §115.63 - Reporting to other confinement facilities.
- §115.64 - Responder duties.
- §115.65 - Coordinated response.
- §115.66 - Protection of detainees from contact with alleged abusers.
- §115.68 - Post-allegation protective custody.
- §115.71 - Criminal and administrative investigations.
- §115.72 - Evidentiary standard for administrative investigations.
- §115.73 - Reporting to detainees.
- §115.76 - Disciplinary sanctions for staff.
- §115.77 - Corrective action for contractors and volunteers.
- §115.78 - Disciplinary sanctions for detainees.
- §115.81 - Medical and mental health assessments; history of sexual abuse.
- §115.82 - Access to emergency medical and mental health services.
- §115.83 - Ongoing medical and mental health care for sexual abuse victims and abusers.
- §115.86 - Sexual abuse incident reviews.
- §115.87 - Data collection.
- §115.201 - Scope of audits.

Number of Standards Not Met: 3

- §115.16 - Accommodating detainees with disabilities and detainees who are limited English proficient.
- §115.41 - Assessment for risk of victimization and abusiveness.
- §115.67 - Agency protection against retaliation.

Number of Standards Not Applicable: 1

- §115.14 - Juvenile and family detainees.

PROVISIONS

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

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

Outcome: Meets Standard

Notes:

(c): BSPC policy 4.5.12, SAAPI states, "The Buffalo Federal Detention Facility maintains a zero-tolerance policy for all forms of sexual abuse or assault. It is the policy of the BFDF to provide a safe and secure environment for all detainees, employees, contractors and volunteers, free from the threat of sexual abuse or assault, by maintaining a Sexual Abuse and Assault Prevention and Intervention (SAAPI) Program that ensures effective procedures for preventing, reporting, responding to, investigating and tracking incidents or allegations of sexual abuse or assault. Sexual abuse or assault of detainees by other detainees or by employees, contractors, or volunteers is prohibited and subject to administrative, disciplinary, and criminal sanctions." The policy requires staff and detainees be informed and trained in ways to identify and subsequently prevent sexually assaultive behavior among detainees housed at this facility. The OIC verbally confirmed the policy was approved by the agency. The interviews with staff and detainees demonstrated their awareness to the facility's zero tolerance policy to all forms of sexual abuse and the methods to report sexual abuse.

(d): The facility has designated an ICE SDDO to oversee the facility's compliance efforts with the implementation of PREA as the PSA Compliance Manager at BSPC. Policy 4.5.12 requires that "the PSA Compliance Manager will serve as the facility point of contact for the local field office and ICE PSA Coordinator and must have sufficient time and authority to comply with facility sexual abuse and assault prevention and intervention policies and procedures." The interview with the PSA Compliance Manager indicated he reports directly to the AFOD on all matters related to PREA and is the point of contact for the local ICE office. He also indicated he has sufficient time and authority to perform all PREA related responsibilities. The AFOD also confirmed the PSA reports directly to him on all PREA related matters. During the site visit, it appeared that the PSA Compliance Manager had sufficient time and authority to accomplish his duties.

Corrective Action:

No corrective action needed.

§115.13 - Detainee supervision and monitoring.

Outcome: Meets Standard

Notes:

(a): BSPC policy 4.5.12 states, "BFDF ensures that it maintains sufficient supervision of detainees, through appropriate staffing levels and where applicable, video monitoring to protect detainee against sexual abuse." The PAQ and the interview with the OIC confirmed the staffing complement provided by AGS is 270 men and women staff and supplemented by a (b) (7)(E) [REDACTED]. He also stated that BSPC staffing levels for the supervision of the detainees are established prior to the contract agreement between ICE and the security staff contractor. He stated that staffing levels are based on direct supervision of the detainees. The Auditor reviewed the staffing plan for each shift and found the number of staff assigned was adequate for the operation and programming for that shift.

(b)(c): BSPC policy 4.5.12 states, "determine security needs based on a comprehensive staffing analysis and a documented comprehensive supervision guideline that is reviewed and updated at least annually. In determining

adequate levels of detainee supervision and determining the need for video monitoring, the facility shall take into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of each facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse as well as other incidents reflecting on facility security and detainee safety, the findings and recommendations of sexual abuse incident review reports or other findings reflecting on facility security and detainee, the length of time detainees spend in agency custody, and any other relevant factors.” The facility provided the staffing guidelines for each shift at BSPC for review. The OIC stated staffing is based on direct supervision that changes from shift to shift based on activities and programs that are operating. The OIC stated that staffing generally accepted detention/correctional practices; any judicial findings of inadequacy; the physical plant; detainee population; findings of incidents of sexual abuse; any recommendations of sexual abuse incident reviews; and any other relevant factors are also considered during development and review of the staffing needs. He, along with the captains, confirmed detainee supervision posts are never closed. The Auditor was provided the annual staffing review for 2023. The document addressed each of the subpart (c) standard requirements. During the site visit the Auditor observed, what appeared to be, adequate security staff supervising detainees.

(d): BSPC policy 4.5.12 states, “Frequent unannounced security inspections shall be conducted to identify and deter sexual abuse of detainees.” The policy further requires “Inspections will occur on night as well as day shifts. Staff are prohibited from alerting others that these inspections are occurring, unless such announcement is related to the legitimate operational functions of the facility.” The supervisory interviews confirmed they are required to make daily rounds in every area of the facility that detainees are permitted access to. The OIC and Shift Commanders confirmed unannounced rounds are made throughout the facility on each shift and documented. These rounds are to be documented. The Auditor was provided copies of logbook entries demonstrating rounds by supervisors. Examples of officer post descriptions provided to the Auditor require rounds be conducted throughout the entire shift ensuring that safety and security measures are being adhered to. Furthermore, a random sampling of area logbooks was examined during the site visit; the Auditor found supervisor signatures documenting unannounced security rounds on each shift in these books.

Corrective Action:

No corrective action needed.

§115.14 - Juvenile and family detainees.

Outcome: Not Applicable

Notes:

(a)(b)(c)(d): A review of the facility PAQ and interviews with the OIC and PSA Compliance Manager confirmed the facility does not house juvenile detainees or family unit detainees; therefore, standard 115.14 is not applicable.

Corrective Action:

No corrective action needed.

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

Outcome: Meets Standard

Notes:

(b)(c)(d): BSPC policy 4.5.12 states, “Cross-gender pat-down searches of male detainees shall not be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required, or in exigent circumstances. Cross-gender pat-down searches of female detainees shall not be conducted unless in exigent circumstances. All cross-gender pat-down searches shall be documented. When an officer of the opposite gender conducts a strip search which is observed by a staff member of the same gender as the detainee, staff shall document the reasons for the opposite-gender search in any logs used to record searches and in the detainee’s detention file.” The Auditor reviewed a memorandum to the file which states, “In the last 12 months the Buffalo Service Processing Center did not have any cross-gender pat down searches.” Interviews with five random AGS security line staff confirmed cross-gender pat-down searches are not conducted at

BSPC. Interviews with five random AGS security line staff further confirmed should a cross-gender pat down search be required, due to exigent circumstances, they were aware all cross-gender pat-searches are required to be documented. During interviews with 20 detainees, it was confirmed each detainee had a pat-down search conducted at the facility by an officer of the same gender. In addition, during the on-site audit, the Auditor observed eight pat-down searches (via video) and confirmed each search had been performed by an officer of the same gender as the detainee. The facility does not house female detainees.

(e)(f): BSPC policy 4.5.12 states, “Cross-gender strip searches or cross-gender visual body cavity searches shall not be conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners. Facility staff shall not conduct visual body cavity searches of juveniles and, instead, shall refer all such body cavity searches of juveniles to a medical practitioner. All strip searches and visual body cavity searches shall be documented.” Interviews with five random AGS security line staff confirmed all strip searches, cross gender strip searches, and visual body cavity searches must be documented. Each staff member indicated that they have not conducted or witnessed a cross-gender strip search or a visual body cavity search at the facility. The auditor observed the intake area where strip searches are conducted and found no cross gender viewing concerns. Interviews with 20 detainees confirmed 10 had been subject to a strip search at intake, and none had a visual body cavity search, while housed at the facility. The Auditor viewed the facility strip search log and found all 10 strip searches had been documented and were conducted by male intake staff.

(g): BSPC policy 4.5.12, states, “Staff of the opposite gender are prohibited from viewing detainees showering, performing bodily functions, and changing clothes. Detainees shall be provided with a reasonably private environment in accordance with safety and security needs. Detainees shall be able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. Staff of the opposite gender shall announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing.” Interviews with two female AGS security line staff indicated detainees are permitted to shower, change clothing, and perform bodily functions without being viewed by the opposite gender and that staff are required to announce their presence when entering housing units occupied by detainees of the opposite gender. In addition, during the on-site audit, the Auditor observed female staff announcing their presence when entering the unit and additional cross gender announcements made via the available intercom system. Interviews with 20 detainees, indicated that they are aware when female staff enter the unit. Some reported they can see the female staff when they enter the unit and others reported they will announce “female in the unit”. The Auditor

(b) (7)(E) . An interview with the PSA Compliance Manager indicated detainees are notified of cross gender viewing by control room staff in the facility handbook. Although the facility has four shower heads in most all housing unit dorms, facility staff and detainees ensure only one detainee showers at a time and that privacy curtains are in place.

(h): The facility is not designated as a Family Residential Unit; and therefore, subsection (h) is not applicable.

(i)(j): BSPC policy 4.5.12 states, “BFDF shall not search or physically examine a detainee for the sole purpose of determining the detainee’s genital characteristics. If the detainee’s gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a standard medical examination that all detainees must undergo as part of intake or other processing procedure conducted in private, by a medical practitioner. All strip searches shall be documented.” BSPC Policy 4.5.12 further states, “Security staff shall be trained in proper procedures for conducting pat searches, including cross-gender pat searches and searches of transgender and intersex detainees.” Interviews with five random AGS security line staff indicated they are aware transgender and intersex detainees could not be searched or physically examined for the sole purpose of determining the detainee’s gender. Interviews with five random AGS security line staff further indicated they have received training in proper procedures for conducting pat-down searches,

including cross-gender searches and searches of transgender/intersex detainees in a professional and respectful manner. Interviews with one transgender detainee, indicated they have had a pat-down search at the facility and stated they were allowed to choose the gender of the officer conducting the search. In addition, the transgender detainee interviewed stated the pat-down searches had been done professionally and respectfully. The Auditor reviewed the AGS Detainee Searches and the ICE Cross-Gender, Transgender and Intersex Searches training curriculums and confirmed the training includes proper procedures for conducting pat-down searches, including pat-down searches conducted by the opposite gender, searches of transgender/intersex detainees, in a professional and respectful manner, consistent with security needs and the facility policy, including consideration of officer safety. The Auditor reviewed 10 staff training files that confirmed staff have completed the required training.

Corrective Action:

No corrective action needed.

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

Outcome: Does Not Meet Standard

Notes:

(a)(b): BSPC policy 4.5.12 states, “The facility shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the facility’s efforts to prevent, detect, and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, or detainees who have intellectual, psychiatric, or speech disabilities, limited reading skills, or who are blind or have low vision, (a) Providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. (b) Providing access to written materials related to sexual abuse in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. The facility shall take steps to ensure meaningful access to all aspects of the facility’s efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient, including steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In matters relating to allegations of sexual abuse, each facility shall employ effective expressive and receptive verbal communication techniques while communicating with detainees with disabilities in accordance with professionally accepted standards of care. Each facility shall provide detainees with disabilities and detainees with Limited English Proficiency with in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. Interpretation services shall be provided by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and the agency determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse. Where practicable, provisions for written translation of materials related to sexual abuse or assault shall be made for other significant segments of the population with limited English proficiency. Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.” Interviews with two AGS Intake staff indicated, during the intake process detainees are given the ICE National Detainee Handbook, and the DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet in their preferred language. AGS Intake staff further indicated the detainee will receive a copy of the facility detainee handbook (Local Supplement), available in English, Spanish, Mandarin, Haitian Creole, and Arabic, and will watch a PREA Video available in English, and Spanish. In addition, interviews with AGS Intake staff and five random AGS security line staff indicated, if a detainee is LEP, they utilize pocket translation or available ERO Language Line Interpretation Services. However, a review of the facility Translation Use Log found that intake staff are not consistently documenting use. AGS Intake staff and

five random AGS security line staff further indicated, if the detainee speaks a language other than Spanish or English, staff would utilize language line services provided through the ERO Interpretation Services Lionbridge. Staff interviewed also articulated how PREA information would be provided to detainees who are deaf or hard of hearing or who were blind or had low vision in a format they would understand. In interviews with AGS Intake staff, it was further indicated if a detainee had limited reading skills, or had intellectual, psychiatric, or other disabilities staff would seek assistance from medical staff. In an interview with two processing AGS Intake Officers it was confirmed the detainee would receive the ICE National Detainee Handbook and the DHS-prescribed SAA Information pamphlet in their preferred language. In an interview with the AGS Intake Officer, it was confirmed he could articulate how the information in the facility handbook would be provided to the detainee using the language line or how the detainee would receive the information available through the video. During the interview of 11 LEP detainees, four stated that intake staff did not communicate with them in their preferred language. During the on-site audit the Auditor observed a facility PREA information sheet and the facility handbook in English, Spanish, Mandarin, Haitian Creole, and Arabic and the ICE National Detainee Handbook in English and Spanish; however, AGS Intake staff were able to articulate their ability to print the ICE National Detainee Handbook in any of the most prevalent languages encountered by ICE, specifically English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, K'iche' (Quiché)/Kxlantzij, and Vietnamese. During the initial on-site tour, the Auditor observed the DHS-prescribed SAA Information pamphlets available in the 15 most prevalent languages encountered by ICE, specifically, English, Spanish, Chinese, Arabic, French, Haitian Creole, Hindi, Portuguese, Punjabi, Bengali, Romanian, Russian, Turkish, Ukrainian, and Vietnamese in the processing area. The Auditor observed the facility PREA information sheet on the detainee tablets; and instructions sheets were available in the 15 most prevalent languages encountered by ICE. The Auditor reviewed 10 detainee files and based on information provided in the files, and on-site observations, the Auditor confirmed that detainees who were LEP, or who were deaf or hard of hearing, were blind or had low vision, or had speech, intellectual, or psychiatric difficulties had received the PREA information in a format they could understand.

(c): BSPC policy 4.5.12 states, "Interpretation services shall be provided by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation and the agency determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse." Interviews with five random AGS security line staff indicated they would not use a detainee to interpret for another detainee unless the detainee expresses a preference for another detainee to provide interpretation and the Agency determines that such interpretation is appropriate and consistent with DHS policy.

Corrective Action:

The facility is not in compliance with subsection (b) of the standard. While onsite, the auditor viewed the Facility Translation Log and found that intake staff do not consistently log the use of available translation services. Additionally, the facility could not provide any documentation supporting the documentation of translation services used prior to March of 2024. During the interview of 11 LEP detainees, four stated that intake staff did not communicate with them in their preferred language. To become compliant, the facility must provide the Auditor documentation to confirm that available translation line or pocket translator services are utilized for every arriving LEP detainee. The facility must submit to the Auditor the Facility's Translation Log form for a period of 10 consecutive days during the corrective action period. In addition, the facility must submit Intake Logs noting which LEP detainees arrived at the facility during this same 10-day period. In addition, the facility must train all intake staff to document translation services for LEP detainees during intake and provide evidence this training has occurred.

§115.17 - Hiring and promotion decisions.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e)(f): The Federal Statute 731.202 (b), Executive Order 10450, ICE Personnel Security and Suitability Program Directive 6-7.0 and ICE Suitability Screening Requirements for Contractors Personnel Directive 6-8.0, "collectively require anyone entering or remaining in government service undergo a thorough background examination for suitability and retention. The background investigation, depending on the clearance level, will include education checks, criminal records check, a financial check, residence and neighbor checks, and prior employment checks." ICE Directive 6-7.0 outlines "misconduct and criminal misconduct as grounds for unsuitability, including material omissions or making false or misleading statements in the application." The Unit Chief of OPR Personnel Security Operations (PSO) informed Auditors, who attended virtual training in November 2021, that detailed candidate suitability for all applicants includes their obligation to disclose: any misconduct where he/she engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); any conviction of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or any instance where he or she has been civilly or administratively adjudicated to have engaged in such activity. AGS policy 201, Employment Offers, states, "The Company shall not hire or promote anyone who may have contact with detainees, and shall not enlist the services of any contractor or volunteer who may have contact with detainees, who has engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); who has been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or who has been civilly or administratively adjudicated to have engaged in such activity. The Company when considering hiring or promoting staff shall ask all applicants who may have contact with detainees directly about previous misconduct described in (6 CFR, 115.17) in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The Company shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. The Company, consistent with law, shall make its best efforts to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse. Before hiring new staff, who may have contact with detainees, the Company shall conduct a background investigation to determine whether the candidate for hire is suitable for employment with the Company, including a criminal background records check. Upon request by the agency, the Company shall submit for the agency's approval written documentation showing the detailed elements of the Company background check for each staff member and the Company's conclusions. The Company shall require an updated background investigation every five years for employees who may have contact with detainees. The Company shall conduct an updated background investigation every five years for those facility staff who may have contact with detainees and who work in immigration-only detention facilities. The Company shall also perform a background investigation before enlisting the services of any contractor who may have contact with detainees. Upon request by the Agency, the Company shall submit for the agency's approval written documentation showing the detailed elements of the Company's background check for each contractor and the Company's conclusions. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination or withdrawal of an offer of employment, as appropriate. In the event the Agency contracts with a company for the confinement of detainees, the requirements of this section otherwise applicable to the agency also apply to the Company and its staff." An interview with the HRM indicated that before hiring a potential employee they must complete the Electronic Questionnaire for Investigation Processing (e-QIP) and must provide fingerprints. The HRM further indicated background checks are completed by the ICE PSU and ICE will determine suitability for hiring. In addition, the HRM indicated prior to being hired all staff and staff/contractors are required to fill out a Declaration for Federal Employment which states, "All your answers must be truthful and complete. A false statement on any part of this declaration or attached forms or sheets may be grounds for not hiring you or for firing you after you begin work." The HRM

further indicated, all staff and contractors are required to complete the DHS 6 Code of Federal Regulations Part 115 which asks potential staff/contractors all questions required by subsection (a) of the standard. In addition, the HRM indicated, prior to being hired all staff and contractor staff are required to sign a form which states, "I understand that a knowing and willful false response may result in a negative finding regarding my fitness as a contract employee supporting ICE. Furthermore, should my answers change at any time I understand I am responsible for immediately reporting the information to my Program Manager." The Auditor submitted names for 3 ICE staff, 5 AGS staff, and 2 IHSC staff, to the ICE PSD PREA Audit Unit (PSD). Documentation was provided confirming all submitted names had completed a background investigation and all required forms prior to being hired and background rechecks were conducted every five years as required. The auditor viewed one volunteer personnel file and confirmed volunteers or "other" contractors who may have contact with detainees were asked about the behaviors required by subsection (a) of the standard prior to utilizing their services. An interview with the HRM indicated that the facility does inquire about previous sexual misconduct prior to staff promotions. The HRM further indicated information would be provided on substantiated allegations of sexual abuse involving a former employee if a request was received. An interview with the AFOD confirmed ICE staff had not had a promotion during the audit period.

Corrective Action:

No corrective action needed.

§115.18 - Upgrades to facilities and technologies.

Outcome: Meets Standard

Notes:

(a)(b): BSPC Policy 4.5.12 states, "When designing and planning any substantial expansion or modification of the existing physical plant, the AFOD will consider the effect of design, expansion, or modification upon the facility's ability to protect detainees from sexual abuse. Additionally, when installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the facility will consider how such technology may enhance the facility's ability to protect detainees from sexual abuse. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the facility shall consider the effect of the design, acquisition, expansion, or modification upon its ability to protect detainees from sexual abuse." The OIC provided a memo stating, "Buffalo Federal Detention Facility has not designed, modified or acquired or expanded upon new or existing space during the audit period." A review of the PAQ, submitted memorandum and interviews conducted with the OIC and PSA Compliance Manager confirmed the facility has not acquired a new facility or made a substantial expansion to the existing facility. However, the PSA Compliance Manager confirmed the facility did update the video monitoring system, electronic surveillance system, or other monitoring technology during the audit period. According to the OIC and PSA Compliance Manager, a total of (b) (7)(E)

(b) (7)(E) As stated previously, while onsite the auditor viewed (b) (7)(E) The facility OIC/PSA Compliance Manager also indicated he was included and consulted regarding the placement and viewing capabilities of these new cameras.

Corrective Action:

No corrective action needed.

§115.21 - Evidence protocols and forensic medical examinations.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e): The Agency's policy 11062.2, outlines the Agency's evidence and investigation protocols. Per policy 11062.2, "when a case is accepted by OPR, OPR coordinates investigative efforts with law enforcement and the facility's incident review personnel in accordance with OPR policies and procedures. OPR does not perform sex assault crime scene evidence collection. Evidence collection shall be performed by a partnering federal, state, or local law enforcement agency. The OPR will coordinate with the ICE ERO Field Office Director

(FOD) and facility staff to ensure evidence is appropriately secured and preserved pending an investigation. If the allegation is not referred or accepted by DHS Office of Inspector General (OIG), OPR, or the local law enforcement agency, the agency would assign an administrative investigation to be conducted.” BSPC policy 4.5.12 states, “The facility is responsible for investigating allegations of sexual abuse involving detainees, it shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol shall be developed in coordination with DHS and shall be developmentally appropriate for juveniles, where applicable. The facility shall consider how best to utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling to most appropriately address victims’ needs. The facility shall establish procedures to make available, to the full extent possible, outside victim services following incidents of sexual abuse. Additionally, the facility shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the facility shall provide these services by making available a qualified staff member from a community-based organization, or a qualified agency staff member. A qualified agency staff member or a qualified community-based staff member means an individual who has received education concerning sexual assault and forensic examination issues in general. The outside or internal victim advocate shall provide emotional support, crisis intervention, information, and referrals. Where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee’s consent, the facility shall arrange for an alleged victim detainee to undergo a forensic medical examination by qualified health care personnel, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel. As requested by a victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, shall be allowed for support during a forensic exam and investigatory interviews. To the extent that the agency is not responsible for investigating allegations of sexual abuse, the agency or the facility shall request that the investigating agency follow the requirements of PREA (CFR 115.21).” Interviews with two facility AGS Captains, five random AGS security line staff, the HSA, a facility RN, and a Mental Health provider, employed by IHSC indicated they were knowledgeable of the facility's evidence protocol and the steps to be taken if there was a sexual assault of a detainee. An interview with a facility Investigator indicated the facility would conduct administrative investigations, and if the allegation was criminal in nature, the facility would notify the Genesee County Sheriff’s Office (GCSO) to conduct a criminal investigation into the allegation. The facility PAQ indicated the facility did not have any allegations that had been investigated by an outside agency; during the review of nine sexual abuse allegation investigation files it was confirmed, the GCSO had been notified and determined the allegations were not criminal in nature. While onsite, the auditor requested that the facility provide documentation to confirm that a request had been made to the GCSO to follow the requirements of paragraphs (a)-(d) of the §115.21 and the OIC provided an email noting such. An interview with the facility HSA indicated that SAFE/SANE exams are available at the Erie County Medical Center (ECMC). The facility HSA further indicated the rape treatment center would provide a victim advocate, to provide emotional support, crisis intervention, information, and any needed referrals, during the SANE/SAFE exam and investigatory interviews. The Auditor reviewed a Memorandum of Understanding (MOU) agreement with the ECMC with no expiration date noted. The Auditor contacted a representative of the SANE/SAFE unit at the ECMC and was advised that treatment to include SAFE/SANE exams would be provided and at no cost to the detainee. In an interview with a RESTORE Planned Parenthood of Central and Western New York (RPPCWNY) advocate, it was confirmed RPPCWNY advocates provide crisis intervention, counseling, and emotional support during SANE/SAFE exams and investigatory interviews. The Auditor also reviewed an MOU between BFDF and RPPCWNY dated February 1, 2023. Interviews with the OIC and the facility PSA Compliance Manager confirmed the protocol was developed in coordination with DHS.

Corrective Action:

No corrective action needed.

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

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e)(f): The Agency provided policy 11062.2, which states in part that; “when an alleged sexual abuse incident occurs in ERO custody, the FOD shall: a) Ensure that the appropriate law enforcement agency having jurisdiction for the investigation has been notified by the facility administrator of the alleged sexual abuse. The FOD shall notify the appropriate law enforcement agency directly if necessary. b) Notify ERO’s Assistant Director for Field Operations telephonically within two hours of the alleged sexual abuse or as soon as practical thereafter, according to procedures outlined in the June 8, 2006, Memorandum from John P. Torres, Acting Director, Office of Detention and Removal Operations, regarding “Protocol on Reporting and Tracking of Assaults” (Torres Memorandum); and c) Notify the ICE Joint Intake Center (JIC) telephonically within two hours of the alleged sexual abuse and in writing within 24 hours via the ICE SEN Notification Database, according to procedures outlined in the Torres Memorandum. The JIC shall notify the DHS Office of Inspector General (OIG).” BSPC policy 4.5.12 states, “The Facility shall establish a facility protocol to ensure that each allegation of sexual abuse is investigated by the agency or facility or referred to an appropriate investigative authority. The facility will ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse. The facility shall post its protocols on its Web site and make the protocol available to the public. Each facility protocol shall ensure that all allegations are promptly reported to the agency as described in this section, and, unless the allegation does not involve potentially criminal behavior is promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations. The facility may separately, and in addition to the above reports and referrals, conduct its own investigation. When a detainee, prisoner, inmate, or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as the appropriate ICE Field Office Director, and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation. When a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as to the appropriate ICE Field Office Director, and to the local government entity or contractor that owns or operates the facility. If the incident is potentially criminal, the facility shall ensure that it is promptly referred to an appropriate law enforcement agency having jurisdiction for investigation.” A review of the facility investigative protocol found that it includes a description of the responsibilities of the Agency, the facility, and local law enforcement and requires all PREA allegation reports and referrals be documented and maintained for at least five years. In addition, a review of the facility investigative protocol found it requires the ICE SDDO within two hours to notify the AFOD, the Joint Intake Center (JIC) and the OPR or OIG. If a criminal violation has occurred, OPR/OIG will respond and begin the investigation. The facility investigative protocol further requires the AGS investigator assist with securing the crime scene and preservation of evidence. In addition, the facility investigative protocol requires OPR to coordinate with other law enforcement agencies to photograph, document, gather and store evidence and administrative investigations will be conducted by the AGS investigator after consultation with the appropriate investigative office with DHS and the assigned criminal investigative entity. Interviews with the facility OIC and PSA Compliance Manager, and a facility Investigator confirmed all allegations are promptly investigated and, if found to appear criminal, are referred to the appropriate law enforcement agency with legal authority to conduct criminal investigations. Interviews with the facility OIC and PSA Compliance Manager, and a facility Investigator further confirmed all allegations are reported to the AFOD, JIC, OPR or the DHS OIG. The Auditor reviewed the facility PREA Allegation Spreadsheet which indicated there were nine allegations that had been investigated and closed and confirmed ICE ERO and the JIC were notified in all cases. In addition, the Auditor reviewed all nine sexual abuse allegation investigation files and confirmed notification was made to ICE ERO and the JIC and in one investigation the GCSO was notified. The Auditor reviewed both the Agency website (<https://www.ice.gov/prea>) and the facility website

(<https://www.ice.gov/detain/detention-facilities/buffalo-batavia-service-processing-center>) and confirmed the Agency and facility has posted their Administrative Investigation Protocols as required by the standard.

Corrective Action:

No corrective action needed.

§115.31 - Staff training.

Outcome: Exceeds Standard

Notes:

(a)(b)(c): The Agency's policy 11062.5.2 states, "The Agency shall document that all ICE personnel who may have contact with individuals in ICE custody have completed training." BSPC policy 4.5.12 states, "Employee training on the facility's Sexual Abuse and Assault Prevention and Intervention Program shall be included in training for all employees and shall also be included in annual refresher training thereafter and are able to fulfill their responsibilities under this standard. Training shall include: 1. The facility's zero-tolerance policies for all forms of sexual abuse; 2. Definitions and examples of prohibited and illegal sexual behavior; 3. The right of detainees and staff to be free from sexual abuse, and from retaliation for reporting sexual abuse; 4. Instruction that sexual abuse or assault is never an acceptable consequence of detention; 5. Recognition of situations where sexual abuse or assault may occur; 6. How to avoid inappropriate relationships with detainees; 7. Working with vulnerable populations and addressing their potential vulnerability in the general population; 8. Recognition of the physical, behavioral, and emotional signs of sexual abuse or assault and ways to prevent and respond to such occurrences; 9. The requirement to limit reporting of sexual abuse and assault to personnel with a need-to-know in order to make decisions concerning the detainee-victim's welfare, and for law enforcement/investigative purposes; 10. The investigation process and how to ensure that evidence is not destroyed; 11. Prevention, recognition, and appropriate response to allegations or suspicions of sexual assault involving detainees with mental or physical disabilities; 12. How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; 13. Instruction on reporting knowledge or suspicion of sexual abuse or assault; and 14. Instruction on documentation and referral procedures of all allegations or suspicion of sexual assault." The Auditor reviewed the training curriculum and confirmed all elements required by the standard are included. Interviews with the OIC and PSA Compliance Manager and five random AGS security line staff indicated staff are required to attend PREA training on an annual basis. The Auditor was provided annual training sign-in sheets and confirmed all ICE and IHSC staff completed PREA training within 12 months of the onsite audit. In addition, the Auditor reviewed 10 AGS staff training files and two ICE assigned staff training files and confirmed they received PREA training in 2022 and 2023. In an interview with the PSA Compliance Manager, it was indicated training is conducted annually which exceeds the standard requirement.

Corrective Action:

No corrective action needed.

§115.32 - Other training.

Outcome: Meets Standard

Notes:

(a)(b)(c): BSPC policy 4.5.12 states, "Buffalo SPC shall ensure that all volunteers and other contractors who have contact with detainees have been trained on their responsibilities under the facility's sexual abuse prevention, detection, intervention and response policies and procedures. The level and type of training for volunteers and contractors will be based on the services they provide and their level of contact with detainees; however, all volunteers and contractors who have any contact with detainees must be notified of the facility's zero-tolerance policy and informed how to report such incidents. In this paragraph "other contractor" means a person who provides services on a non-recurring basis to the facility pursuant to a contractual agreement with the agency or facility. The facility must maintain written documentation verifying employee, volunteer, and contractor training." The Auditor reviewed the training curriculum and confirmed it notifies both volunteer and other contractors of the Agency and facility's zero tolerance policies and how to report an incident of sexual

abuse. An interview with the facility Pastor indicated all persons who provide religious services are volunteers and receive PREA training prior to providing services and refresher training is required annually. During the on-site audit, the facility provided the Auditor with Volunteer Training Sign-in sheets, indicating all volunteers, maintenance staff and contractors have received PREA training for 2023. Additionally, BSPC recently implemented a process of handing out a two-page “A Guide to the Prevention and Reporting of Sexual Misconduct with Residents” while at the BSPC form which they hand deliver to each contractor, volunteer and official visitor upon entry into the facility.

Recommendation: Although the form is not required by the standard, the auditor recommends BSPC add a signature line and date to the “A Guide to the Prevention and Reporting of Sexual Misconduct with Residents while at the BSPC form” in order to further show compliance with the standard.

Corrective Action:

No corrective action needed.

§115.33 - Detainee education.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e)(f): BSPC policy 4.5.12 states, “Following the intake process, the Buffalo SPC shall provide instruction to detainees on the Buffalo SPC’s Sexual Abuse and Assault Prevention and Intervention Program and ensure that such instruction includes (at a minimum): Buffalo SPC zero-tolerance policy for all forms of sexual abuse or assault; Prevention and intervention strategies; Definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse, and coercive sexual activity; Explanation of methods for reporting sexual abuse or assault, including one or more staff members other than an immediate point-of-contact line officer, the Detention and Reporting Information Line (DRIL), the DHS/OIG and the ICE/OPR investigation processes; Information about self-protection and indicators of sexual abuse; Prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainees immigration proceedings; and Right of a detainee who has been subjected to sexual abuse to receive treatment and counseling.” During the on-site audit, the Auditor observed the DHS-prescribed sexual abuse and assault notice, which contained the name of the facility PSA Compliance Manager, and the phone number for RPPCWNY posted on housing unit bulletin boards and other various locations throughout the facility. Interviews with two Intake staff indicated PREA orientation occurs during the intake process when detainees are given the ICE National Detainee Handbook and the DHS-prescribed SAA Information pamphlet in their preferred language. Intake staff further indicated the detainee will receive a copy of the facility detainee handbook (Local Supplement), and an untitled PREA handout, both available in English, Spanish, Mandarin, Haitian Creole, and Arabic, and will watch a PREA Video available in English and Spanish. In addition, interviews with Intake staff and five random AGS security line staff, indicated if a detainee is LEP, should a detainee speak a language other than Spanish or English, intake staff would utilize the language line services provided through Lionbridge Interpretation Services or available pocket translators. While onsite, the auditor observed Intake staff utilizing the available pocket translator with two LEP detainees. During the interview of two Intake staff and one Intake supervisor each articulated how PREA information would be provided to a detainee who was deaf or hard of hearing or was blind or had low vision in a format they would understand. In an interview with one Intake Officer, it was indicated staff would use the TTY machine to provide the PREA information to detainees who are deaf and would read the material to a detainee who is blind or provide in larger print for detainees who have limited sight. In interviews with Intake staff, it was further indicated if a detainee had limited reading skills, is intellectually, psychiatric or has other disabilities, staff would seek assistance from medical staff. In addition, interviews with Intake staff indicated detainees are asked to sign the Detainee Summary Form, available in English and Spanish only, indicating receipt of the PREA information. During the on-site audit the Auditor observed the facility handbook in English, Spanish, Mandarin, Haitian Creole, and Arabic and the ICE National Detainee Handbook in English and Spanish. While onsite Intake staff were able to articulate their ability to print the ICE National Detainee Handbook in any of the 15 most prevalent languages encountered by ICE, specifically English, Spanish, French, Haitian Creole, Punjabi, Hindi,

Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, K'iche' (Quiché)/Kxlantzij, and Vietnamese. In addition, the Auditor observed the DHS-prescribed SAA Information pamphlet in the processing area and witnessed them being delivered to detainees upon intake. A review of the ICE National Detainee Handbook and the facility local handbook confirmed all elements required by the standard are included in the handbooks. Interviews with 30 detainees indicated, 26 detainees had received the handbooks and 4 detainees either did not receive the handbooks or could not remember if they had received them. A review of 10 detainee detention files indicated all 10 detainees had signed the Detainee Summary indicating receipt of the documentation. In addition, a review of 10 detainee files indicated that in all 10 of the files, the detainees completed the Detainee Summary the same date as intake.

Corrective Action:

No corrective action needed.

§115.34 - Specialized training: Investigations.

Outcome: Meets Standard

Notes:

(a)(b): The Agency 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, which 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 or to complete the administrative investigation. This training includes topics related to interacting with traumatized victims; best practices for interacting with LEP; LGBTI, and disabled residents; and an overall view of the investigative process. The Agency provides rosters of trained investigators on OPR’s SharePoint site for Auditors’ review; this documentation is in accordance with the standard’s requirement. BSPC Policy 4.5.12 states, “In addition to the general training provided to all facility employees, the facility shall provide specialized training on sexual abuse and effective cross-agency coordination to facility investigators who conduct investigations into allegations of sexual abuse at immigration detention facilities. This training must cover, at a minimum, interviewing sexual abuse and assault victims, sexual abuse and assault evidence collection in confinement settings, the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process. The facility must maintain written documentation verifying specialized training provided to investigators pursuant to this paragraph.” The Auditor reviewed the Immigration and Customs Enforcement, Office of Professional Responsibility Investigating Incidents of Sexual Abuse and Assault and confirmed the curriculum includes specialized training on sexual abuse and effective cross-agency coordination. The facility PAQ indicated there are two facility Investigators that have received the training. The Auditor reviewed training certificates for both Investigators and confirmed they have received the specialized training and have received the general PREA training as required by standard §115.31. Both investigators were interviewed and were knowledgeable and could articulate their investigative responsibilities.

Corrective Action:

No corrective action needed.

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

Outcome: Meets Standard

Notes:

(a)(b)(c): IHSC Directive 03-01 states, “IHSC has a zero-tolerance policy for sexual or physical assault, abuse, and sexual harassment. All IHSC staff receive training on the Sexual Abuse and Assault Prevention and Intervention (SAAPI) directive, PREA standards, and response protocol during initial orientation and annually thereafter throughout their employment with IHSC Training includes: 6-11-2. a Definition and examples of prohibited and illegal sexual behavior, recognizing situations where sexual abuse may occur. 6-11.2. b Detection

and treatment of physically or sexually abused and assaulted detainee victims in ICE custody. 6-11.2. c Appropriate interventions when an incident occurs. 6-11.2. d Description of how to respond effectively and professionally to detainee victims of sexual abuse and assault, recognizing physical, behavioral, and emotional signs of sexual abuse. 6-11.2. e Discussion of how to communicate effectively and professionally to bisexual, transgender, intersex (LGBTI), or gender nonconforming detainee victims. 6-11.2. f Actions that will assist detainee victims to safeguard physical evidence of sexual abuse and assault. 6-11.2. g Steps for reporting allegations or suspicions of sexual abuse and assault. IHSC staff will not suffer retaliation for reporting abuse or assaults. 6-11.2. h Information for security staff on how to conduct “cross gender” pat down searches and searches of transgender and intersex detainees in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. 6-11.2. i How to identify and protect physical evidence with detainee victims, including lesbians and gays, and how to identify and protect physical evidence, victims, including lesbians and gays, and how to protect physical evidence.” BSPC policy 4.5.12 states, “Facility medical staff shall be trained in procedures for examining and treating detainee victims of sexual abuse in facilities where medical staff may be assigned these activities. This training shall be subject to the review and approval of the Field Officer Director or other designated ICE official.” The Auditor reviewed the IHSC PREA, Sexual Assault & Abuse Prevention and Intervention training curriculum and confirmed all elements required by the standard are included in the training material. The Auditor was provided training sign-in sheets, which indicated IHSC staff have received the specialized training. In addition, the Auditor was provided documentation to confirm all IHSC staff have completed general PREA training required by §115.31. Interviews with the facility HSA confirmed all medical and mental health staff are required to attend the IHSC specialized training and the facility's general PREA training. The Auditor reviewed the training file of the IHSC mental health provider and confirmed the required training was received. Interviews with the OIC and PSA Compliance Manager confirmed BSPC policy 4.5.12 was referred and approved by the Agency.

Corrective Action:

No corrective action needed.

§115.41 - Assessment for risk of victimization and abusiveness.

Outcome: Does Not Meet Standard

Notes:

(a)(b)(c)(d)(e): BSPC policy 4.2.2, Classification, states, “All detainees shall be screened upon arrival at the facility for potential risk of sexual victimization or sexually abusive behavior and shall be housed to prevent sexual abuse or assault, taking necessary steps to mitigate any such danger. Each new detainee shall be kept separate from the general population until they have been classified and may be housed accordingly. The initial classification process and initial housing assignment should be completed within twelve hours of admission into the facility. The facility shall consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization: (1) Whether the detainee has a mental, physical, or developmental disability; (2) The age of the detainee; (3) The physical build and appearance of the detainee; (4) Whether the detainee has previously been incarcerated or detained; (5) The nature of the detainee’s criminal history; (6) Whether the detainee has any convictions for sex offenses against adult or child; (7) Whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; (8) Whether the detainee has self-identified as having previously experienced sexual victimization; (9) The detainee’s own concerns about his or her physical safety. The initial screening will take into account prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the facility, in assessing detainees for risk of being sexually abusive.” BSPC policy 4.2.2 further states, “The detainee’s risk of victimization or abusiveness will be reassessed between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization.” Interviews with Intake staff indicated that AGS staff screen detainees for special vulnerabilities upon intake into the facility, which is reflected on an Admission Initial PREA Vulnerability Assessment Questionnaire. The assessment screening takes into consideration whether the detainee has a mental, physical or developmental disability, the age of the detainee, whether the detainee has been

previously incarcerated or detained, the nature of the detainee's criminal history, how the detainee wishes to be identified (gender), whether the detainee has any previous convictions, whether the detainee has self-identified as having previously experienced sexual victimization, and the detainee's own concerns about his or her physical safety. A review of the assessment form confirms it considers the detainee's physical build, appearance and specifically asks the detainee if they identify as gay, lesbian, bisexual, transgender, intersex, or gender non-conforming or whether the detainee has any prior convictions for sexual abuse against an adult or child. In interviews with Intake staff, it was further indicated the facility IHSC staff utilizes an additional facility IHSC Intake Screening form to supplement the facility assessment form. In an interview with the Intake Lieutenant, it was further indicated the initial classification process, and the detainee's initial housing assignment are completed within 12 hours of the detainee's arrival at the facility and detainee files are kept in a locked room accessible to only the classification staff. An interview with the Classification Manager indicated a detainee's risk of victimization or abusiveness is reassessed between 60 to 90 days, at any other time the facility receives additional relevant information and following an incident of sexual abuse or victimization. During the on-site audit the Auditor reviewed 10 detainee files and confirmed an initial risk assessment and initial housing had been completed within 12 hours of the detainee's admission into the facility. However, during the review of 10 detainee classification files, 2 of 10 had been assigned to BSPC for over 90 days and the facility could not produce documentation supporting the detainees had been reassessed for risk of victimization or abusiveness. The Auditor then requested to view 5 additional files for detainees with stays at the facility for more than 90 days and 3 files did not include documentation supporting reassessment within 60-90 days. During the on-site audit the Auditor reviewed 9 investigative files and confirmed each detainee victim of sexual abuse had been reassessed following an allegation of sexual abuse.

(f): BSPC policy 4.5.12 states, "Detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked pursuant to paragraphs (c)(1), (c)(7), (c)(8) or (c)(9) of this section." During interviews with an Intake Officer, Classification Officer, and Disciplinary Officer, it was indicated detainees are not disciplined for refusing to answer questions or for not disclosing complete answers during the screening process. Additionally, during the onsite audit, the auditor observed an intake where the detainee refused to answer all questions and no disciplinary action was taken.

(g): BSPC policy 4.2.2 states, "The facility shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees or inmates." An interview with the facility Classification Supervisor indicated all detainee files are kept in a locked cabinet and the auditor observed the secured area within the Intake area during the onsite audit.

Corrective Action:

(e): The facility is not in compliance with subsection (e) of the standard. During the onsite review of 10 detainee classification files, 5 of 15 had been assigned to BSPC for over 90 days and the facility could not produce documentation supporting the detainees had been reassessed for risk of victimization or abusiveness. To become compliant, the facility must provide the Auditor with 10 detainee files that confirm that the facility reassesses each detainee's risk of victimization or abusiveness between 60-90 days from the date of the initial assessment. Additionally, the facility must submit documentation which confirms all classification staff have received training on the subsection (e) of the standard which requires reassessment of each detainee's risk of victimization or abusiveness between 60-90 days from the date of initial assessment, and at any other time when warranted.

§115.42 - Use of assessment information.

Outcome: Meets Standard

Notes:

(a)(b)(c): BSPC policy 4.2.2, Classification, states, "The point total from the BDFD Custody Classification Worksheet form will decide the classification level of each detainee. All housing, work assignments, and available activities will be decided by the level of classification received by a detainee. The initial ICE Risk

Classification Assessment (RCA) is to be used on all detainees remaining in confinement after completion of the detainee medical screening form (PHS Form J -794). This RCA must be completed before a detainee is moved from the processing unit to a general population housing assignment. When making classification and housing decisions for a transgender detainee, staff shall consider the detainee's gender self-identification and an assessment of the effects of placement on the detainee's mental health and well-being. A medical or mental health professional shall be consulted as soon as practicable on this assessment. When a referral for mental health follow up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral. Placement decisions should not be based solely on the identity documents or physical anatomy of the detainee and a detainee's self-identification of his/her gender shall always be taken into consideration as well. Placement shall be consistent with the safety and security considerations of the Facility, and placement and programming assignments for each detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee.” BSPC policy 4.5.12, SAAPI, states, “When making assessment and housing decisions for a transgender or intersex detainee, the facility shall consider the detainee's gender self-identification and an assessment of the effects of placement on the detainee's health and safety. The facility shall consult a medical or mental health professional as soon as practicable on this assessment. The facility should not base placement decisions of transgender or intersex detainees solely on the identity documents or physical anatomy of the detainee; a detainee's self-identification of his gender and self-assessment of safety needs shall always be taken into consideration as well. The facility's placement of a transgender or intersex detainee shall be consistent with the safety and security considerations of the facility, and placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee.” An interview with a Classification Officer confirmed detainee housing is determined based on the detainee's custody level, which is determined by the criminal history and background information provided to the facility through the ICE RCA. The Classification Officer further confirmed detainees are housed with other detainees of the same custody level. In addition, the Classification Officer confirmed he reviews the Admission Initial PREA Vulnerability Assessment Questionnaire and takes in account each detainee answer when making classification decisions. The Classification Officer further indicated transgender or intersex detainees would initially be housed in the medical unit pending medical staff input regarding the best options for housing that would ensure the health and safety of the detainee. Interviews with the HSA, and a mental health provider, indicated they are consulted prior to a transgender or intersex detainee being placed into a housing unit, programs, or other activities. In an interview with the Classification Officer, it was indicated if a detainee is identified as a sexual predator, a potential victim of sexual abuse, or a transgender/intersex detainee, a vulnerability risk would be entered into the Risk Classification Assessment (RCA). In an interview with the Classification Officer, it was further indicated that housing of transgender/intersex detainees is determined on an individualized basis. In interviews with five random AGS staff it was indicated transgender and intersex detainees have the opportunity to shower separately from other detainees utilizing individual showers. Additionally, during the Auditor's interview with one transgender detainee, she indicated she is allowed to shower privately. The Auditor reviewed the same transgender detainee file and confirmed a reassessment had been completed as required by the standard.

Corrective Action:

No corrective action needed.

§115.43 - Protective custody.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e): BSPC policy 3.4.4, Protective Custody Operations, states, “Protective custody [PC] is a status of confinement for detainees requesting or requiring protection from other detainees that entails separation from the general population. PC is not a punitive measure and is only used when no reasonable, safe alternative is available. Use of administrative segregation to protect detainees with special vulnerabilities, including detainees vulnerable to sexual abuse or assault, shall be restricted to those instances where reasonable efforts have been made for the least amount of time practicable, and when no other viable housing option exists, and as a last resort.

Detainees who have been placed in administrative segregation for protective custody shall have access to programs, services, visitation, counsel and other services available to the general population to the maximum extent possible. A designated Supervisor will review, in person, the status of all detainees in PC within 72 hours of placement in administrative segregation, and then at least every seven days for the first sixty days and every thirty days thereafter. A detainee's age, physical disability, sexual orientation, gender identity, race, or religion may not provide the sole basis for a decision to place the detainee in involuntary segregation. An individualized assessment must be made in each case. The FOD shall take steps to ensure that he or she is notified in writing as soon as possible by the AFOD or designee, but no later than 72 hours after the initial placement into segregation, whenever any of the following criteria have been met: a) A detainee has been placed in administrative segregation on the basis of a disability, medical or mental illness, or other special vulnerability, or because the detainee is an alleged victim of a sexual assault, is an identified suicide risk, or is on a hunger strike; or b) A detainee placed in segregation for any reason has a mental illness or a serious medical illness or serious physical disability. In addition, BSPC policy 3.4.4 states, "A supervisor shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted" and "a supervisor shall conduct an identical review after the detainee has spent 7 days in administrative segregation, and weekly after the first 7-day review for the first 60 days and every 10 days thereafter, at a minimum." The Auditor reviewed the Interim Checklist for Review of Segregation Placement Decisions. The checklist states, "The facility administrator, or ICE personnel, must notify the FOD within 72 hours of initial placement of any detainee in segregation...status as a sexual assault victim, or other special vulnerability..." The checklist further states, "Consider whether a less restrictive housing or custodial option is appropriate and available, and, in coordination with ICE headquarters, when necessary, arrange for utilization of such less restrictive options." In addition, the checklist further requires "a supervisory staff member shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted and at a minimum, conduct an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days, and every 10 days thereafter." A review of BSPC policy 4.5.12 confirms that the policy requires supervisors to conduct reviews every 7 days for the first 60 days as opposed to the standard and checklist requirement of every 7 days for the first 30 days. An interview with the OIC indicated detainees vulnerable to sexual abuse or assault would only be placed into administrative segregation after all reasonable efforts had been made to provide other appropriate housing. The OIC further indicated that detainees housed in administrative segregation for protective custody could participate in all programs, services and any other services offered to the general population. The facility PAQ indicated no detainees had been placed in administrative segregation based on a vulnerability to sexual abuse or assault. Interviews with the AFOD, OIC and PSA Compliance Manager indicated the BSPC policy 3.4.4 was developed in consultation with the FOD. The facility also provided a memo stating, "BSPC has not had a detainee request or agreed to be housed in protective custody during the audit period."

Corrective Action:

No corrective action needed.

§115.51 - Detainee reporting.

Outcome: Meets Standard

Notes:

(a)(b)(c): BSPC policy 4.5.12 states, "The facility shall provide instructions on how detainees may contact their consular official, the DHS Office of Inspector General, or as appropriate, another designated office, to confidentially and, if desired, anonymously report these incidents. The facility shall inform the detainees of at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request. Staff shall accept reports made verbally, in writing, anonymously, and from third parties, and promptly document any verbal reports." During the on-site audit, the Auditor observed postings in English and Spanish that advised the detainees how to contact their consular officials, the DHS OIG and the DRIL, to confidentially and if desired anonymously report an incident of sexual

abuse. Instructions for calling the numbers were provided in all 15 languages most commonly recognized by ICE and were seen by the telephones in all housing units. The auditor tested all telephones and found them to be in working order. With the assistance of a detainee volunteer and his pin number, the Auditor called the facility PREA Hotline number successfully. The Auditor was able to call the DHS OIG and DRIL successfully. A review of the facility detainee handbook confirmed detainees are provided multiple ways to report an incident of sexual abuse, which include tell any staff member, file a grievance, tell an ICE ERO staff member, submit a request via available tablets, report to DHS OIG, or ICE Headquarters with numbers provided. In addition, the handbook informs the detainee they can report without giving their name. With the assistance of a detainee, the auditor viewed all calling instructions and the ICE National Detainee Handbook in all 15 of the most prevalent languages encountered by ICE, specifically English, Spanish, French, Haitian Creole, Punjabi, Hindi, Arabic, Simplified Chinese, Russian, Portuguese, Romanian, Turkish, Bengali, K'iche' (Quiché)/Kxlantzij, and Vietnamese. In interviews with Intake staff, it was indicated upon arrival at the facility, the detainees are given the facility handbook and sign a document indicating they have received it; and the auditor confirmed this during the review of 10 detainee files. In an interview with the Intake Officer, it was confirmed the detainee would receive the ICE National Detainee National Handbook in their preferred language. In interviews with five random AGS security staff it was confirmed they were aware of the standards' requirement to accept reports made verbally, in writing, anonymously, and from third parties, and promptly document any verbal reports. Interviews with 20 detainees confirmed they could articulate multiple ways to report sexual abuse and they could anonymously report if desired. The Auditor reviewed nine sexual abuse allegation investigation files and confirmed all reported incidents of sexual abuse were accepted and documented accordingly.

Corrective Action:

No corrective action needed.

§115.52 - Grievances.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e)(f): BSPC policy 4.5.12, states, "Formal grievances related to sexual abuse and assault may be filed at any time during, after, or in lieu of lodging an informal grievance or complaint and with no time limit imposed on when a grievance may be submitted. Written procedures must be implemented for identifying and handling time sensitive grievances that involve an immediate threat to detainee health, safety or welfare related to sexual abuse or assault. Decisions on grievances shall be issued within five days of receipt and appeals shall be responded to within 30 days. Detainees may obtain assistance from another detainee, the housing officer or other facility staff, family members or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties. All grievances related to sexual abuse and the facility's decision on any such grievance must be forwarded to the Buffalo Field Office Director (FOD)." A review of the facility handbook confirmed the written procedures for time-sensitive and medical grievances are included. During the on-site audit the Auditor observed grievance boxes installed in all housing units. An interview with the Grievance Officer (GO) indicated he is responsible for collecting the grievances on a daily basis and if there is an allegation of sexual abuse, the detainee will immediately be taken to medical for an assessment. The GO further indicated, detainees can file a grievance related to sexual abuse at any time with no time limits imposed and they do not have to go through the informal grievance process. The GO explained that time sensitive emergency grievances should be brought to a designated GO or directly to the facility administrator or their designee. If these personnel are not available, a shift supervisor may be informed of the complaint. In addition, the GO indicated, he would be responsible to ensure a detainee who needed assistance to file a grievance is provided the assistance requested and if a grievance includes an allegation of sexual abuse, he will respond to the detainee within five days, noting the allegation has been submitted to facility Investigators and the grievance has been closed. Additionally, on the first day of the audit, the auditor placed a test grievance in a random housing unit grievance container without staff's knowledge. On day two of the onsite audit, a ASG DO delivered the test grievance directly to the auditor. The facility PAQ indicated that there were two grievances alleging sexual abuse, or anything related to sexual abuse submitted during the audit period. A review of nine investigation files confirmed two of the

allegations had been received through the grievance process. A review of the sexual abuse allegation investigation files submitted through the grievance process, and the facility computerized grievance system, confirmed a response was submitted to the detainee within five days. A review of the sexual abuse allegation investigation files submitted through the grievance process further confirmed both detainees who filed a sexual abuse allegation were provided medical and mental health service at the time the grievance was filed. The Auditor was unable to view the medical and mental health files of the two detainees who filed an allegation of sexual abuse through the grievance process due to both being released from ICE custody. The review of two sexual abuse allegation files that had been received during the grievance process confirmed neither detainee required assistance in filing the grievance.

Corrective Action:

No corrective action needed.

§115.53 - Detainee access to outside confidential support services.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): BSPC policy 4.5.12 states, "The facility shall attempt to enter into memoranda of understanding (MOU) or other agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible. The facility shall also inform detainees, prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws." A review of the facility handbook confirmed the handbook contained information about local organizations that can assist detainees who have been victims of sexual abuse, including mailing addresses and telephone numbers. The facility handbook also detailed calls that are exempt from monitoring that includes calls to attorneys, consulates, and advocacy. The facility handbook also details the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The Auditor reviewed the MOU with RPPCWN Y, which states, "The purpose of this Understanding is to set forth terms by which RESTORE will provide crisis intervention and support services to any detainee at the Buffalo Federal Detention Facility that has been impacted sexual violence or abuse, as well as to provide advocacy and third-party reporting options as needed." The facility provided the Auditor with a Flyer for the RPPCWN Y. The flyer states, "24/7 Crisis and Sexual Assault Helpline" and provides a telephone number. During the on-site audit, the Auditor observed the flyer posted on the housing unit bulletin boards. The auditor was able to call the number provided to detainees without utilizing a PIN and was connected to an advocate with RESTORE. In an interview with the RESTORE advocate it was confirmed the facility and RESTORE have an established MOU and that services are provided at no cost to the detainee. The MOU was last updated on February 1, 2023, and has no expiration date. The interview with the advocate further confirmed advocates provide crisis intervention, counseling, and the prosecution of sexual abuse perpetrators to most appropriately address the victims' needs. Interviews with 20 random detainees, confirmed 15 of the detainees interviewed were aware of RESTORE, and/or other outside services, that may be available to them for crisis intervention or emotional support services in dealing with sexual abuse. The remaining five detainees interviewed stated they were not aware of the available resources but as previously stated, the auditor observed this information within the facility handbook and the information was posted in every dorm in the facility.

Corrective Action:

No corrective action needed.

§115.54 - Third-party reporting.

Outcome: Meets Standard

Notes:

BSPC policy 4.5.12 states, "Third party reports of sexual abuse of detainees being housed at the BFDF can be reported directly to the Facility Lobby Officer during visitation hours. The Lobby Officer will immediately notify the AFOD or first line supervisor when a third-party report of sexual abuse is received. Third party reports of sexual abuse can also be made by calling the BFDF main number (585-344-6500). The BFDF Lobby will have SAPPI posters in plain view of visitors with information on how to report sexual abuse on behalf of a detainee. The National Detainee Handbook and the BFDF Handbook provides information for the reporting of sexual abuse by third parties. These two resources are available to the public." While onsite the auditor observed SAAPI posters within the lobby area. A review of the facility website (<https://www.ice.gov/detain/detention-facilities/buffalo-batavia-service-processing-center>) confirmed the facility provides the public with 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, on behalf of a detainee. The website provides addresses and telephone number for the DHS OIG, the DRIL, and ICE OPR. The Auditor completed the online report form for the DRIL and confirmed it was in good working order. In addition, a review of the Agency website (www.ice.gov/prea) confirmed it provides the public with information (telephone number & address) regarding third-party reporting of sexual abuse on behalf of the detainee. Interviews with the OIC and PSA Compliance Manager, and five AGS security line staff indicated they would accept a sexual abuse allegation made by a third party. Of the nine PREA allegations reviewed by the auditor, none were made via third party reporting.

Corrective Action:

No corrective action needed.

§115.61 - Staff reporting duties.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): The Agency's policy 11062.2 mandates, "All ICE employees shall immediately report to a supervisor or a designated official any knowledge, suspicion, or information regarding an incident of sexual abuse or assault of an individual in ICE custody, retaliation against detainees or staff who reported or participated in an investigation about such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation." In addition, ICE Directive 11062.2 states, "If alleged victim under the age of 18 or determined, after consultation with the relevant [Office of Principal Legal Advisor] OPLA Office of the Chief Counsel (OCC), to be a vulnerable adult under state or local vulnerable persons statute, reporting the allegation to the designated state of local services or local service agency as necessary under applicable mandatory reporting law; and to document his or her efforts taken under this section." BSPC policy 4.5.12 states, "All staff must immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in a facility; retaliation against detainees or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. The facility shall review and approve policies and procedures to ensure that the facility's appropriate reporting procedures are specified, including a method by which staff can report outside of the chain of command. Staff members who become aware of alleged sexual abuse shall immediately follow the reporting requirements set forth in the facility's written policies and procedures." BSPC policy 4.5.12 further states "Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those that have a need-to-know in order to make decisions concerning the victim's welfare, and for law enforcement/investigative purposes." During interviews with all ICE and AGS staff, it was confirmed all could articulate their responsibilities to immediately report any knowledge, suspicion, or information they may receive regarding sexual abuse, retaliation for reporting or cooperating with an allegation, and any staff neglect that may have contributed to an incident of sexual abuse. All ICE and AGS staff interviewed further indicated that all information regarding an incident of sexual abuse was to remain confidential and only shared with those that have a need-to-know. They further indicated they could make a report outside of their chain of command. An

interview with the facility PSA Compliance Manager confirmed he was aware of the requirements to report allegations involving a vulnerable adult to the Adult Protection Services. Interviews with the AFOD and the OIC confirmed all BSPC policies and procedures have been approved by the Agency. BSPC does not house juveniles or family unit detainees.

Corrective Action:

No corrective action needed.

§115.62 - Protection duties.

Outcome: Meets Standard

Notes:

BSPC policy 4.5.12 states, “All staff (employees, volunteers, and contractors) are responsible for being alert to signs of potential sexual abuse or assault, and to situations in which sexual abuses or assaults might occur. If a facility staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee.” Interviews with the OIC and PSA Compliance Manager indicated if there is a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse staff are required to take immediate action. Interviews with five AGS security line staff and two AGS Supervisors confirmed if they become aware a detainee is at substantial risk of sexual abuse their first response would be to protect the detainee from the danger by separating him from the alleged perpetrator. A review of nine sexual abuse allegation investigation files confirmed once staff became aware of an imminent threat of sexual abuse the alleged detainee victim was immediately removed from the imminent danger.

Corrective Action:

No corrective action needed.

§115.63 - Reporting to other confinement facilities.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): BSPC policy 4.5.12 states, “Upon receiving an allegation that a detainee was sexually abused while confined at another facility, the facility whose staff received the allegation shall notify the Field Office Director and the appropriate administrator of the facility where the alleged abuse occurred. The notification provided in this section shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The facility shall document that it has provided such notification. The facility where the alleged abuse occurred shall then ensure the allegation is referred for investigation and reported to the appropriate Field Office Director in accordance with this standard.” An interview with the facility PSA Compliance Manager indicated if the facility received notification from another facility that a detainee alleged, he was sexually abused while housed at BSPC, the allegation would immediately be referred for an investigation and a notification would be made to the ICE FOD. The PSA Compliance Manager further indicated, if an allegation was received that a detainee was sexually abused while confined in another facility, he would notify the head of the facility within 72 hours; however, the notification is usually immediate. In interviews with the PSA Compliance Manager and the OIC it was indicated the notification would be made by phone and followed up with an email for documentation purposes. A review of the PREA Allegation Spreadsheet and PAQ confirmed the facility has not received a sexual abuse allegation occurring at another facility, or another facility reporting an allegation that occurred at BSPC, during the audit period.

Corrective Action:

No corrective action needed.

§115.64 - Responder duties.

Outcome: Meets Standard

Notes:

(a)(b): BSPC policy 4.5.12 states, "If the abuse occurred within a time period that still allows for the collection of physical evidence, the first responder shall: Request the alleged victim not to take any action that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and ensure that the alleged abuser not to take any action that could destroy physical evidence, and then notify security staff." In interviews with two security first responders and two non-security first responders it was confirmed all staff interviewed were aware of their first responder responsibilities. In a review of two sexual abuse allegation investigation files that required security staff perform first responder duties following an allegation of sexual abuse it was confirmed first responder duties were carried out in accordance with the standard. Additionally, the facility submitted a memo which states, "Buffalo Federal Detention Facility has not had a sexual abuse report by a responder who is not security staff during the audit period."

Corrective Action:

No corrective action needed.

§115.65 - Coordinated response.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): BSPC policy 4.5.12 states, "The facility must use a coordinated, multidisciplinary team approach to responding to sexual abuse, such as a Sexual Assault Response Team (SART), which includes a medical practitioner a mental health practitioner, a security staff member, and an investigator from the assigned investigative entity, as well as representatives from outside entities that provide relevant services and expertise. If a victim of sexual abuse is transferred between detention facilities, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services. If a victim is transferred from a DHS immigration detention facility to a non-DHS facility, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise. If the receiving facility is unknown to the sending facility, the sending facility shall notify the Field Office Director, so that he or she can notify the receiving facility. The facility must use a coordinated, multidisciplinary team approach to responding to sexual abuse, such as a Sexual Assault Response Team (SART), which includes a medical practitioner a mental health practitioner, a security staff member, and an investigator from the assigned investigative entity, as well as representatives from outside entities that provide relevant services and expertise." A review of BSPC policy 4.5.12 confirms it is utilized as the facility's coordinated response plan and does indicate a multidisciplinary team approach for coordinating the actions taken by first responders, investigators, medical/mental health personnel and the facility leadership in response to an incident of sexual abuse. While onsite the auditor observed a "Checklist for Responding to Allegations of Sexual Abuse and Assault at ICE Detention and Holding Facilities" for every investigation and it includes a detailed coordinated response plan. Interviews with the OIC and PSA Compliance Manager indicated that medical staff would inform the receiving facility of the detainee's potential need for services. An interview with medical staff confirmed they would only inform the receiving facility of the incident and the victim's need for medical or social services if the facility was covered by 6 CFR part 115, subpart A or B; otherwise, the information would only be shared upon the obtaining the detainee's consent.

Corrective Action:

No corrective action needed.

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

Outcome: Meets Standard

Notes:

BSPC policy 4.5.12 states, "Staff, contractors, and volunteers suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring detainee contact pending the outcome of an investigation." An

interview with the facility OIC indicated that if an allegation of sexual abuse is received involving a staff member, the staff member would be removed from all contact with detainees until the outcome of the investigation is determined. The facility OIC further stated, depending on the seriousness of the allegation, staff could be placed on administrative leave or moved to another post that does not have contact with detainees, such as the facility lobby. In addition, the facility OIC indicated if the alleged abuser is a contractor or volunteer, they would be removed from the facility, until the conclusion of the investigation. The Auditor reviewed nine sexual abuse investigation files which included six staff-on-detainee sexual abuse allegations and confirmed staff had been reassigned to another post that did not have detainee contact, in all six of the files. Within each of the six files, the auditor viewed documentation that confirmed the allegation was investigated and at the conclusion of the investigation the staff member was allowed to return to the facility by the Agency AFOD.

Corrective Action:

No corrective action needed.

§115.67 - Agency protection against retaliation.

Outcome: Does Not Meet Standard

Notes:

(a)(b)(c): Agency policy 11062.2 mandates, "ICE employees shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse or assault, or for participating in sexual activity as a result of force, coercion, threats, or fear of force." BSPC Policy 4.5.12 states, "Staff, contractors, volunteers, and detainees shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual abuse as a result of force, coercion, threats, or fear of force. The facility shall employ multiple protection measures, such as housing changes, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or for cooperating with investigations. For at least 90 days following a report of sexual abuse, the facility shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff and shall act promptly to remedy any such retaliation. Items the facility should monitor include any detainee disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The facility shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need." An interview with the PSA Compliance Manager/Retaliation Monitor indicated that detainees would be monitored for up to 90 days for retaliation following an allegation of sexual abuse. The PSA Compliance Manager/Retaliation Monitor further indicated he or his designee meet with the detainee; and he reviews housing changes, programming changes, and disciplinary reports. In addition, in an interview with the PSA Compliance Manager/Retaliation Monitor it was confirmed he could articulate what protective measures would be reviewed for staff. He further confirmed what emotional support services were available for detainees or staff who fear retaliation for reporting sexual abuse or for cooperating with a sexual abuse allegation investigation. However, when the Auditor reviewed the facility Retaliation Monitoring log, he could not determine the date(s) retaliation monitoring was conducted nor what staff member conducted the retaliation monitoring. Additionally, none of the nine closed investigations included retaliation monitoring documentation. In addition, a review of the log confirmed it did not include documentation to confirm monitoring of staff to include negative performance reviews or reassignments of staff as required by the standard.

Corrective Action:

The facility is not in compliance with subsection (c) of the standard. A review of the Retaliation Monitoring log could not confirm specific date(s), nor did it include the retaliation monitoring staff member's name or if further monitoring was required. In addition, a review of the log confirmed it did not include documentation to suggest the possible monitoring of staff to include, but not limited to, a review of negative performance reviews or reassignments of staff as required by the standard. To become compliant, the facility must submit documentation to confirm the development of a process to monitor staff for retaliation and to act promptly to remedy any such retaliation as required by BSPC policy 4.5.12 and the standard. Once implemented the facility must train all staff involved in retaliation monitoring on the new process. In addition, if applicable, the facility must provide the

Auditor with five sexual abuse allegation investigation files, and the corresponding Retaliation Monitoring forms/log, to include both detainees and staff, where indicated, to confirm retaliation monitoring was conducted and continued for at least 90 days, longer if the initial monitoring indicates a continuing need as required by subsection (c) of the standard.

§115.68 - Post-allegation protective custody.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): BSPC policy 4.5.12 states, “Victims and vulnerable detainees shall be housed in a supportive environment that represents the least restrictive housing option possible (e.g., in a different housing unit, transfer to another facility, medical housing, or protective custody), and that will, to the extent possible, permit the victim the same level of privileges he/she was permitted immediately prior to the sexual assault. This placement should take into account any ongoing medical or mental health needs of the victim. Victims may not be held for longer than five days in any type of administrative segregation for protective purposes, except in highly unusual circumstances or at the request of the victim. The facility shall notify the appropriate ICE Field Office Director whenever a detainee victim, or detainee placed due to vulnerability to sexual abuse or assault, has been held in administrative segregation for 72 hours. A detainee victim who is in protective [custody] after having been subjected to sexual abuse shall not be returned to the general population until the completion of a proper reassessment, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse or assault.” An interview with the OIC indicated detainee victims of sexual assault would be placed in a supportive environment that represents the least restrictive housing option possible. An interview with a facility Classification Officer indicated that a detainee will not be returned to general population until a reassessment has been completed. The facility provided a memo to the auditor which noted no detainee protective custody placements during the audit period. While onsite, the auditor reviewed nine investigation files and confirmed no protective custody placements.

Corrective Action:

No corrective action needed.

§115.71 - Criminal and administrative investigations.

Outcome: Meets Standard

Notes:

(a)(b)(c)(e)(f): BSPC policy 4.5.12 states, “The facility shall coordinate with ICE and other appropriate investigative entities to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse. All investigations must be prompt, thorough, objective, fair and conducted by specially trained, qualified investigators.” BSPC policy 4.5.12 further states, “Upon conclusion of criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity. Assessment of the credibility of an alleged victim, suspect or witness without regard to the individual's status as detainee, staff, or employee and without requiring any detainee who alleged sexual abuse or assault to submit to a polygraph. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation. When outside agencies investigate sexual abuse and assault, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. Where an alleged victim of sexual abuse or assault that occurred elsewhere in ICE custody is subsequently transferred to the facility, the facility shall also cooperate with any administrative or criminal investigative efforts arising from the incident.” BSPC policy 4.5.12 further states, “Administrative Investigation procedure includes: (i) Preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; (ii) Interviewing alleged victims, suspected perpetrators, and witnesses; (iii) Reviewing prior

complaints and reports of sexual abuse involving the suspected perpetrator; (iv) Assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph; (v) An effort to determine whether actions or failures to act at the facility contributed to the abuse; (vi) Documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings; and (vii) Retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years. Such procedures shall govern the coordination and sequencing of administrative and criminal investigations, in accordance with the first paragraph of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation." Interviews with the facility PSA Compliance Manager and a facility Investigator indicated there are two Investigators who conduct sexual abuse allegation administrative investigations at BSPC. The Auditor reviewed the ICE/OPR Investigating Incidents of Sexual Abuse and Assault lesson plan and confirmed the curriculum includes specialized training on sexual abuse and effective cross-agency coordination. The Auditor reviewed the training records of both facility Investigators and confirmed both investigators are qualified and have received the specialized investigation training. The Auditor reviewed nine investigation files and confirmed all elements required by the subsection (c) of the standard were completed. An interview with a facility Investigator indicated if an allegation appeared to be criminal, he would notify the local law enforcement and would assist and cooperate with them throughout the investigation. The facility Investigator further indicated they would remain in constant contact with local law enforcement to remain aware of the progress of the investigation. In addition, the facility Investigator indicated an administrative investigation would not begin until after consultation with ICE and the local police department to ensure the case is not comprised. Interviews with the facility PSA Compliance Manager and a facility Investigator confirmed an investigation will be completed regardless of a departure of the alleged abuser or victim from the employment or control of the facility. The Auditor reviewed nine investigation files and confirmed all elements required by the subsections (c)(e) of the standard were followed.

Corrective Action:

No corrective action needed.

§115.72 - Evidentiary standard for administrative investigations.

Outcome: Meets Standard

Notes:

Agency Policy 11062.2 states, "The OPR shall conduct either an OPR review or investigation, in accordance with OPR policies and procedures. Administrative investigations impose no standard higher than a preponderance of the evidence to substantiate an allegation of sexual abuse. Additionally, the ICE OPR Investigations Incidents of Sexual Abuse and Assault training required for investigators includes the evidentiary standard for administrative investigations." BSPC policy 4.5.12 states, "The facility uses no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated." An interview with a facility Investigator indicated the facility will not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated. The Auditor reviewed nine investigative files and confirmed the outcomes of the investigations were not based on a standard higher than a preponderance of evidence.

Corrective Action:

No corrective action needed.

§115.73 - Reporting to detainees.

Outcome: Meets Standard

Notes:

BSPC policy 4.5.12 states, "Following an investigation conducted by the facility into a detainee's allegation of sexual abuse, the facility shall notify the Field Office Director of the results of the investigation and any responsive actions taken so that the information can be reported to ICE headquarter and to the detainee." An

interview with the facility PSA Compliance Manager indicated that detainees are notified in writing of the results of the investigation. The Auditor reviewed nine investigation files and submitted the "Notification of PREA Investigation Results to the Detainee" to ERO POC for confirmation of the notification. The Auditor received confirmation that all nine detainee victims were notified of the results of the investigation and responsive action taken if applicable.

Corrective Action:

No corrective action needed.

§115.76 - Disciplinary sanctions for staff.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): BSPC policy 4.5.12 states, "Staff shall be subject to disciplinary or adverse action up to and including removal from their position for substantiated allegations of sexual abuse or for violating agency or facility sexual abuse policies, rules or standards. Removal from their position is the presumptive disciplinary sanction for staff who have engaged in, attempted or threatened to engage in sexual abuse as defined under the definition of staff on detainee abuse. The facility shall report all incidents of substantiated sexual abuse by staff and all removal of staff or resignations in lieu of removal for violations of sexual abuse policies, to appropriate law enforcement agencies unless the activity was clearly not criminal. The facility shall also report all such incidents of substantiated abuse, removals or resignations in lieu of removal to the Field Office Director, regardless of whether the activity was criminal and shall make reasonable efforts to report such information to any relevant licensing bodies to the extent known." Interviews with the AFOD, OIC and PSA Compliance Manager indicated staff are subject to disciplinary action up to and including termination for violations of the Agency and facility policies regarding sexual abuse. Interviews with the OIC and PSA Compliance Manager further indicated a report would be made to local law enforcement and if determined to be substantiated, a report would be made to any licensing bodies where applicable. The Auditor interviewed the IHSC HSA who indicated following a detainee allegation of sexual abuse the facility immediately would remove the IHSC staff member from the facility until the completion of the investigation. The Auditor reviewed documentation in each staff-on-detainee investigative file that confirmed the allegation was investigated and at the conclusion of the investigation the staff member was allowed to return to the facility by the Agency AFOD. A review of the PREA Allegation Spreadsheet confirms there were no substantiated allegations of sexual abuse involving staff or contract staff during the audit period.

Corrective Action:

No corrective action needed.

§115.77 - Corrective action for contractors and volunteers.

Outcome: Meets Standard

Notes:

(a)(b)(c): BSPC policy 4.5.12 states, "Any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees. The facility shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. Such incidents shall be reported to law enforcement agencies, unless the activity was clearly not criminal. The facility shall also report such incidents to the Field Office Director regardless of whether the activity was criminal and shall make reasonable efforts to report such incidents to any relevant licensing bodies, to the extent known. The facility shall take appropriate remedial measures and consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse but have violated other provisions within the PREA standards." An interview with the OIC indicated that contractors and volunteers who engage in sexual abuse or have violated other provisions within these standards are prohibited from contact with detainees. According to the OIC, the contractor/volunteer would be removed from the facility pending the outcome of an investigation and the facility would ensure reasonable efforts to report removals or resignations in lieu of removal for violations of the agency or facility policies to any relevant licensing bodies. A review of the PREA Allegation

Spreadsheet confirms there were no substantiated allegations of sexual abuse involving contractors or volunteers at BSPC during the audit period.

Corrective Action:

No corrective action needed.

§115.78 - Disciplinary sanctions for detainees.

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e)(f): BSPC policy 4.5.12 states, "Detainees shall be subjected to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse or assault. The facility shall not discipline a detainee for sexual contact with staff unless there is a finding that the staff member did not consent to such contact. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation." BSPC policy 3.3,1, Detainee Disciplinary, states, "It is the policy of the Buffalo Federal Detention Facility (BFDF) to have in place a system of detainee discipline that will serve to protect the public, detainees, and employees and maintain order in the Facility through the impartial application of fully developed, well-understood rules and regulations and a hearing procedure that incorporates applicable due process requirements. The committee will impose the allowable sanctions noted above in proportion to the seriousness of the infractions involved for the purpose of controlling behavior and punishing the detainee." An interview with the facility AGS Classification Supervisor indicated the facility does have a formal disciplinary process that is intended to encourage detainees to conform with rules and regulations. The AGS Classification Supervisor further indicated the disciplinary process includes progressive levels of review, appeal procedures, documentation procedures, and includes sanctions for those who engage in prohibited acts of sexual abuse. In addition, the AGS Classification Supervisor indicated the procedures include a review to determine if the detainee's mental disabilities contributed to the behavior and a detainee would not face disciplinary action for falsely reporting an incident or lying, even if the investigation does not establish evidence sufficient to substantiate the allegation, if the report was made in good faith. The Classification Supervisor further indicated a detainee would not be disciplined for sexual contact with a staff member unless the staff member did not engage or consent to the contact. During a review of nine sexual abuse allegation investigation files, the Auditor found no detainee-on-detainee allegations that had been substantiated during the audit period.

Corrective Action:

No corrective action needed.

§115.81 - Medical and mental health assessments; history of sexual abuse.

Outcome: Meets Standard

Notes:

(a)(b)(c): BSPC policy 4.5.12 states, "If screening indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/ or mental health follow up as appropriate. When a referral for medical follow up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of assessment. When a referral for mental health follow up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral. Detainees considered at risk for sexual victimization shall be placed in the least restrictive housing that is available and appropriate. Such detainees may be assigned to administrative segregation for protective custody only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days." IHSC Sexual Abuse and Assault Prevention and Intervention, Directive 11738.3 states, "ICE has zero-tolerance for all forms of sexual abuse or assault. Victims of sexual abuse and sexual assault, with current or a history of sexual abuse or assault, have unimpeded access to immediate medical and behavioral health services. IHSC provides access to emergency medical and behavioral health services, and

ongoing care, for detained noncitizens and residents (hereinafter known as patients) who are victims of sexual abuse or assault, and when deemed appropriate by mental health practitioners, detained noncitizen abusers. IHSC provides treatment services to patients without financial cost, regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident.” An interview with the facility HSA indicated during the medical intake, medical staff will review the IHSC Intake Screening questionnaire and will complete their own medical assessment, which includes a PREA assessment. If the medical staff become aware a detainee has experienced prior sexual victimization or perpetrated sexual abuse in the past, medical intake staff will set an appointment for a medical assessment to be completed within two days and will offer mental health services to the detainee. If the detainee refuses, the refusal is documented. If the detainee agrees to be seen by mental health, an electronic message is sent immediately to mental health staff for an assessment. An interview with a IHSC mental health provider indicated should a detainee be referred to mental health due to a history of sexual abuse, the detainee will be seen that day or the following day if the referral was made during the night. The mental health provider further indicated detainees referred to mental health who have been identified as sexual aggressors are assessed and offered treatment plans; however, they must be willing to participate. In addition, the mental health provider indicated any refusals for mental health services are documented in the detainee medical file. A review of the IHSC Intake Screening questionnaire indicates medical staff also inquire about prior sexual abuse within the last six months and it was indicated a detainee who experienced prior victimization would be seen by medical within two working days of the assessment and offered mental health services regardless of when the abuse occurred. The Auditor interviewed one detainee who had previously experienced sexual abuse. The detainee stated they had been offered mental health services. The Auditor reviewed the detainee file and confirmed the detainee was seen by mental health on the same day. During the on-site audit, the auditor observed two medical intake screenings and observed medical staff utilizing the available Lionbridge translation services for both LEP detainees. Additionally, during the interview of 11 LEP detainees, all 11 stated that IHSC medical staff communicate with them in their preferred language utilizing translation line services. The Auditor reviewed 10 detainee files and confirmed only 1 detainee had been identified as having a history of sexual abuse. A review of the detainee’s file confirmed the detainee was offered a follow-up evaluation with medical and mental health staff. In addition, a review of the medical and mental health files confirmed the detainee was seen by medical staff within two working days.

Corrective Action:

No corrective action needed.

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

Outcome: Meets Standard

Notes:

(a)(b): BSPC policy 4.5.12 states, “All treatment services, both emergency and ongoing, shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. 1. Access to emergency medical and mental health services (a) Detainee victims of sexual abuse and assault shall have timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care.” Interviews with the facility HSA, and a mental health provider indicated a detainee who has been victimized by sexual abuse is offered timely, unimpeded access to emergency medical treatment without financial cost and in accordance with professionally accepted standards of care, regardless of if the detainee victim cooperates with any investigation arising out of the incident. This treatment will include sexually transmitted infections prophylaxis. The Auditor reviewed nine sexual abuse allegation investigation files and confirmed all detainees who reported an allegation of sexual abuse had been immediately seen by medical and mental health. The facility does not house female detainees.

Corrective Action:

No corrective action needed.

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

Outcome: Meets Standard

Notes:

(a)(b)(c)(e)(f): BSPC 4.5.12 states, "The facility shall offer medical and mental health evaluation and as appropriate, treatment to all detainees who have been victimized by sexual abuse while in immigration detention. The evaluation and treatment of such victims shall include, as appropriate, follow up services, treatment plans and when necessary, referrals for continued care following their transfer to, or placement in other facilities, or their release from custody. Detainee victims of sexually abusive vaginal penetration by a male abuser while incarcerated shall be offered pregnancy tests. If pregnancy results from an instance of sexual abuse, the victim shall receive timely and comprehensive information about lawful pregnancy related medical services and timely access to all lawful pregnancy related medical services. Detainee victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate. All treatment services, both emergency and ongoing shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The facility shall provide such victims with medical and mental health services consistent with the community level of care." Interviews with the facility HSA, and a mental health provider indicated detainees would receive timely emergency access to medical and mental health treatment that includes as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to or placement in, other facilities, or their release from custody in accordance with professionally accepted standards of care. Interviews with the HSA, and mental health provider further indicated detainee victims of sexual abuse are offered tests for sexually transmitted infections and the services are provided at no cost to the detainee regardless of the detainee victim naming the abuser or cooperating with an investigation. An interview with a mental health provider indicated the facility would attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning about the sexual history and treatment would be offered. The Auditor reviewed nine investigation files and confirmed all detainees who reported an allegation of sexual abuse had been immediately seen by medical and mental health.

(d): BSPC only houses adult male detainees. Therefore, this subsection is not applicable to the facility.

(g): BSPC 4.12.5 states, "The facility shall attempt to conduct a mental health evaluation of all known detainee on detainee abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners." An interview with a mental health provider indicated that if a referral is received, the detainee will be seen that day or if at night, would be seen the following day. In interviews with the HSA, and a mental health provider, it was indicated they have not had a detainee disclose that they have committed prior sexual abuse during the audit period.

Corrective Action:

No corrective action needed.

§115.86 - Sexual abuse incident reviews.

Outcome: Meets Standard

Notes:

(a)(b): BSPC policy 4.5.12 states, "The facility shall conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault. For any substantiated or unsubstantiated allegation, the facility shall prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect or respond to sexual abuse and assault. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the Field Office Director, or his or her designee for transmission to the ICE PSA Coordinator. The review team shall consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender or intersex identification, status or perceived status or gang affiliation or was motivated or

otherwise caused by other group dynamics at the facility." The Auditor reviewed the facility Sexual Abuse or Assault Incident Review Form and confirmed the form includes the names of all the review team members present during the review, a brief summary of the incident, incident review findings, and recommendations. A review of the Sexual Abuse or Assault Incident Review Form further confirms the incident review finding section includes whether the review team considered whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility. During an interview with the PSA Compliance Manager, it was indicated the facility has established an incident review team which includes the AGS upper management, the PSA Compliance Manager, SDDO, a facility Investigator, the Assistant PREA Coordinator and a representative from medical and mental health. An incident review is conducted on all sexual abuse allegation investigations within 30 days of the completion of the investigation, and a written report is completed. The Auditor reviewed an email to the Agency PSA Coordinator that confirms incident review reports, and the response is forwarded as required by subsection (a) of the standard. The Auditor reviewed nine investigation files and confirmed a review had been completed within 30 days of the conclusion of the investigation.

(c): BSPC policy 4.5.12 states, "The facility shall conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the AFOD and Field Office Director, or his or her designee for transmission to the ICE PSA Coordinator." The Auditor reviewed the facility 2023 Facility Annual Sexual Abuse and Assault Report and documentation to confirm the report had been forwarded to the FOD, OIC and the Agency PREA Coordinator. A review of the annual report indicates there were no recommendations made during sexual abuse incident reviews.

Corrective Action:

No corrective action needed.

§115.87 - Data collection.

Outcome: Meets Standard

Notes:

(a): BSPC policy 4.5.12 states, "The facility shall maintain in a secure area all case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post release treatment, if necessary. The DHS Office of Inspector General shall maintain the official investigative file related to claims of sexual abuse investigated by the DHS Office of Inspector General." An interview with the facility PSA Compliance Manager confirmed all files related to sexual abuse are secured in his office. The Auditor toured the area during the on-site audit and confirmed files related to claims of sexual abuse are maintained in accordance with standard 115.87.

Corrective Action:

No corrective action needed.

§115.201 - Scope of audits.

Outcome: Meets Standard

Notes:

(d)(e)(i)(j): During all stages of the audit, including the on-site audit, the Auditor was able to observe all areas of the facility and review all available policies and procedures, memos and other relevant documentation required to make an assessment on PREA compliance. Interviews with staff and detainees were conducted in private while on-site and remained confidential. The Auditor observed the notification of the audit posted throughout the facility in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese. No detainees, outside entity, or staff correspondence was received prior to the on-site audit or during the post audit review.

Corrective Action:

No corrective action needed.

AUDITOR CERTIFICATION:

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

James McClelland

7/10/2024

Auditor's Signature & Date

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

7/10/2024

Program Manager's Signature & Date

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

7/10/2024

Assistant Program Manager's Signature & Date



U.S. Immigration
and Customs
Enforcement

Office of Professional Responsibility

(b) (7)(E)

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