

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



**Homeland
Security**

AUDITOR INFORMATION

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PROGRAM MANAGER INFORMATION

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AGENCY INFORMATION

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

Name of Field Office:	El Paso
Field Office Director:	Mary De Anda-Ybarra
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	11541 Montana Ave., Suite E El Paso, TX 79936

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

Name of facility:	Otero County Processing Center
Physical address:	26 Mcgregor Range Road Chaparral, New Mexico 88081
Telephone number:	(575) 824-4142
Facility type:	D-IGSA
PREA Incorporation Date:	5/28/2015

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Facility Administrator
Email address:	(b) (6), (b) (7)(C)	Telephone #	(575) 824-(b) (6), (b) (7)(C) Ext (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 #:	(575)-824-(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS

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

During the audit, the Auditor found Otero County Processing Center (OCPC), met 30 standards, had 0 standards that exceeded, had 1 standard that was non-applicable, and had 10 non-compliant standards. As a result of the facility being out of compliance with 10 standards, the facility entered into a 180-day corrective action period which began on December 23, 2023, and ended on May 13, 2024. The purpose of the corrective action period is for the facility to develop and implement a Corrective Action Plan (CAP) to bring these standards into compliance.

Number of Standards Initially Not Met: 10

- §115.16 - Accommodating detainees with disabilities and detainees who are limited English proficient.
- §115.17 - Hiring and promotion decisions.
- §115.22 - Policies to ensure investigation of allegations and appropriate agency oversight.
- §115.33 - Detainee education.
- §115.35 - Specialized training: Medical and mental health care.
- §115.53 - Detainee access to outside confidential support services.
- §115.64 - Responder duties.
- §115.65 - Coordinated response.
- §115.73 - Reporting to detainees.
- §115.86 - Sexual abuse incident reviews.

Number of Standards Exceeded: 0

Number of Standards Met: 10

- §115.16 - Accommodating detainees with disabilities and detainees who are limited English proficient.
- §115.17 - Hiring and promotion decisions.
- §115.22 - Policies to ensure investigation of allegations and appropriate agency oversight.
- §115.33 - Detainee education.
- §115.35 - Specialized training: Medical and mental health care.
- §115.53 - Detainee access to outside confidential support services.
- §115.64 - Responder duties.
- §115.65 - Coordinated response.
- §115.73 - Reporting to detainees.
- §115.86 - Sexual abuse incident reviews.

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): MTC Policy 2.11 states, "The OCPC will 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. 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, the OCPC will: 1. Provide 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. 2. Provide access to written materials related to sexual abuse in formats or through methods that ensure effective communication." MTC Policy 2.11 further states, "The OCPC will 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." During the on-site audit, the Auditor observed the DHS-prescribed sexual assault awareness notice, the DHS-prescribed (SAA) Information pamphlet, consulate posters, the DRIL poster, contact information for the DHS OIG, and the La Pinon Sexual Assault Recovery Services flyer, posted on the wall in all detainee housing units. During the on-site audit, the Auditor observed the cabinets located in the Intake area used to stock the ICE National Detainee Handbook and confirmed each shelf had a printed tag to indicate the space for all 14 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; however, although the Auditor observed the ICE National Detainee Handbook on-site in English and Spanish other languages were not completely stocked and many of the slots holding the required languages were completely empty. In addition, the Auditor observed the DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet in English and Spanish readily available; however, the Auditor did not observe the pamphlet available in the additional 13 most prevalent languages encountered by ICE, specifically Arabic, Bengali, Chinese, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Vietnamese, Turkish, and Ukrainian. The Auditor observed the facility detainee handbook and confirmed it was available in English and Spanish only. In an interview with Intake staff, it was indicated the ICE Detainee Handbooks and DHS-prescribed SAA Information pamphlets not available on site could be printed off the computer which the Auditor was able to through observation. In addition, interviews with the Classification Manager and five random DOs indicated if a detainee was deaf or hard of hearing PREA information, to include how to report an incident of sexual abuse would be provided in writing, if a detainee was blind or had low vision, the information would be read to the detainee, and if the detainee was intellectual or psychiatric disabilities, they would request medical and mental health staff assistance to provide PREA education. During the on-site Audit, the Auditor observed two detainees being processed into the facility and confirmed their preferred language was Spanish. The Auditor further confirmed each detainee was provided the ICE National Detainee Handbook, the facility handbook, and

the DHS-prescribed SAA Information pamphlet in their preferred language and the detainees were able to watch the facility PREA Orientation video available in English, Spanish, and closed captioning. In addition, the Auditor confirmed following a completion of the video each detainee was separately taken out of the holding cell and asked to sign the facility Dorm Card. The Auditor reviewed the facility Dorm Card and confirmed the Dorm card requires the detainee to acknowledge by signature the detainee received the facility detainee handbook, the ICE National Detainee Handbook and had seen the facility PREA Orientation video; however, the Dorm card does not confirm the detainee received the DHS-prescribed SAA Information pamphlet or the PREA educational material was provided in a manner all detainees could understand. A review of the Dorm card further confirmed although the Dorm Card was in English only the Dorm card indicated the detainee's preferred language and required the facility to document on the card if the language line was utilized to provide the required PREA education to the detainee; however, a review of a signed Dorm card confirmed although the detainee's preferred language was indicated as Spanish, the Dorm card did not include the use of the language line or another interpretation service; and therefore, the Auditor could not confirm if a detainee's preferred language was other than English they would receive the PREA education in a manner they could understand. In an interview with a LEP detainee whose preferred language was Mandarin Chinese, it was confirmed the detainee was given the required PREA information; however, the PREA information was in Spanish which she could not understand. In an interview with a LEP detainee whose preferred language was Mandarin Chinese, it was further confirmed she did not understand the PREA orientation video which was played in English and Spanish. In addition, in interviews with two detainees whose preferred language was Creole, it was confirmed both detainees interviewed had been given PREA information and watched the PREA Orientation video in Spanish; however, both detainees confirmed although they could speak and read Spanish they would have preferred to have the PREA education be provided in their preferred language as they could not understand all of the words and their meaning. In an interview with a Ukrainian detainee, it was further confirmed he received both handbooks and watched the video in English; however, although he confirmed he was able to read the handbooks, and understand the video, he would have preferred the information in his preferred language as he had difficulty understanding all the information. The Auditor attempted to interview a LEP detainee who was deaf and mute by utilizing the facility teletypewriter (TTY), the facility Pocket Talk, and a staff member who was able to write in Spanish; however, the detainee was uncooperative; and therefore, the Auditor could not establish effective communication to complete an interview. The Auditor reviewed 26 detainee files, which included the 5 detainee files who participated in the interviews, and confirmed all detainees had signed the Dorm card, confirming they had received the ICE National Detainee Handbook, the facility detainee handbook, and had watched the PREA Orientation Video, despite the detainees confirming they had not received the facility detainee handbook, the ICE National Detainee Handbook, or watched the PREA video, in their preferred language; and therefore, the Auditor could not confirm the detainees had received PREA education in a manner they could understand. In addition, a review of the Dorm card could not confirm the detainees were provided the PREA information included in the DHS-prescribed SAA Information pamphlet.

(c): MTC Policy 2.11 states, "Interpretation services will 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 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." An interview with the PSA Compliance Manager and five random DOs confirmed they would utilize another detainee to interpret for a detainee victim of sexual abuse during an emergency if the detainee victim requested another detainee to interpret, and it was approved by ICE.

Corrective Action:

The facility is not in compliance with subsections (a) and (b) of the standard. During the on-site audit the Auditor observed the facility detainee handbook and facility PREA Orientation video and confirmed both the facility

detainee handbook and the Orientation video were available in English and Spanish only. In addition, during the on-site audit the Auditor reviewed the facility Dorm Card signed by five detainees interviewed on sight and confirmed the detainee signatures indicated the detainees had received the facility detainee handbook, the ICE National Detainee Handbook and had seen the facility PREA Orientation Video despite detainee interviews confirming they had not received the information in their preferred language; and therefore, the Auditor could not confirm the detainees had received PREA education in a manner they could understand. The Auditor reviewed the Dorm card and could not confirm detainees are provided the PREA information included in the DHS-prescribed SAA Information pamphlet. To become compliant, the facility must implement a process that provides all detainees with disabilities including those who are LEP an equal opportunity to participate in or benefit from all aspects of the Agency's and the facility's efforts to prevent, detect and respond to sexual abuse. Once implemented the facility must document that all Intake and Classification staff have been trained on the implemented process. The facility must provide 10 detainee intake files to include, if applicable, detainees whose preferred language is other than English or Spanish to confirm the implemented process.

Corrective Action Taken:

The facility submitted training logs indicating all applicable staff have received training on the requirements of the standard to include providing detainees entering the facility the facility Detainee Handbook, the ICE National Detainee Handbook, the DHS-prescribed SAA Information pamphlet, and a PREA Orientation form in their preferred language. The facility submitted 10 detainee intake files of detainees whose preferred language was other than English or Spanish. In review of the files, each detainee was provided the ICE National Detainee Handbook and the DHS-prescribed SAA Information pamphlet in the detainee's preferred language. In addition, a review of the updated Dorm Card confirmed a language line was used for all detainees who received the facility handbook and PREA Orientation video in English. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsections (a) and (b) of the standard.

§115.17 - Hiring and promotion decisions.

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

Notes:

(a)(b)(c)(d)(e)(f): 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 7-6.0 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. MTC SOP-Background Checks -Corrections/Medical Resources states, "The facility human resources manager (HRM) is responsible for ensuring a background check is completed on all individuals who are identified and selected for employment with the company regardless of status e.g., full time, part time, on-call, temporary as well as candidates for intern positions. In corrections, under PREA, an updated background check must be run at least every five years on current employees who may have contact with inmates, unless the requirement is superseded by customer agency policy and procedure. Volunteers may be subject to background checks based on customer requirements." MTC SOP-Background Checks -

Corrections/Medical Resources further states, “In corrections, under PREA, MTC must make its best efforts to contact prior institutional employers for information on substantiated allegations of sexual abuse or resignation during a pending investigation of sexual abuse. The Reference Verification Report-Corrections version contains the appropriate questions. In corrections, under the Prison Rape Elimination Act (PREA), MTC shall consider any incidents of sexual harassment in determining whether to hire or promote anyone who may have contact with inmates. In Corrections, under PREA, MTC must complete the PREA verification form attached to this SOP for all previous institutional employers of the candidate selected.” An interview with a HR staff member confirmed MTC does provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. An interview with a HR staff member further indicated all potential employees, contractors, and volunteers will participate in an interview prior to being hired at the facility. In addition, the in an interview with a HR staff member indicated, if the applicant, contractor, or volunteer successfully completes an interview, each person must complete the DHS 6 Code of Federal Regulations Part 115 form. The Auditor reviewed the DHS 6 Code of Federal Regulations Part 115 form and confirms the form asks potential staff, contractors, and volunteers, “Have you ever been found to have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution, or convicted of engaging or attempting to engage in sexual activity with any person by force, threat of force or coercion or if the victim did not or could not consent? Have you been civilly or administratively adjudicated to have engaged in the activity described above? Have you been found to have engaged in sexual harassment at work?” all elements required by subsection (a) of the standard. A review of the DHS 6 Code of Federal Regulations Part 115 form further confirms the form requires the participant to acknowledge by signature, “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.” Utilizing the PSU Background Investigation for Employees and Contractors, the Auditor submitted 21 names consisting of ICE and MTC staff to confirm background investigations had been conducted. Documentation was provided which confirmed all submitted names had completed a background check, all required forms were completed prior to being hired, and background investigations were completed every five years as required by subsection (c) of the standard. In addition, the Auditor reviewed 20 employee files and 2 contractor files and confirmed each file contained the DHS 6 Code of Federal Regulations Part 115 form. In an interview with a HR staff member, it was indicated an employee had recently been promoted. A review of the employee file confirmed the employee had completed a DHS 6 Code of Federal Regulations Part 115 form prior to the promotion. An interview with the Acting AFOD indicated one ICE employee had been promoted during the reporting period. In an interview with the promoted SDDO it was confirmed the promoted SDDO had not been asked about previous misconduct detailed in subsection (a) during an interview or on an application prior to being promoted. In addition, no documentation had been submitted to confirm compliance.

Corrective Action:

The Agency is not in compliance with subsections (a) and (b) of the standard. An interview with the Acting AFOD indicated one ICE employee had been promoted during the reporting period. In an interview with the promoted SDDO it was confirmed the promoted SDDO had not been asked about previous misconduct detailed in subsection (a) of the standard during an interview or on an application prior to being promoted. In addition, no documentation had been submitted to confirm compliance. To become compliant, the Agency must establish a process to ensure prior to promotions, the Agency inquiries about sexual misconduct during an interview or on an application prior to promotion as required in subsection (b) of the standard to ensure the Agency is not promoting any staff who may have continuing contact with detainees who has participated in misconduct as outlined by subsection (a) of the standard. In addition, the facility must submit documentation to confirm any ICE staff promoted during the CAP period had been asked about prior misconduct during an interview or on an application prior to being promoted.

Corrective Action Taken:

The Agency submitted a memorandum from the Agency PSAC which confirms the ICE employee in question was not asked about previous misconduct prior to promotion as required by subsection (b) of the standard; however, beginning 10/23/2023 the Agency implemented a PREA questionnaire to ensure for competitive promotions to meet the DHS PREA requirements of subsection (b) of the standard. The Auditor reviewed the PREA questionnaire and confirmed the questionnaire is in compliance with the requirements of the standard. Upon review of all submitted documentation the Auditor now finds the Agency in substantial compliance with subsections (a) and (b) of the standard.

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

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

Notes:

(a)(b)(d): 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).” MTC policy 2.11 states, “The OCPC will ensure that each allegation of sexual abuse is investigated by OCPC or referred to OCSO. All reports and referrals of allegations of sexual abuse will be documented and maintained by the OCPC, for at least five years. The OCPC will ensure that all allegations are promptly reported to ICE, and unless the allegation does not involve potentially criminal behavior, are promptly referred for investigation to OCSO with the legal authority to conduct criminal investigations. When a detainee of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the OCPC will ensure that the incident is promptly referred to the ICE Field Office Director. If OCPC staff, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse or assault, the OCPC will ensure that the incident is promptly reported to the ICE Field Office Director. OCPC staff, contractors and volunteers suspected of perpetrating sexual abuse or assault will be removed from all duties requiring detainee contact pending the outcome of an investigation. If any incident is potentially criminal, it will be referred to OCSO.” The Auditor reviewed MTC policy 2.11 and confirmed although MTC policy 2.11 requires the facility to report an allegation of sexual abuse to ICE, the standard requires the facility to ensure “when a detainee, 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/designee’ and “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/designee.” An interview the PSA Compliance Manager indicated allegations criminal in nature would be immediately reported to the OCSO and an administrative investigation would be completed after consultation with OCSO. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed the facility notified the OCSO, ICE OPR, the Joint Intake Center (JIC), and the ICE Field Office in 11 of the allegations; however, in 1 sexual abuse allegation investigation file which included staff-on-detainee and was potentially criminal the facility did not notify local law enforcement. In an interview with the PSA Compliance Manager, it

was indicated the facility investigated the allegation as undue familiarity and had determined it not to be a PREA allegation; however, the allegation was determined to be PREA by the Agency; and therefore, the facility did not follow the requirements of subsections (a), (d), and (f) of the standard. The Auditor reviewed the Agency website (<https://www.ice.gov/prea>) and the facility website (www.mtctrains.com/prea/) and confirmed the Agency and the facility's protocols have been posted; however, the facility protocol does not include the elements required by subsections (d), (e), and (f) of the standard.

Corrective Action:

The facility is not in compliance with subsections (a), (c), (d), (e), and (f) of the standard. The Auditor reviewed MTC policy 2.11 and confirmed although MTC policy 2.11 requires the facility to report an allegation of sexual abuse to ICE, the standard requires the facility to ensure "when a detainee, 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/designee" and "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/designee." An interview the PSA Compliance Manager indicated allegations criminal in nature would be immediately reported to the OCSO and an administrative investigation would be completed after consultation with OCSO; however, the Auditor reviewed of one sexual abuse allegation investigation file of staff-on-detainee allegation and confirmed the facility did not follow the requirements of subsections (a), (d), and (f) of the standard. the facility did not follow protocol which required notification to local law enforcement. The Auditor reviewed the facility website (www.mtctrains.com/prea/) and confirmed facility's protocol had been posted; however, the facility protocol does not include the elements required by subsections (d), (e), and (f) of the standard. To become compliant, the facility must update MTC policy 2.11 to include all elements required by subsections (d), (e), and (f) of the standard. Once updated the facility must train all investigators on the updated protocol. In addition, the facility must post the updated protocol on its website (www.mtctrains.com/prea/). If applicable the facility must submit all closed sexual abuse allegation investigation files that occur during the CAP period.

Corrective Action Taken:

The facility submitted revised policy 2.11, which includes, "When a detainee, in which an alleged detainee victim is housed, is alleged to be the perpetrator of detainee sexual abuse, OCPC 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/designee" and, if potentially criminal, referred to OCSO for investigation" and "When a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, OCPC 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/designee and promptly referred to OSCO for an investigation." In addition, the facility submitted a training roster indicating that all investigators have been trained on the revised policy. The Auditor confirmed the revised policy had been posted on the MTC website www.mtctrains.com/prea/. The facility submitted one closed sexual abuse allegation investigation file which included a staff-on-detainee allegation. In review of the investigative file, the Auditor confirmed the incident had been reported to OCSO; however, OCSO declined the case. A review of the investigative file further confirmed an administrative investigation was conducted and found to be unsubstantiated. In addition, a review of the investigative file confirmed notification had been made to the Joint Intake Center, ICE ERO, and the FOD. Upon review of all submitted documentation the Auditor now finds the Agency in compliance with subsections (a), (c), (d), (e), and (f) of the standard.

§115.33 - Detainee education.

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

Notes:

(a)(b)(c)(d)(e)(f): MTC Policy 2.11 states, "Upon admission to the OCPC, all detainees will be notified of the facility's zero-tolerance policy for all forms of sexual abuse and assault through the orientation program, the OCPC's Detainee Handbook and ICE/ERO's National Detainee Handbook and provided with information about the OCPC's SA-API program. The OCPC's orientation process will include at a minimum: 1. The OCPC's zero-tolerance policy for all forms of sexual abuse or assault; 2. The name of the OCPC's PSA Compliance Manager and information about how to contact him/her; 3. Prevention and intervention strategies; 4. Definitions and examples of detainee on detainee sexual abuse and assault, staff-on-detainee sexual abuse and assault 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), their consular official, the DHS/OIG and ICE/OPR investigation process; 6. Information about self-protection and indicators of sexual abuse and assault; 7. Prohibition against retaliation, including an explanation that reporting an assault will not negatively impact the detainee's immigration proceeding; 8. The right of a detainee who has been subjected to sexual abuse to receive treatment and counseling. Detainee notification and orientation will be in a language or manner that the detainee understands, including for those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to detainees who have limited reading skills. The OCPC will maintain documentation of a detainee's receipt of the OCPC Detainee Handbook and the viewing of the OCPC Orientation video." MTC policy 2.11 further states, "Detainee notification and orientation will be in a language or manner that the detainee understands, including for those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to detainees who have limited reading skills. The OCPC will maintain documentation of a detainee's receipt of the OCPC Detainee Handbook and the viewing of the OCPC Orientation video. ICE/ERO has provided a "Sexual Abuse and Assault Awareness Brochure" to be distributed. The OCPC will post on all housing unit bulletin boards the following notices: the DHS-prescribed sexual abuse and assault awareness notice; the name of the PSA Compliance Manager; and Information about the local organization that can assist detainees who have been victims of sexual abuse or assault, including the mailing address and telephone number (including toll-free hotline numbers where available)." During the on-site audit, the Auditor observed the DHS-prescribed sexual assault awareness notice with the name of the facility PSA Compliance Manager, the DHS-prescribed (SAA) Information pamphlet, consulate posters, the DRIL poster, contact information for the DHS OIG, and the La Pinon Sexual Assault Recovery Services flyer, posted on the wall in all detainee housing units. An interview with the Classification Manager indicated the facility has an orientation program which is completed within 12 hours of the detainee's intake into the facility to include receiving the ICE National Detainee Handbook, the facility detainee handbook available in English and Spanish, the DHS-prescribed SAA Information pamphlet, and watching a PREA Orientation video available in English and Spanish and has closed captioning. Interviews with the Classification Manager and five random DOs indicated if a detainee was deaf or hard of hearing PREA information, to include how to report an incident of sexual abuse would be provided in writing, if a detainee was blind or had low vision, the information would be read to the detainee, and if the detainee was intellectual or psychiatric disabilities, they would request medical and mental health staff assistance to provide the information. An interview with the Classification Manager further indicated each detainee will sign the Dorm card, which documents the detainee has received the ICE National Detainee Handbook, the facility detainee handbook, the DHS-prescribed SAA Information pamphlet, and viewed the PREA Orientation video. During the on-site audit, the Auditor observed the cabinets located in the Intake area used to stock the ICE National Detainee Handbook and confirmed each shelf had a printed tag to indicate the space for all 14 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; however, although the Auditor observed the ICE National Detainee Handbook on-site in English and Spanish

other languages were not completely stocked and many of the slots holding the required languages were empty. In addition, the Auditor observed the DHS-prescribed SAA Information pamphlet in English and Spanish were readily available; however, the Auditor did not observe the pamphlet available in the additional 13 most prevalent languages encountered by ICE, specifically Arabic, Bengali, Chinese, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Vietnamese, Turkish, and Ukrainian. In an interview with Intake staff, it was indicated the ICE Detainee Handbooks and DHS-prescribed SAA Information pamphlets not available on site could be printed off the computer which the Auditor was able to through observation. A review of the facility detainee handbook confirms the handbook includes the facility zero-tolerance policy; how to report a sexual abuse or assault; how reports will be investigated; and how to protect yourself from sexual abuse or assault. A review of the facility detainee handbook further confirms the handbook informs detainees to refer to the posters in each housing unit for specific information on prevention and intervention; definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity; explanation of the ways of reporting sexual abuse or assault, and the investigation process; self-protection; prohibition against retaliation; and treatment and counseling; however, during the on-site audit the Auditor confirmed through observation, posters providing PREA specific information to include all elements of subsection (a) of the standard were not posted as noted in the facility detainee handbook. In addition, during the on-site audit, the Auditor requested a transcript of the PREA Orientation video; however, the facility could not provide it. Prior to the on-site audit the facility submitted a document for Auditor review titled "Prison Rape Elimination Act Detainee Orientation." The Auditor reviewed the submitted document titled Prison Rape Elimination Act Detainee Orientation, available in English and Spanish only, and confirmed the document includes all elements required by subsection (a) of the standard; however, during the on-site audit the Auditor did not observe the Prison Rape Elimination Act Detainee Orientation document, nor was the Prison Rape Elimination Act Detainee Orientation document mentioned in interviews with the PSA Compliance Manager, Classification Manager, or Intake staff as being part of the orientation process. During the on-site Audit, the Auditor observed two detainees being processed into the facility and confirmed their preferred language was Spanish. The Auditor further observed each detainee was provided the ICE National Detainee Handbook, the facility handbook, and the DHS-prescribed SAA Information pamphlet in their preferred language and the detainees were able to watch the facility Orientation Video which is available in English, Spanish, and closed captioning. In addition, the Auditor observed following a completion of the video each detainee was separately taken out of the holding cell and asked to sign the facility Dorm Card. The Auditor reviewed the facility Dorm card and confirmed the Dorm card indicated the detainee had received the facility detainee handbook and the ICE National Detainee Handbook and had seen the facility PREA Orientation Video; however, the Dorm card did not confirm the detainee received the DHS-prescribed SAA Information pamphlet or the PREA educational material was provided in a manner all detainees could understand. A review of the facility Dorm card further confirmed although the facility Dorm card was in English only the Dorm card indicated the detainee's preferred language and required the facility to document on the card if the language line was utilized to provide the required PREA education to the detainee; however, a review of a signed Dorm card confirmed although the detainee's preferred language was indicated as Spanish, the Dorm card did not indicate the use of the language line or another interpretation service; and therefore, the Auditor could not confirm if a detainee's preferred language was other than English they would receive the PREA education in a manner they could understand. In an interview with a LEP detainee whose preferred language was Mandarin Chinese, it was confirmed the detainee was given the required PREA information; however, the PREA information was in Spanish which she could not understand. In an interview with an additional LEP detainee whose preferred language was Mandarin Chinese, it was further confirmed she did not understand the PREA orientation video which was played in English and Spanish. In addition, in interviews with two detainees whose preferred language was Creole, it was confirmed both detainees interviewed had been given PREA information and watched the Orientation video in Spanish; however, both detainees confirmed although they could speak and read Spanish they would have preferred to have the PREA education be provided in their preferred language as they could not understand all of the words and their meaning. In an interview with a Ukrainian detainee, it was confirmed the detainee received the facility detainee handbook and the ICE National Detainee Handbook and

watched the PREA Orientation video in English; however, although he confirmed he was able to read the handbooks, and understand the video, he would have preferred the information in his preferred language as he had difficulty understanding all the information. In addition, the Auditor attempted to interview a LEP detainee who was deaf and mute by utilizing the facility teletypewriter (TTY), the facility Pocket Talk, and a staff member who was able to write in Spanish; however, the detainee was uncooperative; and therefore, the Auditor could not establish effective communication to complete an interview. The Auditor reviewed 26 detainee files, which included the 5 detainee files who participated in the interviews, and confirmed all detainees had signed the Dorm card, confirming they had received PREA Orientation during intake to include receiving the ICE National Detainee Handbook, the facility detainee handbook, and watching the PREA Orientation Video, despite the detainees confirming they had not received the facility detainee handbook, the ICE National Detainee Handbook, or watched the PREA video, in their preferred language; and therefore, the Auditor could not confirm the detainees had received PREA orientation in a manner they could understand. In addition, a review of the Dorm card could not confirm the detainees received a copy of the DHS-prescribed SAA Information pamphlet as required by subsection (e) of the standard.

Recommendation (a): The Auditor recommends the facility revise MTC policy 2.11, to include all detainees will be notified of the Agency and OCPC zero-tolerance policies.

Corrective Action:

The facility is not in compliance with subsections (a), (b), and (e) of the standard. The Auditor reviewed the facility Detainee Handbook and confirmed the handbook includes the facility zero-tolerance policy; how to report a sexual abuse or assault; how reports will be investigated; and how to protect yourself from sexual abuse or assault. A review of the facility detainee handbook further confirms it informs detainees to refer to the posters in each housing unit for specific information on prevention and intervention; definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity; explanation of the ways of reporting sexual abuse or assault, and the investigation process; self-protection; prohibition against retaliation; and treatment and counseling; however, during the on-site audit the Auditor confirmed through observation, posters providing PREA specific information to include all elements of subsection (a) of the standard were not posted as noted in the facility detainee handbook. In addition, during the on-site audit, the Auditor requested a transcript of the PREA orientation video; however, the facility could not provide it. A review of the PAQ documentation indicated the facility provided the Auditor a document titled Prison Rape Elimination Act Detainee Orientation. The Auditor reviewed the submitted document and confirmed it includes all elements required by subsection (a) of the standard; however, during the on-site audit the Auditor did not observe the document, nor was the document mentioned in interviews with the PSA Compliance Manager, Classification Manager, and Intake staff as being part of the orientation process. During the on-site audit the Auditor observed the facility detainee handbook and facility PREA Orientation video and confirmed both the facility detainee handbook and the Orientation video were available in English and Spanish only. In addition, during the on-site audit the Auditor reviewed the facility Dorm Card signed by five detainees interviewed on sight and confirmed the detainee signatures indicated the detainees had received the facility detainee handbook, the ICE National Detainee Handbook and had seen the facility PREA Orientation Video despite detainee interviews confirming they had not received the information in their preferred language; and therefore, the Auditor could not confirm the detainees had received PREA education in a manner they could understand. The Auditor reviewed the Dorm card and could not confirm detainees are provided a copy of the DHS-prescribed SAA Information pamphlet during the orientation process. To become compliant, the facility must implement a process which ensures all elements required by standard 115.33 are included in the facility PREA orientation program. Once implemented, the facility must provide documentation that confirms all Intake and Classification staff have been trained on the implemented process. In addition, the facility must provide 10 detainee intake files to include, if applicable, detainees whose preferred language is other than English or Spanish to confirm the implemented process.

Corrective Action Taken:

The facility submitted 10 detainee intake files of detainees whose preferred language was other than English or Spanish. In review of the files, each detainee was provided the ICE National Detainee Handbook and the DHS-prescribed SAA Information pamphlet in the detainee's preferred language. The facility did not provide documentation to confirm all Intake and Classification staff have been trained on the standard's requirement to provide detainees with the Agency zero-tolerance policies; however, the Auditor accepts as an Agency run facility the facility zero-tolerance policy is also the Agency zero-tolerance policy; and therefore, no longer requires all Intake and Classification staff receive training on the standard's requirement to provide detainees with the Agency zero-tolerance policies. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsections (a), (b), and (e) of the standard.

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

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

Notes:

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

(b)(c): MTC policy 2.11 states, "The OCPC will ensure that all full and part-time medical and mental health care practitioners who work regularly at the facility have been trained in: 1. How to detect and assess signs of sexual abuse and sexual harassment. 2. How to respond effectively and professionally to victims of sexual abuse and sexual harassment. 3. How and to whom to report allegations of suspicious of sexual abuse and sexual harassment. 4. How to preserve physical evidence of sexual abuse. OCPC will maintain documentation that medical and mental health practitioners have received training." An interview with the HSA indicated all medical and mental health staff are required to attend specialized training and complete general PREA training as required by §115.31. An interview with a facility mental health LPC indicated she had completed PREA specialized medical training as required by subsection (b) of the standard. In addition, the facility mental health LPC provided the Auditor two certificates confirming she had completed the NIC training curriculums "PREA: Behavioral Health Care for Sexual Assault Victims in a Confinement Setting" and "PREA: Medical Health Care for Sexual Assault Victims in a Confinement Setting training." The Auditor is familiar with the curriculums and has previously confirmed all elements required are included in the training curriculums. During the on-site audit, the Auditor reviewed three medical staff files, one contracted staff file, and one mental health LPC file and confirmed medical staff and the facility mental health LPC have received general PREA training as required by §115.31. However, although requested by the Auditor, the facility did not provide documentation to confirm medical staff have received the specialized training required by subsection (b) of the standard. Interviews with the FA and Acting AFOD confirmed MTC policy 2.11 has been submitted and approved by the Agency.

Corrective Action:

The facility is not in compliance with subsection (b) of the standard. The Auditor reviewed three medical staff files and one contractor staff file and could not confirm all medical staff and mental health staff, to include the independent contracted physician, dentist, and psychiatrist, have received specialized training as required by subsection (b) of the standard. To become compliant, the facility must provide documentation to confirm all medical and mental health staff, to include the independent contracted physician, dentist, and psychiatrist, have received specialized training in 1. How to detect and assess signs of sexual abuse and sexual harassment. 2. How to respond effectively and professionally to victims of sexual abuse and sexual harassment. 3. How and to whom to report allegations of suspicious of sexual abuse and sexual harassment. 4. How to preserve physical evidence of sexual abuse.

Corrective Action Taken:

The facility submitted training certificates for the contracted medical staff, to confirm they had completed the National Institute of Corrections PREA 201 for Medical and Mental Health Practitioners. The Auditor has reviewed the training curriculum and confirmed the training includes, how to detect and assess signs of sexual abuse and sexual harassment, how to respond effectively and professionally to victims of sexual abuse and sexual harassment, how and to whom to report allegations of suspicious of sexual abuse and sexual harassment and how to preserve physical evidence of sexual abuse. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsection (b) of the standard.

§115.53 - Detainee access to outside confidential support services.

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

Notes:

(a)(b)(c)(d): MTC policy 2.11 states, “When deemed prudent, the aforementioned team will engage the resources of the La Pinon Sexual Assault Recovery Services of Southern New Mexico and Otero County Sheriff’s Office (OCPC) on a case-by-case basis, utilizing available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation, and the prosecution of sexual abuse and/or assault perpetrators to most appropriately address victims’ needs.” The Auditor reviewed a MOU between OCPC and La Pinon Sexual Assault Recovery Services, executed on September 14, 2023, which remains in effect unless affirmatively terminated by either party, and confirmed La Pinon Sexual Assault Recovery Services will accompany and support incarcerated victims through the forensic medical examination process and investigatory interviews. A review of a MOU between OCPC and La Pinon Sexual Assault Recovery Services further confirms the MOU includes, “In cases which there is legal obligation to report allegations of sexual abuse and the (La Pinon SARS) knows the identity of the reporting inmate, the (La Pinon SARS) may reveal the identity of the inmate to the external agency as required by law” and OCPC will provide detainees “the extent to which communications will be monitored; the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws...” An interview with the La Pinon Sexual Assault Recovery Services PREA Coordinator Victim Advocate, confirmed in addition to providing detainee victims of sexual abuse access for forensic medical examinations La Pinon Sexual Assault Recovery Services provides emotional support, crisis intervention, resources, information, referrals, and comprehensive advocacy. During the on-site audit the Auditor observed La Pinon's telephone number, toll-free hotline number, and mailing address, posted on all housing unit bulletin boards. In addition, the Auditor reviewed the facility detainee handbook and confirmed La Pinon's telephone number, a toll-free hotline number, and mailing address is included with notification to detainees that all calls are subjected to monitoring; however, although La Pinon Sexual Assault Recovery Services is listed as an avenue to report an allegation in the facility detainee handbook and the facility has agreed to do so in a signed MOU with La Pinon Sexual Assault Recovery Services, a review of the facility detainee handbook, and posted information on the housing units could not confirm the facility advises detainees the extent to which reports of sexual abuse will be forwarded to authorities in accordance with mandatory reporting laws. During the on-site audit, the Auditor tested the phone number provided. The call was answered by the La Pinon office; however, the call should have been answered by the La Pinon Sexual Assault Recovery Services PREA Coordinator. The issue was immediately identified and corrected by the facility prior to the Auditor completing the on-site audit. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed all detainee victims had been provided the DHS-prescribed SAA Information pamphlet and advised of the victim services available through La Pinon Sexual Assault Recovery Services.

Corrective Action:

The facility is not in compliance with subsection (d) of the standard. The Auditor reviewed a MOU between OCPC and La Pinon Sexual Assault Recovery Services, executed on September 14, 2023, which remains in effect

unless affirmatively terminated by either party, and confirmed the MOU includes, “In cases which there is legal obligation to report allegations of sexual abuse and the (La Pinon SARS) knows the identity of the reporting inmate, the (La Pinon SARS) may reveal the identity of the inmate to the external agency as required by law” and OCPC will provide detainees “the extent to which communications will be monitored; the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws...” During the on-site audit the Auditor observed La Pinon's telephone number, toll-free hotline number, and mailing address, posted on all housing unit bulletin boards. In addition, the Auditor reviewed the facility detainee handbook and confirmed La Pinon's telephone number, a toll-free hotline number, and mailing address is included with notification to detainees that all calls are subjected to monitoring; however, although La Pinon Sexual Assault Recovery Services is listed as an avenue to report an allegation of sexual abuse in the facility detainee handbook and the facility has agreed to do so in a signed MOU with La Pinon Sexual Assault Recovery Services, a review of the facility detainee handbook and posted information on the housing units could not confirm the facility advises detainees the extent to which reports of sexual abuse will be forwarded to authorities in accordance with mandatory reporting laws. To become compliant the facility must provide documentation that detainees are notified the extent to which reports of sexual abuse will be forwarded to authorities in accordance with mandatory reporting laws.

Corrective Action Taken:

The facility submitted a revised facility handbook which indicates “Otero County Processing Center will ensure information provided to detainee victims is consistent and addresses the difference between a confidential hotline and a reporting line; the availability of emergency care; the confidentiality of services offered; the extent to which communications will be monitored; the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.” The facility submitted a La Pinon flyer in English and Spanish which states, “In cases in which there is a legal obligation to report allegations of sexual abuse and the (La Pinon, SARS) knows the identity of the reporting detainees, the (La Pinon, SARS) may reveal the identity of the detainee to the external agency if required by law.” In addition, the facility submitted photographs to confirm the flyer is posted on the housing unit bulletin boards in English and Spanish. The facility submitted 10 detainee dorm cards which included detainees whose preferred language was other than English or Spanish. In review of the updated Dorm Cards confirmed a language line was used for all detainees who received PREA Orientation in English which includes the updated LA Pinon Flyer. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsection (d) of the standard.

§115.64 - Responder duties.

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

Notes:

(a)(b): MTC policy 2.11, states, “Immediately upon receiving a report of an alleged sexual abuse or assault the OCPC's first response will be to: a. Take immediate action and isolate (safe haven) the victim from the alleged perpetrator to ensure his safety. If the abuse occurred within a time period, that still allows for the collection of physical evidence. The OCPC detention officer or non-detention staff member, if the first responder, will request the alleged victim not to take any actions that could destroy physical evidence, i.e., washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating. b. Refer the victim to medical, for a medical examination and/or clinical assessment for potential negative symptoms. c. The OCPC staff, contractors and volunteers suspected of perpetrating sexual abuse or assault will be removed from all duties requiring detainee contact pending the outcome of an investigation.” The Facility Administrator will ensure that the incident is immediately referred to the ICE Field Office Director and the OCSO if warranted. d. If identified, the perpetrator will be segregated to prevent further sexual abuse and/or assaults. If the abuse occurred within a time period, that still allows for the collection of physical evidence.” MTC policy 2.11 further states “The OCPC will make every effort to ensure that the alleged abuser does not take any actions that could destroy physical evidence,

i.e. washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating. e. If identified, the first detention staff member to respond to a report of sexual abuse or his or her supervisors will preserve and protect to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence. F. Complete detailed Incident Reports and required notifications as soon as possible and before the end of shift.” An interview with the PSA Compliance Manager indicated that MTC policy 2.11 is the facility’s coordinated response plan to coordinate the actions taken by first responders, investigators, medical and mental health, and the facility leadership. Interviews with five random DOs indicated if an incident were to occur the first responder would call for back-up, separate the detainees, secure the crime scene, and take both the detainee victim and the alleged perpetrator to medical for an assessment. Interview with two non-custody first responders indicated they would call for backup and report the incident to their supervisor. However, interviews with five random DOs and two non-security first responders, indicated both detainee victims and alleged abusers would not be allowed to take action that could destroy evidence. During the on-site audit, the Auditor observed each staff member carries a PREA First Responder Duties card on their ID Lanyards. A review of the cards confirmed they include separate the victim and the abuser, preserve and protect any crime scene until the collection of evidence, request the victim and/or the abuser not take any action that could destroy evidence, (washing, brushing teeth, changing clothes, drinking, etc.), if not security staff member, responder shall be required to request the victim not destroy evidence then notify security. However, the Auditor reviewed the facility Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum and confirmed the curriculum includes Initial Report Protocol which states in part, “Do not allow the detainee to shower, wash, bathe or douche until examined by a physician.”

Corrective Action:

The facility is not in compliance with subsection (a) of the standard. The Auditor reviewed the facility Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum. The curriculum includes Initial Report Protocol which states in part, “Do not allow the detainee to shower, wash, bathe or douche until examined by a physician.” Interviews with five random detention officers and two non-security first responders, indicated both detainee victims and alleged abusers would not be allowed to take action that would destroy evidence. To become compliant, the facility must revise the Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum to include if the abuse occurred within a time period that still allows for the collection of physical evidence, request the victim not to take any actions that could destroy physical evidence, i.e., washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating and if the abuse occurred within a time period that still allows for the collection of physical evidence, ensure the abuser not to take any actions that could destroy physical evidence, i.e., washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating. Once revisions are completed the facility must submit documentation that confirms all custody and non-custody first responders have been trained on the revised curriculum.

Corrective Action Taken:

The facility submitted a revised Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum. The curriculum includes “Request that the victim not take any actions that could destroy evidence (washing, brushing teeth, changing clothes, drinking, etc.). Ensure the Abuser not take any actions that could destroy evidence (washing, brushing teeth, changing clothes, drinking, etc.). The facility submitted PREA First Responder Duties cards, which include 1. Separate the victim and abuser 2. Preserve and protect any crime scene until the collection of evidence 3. Request the victim and ensure the abuser not take any actions that could destroy evidence (washing, brushing teeth, changing clothes, drinking, etc.) 4. If not security staff member, responder shall be required to request that the victim not destroy evidence then notify security. In addition, the facility provided training documentation to confirm that all staff have been retrained on first responder duties. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsection (a) of the standard.

§115.65 - Coordinated response.

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

Notes:

(a)(b): MTC policy 2.11 states, “The OCPC uses a coordinated multidisciplinary team approach when responding to sexual abuse. The team consist of the following: Shift Supervisor, PSA Compliance Manager /Investigator, Nurse Practitioner, Mental Health Practitioner.” An interview with the PSA Compliance Manager indicated that MTC policy 2.11 is the facility’s coordinated response plan to coordinate the actions taken by first responders, investigators, medical and mental health, and the facility leadership. The Auditor reviewed MTC policy 2.11 in its entirety and confirmed the plan coordinates the action taken by security and non-security first responders, medical and mental health practitioners, facility investigators, and facility leadership in response to an incident of sexual abuse. An interview with the PSA Compliance Manager indicated that MTC policy 2.11 is the facility’s coordinated response plan to coordinate the actions taken by first responders, investigators, medical and mental health, and the facility leadership. Interviews with five random DOs indicated if an incident were to occur the first responder would call for back-up, separate the detainees, secure the crime scene, and take both the detainee victim and the alleged perpetrator to medical for an assessment. Interview with two non-custody first responders indicated they would call for backup and report the incident to their supervisor. However, interviews with five random DOs and two non-security first responders, indicated both detainee victims and alleged abusers would not be allowed to take action that could destroy evidence. During the on-site audit, the Auditor observed each staff member carries a PREA First Responder Duties card on their ID Lanyards. A review of the cards confirmed the card includes separate the victim and the abuser, preserve and protect any crime scene until the collection of evidence, request the victim and/or the abuser not take any action that could destroy evidence, (washing, brushing teeth, changing clothes, drinking, etc.), if not security staff member, responder shall be required to request the victim not destroy evidence then notify security. However, the Auditor reviewed the facility Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum and confirmed the curriculum includes Initial Report Protocol which states in part, “Do not allow the detainee to shower, wash, bathe or douche until examined by a physician.” The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed the facility had utilized a coordinated response in all reviewed files when responding to an allegation of sexual abuse.

(c)(d) MTC policy 2.11 states, “When a victim is transferred between detention facilities, the OCPC, as permitted by law, will inform the receiving facility of the incident and the victim's potential need for medical or social services (unless the victim requests otherwise in case of transfer to a non-ICE facility). If the receiving facility is unknown to the OCPC, the facility will notify the Field Office Director, so that he or she can notify the receiving facility. The OCPC will utilize the Continuum of Care Service Request form, PREA 115.65.” However, subsections (c) and (d) of the standard require if a victim of sexual abuse is transferred between facilities covered by 6 CFR part 115, subpart A or B, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim’s potential need for medical or social services and (d) if a victim is transferred from a DHS immigration detention facility to a facility not covered by paragraph (c) of this section, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim’s potential need for medical and social services, unless the victim requests otherwise. Interviews with the FA, PSA Compliance Manager, and the HSA confirmed the facility utilizes a Continuum of Care Request Form which is placed in the medical file prior to the detainee being transferred unless the detainee requests otherwise.

Corrective Action:

The facility is not in compliance with subsections (a), (c), and (d) of the standard. The Auditor reviewed MTC policy 2.11 and confirmed MTC policy 2.11 does not include the requirements of subsections (c) of the standard which states, “if a victim of sexual abuse is transferred between facilities covered by 6 CFR part 115, subpart A

or B, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services." In addition, a review of MTC policy 2.11 confirms it does not include the requirements of subsection (d) of the standard which states "if a victim is transferred from a DHS immigration detention facility to a facility not covered by paragraph (c) of this section, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical and social services, unless the victim requests otherwise." The Auditor reviewed the facility Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum and confirmed the curriculum includes an Initial Report Protocol which states in part, "Do not allow the detainee to shower, wash, bathe or douche until examined by a physician." Interviews with five random detention officers and two non-security first responders, indicated both detainee victims and alleged abusers would not be allowed to take action that would destroy evidence. To become compliant, the facility must update policy 2.11 to include the elements required by subsections (c) and (d) of the standard. In addition, the facility must update the Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum to include if the abuse occurred within a time period that still allows for the collection of physical evidence, request the victim not to take any actions that could destroy physical evidence, i.e., washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating and if the abuse occurred within a time period that still allows for the collection of physical evidence, ensure the abuser not to take any actions that could destroy physical evidence, i.e., washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating. Once updated the facility must submit documentation to confirm all security and non- security, to include medical staff have received updated training on the updated policy 2.11 and the updated Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training.

Corrective Action Taken:

The facility submitted policy 2.11 which states, "When a victim is transferred between detention facilities, the OCPC, as permitted by law, will inform the receiving facility of the incident and the victim's potential need for medical or social services (unless the victim requests otherwise in case of transfer to a non-ICE facility). If the receiving facility is unknown to the OCPC, the facility will notify the Field Office Director, so that he or she can notify the receiving facility. The OCPC will utilize the Continuum of Care Service Request form, PREA 115.65." However, subsections (c) of the standard requires if a victim of sexual abuse is transferred between facilities covered by 6 CFR part 115, subpart A or B, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services and (d) if a victim is transferred from a DHS immigration detention facility to a facility not covered by paragraph (c) of this section, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical and social services, unless the victim requests otherwise. The facility submitted a revised Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum. The curriculum includes "Request that the victim not take any actions that could destroy evidence (washing, brushing teeth, changing clothes, drinking, etc.). Ensure the Abuser not take any actions that could destroy evidence (washing, brushing teeth, changing clothes, drinking, etc.). The facility submitted PREA First Responder Duties cards, which include 1. Separate the victim and abuser 2. Preserve and protect any crime scene until the collection of evidence 3. Request the victim and ensure the abuser not take any actions that could destroy evidence (washing, brushing teeth, changing clothes, drinking, etc.) 4. If not security staff member, responder shall be required to request that the victim not destroy evidence than notify security. In addition, the facility provided training documentation to confirm that all staff have been retrained on first responder duties. The facility submitted a revised policy 2.11 which includes, "If a victim of sexual abuse is transferred between facilities covered by 6 CFR part 115, subpart A or B, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services. If a victim is transferred from a DHS immigration detention facility to a facility not covered by paragraph (c) of this section, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for

medical and social services, unless the victim requests otherwise. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsections (a), (c) and (d) of the standard.

§115.73 - Reporting to detainees.

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

Notes:

MTC policy 2.11 states, "Following any investigation conducted by the PSACM into a detainee's allegations of sexual abuse, the PSACM will forward all fact-finding information to the Field Office Director. The PSACM will make a determination of substantiated unsubstantiated, or unfounded following the results of their investigation into the incident. The determination will be reported to ICE headquarters. The detainee will be notified with the Investigative Findings and Responsive Actions Notification Form provided by ICE/ERO." An interview with the PSA Compliance Manager, indicated detainee victims of sexual abuse would be notified of the result of the investigation. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed the facility had notified all detainee victims of the investigation outcomes; however, the Auditor reviewed 3 detainee-on-detainee investigation files and 1 staff-on-detainee investigation file and confirmed neither the Agency nor the facility notified the detainee victims of the responsive action taken. In addition, the Auditor submitted a completed Notification to Detainee of PREA Investigation Results form to the TL for follow-up and confirmed neither the Agency nor the facility notified the detainee victims of the responsive action taken.

Corrective Action:

The Agency is not in compliance with the standard. An interview with the PSA Compliance Manager, indicated detainee victims of sexual abuse would be notified of the result of the investigation. The Auditor reviewed three detainee-on-detainee investigation files and one staff-on-detainee investigation file and confirmed neither the Agency nor the facility notified the detainee victims of the responsive action taken. In addition, the Auditor submitted a completed Notification to Detainee of PREA Investigation Results form to the TL for follow-up and confirmed neither the Agency nor the facility notified the detainee victims of the responsive action taken. To become compliant, the Agency must submit documentation to confirm all detainees who report an allegation of sexual abuse are notified of the results of the investigation and any responsive action taken but submitting all closed substantiated sexual abuse allegation investigations and the corresponding notice to detainee that occur during the CAP period.

Corrective Action Taken:

The facility submitted one closed sexual abuse allegation investigation file which included a staff-on-detainee allegation. The Auditor reviewed the investigative file and confirmed the detainee was notified of the results of the investigation. A review of the investigative file further confirmed the detainee was notified that during the investigation the staff member had been reassigned to an area with no detainee contact. Upon review of all submitted documentation the Auditor now finds the Agency in compliance with standard 115.73.

§115.86 - Sexual abuse incident reviews.

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

Notes:

(a)(b)(c): MTC policy 2.11 states, "The OCPC will conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault. Regardless of whether the investigation results are substantiated or unsubstantiated the OCPC's PSACM will prepare a written report within 30 days of the conclusion of the investigation. The report will include recommendations, revealed by the allegation or investigation, to change policy or practice that could better prevent, detect or respond to sexual abuse and assault. The OCPC will implement the recommendations for improvement or will document its reasons for not

doing so in a written response. Both the report and response will be forwarded to the Field Office Director for transmission to the ICE/ERO PSA Coordinator. The OCPC will also provide any further information regarding such incident reviews as requested by the ICE/ERO PSA Coordinator. The review team will consider whether the incident or allegation was motivated by: race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, intersex identification, status or perceived status, gang affiliation or was motivated or otherwise caused by other group dynamics at the OCPC. The OCPC's PSA Compliance Manager will conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. When the OCPC has not had any reports of sexual abuse during the annual reporting period, the OCPC will prepare a negative report. The result and findings of the annual review will be provided to the Facility Administrator and the Field Office Director for transmission to the ICE/ERO PSA Coordinator.” An interview with the PSA Compliance Manager indicated the facility would conduct a sexual abuse incident review at the conclusion of every administrative investigation regardless of the outcome the investigation. The PSA Compliance Manager further indicated the review team consists of upper-level management officials, medical and mental health practitioners, and investigators. An interview with the PSA Compliance Manager further indicated the facility would complete an incident review report utilizing the “ICE Sexual Abuse or Assault Incident Review Form.” In addition, the PSA Compliance Manager indicated the review team will review the incident within 30 days of the conclusion of the investigation and will make recommendations for a change in policy or practice that could assist with preventing, detecting, or responding to a sexual abuse and the recommendations and the reasons for not complying with the recommendations are documented on the incident review form. The Auditor reviewed the “ICE Sexual Abuse or Assault Incident Review Form” and confirmed the form considers if the incident was motivated by race, ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or motivated or otherwise caused by other group dynamics at the facility. In addition, the Auditor reviewed 12 sexual abuse allegation investigation files and confirmed each file contained the ICE Sexual Abuse or Assault Incident Review Form and the review had been completed within 30 days of the conclusion of the investigations; however, a review of 12 sexual abuse allegation reviews could not confirm the report or the response was forwarded to the Agency PSA Coordinator as required by subsection (a) of the standard. The Auditor reviewed the facility 2022 Annual PREA Report and confirmed the report had been forwarded to the FA, the FOD, and the Agency PREA Coordinator.

Corrective Action:

The facility is not in compliance with subsection (a) of the standard. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed each file contained the ICE Sexual Abuse or Assault Incident Review Form and the review had been completed within 30 days of the conclusion of the investigations; however, a review of 12 sexual abuse allegation reviews could not confirm the report or the response was forwarded to the Agency PSA Coordinator as required by subsection (a) of the standard. To become compliant the facility must submit documentation to confirm the ICE Sexual Abuse or Assault Incident Review Form report and the response completed in the 12 sexual abuse incident reviews were forwarded to the Agency PSA Coordinator. In addition, the facility must submit all incident review reports and responses that occur during the CAP period to confirm compliance with subsection (a) of the standard.

Corrective Action Taken:

The facility submitted an email correspondence between the PSA Compliance Manager and the Agency PSA Coordinator to confirm all 12 sexual abuse incident reviews had been forwarded to the Agency PSA Coordinator. In addition, the email confirmed two additional reviews had been completed during the corrective action plan (CAP) period had been forwarded. The Auditor reviewed the email which included two additional sexual abuse allegation determination and the corresponding documentation to confirm the incident reviews were forwarded to the Agency PSAC; and therefore, no longer requires all incident reviews and responses be submitted

during the CAP period. Upon review of all submitted documentation the Auditor now finds the facility in compliance with subsection (a) of the 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.

Robin Bruck 6/12/2024

Auditor's Signature & Date

(b) (6), (b) (7)(C) 6/12/2024

Program Manager's Signature & Date

(b) (6), (b) (7)(C) 6/12/2024

Assistant Program Manager's Signature & Date

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



**Homeland
Security**

AUDIT DATES

From:	10/24/2023	To:	10/26/2023
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AUDITOR INFORMATION

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

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)

AGENCY INFORMATION

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

Name of Field Office:	El Paso
Field Office Director:	Mary De Anda-Ybarra
ERO PREA Field Coordinator:	(b) (6), (b) (7)(C)
Field Office HQ physical address:	11541 Montana Ave., Suite E, El Paso, TX 79936

INFORMATION ABOUT THE FACILITY BEING AUDITED

Basic Information About the Facility

Name of facility:	Otero County Processing Center
Physical address:	26 McGregor Range Road, Chaparral, New Mexico 88081
Telephone number:	575-824-0440
Facility type:	D-IGSA
PREA Incorporation Date:	5/28/2015

Facility Leadership

Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Facility Administrator
Email address:	(b) (6), (b) (7)(C)	Telephone #:	575-824-(b) (6), (b) (7)
Name of PSA Compliance Manager:	(b) (6), (b) (7)(C)	Title:	PSA Compliance Manager
Email address:	(b) (6), (b) (7)(C)	Telephone #:	575-824-(b) (6), (b) (7)

NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS

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

The Department of Homeland Security (DHS) Prison Rape Elimination Act (PREA) audit of Otero County Processing Center (OCPC) was conducted October 24-26, 2023, by U.S. Department of Justice (DOJ) and DHS Certified PREA Auditor Robin M. Bruck, employed by Creative Corrections, LLC. The Auditor was provided guidance and review during the audit report writing and review process by U.S. Immigration and Customs Enforcement (ICE) PREA Program Manager (PM) (b) (6), (b) (7)(C) and Assistant Program Manager (APM) (b) (6), (b) (7)(C), both DOJ and DHS Certified PREA Auditors. The PM's role is to provide oversight 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 compliance with the DHS PREA Standards. OCPC is operated by Management & Training Corporation (MTC) and operate under contract with the DHS ICE, Office of Enforcement and Removal Operations (ERO). OCPC is in Chaparral, New Mexico. This audit is the third DHS PREA audit for OCPC and includes a review period between May 14, 2021, through October 26, 2023.

Approximately 30 days prior to the on-site audit, the ERAU Inspections and Compliance Specialist (ICS) Team Lead (TL) (b) (6), (b) (7)(C), provided the Auditor with the facility Pre-Audit Questionnaire (PAQ), Agency policies, facility 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. Prior to the on-site audit, the Auditor reviewed all documentation provided, the Agency website (www.ice.gov/prea), and the facility website (www.mtctrains.com/facility/otero-county-processing-center). The main policy that governs OCPC's sexual abuse prevention, intervention and response efforts is MTC Policy 2.11 Sexual Assault and Abuse Prevention and Intervention.

An entrance briefing was held in the OCPC's conference room on Tuesday, October 24, 2023, at 8:15 a.m. The ICE ERAU TL, (b) (6), (b) (7)(C) opened the briefing and turned it over to the Auditor. In attendance were:

(b) (6), (b) (7)(C), TL, ICS/ICE/OPR/ERAU
(b) (6), (b) (7)(C), ICS/ICE/OPR/ERAU
(b) (6), (b) (7)(C), Acting Assistant Field Office Director (AFOD), ICE/ERO
(b) (6), (b) (7)(C), Supervisory Detention and Deportation Officer (SDDO), ICE/ERO
(b) (6), (b) (7)(C), PSA Compliance Manager, OCPC
(b) (6), (b) (7)(C), OCPC Facility Administrator (FA)
(b) (6), (b) (7)(C), Quality Assurance Manager, OCPC
(b) (6), (b) (7)(C), Classification Manager, OCPC
(b) (6), (b) (7)(C), Chief of Security/Investigator, OCPC
(b) (6), (b) (7)(C), Secretary, OCPC
(b) (6), (b) (7)(C), Assistant Facility Administrator (AFA), OCPC
(b) (6), (b) (7)(C), Director of Nursing (DON), OCPC
(b) (6), (b) (7)(C), Human Services Administrator (HSA), OCPC
(b) (6), (b) (7)(C), Assistant Human Services Administrator (AHSA), OCPC
Robin M. Bruck, Certified DOJ/DHS PREA Auditor, Creative Corrections, LLC

The Auditor introduced herself and provided an overview of the audit process and the methodology to be used to demonstrate PREA compliance to those present. The Auditor explained the audit process is designed to not only assess compliance through written policies and procedures but also to determine whether such policies and

procedures are reflected in the general knowledge of staff at all levels employed at the facility. The Auditor further explained compliance with the PREA standards will be determined based on a review of OCPC policies and procedures, observations made during the facility on-site audit, documentation review, and interviews conducted with staff and detainees.

Immediately after the entrance briefing, an on-site audit was conducted by the Auditor, with key staff from OCPC, and ICE ERO and ERAU staff. All areas of the facility where detainees are afforded the opportunity to go or provided services, were observed by the Auditor, to include all detainee housing units, booking/intake, kitchen, library, laundry, and recreation and medical areas. In addition, the Auditor observed the sally port and control centers. During the on-site audit, the Auditor made visual observations of the housing unit bathrooms and shower areas, officer post sight lines and camera locations. Sight lines were closely examined, as was the potential for blind spots, throughout the facility where detainees are housed or have access. There were no notable blind spots observed.

OCPC utilizes (b) (7)(E) to electronically assist with the monitoring of detainees throughout the facility. The cameras operate 24/7, (b) (7)(E). Video footage can be stored on the (b) (7)(E). Live camera feed of the (b) (7)(E) can be viewed by the (b) (7)(E), (b) (7)(E), (b) (7)(E), (b) (7)(E), and (b) (7)(E). During the on-site audit, the Auditor observed the camera placement as well as the capabilities of each camera. In the (b) (7)(E), the Auditor observed the cameras directly above the (b) (7)(E); however, upon review of the camera monitors the Auditor observed a digital black box had been inserted in these areas; and therefore, could not be viewed by staff.

During the on-site audit, the Auditor spoke informally to staff and detainees regarding PREA education and the facility's PREA practices. Both staff and detainees appeared to be knowledgeable of the Agency and the facility's zero tolerance stance and PREA in general. In addition, the Auditor observed opposite gender announcements being made as opposite gender staff entered the housing unit areas and posters on the housing unit bulletin boards in English and Spanish to include the DHS-prescribed sexual assault awareness notice, contact information for the DHS Office of Inspector General (OIG), the ICE Detention Reporting and Information Line (DRIL), Consulate Offices, and the contact information for La Pinon Victim Advocacy. In addition, the Auditor observed the notification of audit posted throughout the facility in English, Spanish, Punjabi, Hindi, Simplified Chinese, Portuguese, French, Haitian Creole, Bengali, Arabic, Russian, and Vietnamese. The Auditor tested the posted telephone numbers to determine if they were in good working order. Successful calls were made to the DHS OIG and DRIL; however, the Auditor had difficulties with the facility PREA Hotline and La Pinon PREA Hotline. The Auditor advised facility staff who were able to correct the issue and all telephone numbers were in good working order prior to the Auditor concluding the on-site audit.

OCPC houses detainees who are pending immigration review and/or deportation. The facility houses male and female detainees with low, medium, and high custody levels. The PAQ indicated, the top three nationalities of the facility population are Venezuela, Ecuadorian, and Colombian. OCPC's design capacity is 1086 and on the first day of the on-site audit the facility housed 967 detainees (776 male and 191 female). The average length of stay at the facility is 47 days. Detainees are housed within 20 open bay dorm style housing units which can house up to 50 detainees per dorm. In addition, there are two holding cells, 15 beds, in the medical unit, 82 beds in the male Administrative Segregation unit, and 7 beds in the female Administrative Segregation unit; however, there were no detainees housed in the medical unit or the segregation units due to being vulnerable to sexual abused or following an incident of sexual abuse. During the on-site audit, the Auditor interviewed 25 detainees (21 male and 4 female). The interviews included 10 random detainees, 1 detainee who was deaf and mute, 1 transgender detainee, 2 detainees who reported prior sexual victimization and 11 limited English proficient (LEP) detainees. To conduct a majority of the LEP detainees interviews the Auditor utilized a

language line through Language Line Service Associates (LSA) provided by Creative Corrections, LLC; however, the Auditor experienced difficulty in contacting an interpreter for some of the detainee interviews; and therefore, utilized the facility Pocket Talk device for interviews where interpreters could not be contacted. All interviews were conducted in a private setting allowing confidentiality for those participating in the interview process. No other targeted detainee interviews were conducted. The facility does not house juvenile detainees or family units.

A review of OCPC's PAQ indicated the facility employs 136 security staff (100 males and 36 females), 27 medical, and 1 mental health staff, who have recurring contact with detainees. There are 28 ICE staff, which include 1 SDDO, 1 AFOD, 22 Detention and Deportation Officers (DDOs), and 4 assistants assigned to the facility. The remainder of the staff includes administration, maintenance, food service, and religious services. In addition, the facility contracts with Keefe Commissary Network for Commissary services, an independent physician, dentist, and psychiatrist to provide additional medical and mental health services and utilizes religious volunteers. Detention Officers (DOs) and security supervisors work in two shifts 0600-1800 and 1800-0600. The Auditor conducted interviews of 22 staff members, utilizing 28 interview protocols, to include the FA, PSA Compliance Manager, Grievance Officer (GO), Investigator, Human Resource (HR) staff (1), Classification Manager, Incident Review Team Member (2), Licensed Professional Counselor (LPC), Licensed Mental Health Counselor (LMHC), HSA, Registered Nurse (RN) (2), Intake staff (1), Disciplinary Officer, Retaliation Monitor, detention supervisor (a), and random Detention Officers (DO)s (5). In addition, the Auditor interviewed two ICE staff to include the Acting AFOD and SDDO, one Commissary contractor staff employed by Keefe Commissary Network, two independent staff contractors assigned to medical, and one volunteer. All interviews were conducted in a private setting allowing confidentiality for those participating in the interview process.

The facility PAQ indicated there are four investigators who have received specialized training on sexual abuse and cross-agency coordination. A review of the facility PREA Allegation Spreadsheet indicated 12 sexual abuse allegation investigation files had been closed during the reporting period, which included 9 detainee-on-detainee allegations (6 unsubstantiated and 3 substantiated) and 3 staff-on-detainee (2 unsubstantiated and 1 substantiated) allegations.

An exit briefing was conducted on Thursday, October 26, 2023, at 4:00 p.m. The ICE ERAU TL opened the briefing and turned it over to the Auditor. In attendance were:

(b) (6), (b) (7)(C), TL, ICS/ICE/OPR/ERAU
(b) (6), (b) (7)(C), ICS/ICE/OPR/ERAU
(b) (6), (b) (7)(C), AFOD, ICE/ERO
(b) (6), (b) (7)(C), SDDO, ICE/ERO
(b) (6), (b) (7)(C), PSA Compliance Manager, OCPC
(b) (6), (b) (7)(C), FA, OCPC
(b) (6), (b) (7)(C), Quality Assurance Manager, OCPC
(b) (6), (b) (7)(C), AFA, OCPC
(b) (6), (b) (7)(C), Classification Manager, OCPC
(b) (6), (b) (7)(C), Chief of Security/Investigator, OCPC
(b) (6), (b) (7)(C), Secretary, OCPC
(b) (6), (b) (7)(C), HSA, OCPC
(b) (6), (b) (7)(C), Lieutenant, OCPC
Robin M. Bruck, Certified DOJ/DHS PREA Auditor, Creative Corrections, LLC

The Auditor spoke briefly and informed those present it was too early in the process to formalize a determination of compliance on each standard. The Auditor further advised she 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: 0

Number of Standards Met: 30

§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

§115.18 - Upgrades to facilities and technologies

§115.21 - Evidence protocols and forensic medical examinations

§115.31 - Staff Training

§115.32 - Other Training

§115.34 - Specialized training: Investigations

§115.41 - Assessment for risk of victimization and abusiveness

§115.42 - Use of assessment information

§115.43 - Protective Custody

§115.51 - Detainee Reporting

§115.52 - Grievances

§115.54 - Third-party reporting

§115.61 - Staff and Agency Reporting Duties

§115.62 - Protection Duties

§115.63 - Reporting to other Confinement Facilities

§115.66 - Protection of detainees from contact with alleged abusers

§115.67 - Agency protection against retaliation

§115.68 - Post-allegation protective custody

§115.71 - Criminal and administrative investigations

§115.72 - Evidentiary standard for administrative investigations

§115.76 - Disciplinary sanctions for staff

§115.77 - Corrective action for contractors and volunteers

§115.78 - Disciplinary sanctions for detainees

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

§115.82 - Access to emergency medical and mental health services

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

§115.87 - Data collection

§115.201 - Scope of Audit

Number of Standards Not Met: 10

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

§115.17 - Hiring and promotion decisions

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

§115.33 - Detainee Education

§115.35 - Specialized training: Medical and mental health care

§115.53 - Detainee access to outside confidential support services

§115.64 - Responder Duties
§115.65 - Coordinated Response
§115.73 - Reporting to detainees
§115.86 - Sexual abuse incident review

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): MTC policy 2.11 states, "The OCPC has a zero tolerance for all forms of sexual abuse and sexual assault. The OCPC will provide a safe and secure environment for all detainee, 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." A review of MTC policy 2.11 confirms the policy includes definitions of sexual abuse and general PREA definitions. A review of MTC policy 2.11 further confirms MTC policy 2.11 outlines the facility's approach to preventing, detecting, and responding to sexual abuse and sexual harassment through; but not limited to, hiring practices, training, unannounced rounds, mandatory reporting, investigations, and support, and crisis intervention from victim advocates. During the on-site audit, the Auditor observed the DHS-prescribed sexual abuse and assault awareness notice posted in English and Spanish on the bulletin boards in all housing units. Interviews with five random DOs confirmed they were knowledgeable regarding the Agency and facility zero-tolerance policies. Interviews with the FA and Acting AFOD confirmed MTC policy 2.11 has been submitted and approved by the Agency.

(d): MTC policy 2.11 states, "The OCPC Facility Administrator has designated a PSACM to serve as the facility's point of contact for the ICE/ERO PSA Coordinator. The PSACM will have sufficient time and authority to oversee the OCPC's efforts to comply with the facility's sexual abuse prevention and intervention policies and procedures." An interview with the PSA Compliance Manager confirmed he is the point of contact for the Agency PSA Coordinator and has sufficient time and authority to oversee the facility's efforts to comply with the facility sexual abuse prevention and intervention policies and procedures. An interview with the FA and a review of the facility organizational chart confirmed the PSA Compliance Manager has sufficient authority to oversee the facility's efforts to comply with the facility sexual abuse prevention and intervention policies and procedures.

Corrective Action:

No corrective action needed.

§115.13 - Detainee supervision and monitoring

Outcome: Meets Standard

Notes:

(a)(b)(c): MTC policy 2.11 states, "The OCPC maintains sufficient supervision of detainees, through appropriate staffing levels and video monitoring to protect detainees against sexual abuse. The Facility Administrator determines 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 needs for video monitoring, the OCPC takes into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of the 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 safety, the length of time detainees spend in the OCPC's custody, and other relevant factors.” A review of OCPC’s PAQ indicated the facility employs 136 security staff (100 males and 36 females), 27 medical, and 1 mental health staff, who have recurring contact with detainees. There are 28 ICE staff, which include 1 SDDO, 1 AFOD, 22 DDOs, and 4 assistants assigned to the facility. The remainder of the staff includes administration, maintenance, food service, and religious services. In addition, the facility contracts with Keefe Commissary Network for Commissary services, an independent physician, dentist, and psychiatrist to provide additional medical and mental health services and utilizes religious volunteers. The PAQ further indicates OCPC utilizes (b) (7)(E) to electronically assist with the monitoring of detainees throughout the facility. The cameras operate (b) (7)(E). Interviews with the FA and PSA Compliance Manager indicated upper management of the facility to include, but not limited to; the FA, the Deputy Administrator, the PSA Compliance Manager, and the Quality Assurance Manager participate annually in a staffing plan review meeting and the meeting. An interview with the FA and PSA Compliance Manager further indicated the meeting and staffing plan review are documented on the PREA Annual Staffing Plan Review Certification form. The Auditor reviewed the 2022 PREA Annual Staffing Plan Review Certification form completed on December 16, 2022 and confirmed the facility considered generally accepted detention and correctional practices; judicial findings of inadequacy; the physical layout of the facility; the composition of the detainee population; the prevalence of substantiated and unsubstantiated incidents of sexual abuse; the outcome and recommendations of sexual abuse incident review reports; and other relevant factors to include the length of time the detainees spend at OCPC when determining adequate staffing levels and the need for video monitoring for OCPC. A review of the 2022 PREA Annual Staffing Plan Review Certification form further confirmed the facility currently has adequate staff and recommendations were made to upgrade the video surveillance system. During the on-site audit, the Auditor observed sufficient supervision of the detainees to protect them from sexual abuse. In addition, the Auditor reviewed the comprehensive detainee supervision guidelines and confirmed the facility had reviewed and updated the guidelines in September of 2023.

(d): MTC policy 2.11 states, “Frequent unannounced security inspections will be conducted to identify and deter sexual abuse of detainees. Inspections will occur on all shifts. The OCPC staff are prohibited from alerting others that these security inspections are occurring unless such announcement is related to the legitimate operational functions of the facility. The OCPC's staff members will document unannounced visits by supervisors or departmental staff in appropriate logbooks. Such visits must be documented as an unannounced visit.” An interview with the PSA Compliance Manager indicated detention supervisors are required to perform at least one unannounced security inspection during their shift which are documented with the use of the facility Pipe System. An interview with a detention supervisor confirmed supervisors conduct unannounced security inspections at random times every day and there were differences between an unannounced PREA security inspection from supervisors required security rounds. An interview with a detention supervisor further indicated staff are prohibited from alerting others unannounced security inspections are occurring and staff could be disciplined for violating the standard’s requirement. The Auditor reviewed samples of unannounced security inspections prior to conducting the on-site audit. In addition, during the on-site audit, the Auditor reviewed the Pipe System and confirmed unannounced security inspections are occurring daily at different times and on every shift.

Corrective Action:

No corrective action needed.

§115.14 - Juvenile and family detainees

Outcome: Not Applicable

Notes:

(a)(b)(c)(d): The Auditor reviewed a memorandum to the file which states, “The Otero Processing Center has not held juveniles or families during the audit period.” Interviews with the FA, the PSA Compliance Manager, and the Auditor’s direct observations, confirmed the facility does not house juvenile detainees or family units; and 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): MTC policy 2.11 states, “The OCPC staff will adhere to the following gender protocol when pat searching detainees: Male detainees will be pat searched by male officers. Female detainees will be pat searched by female officers. Transgender detainees will be permitted to choose the gender of the officer conducting the pat search. Cross gender pat searches will only be conducted in exigent circumstances and must be fully documented, explaining the reason for the cross gender pat search. Staff will document the reason for each cross gender pat search.” Interviews with five random deportation officers indicated cross-gender pat-down searches are not permitted at the facility unless exigent circumstances exist and if a cross-gender pat-down search were to be conducted it must be documented on the Record of Search log. The Auditor interviewed 24 detainees, which included 20 male, 4 female and confirmed all pat-down searches were conducted by officers of the same gender. In addition, an interview with one transgender detainee confirmed she requested and received a pat-down search by a male employee. Due to time constraints, the Auditor did not observe a pat-down search or view a pat-down search on video during the on-site audit.

(e)(f): MTC policy 2.10 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. All strip searches and visual body cavity searches shall be documented.” Interviews with five random detention officers indicated strip searches, cross-gender strip searches, visual body cavity searches, and cross-gender visual body cavity searches are prohibited, unless there are exigent circumstances, and if conducted must be documented on the Record of Search log. Interviews with 25 detainees, which included 20 male detainees, 4 female detainees, and 1 transgender female detainee, confirmed they have not had a strip search, a cross-gender strip search, a visual body cavity search, or a cross-gender visual body cavity search, while housed at the facility. OCPC does not house juvenile detainees.

(g): MTC policy 2.11 states, “Detainees will 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 under medical supervision. OCPC staff of the opposite gender will announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing.” During the on-site audit, the Auditor observed signs posted at each housing unit entrance, to remind staff of the opposite gender to announce themselves prior to entering the area. In addition, the Auditor observed the announcement being made by staff. Interviews with 25 detainees, confirmed opposite gender staff announce by yelling “Female onsite” or “Male onsite” before entering the dorm area; however, all 25 detainees interviewed expressed privacy concerns regarding (b) (7)(E)

. The Auditor observed the camera views from the (b) (7)(E) and confirmed a digital black box had been inserted to prevent cross-gender viewing when detainees (b) (7)(E)

Recommendation (g): The Auditor recommends the facility include verbiage in the facility handbook to address detainee’s concerns regarding cross-gender viewing issues due to (b) (7)(E) above the (b) (7)(E).

(h): OCPC is not a family residential facility; and therefore, subsection (h) is not applicable.

(i)(j): MTC policy 2.11 states, “The OCPC staff will 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.” MTC policy 2.10, Searches of Detainees, states, “All pat searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs, including consideration of officer safety. Detention staff shall be trained in proper procedures for conducting pat searches, including cross-gender pat searches and searches of transgender and intersex detainees.” The Auditor reviewed the facility training curriculum for Detainee Searches-Cross-Gender Pat Search-Searches of Transgender and Intersex Detainees and confirmed the curriculum includes respectful communication, consistency in technique, professionalism, and awareness of safety and security. Interviews with five random DOs indicated all staff are required to complete pat-down search training annually during in-service training. Interviews with five random DOs further confirmed they were aware they could not physically search a transgender or intersex detainee for the sole purpose of determining the detainee’s genital status. An interview with a transgender female detainee, confirmed she has not been stripped searched at the facility and all staff have been professional while conducting pat-down searches. The Auditor reviewed 20 employee training files and confirmed all 20 employees had completed the required training during the 2023 In-Service 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): MTC Policy 2.11 states, “The OCPC will 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. 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, the OCPC will: 1. Provide 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. 2. Provide access to written materials related to sexual abuse in formats or through methods that ensure effective communication.” MTC Policy 2.11 further states, “The OCPC will 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.” During the on-site audit, the Auditor observed the DHS-prescribed sexual assault awareness notice, the DHS-prescribed (SAA) Information pamphlet, consulate posters, the DRIL poster, contact information for the DHS OIG, and the La Pinon Sexual Assault Recovery Services flyer, posted on the wall in all detainee housing units. During the on-site audit, the Auditor observed the cabinets located in the Intake area used to stock the ICE National Detainee Handbook and confirmed each shelf had a printed tag to indicate the space for all 14 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; however, although the Auditor observed the ICE National Detainee Handbook on-site in English and Spanish other languages were not completely stocked and many of the slots holding the required languages were completely empty. In addition, the Auditor observed the DHS-prescribed Sexual Assault Awareness (SAA) Information pamphlet in English and Spanish readily available; however, the Auditor did not observe the pamphlet available in the additional 13 most prevalent languages encountered by ICE, specifically Arabic, Bengali, Chinese, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Vietnamese, Turkish, and Ukrainian. The Auditor observed the facility detainee handbook and confirmed it was available in English and Spanish only. In an interview with Intake staff, it was indicated the ICE National Detainee Handbooks and DHS-prescribed SAA Information pamphlets are not available on site; however, could be printed off the computer which the Auditor was able to confirm through observation. In addition, interviews with the Classification Manager and five random DOs indicated if a detainee was deaf or hard of hearing, PREA information, to include how to report an incident of sexual abuse would be provided in writing, if a detainee was blind or had low vision, PREA information would be read to the detainee, and if the detainee was intellectual or psychiatric disabilities, staff would request medical and mental health staff assistance to provide PREA education. During the on-site Audit, the Auditor observed two detainees being processed into the facility and confirmed their preferred language was Spanish. The Auditor further confirmed each detainee was provided the ICE National Detainee Handbook, the facility handbook, and the DHS-prescribed SAA Information pamphlet in their preferred language and the detainees were able to watch the facility PREA Orientation video available in English, Spanish, and closed captioning. In addition, the Auditor confirmed following a completion of the video each detainee was separately taken out of the holding cell and asked to sign the facility Dorm Card. The Auditor reviewed the facility Dorm Card and confirmed the Dorm card requires the detainee to acknowledge by signature the detainee received the facility detainee handbook, the ICE National Detainee Handbook and had seen the facility PREA Orientation video; however, the Dorm card does not confirm the detainee received the DHS-prescribed SAA Information pamphlet or the PREA educational material was provided in a manner all detainees could understand. A review of the Dorm card further confirmed although the Dorm Card was in English only the Dorm card indicated the detainee's preferred language and required the facility to document on the card if the language line was utilized to provide the required PREA education to the detainee; however, a review of a signed Dorm card confirmed although the detainee's preferred language was indicated as Spanish, the Dorm card did not include the use of the language line or another interpretation service; and therefore, the Auditor could not confirm if a detainee's preferred language was other than English they would receive the PREA education in a manner they could understand. In an interview with a LEP detainee whose preferred language was Mandarin Chinese, it was confirmed the detainee was given the required PREA information; however, the PREA information was in Spanish which she could not understand. In an interview with the same LEP detainee whose preferred language was Mandarin Chinese, it was further confirmed she did not understand the PREA orientation video which was played in English and Spanish. In addition, in interviews with two detainees whose preferred language was Creole, it was confirmed both detainees interviewed had been given PREA information and watched the PREA Orientation video in Spanish; however, both detainees confirmed although they could speak and read Spanish they would have preferred to have the PREA education be provided in their preferred language as they could not understand all of the words and their meaning. In an interview with a Ukrainian detainee, it was further confirmed he received both handbooks and watched the video in English; however, although he confirmed he was able to read the handbooks, and understand the video, he would have preferred the information in his preferred language as he had difficulty understanding all the information. The Auditor attempted to interview a LEP detainee who was deaf and mute by utilizing the facility teletypewriter (TTY), the facility Pocket Talk, and a staff member who was able to write in Spanish; however, the detainee was uncooperative; and therefore, the Auditor could not establish effective communication to complete an interview. The Auditor reviewed 26 detainee files, which included the 5 detainee files who participated in the interviews, and confirmed all detainees had signed the Dorm card, confirming they had received the ICE National Detainee Handbook, the facility detainee handbook, and had watched the PREA Orientation Video, despite the detainees confirming they had not received the facility detainee handbook, the ICE National Detainee Handbook, or watched the PREA video, in their preferred

language; and therefore, the Auditor could not confirm the detainees had received PREA education in a manner they could understand. In addition, a review of the Dorm card could not confirm the detainees were provided the PREA information included in the DHS-prescribed SAA Information pamphlet.

(c): MTC Policy 2.11 states, “Interpretation services will 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 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.” An interview with the PSA Compliance Manager and five random DOs confirmed they would utilize another detainee to interpret for a detainee victim of sexual abuse during an emergency if the detainee victim requested another detainee to interpret, and it was approved by ICE.

Corrective Action:

The facility is not in compliance with subsections (a) and (b) of the standard. During the on-site audit, the Auditor observed the facility detainee handbook and facility PREA Orientation video and confirmed both the facility detainee handbook and the Orientation video were available in English and Spanish only. In addition, during the on-site audit the Auditor reviewed the facility Dorm Card signed by five detainees interviewed on sight and confirmed the detainee signatures indicated the detainees had received the facility detainee handbook, the ICE National Detainee Handbook and had seen the facility PREA Orientation Video despite detainee interviews confirming they had not received the information in their preferred language; and therefore, the Auditor could not confirm the detainees had received PREA education in a manner they could understand. The Auditor reviewed the Dorm card and could not confirm detainees are provided the PREA information included in the DHS-prescribed SAA Information pamphlet. To become compliant, the facility must implement a process that provides all detainees with disabilities including those who are LEP an equal opportunity to participate in or benefit from all aspects of the Agency’s and the facility’s efforts to prevent, detect and respond to sexual abuse. Once implemented the facility must document that all Intake and Classification staff have been trained on the implemented process. The facility must provide 10 detainee intake files to include, if applicable, detainees whose preferred language is other than English or Spanish to confirm the implemented process.

§115.17 - Hiring and promotion decisions

Outcome: Does Not Meet 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 7-6.0 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. MTC SOP-Background Checks -Corrections/Medical Resources states, “The facility human resources manager (HRM) is responsible for ensuring a background check is completed on all individuals who are identified and selected for employment with the company regardless of status e.g., full time, part time, on-call, temporary as well as candidates for intern positions. In corrections, under PREA, an updated background check must be run at least every five years on current employees who may have

contact with inmates, unless the requirement is superseded by customer agency policy and procedure. Volunteers may be subject to background checks based on customer requirements.” MTC SOP-Background Checks - Corrections/Medical Resources further states, “In corrections, under PREA, MTC must make its best efforts to contact prior institutional employers for information on substantiated allegations of sexual abuse or resignation during a pending investigation of sexual abuse. The Reference Verification Report-Corrections version contains the appropriate questions. In corrections, under the Prison Rape Elimination Act (PREA), MTC shall consider any incidents of sexual harassment in determining whether to hire or promote anyone who may have contact with inmates. In Corrections, under PREA, MTC must complete the PREA verification form attached to this SOP for all previous institutional employers of the candidate selected.” An interview with a HR staff member confirmed MTC does provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. An interview with a HR staff member further indicated all potential employees, contractors, and volunteers will participate in an interview prior to being hired at the facility. In addition, an interview with the same HR staff member indicated, if the applicant, contractor, or volunteer successfully completes an interview, each person must complete the DHS 6 Code of Federal Regulations Part 115 form. The Auditor reviewed the DHS 6 Code of Federal Regulations Part 115 form and confirms the form asks potential staff, contractors, and volunteers, “Have you ever been found to have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution, or convicted of engaging or attempting to engage in sexual activity with any person by force, threat of force or coercion or if the victim did not or could not consent? Have you been civilly or administratively adjudicated to have engaged in the activity described above? Have you been found to have engaged in sexual harassment at work?” all elements required by subsection (a) of the standard. A review of the DHS 6 Code of Federal Regulations Part 115 form further confirms the form requires the participant to acknowledge by signature, “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.” Utilizing the PSU Background Investigation for Employees and Contractors, the Auditor submitted 21 names consisting of ICE and MTC staff to confirm background investigations had been conducted. Documentation was provided which confirmed all submitted names had completed a background check, all required forms were completed prior to being hired, and background investigations were completed every five years as required by subsection (c) of the standard. In addition, the Auditor reviewed 20 employee files and 2 contractor files and confirmed each file contained the DHS 6 Code of Federal Regulations Part 115 form. In an interview with a HR staff member, it was indicated an employee had recently been promoted. A review of the employee file confirmed the employee had completed a DHS 6 Code of Federal Regulations Part 115 form prior to the promotion. An interview with the Acting AFOD indicated one ICE employee had been promoted during the reporting period. In an interview with the promoted SDDO it was confirmed the promoted SDDO had not been asked about previous misconduct detailed in subsection (a) during an interview or on an application prior to being promoted. In addition, no documentation had been submitted to confirm compliance.

Corrective Action:

The Agency is not in compliance with subsections (a) and (b) of the standard. An interview with the Acting AFOD indicated one ICE employee had been promoted during the reporting period. In an interview with the promoted SDDO it was confirmed the promoted SDDO had not been asked about previous misconduct detailed in subsection (a) of the standard during an interview or on an application prior to being promoted. In addition, no documentation had been submitted to confirm compliance. To become compliant, the Agency must establish a process to ensure prior to promotions, the Agency inquiries about sexual misconduct during an interview or on an application prior to promotion as required in subsection (b) of the standard to ensure the Agency is not promoting any staff who may have continuing contact with detainees who has participated in misconduct as outlined by subsection (a) of the standard. In addition, the facility must submit documentation to confirm any ICE staff promoted during the CAP period had been asked about prior misconduct during an interview or on an application prior to being promoted.

§115.18 - Upgrades to facilities and technologies

Outcome: Meets Standard

Notes:

(a): MTC policy 2.11 states, “When designing or acquiring any new facility, or in planning any substantial expansion or modification to the existing facility, the OCPC will consider the effect of the design, acquisition, expansion, or modification upon its ability to protect detainees from sexual abuse.” Interviews with the FA and PSA Compliance Manager indicated the facility has not designed, modified, acquired, or expanded upon new or existing space since the last DHS audit on May 11, 2021. During the on-site audit, the Auditor did not observe any recent construction occurring at the facility.

(b): MTC policy 2.11 states, “When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology at the facility, the OCPC will consider how such technology may enhance its ability to protect detainees from sexual abuse by eliminating any blind spot as much as possible.” Interviews with the FA and PSA Compliance Manager indicated the facility has not installed or updated the electronic monitoring systems; however, a review of the 2022 PREA Annual Staffing Plan Review Certification form confirms the facility considered how installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology at the facility will enhance the facility’s ability to protect detainees from sexual abuse.

Corrective Action:

No corrective action needed.

§115.21 - Evidence protocols and forensic medical examinations

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): 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.” MTC policy 2.11 states, “To the extent OCPC is responsible for investigating allegations of sexual abuse, OCPC will follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. In the event of a sexual assault, OCPC will contact La Pinon who will provide a victim advocate. The La Pinon victim advocate will be able to provide emotional support, crisis intervention, information, and referrals. The OCPC will enable reasonable communication between detainees and La Pinon in as confidential a manner as possible. Where evidential or medically appropriate, at no cost to the detainee, and only with the detainee’s consent, the Facility Administrator will arrange for the alleged victim to undergo a forensic medical examination. These examinations will be performed by the Sexual Assault Nurse Examiner (SANE) Unit at Memorial Medical Center (MMC) in Las Cruces, New Mexico. Prior to transporting any detainee to MMC for such treatment, a victim advocate with La Pinon must be contacted for nurse availability. MTC policy 2.11 further states. “As requested by the victim, the presence of his or her outside victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, will be allowed for support during a forensic exam and investigatory interviews.” Interviews with the PSA Compliance Manager and HSA indicated a victim of sexual abuse would be transported to Memorial Medical Center in Las

Cruces, New Mexico for emergency medical treatment and the La Pinon Sexual Assault and Recovery Services for a SANE exam. A review of a Memorandum of Understanding (MOU) between OCPC and La Pinon Sexual Assault and Recovery Services, entered September 14, 2023, and remaining into effect unless affirmatively terminated by either party, and an interview with an advocate from La Pinon Sexual Assault and Recovery Services confirmed the La Pinon Sexual Assault and Recovery Services SANE unit is located at Memorial Medical Center and would provide services to a detainee victim at no cost. A review of a MOU between OCPC and La Pinon Sexual Assault and Recovery Services and an interview with an advocate from La Pinon Victim Sexual Assault and Recovery Services further confirmed an advocate would accompany the detainee victim for a forensic sexual assault exam, criminal proceedings, protective order hearings, investigative interviews, and would provide crisis intervention and counseling as needed.

(e): MTC policy 2.11 states, “If OCPC is not responsible for investigating allegations of sexual abuse. The OCPC will request the agencies conducting administrative and criminal investigations, OCSO and MMC, to follow PREA requirements for evidence protocol and forensic examinations.” In an interview with the PSA Compliance Manager, it was indicated the Otero County Sheriff’s Office (OCSO) would be notified in the event of an allegation of sexual abuse which is determined to be potentially criminal. The Auditor reviewed a letter from the OCPC FA to the Otero County Sheriff’s Office (OCSO) which confirmed the facility has requested the OCSO follow the requirements of 115.21 (a) – (d).

Corrective Action:

No corrective action needed.

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

Outcome: Does Not Meet Standard

Notes:

(a)(b)(c)(d)(e)(f): 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).” MTC policy 2.11 states, “The OCPC will ensure that each allegation of sexual abuse is investigated by OCPC or referred to OCSO. All reports and referrals of allegations of sexual abuse will be documented and maintained by the OCPC, for at least five years. The OCPC will ensure that all allegations are promptly reported to ICE, and unless the allegation does not involve potentially criminal behavior, are promptly referred for investigation to OCSO with the legal authority to conduct criminal investigations. When a detainee of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the OCPC will ensure that the incident is promptly referred to the ICE Field Office Director. If OCPC staff, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse or assault, the OCPC will ensure that the incident is promptly reported to the ICE Field Office Director. OCPC staff, contractors and volunteers suspected of perpetrating sexual abuse or assault will be removed from all duties requiring detainee contact pending the outcome of an investigation. If any incident is potentially criminal, it will be referred to OCSO.” The Auditor reviewed MTC policy 2.11 and confirmed although MTC policy 2.11 requires the facility to report an allegation of sexual abuse to ICE, the standard requires the facility to ensure “when a detainee, 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/designee' and "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/designee." An interview the PSA Compliance Manager indicated allegations criminal in nature would be immediately reported to the OCSO and an administrative investigation would be completed after consultation with OCSO. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed the facility notified the OCSO, ICE OPR, the Joint Intake Center (JIC), and the ICE Field Office in 11 of the allegations; however, in 1 sexual abuse allegation investigation file which included staff-on-detainee and was potentially criminal the facility did not notify local law enforcement. In an interview with the PSA Compliance Manager, it was indicated the facility investigated the allegation as undue familiarity and had determined it not to be a PREA allegation; however, the allegation was determined to be PREA by the Agency; and therefore, the facility did not follow the requirements of subsections (a), (d), and (f) of the standard. The Auditor reviewed the Agency website (<https://www.ice.gov/prea>) and the facility website (www.mtctrains.com/prea/) and confirmed the Agency and the facility's protocols have been posted; however, the facility protocol does not include the elements required by subsections (d), (e), and (f) of the standard.

Corrective Action:

The facility is not in compliance with subsections (a), (c), (d), (e), and (f) of the standard. The Auditor reviewed MTC policy 2.11 and confirmed although MTC policy 2.11 requires the facility to report an allegation of sexual abuse to ICE, the standard requires the facility to ensure "when a detainee, 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/designee' and "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/designee." An interview the PSA Compliance Manager indicated allegations criminal in nature would be immediately reported to the OCSO and an administrative investigation would be completed after consultation with OCSO; however, the Auditor reviewed of one sexual abuse allegation investigation file of staff-on-detainee allegation and confirmed the facility did not follow the requirements of subsections (a), (d), and (f) of the standard. the facility did not follow protocol which required notification to local law enforcement. The Auditor reviewed the facility website (www.mtctrains.com/prea/) and confirmed facility's protocol had been posted; however, the facility protocol does not include the elements required by subsections (d), (e), and (f) of the standard. To become compliant, the facility must update MTC policy 2.11 to include all elements required by subsections (d), (e), and (f) of the standard to establish a protocol which ensures all allegations of sexual abuse are investigated as required by subsection (a) of the standard. Once updated the facility must train all investigators on the updated protocol. In addition, the facility must post the updated protocol on its website (www.mtctrains.com/prea/). If applicable the facility must submit all closed sexual abuse allegation investigation files that occur during the CAP period.

§115.31 - Staff Training

Outcome: Meets Standard

Notes:

(a)(b)(c): MTC Policy 2.11 states, "The OCPC Training Manager is responsible for providing initial and annual training to all the OCPC staff, contractors, and volunteers. This training includes how to respond in a coordinated and appropriate fashion, when a detainee reports an incident of sexual abuse or assault. All training will be documented and maintained by the OCPC Training Manager. The OCPC SAAPI training will be included in training for employees, volunteers, and contract personnel and will also be included in annual refresher training thereafter. The OCPC training will ensure facility staff are able to fulfill their responsibilities under this standard, and will include: 1. The OCPC's zero-tolerance policy for all forms of sexual abuse; 2. The right of detainees

and staff to be free from sexual abuse, and from retaliation for reporting sexual abuse; 3. Definitions and examples of prohibited and illegal sexual behavior; 4. Recognition of situations where sexual abuse and/or assault may occur; 5. Recognition of the physical, behavioral and emotional signs of sexual abuse and/or assault and ways to prevent and respond to such occurrences; 6. How to avoid inappropriate relationships with detainees; 7. How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainee; 8. Instruction on reporting knowledge or suspicion of sexual abuse and/or assault; 9. Requirements 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 purpose; 10. Instruction that sexual abuse and/or assault is never an acceptable consequence of detention; 11. The investigation process and how to ensure that evidence is not destroyed; 12. Prevention, recognition, and appropriate response to allegations or suspicions of sexual assault involving detainees with mental or physical disabilities; 13. Working with vulnerable populations and addressing their potential vulnerability in the general population; 14. Instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse and/or assault.” The Auditor reviewed the facility Sexual Abuse and Assault Prevention and Intervention (SAAPI): PREA training curriculum and confirmed the training covers the required elements which include: the Agency and the facility’s zero tolerance policies for all forms of sexual abuse; definitions and examples of prohibited and illegal behavior; the right of detainees and staff to be free from sexual abuse, and from retaliation for reporting on prohibited and illegal behavior; recognition of situations where sexual abuse may occur; recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing and responding to such occurrences; how to avoid inappropriate relationships with detainees; how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex or gender nonconforming detainees; procedures for reporting knowledge, suspicion of sexual abuse; and the requirement to limit reporting of sexual abuse to personnel with a need-to-know in order to make decisions concerning the victim’s welfare for law enforcement or investigative purposes. Interviews with five random DOs indicated they are required to attend PREA training during the annual in-service training. Interviews with five random DOs further indicated all DOs interviewed were able to articulate how to fulfill their responsibilities under the PREA standards. The Auditor reviewed 20 staff training files and 3 staff contractors files and confirmed each staff member and staff contractor had receive PREA training in 2022 and 2023. In addition, the Auditor reviewed 2023 training certificates for three ICE staff which confirmed they had received the required PREA training.

Recommendation (a): The Auditor recommends the facility revise MTC policy 2.11, to include all staff, contractors and volunteers who have continuous contact with detainees will be notified of the Agency and OCPC zero-tolerance policies.

Corrective Action:

No corrective action needed.

§115.32 - Other Training

Outcome: Meets Standard

Notes:

(a)(b)(c): MTC policy 2.11 states, “All volunteers and other contractors who have contact with detainees will be trained on their responsibilities under the OCPC'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 will be notified of the OCPC's zero-tolerance policy and informed on how to report such an Incident.” The Auditor reviewed the ICE Prison Rape Elimination Act (PREA) Training for Contractors and Volunteers and confirmed the curriculum includes definitions related to sexual abuse and assault; the Agency zero-tolerance of sexual abuse; reporting duties, protection duties; responder duties; the Agency’s protection against retaliation; indicators of sexual abuse; and how to avoid an inappropriate relationship with detainees. An interview with the PSA Compliance Manager indicated in addition to the ICE Prison Rape Elimination Act

(PREA) Training for Contractors and Volunteers, volunteers are required to attend the facility in-service training once a year. Interviews with an “other” contractor and volunteer indicated they have received PREA training each year. The Auditor reviewed three “other” contractor files and three volunteer files and confirmed they had completed both the ICE Prison Rape Elimination Act (PREA) Training for Contractors and Volunteers and the facility in-service PREA training.

Recommendation (b): The Auditor recommends the facility revise MTC policy 2.11, to include all contractors and volunteers who have continuous contact with detainees will be notified of the Agency and OCPC zero-tolerance policies.

Corrective Action:

No corrective action needed.

§115.33 - Detainee Education

Outcome: Does Not Meet Standard

Notes:

(a)(b)(c)(d)(e)(f): MTC Policy 2.11 states, “Upon admission to the OCPC, all detainees will be notified of the facility's zero-tolerance policy for all forms of sexual abuse and assault through the orientation program, the OCPC's Detainee Handbook and ICE/ERO's National Detainee Handbook and provided with information about the OCPC's SAAPI program. The OCPC's orientation process will include at a minimum: 1. The OCPC's zero-tolerance policy for all forms of sexual abuse or assault; 2. The name of the OCPC's PSA Compliance Manager and information about how to contact him/her; 3. Prevention and intervention strategies; 4. Definitions and examples of detainee on detainee sexual abuse and assault, staff-on-detainee sexual abuse and assault 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), their consular official, the DHS/OIG and ICE/OPR investigation process; 6. Information about self-protection and indicators of sexual abuse and assault; 7. Prohibition against retaliation, including an explanation that reporting an assault will not negatively impact the detainee's immigration proceeding; 8. The right of a detainee who has been subjected to sexual abuse to receive treatment and counseling. Detainee notification and orientation will be in a language or manner that the detainee understands, including for those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to detainees who have limited reading skills. The OCPC will maintain documentation of a detainee's receipt of the OCPC Detainee Handbook and the viewing of the OCPC Orientation video.” MTC policy 2.11 further states, “Detainee notification and orientation will be in a language or manner that the detainee understands, including for those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to detainees who have limited reading skills. The OCPC will maintain documentation of a detainee's receipt of the OCPC Detainee Handbook and the viewing of the OCPC Orientation video. ICE/ERO has provided a "Sexual Abuse and Assault Awareness Brochure" to be distributed. The OCPC will post on all housing unit bulletin boards the following notices: the DHS-prescribed sexual abuse and assault awareness notice; the name of the PSA Compliance Manager; and Information about the local organization that can assist detainees who have been victims of sexual abuse or assault, including the mailing address and telephone number (including toll-free hotline numbers where available).” During the on-site audit, the Auditor observed the DHS-prescribed sexual assault awareness notice with the name of the facility PSA Compliance Manager, the DHS-prescribed (SAA) Information pamphlet, consulate posters, the DRIL poster, contact information for the DHS OIG, and the La Pinon Sexual Assault Recovery Services flyer, posted on the wall in all detainee housing units. An interview with the Classification Manager indicated the facility has an orientation program which is completed within 12 hours of the detainee's intake into the facility to include receiving the ICE National Detainee Handbook, the facility detainee handbook available in English and Spanish, the DHS-prescribed SAA Information pamphlet, and watching a PREA Orientation video available in English and Spanish and has closed captioning. Interviews with the Classification Manager and five random DOs indicated if a detainee was deaf or hard of hearing PREA information, to include how to report an incident of sexual abuse would be provided in

writing, if a detainee was blind or had low vision, the information would be read to the detainee, and if the detainee was intellectual or psychiatric disabilities, they would request medical and mental health staff assistance to provide the information. An interview with the Classification Manager further indicated each detainee will sign the Dorm card, which documents the detainee has received the ICE National Detainee Handbook, the facility detainee handbook, the DHS-prescribed SAA Information pamphlet, and viewed the PREA Orientation video. During the on-site audit, the Auditor observed the cabinets located in the Intake area used to stock the ICE National Detainee Handbook and confirmed each shelf had a printed tag to indicate the space for all 14 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; however, although the Auditor observed the ICE National Detainee Handbook on-site in English and Spanish other languages were not completely stocked and many of the slots holding the required languages were empty. In addition, the Auditor observed the DHS-prescribed SAA Information pamphlet in English and Spanish were readily available; however, the Auditor did not observe the pamphlet available in the additional 13 most prevalent languages encountered by ICE, specifically Arabic, Bengali, Chinese, French, Haitian Creole, Hindi, Portuguese, Punjabi, Romanian, Russian, Vietnamese, Turkish, and Ukrainian. In an interview with Intake staff, it was indicated the ICE National Detainee Handbooks and DHS-prescribed SAA Information pamphlets are not available on site; however, could be printed off the computer which the Auditor was able to confirm through observation. A review of the facility detainee handbook confirms the handbook includes the facility zero-tolerance policy; how to report a sexual abuse or assault; how reports will be investigated; and how to protect yourself from sexual abuse or assault. A review of the facility detainee handbook further confirms the handbook informs detainees to refer to the posters in each housing unit for specific information on prevention and intervention; definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity; explanation of the ways of reporting sexual abuse or assault, and the investigation process; self-protection; prohibition against retaliation; and treatment and counseling; however, during the on-site audit the Auditor confirmed through observation, posters providing PREA specific information to include all elements of subsection (a) of the standard were not posted as noted in the facility detainee handbook. In addition, during the on-site audit, the Auditor requested a transcript of the PREA Orientation video; however, the facility could not provide it. Prior to the on-site audit the facility submitted a document for Auditor review titled "Prison Rape Elimination Act Detainee Orientation." The Auditor reviewed the submitted document titled Prison Rape Elimination Act Detainee Orientation, available in English and Spanish only, and confirmed the document includes all elements required by subsection (a) of the standard; however, during the on-site audit the Auditor did not observe the Prison Rape Elimination Act Detainee Orientation document, nor was the Prison Rape Elimination Act Detainee Orientation document mentioned in interviews with the PSA Compliance Manager, Classification Manager, or Intake staff as being part of the orientation process. During the on-site Audit, the Auditor observed two detainees being processed into the facility and confirmed their preferred language was Spanish. The Auditor further observed each detainee was provided the ICE National Detainee Handbook, the facility handbook, and the DHS-prescribed SAA Information pamphlet in their preferred language and the detainees were able to watch the facility Orientation Video which is available in English, Spanish, and closed captioning. In addition, the Auditor observed following a completion of the video each detainee was separately taken out of the holding cell and asked to sign the facility Dorm Card. The Auditor reviewed the facility Dorm card and confirmed the Dorm card indicated the detainee had received the facility detainee handbook and the ICE National Detainee Handbook and had seen the facility PREA Orientation Video; however, the Dorm card did not confirm the detainee received the DHS-prescribed SAA Information pamphlet or the PREA educational material was provided in a manner all detainees could understand. A review of the facility Dorm card further confirmed although the facility Dorm card was in English only the Dorm card indicated the detainee's preferred language and required the facility to document on the card if the language line was utilized to provide the required PREA education to the detainee; however, a review of a signed Dorm card confirmed although the detainee's preferred language was indicated as Spanish, the Dorm card did not indicate the use of the language line or another interpretation service; and therefore, the Auditor could not confirm if a detainee's preferred language was other than English they would receive the PREA education in a manner they could understand. In an interview with a

LEP detainee whose preferred language was Mandarin Chinese, it was confirmed the detainee was given the required PREA information; however, the PREA information was in Spanish which she could not understand. In an interview with an additional LEP detainee whose preferred language was Mandarin Chinese, it was further confirmed she did not understand the PREA orientation video which was played in English and Spanish. In addition, in interviews with two detainees whose preferred language was Creole, it was confirmed both detainees interviewed had been given PREA information and watched the Orientation video in Spanish; however, both detainees confirmed although they could speak and read Spanish they would have preferred to have the PREA education be provided in their preferred language as they could not understand all of the words and their meaning. In an interview with a Ukrainian detainee, it was confirmed the detainee received the facility detainee handbook and the ICE National Detainee Handbook and watched the PREA Orientation video in English; however, although he confirmed he was able to read the handbooks, and understand the video, he would have preferred the information in his preferred language as he had difficulty understanding all the information. In addition, the Auditor attempted to interview a LEP detainee who was deaf and mute by utilizing the facility teletypewriter (TTY), the facility Pocket Talk, and a staff member who was able to write in Spanish; however, the detainee was uncooperative; and therefore, the Auditor could not establish effective communication to complete an interview. The Auditor reviewed 26 detainee files, which included the 5 detainee files who participated in the interviews, and confirmed all detainees had signed the Dorm card, confirming they had received PREA Orientation during intake to include receiving the ICE National Detainee Handbook, the facility detainee handbook, and watching the PREA Orientation Video, despite the detainees confirming they had not received the facility detainee handbook, the ICE National Detainee Handbook, or watched the PREA video, in their preferred language; and therefore, the Auditor could not confirm the detainees had received PREA orientation in a manner they could understand. In addition, a review of the Dorm card could not confirm the detainees received a copy of the DHS-prescribed SAA Information pamphlet as required by subsection (e) of the standard.

Recommendation (a): The Auditor recommends the facility revise MTC policy 2.11, to include all detainees will be notified of the Agency and OCPC zero-tolerance policies.

Corrective Action:

The facility is not in compliance with subsections (a), (b), and (e) of the standard. The Auditor reviewed the facility Detainee Handbook and confirmed the handbook includes the facility zero-tolerance policy; how to report a sexual abuse or assault; how reports will be investigated; and how to protect yourself from sexual abuse or assault. A review of the facility detainee handbook further confirms it informs detainees to refer to the posters in each housing unit for specific information on prevention and intervention; definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity; explanation of the ways of reporting sexual abuse or assault, and the investigation process; self-protection; prohibition against retaliation; and treatment and counseling; however, during the on-site audit the Auditor confirmed through observation, posters providing PREA specific information to include all elements of subsection (a) of the standard were not posted as noted in the facility detainee handbook. In addition, during the on-site audit, the Auditor requested a transcript of the PREA orientation video; however, the facility could not provide it. A review of the PAQ documentation indicated the facility provided the Auditor a document titled Prison Rape Elimination Act Detainee Orientation. The Auditor reviewed the submitted document and confirmed it includes all elements required by subsection (a) of the standard; however, during the on-site audit the Auditor did not observe the document, nor was the document mentioned in interviews with the PSA Compliance Manager, Classification Manager, and Intake staff as being part of the orientation process. During the on-site audit the Auditor observed the facility detainee handbook and facility PREA Orientation video and confirmed both the facility detainee handbook and the Orientation video were available in English and Spanish only. In addition, during the on-site audit the Auditor reviewed the facility Dorm Card signed by five detainees interviewed on sight and confirmed the detainee signatures indicated the detainees had received the facility detainee handbook, the ICE National Detainee Handbook and had seen the facility PREA Orientation Video despite detainee interviews confirming they had not received the information in their preferred language; and therefore, the Auditor could not confirm the detainees had received PREA education in a manner they could understand. The Auditor reviewed the Dorm card

and could not confirm detainees are provided a copy of the DHS-prescribed SAA Information pamphlet during the orientation process. To become compliant, the facility must implement during intake an orientation which ensures detainees are informed of all elements required in subsection (a) of the standard in a manner all detainees can understand as required in subsection (b) and to distribute the DHS-prescribed SAA Information pamphlet as required by subsection (e). Once implemented, the facility must provide documentation that confirms all Intake and Classification staff have been trained on the implemented process. In addition, the facility must provide 10 detainee intake files to include, if applicable, detainees whose preferred language is other than English or Spanish to confirm the implemented process.

§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. MTC Policy 2.11 states, “In addition to the general training provided to all OCPC employees, the OCPC will provide specialized training on sexual abuse and effective cross-agency coordination to facility’s 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; Information about effective cross-agency coordination in the investigation process. The OCPC Training Manager will maintain written documentation verifying all specialized training provided to the facility’s investigators.” A review of the facility PAQ indicates the facility has four investigators who have received specialized training on sexual abuse and effective cross-agency coordination. An interview with the PSA Compliance Manager/Investigator indicated the facility investigators have completed the National Institute of Corrections training curriculum titled “PREA: Investigating Sexual Abuse in a Confinement Setting.” The Auditor reviewed the NIC “PREA: Investigating Sexual Abuse in a Confinement Setting” training curriculum and confirmed the curriculum includes interviewing sexual abuse and assault victims; sexual abuse and assault evidence collection in confinement settings; the criteria and evidence required for administrative action or prosecutorial referral, and information about effective cross-agency coordination in the investigation process. The Auditor reviewed four training certificates and confirmed each of the facility investigators have completed the required specialized training. In addition, the Auditor reviewed staff training records which confirmed each investigator had completed the facility general PREA training required by §115.31. An interview with the PSA Compliance Manager/Investigator confirmed his knowledge and qualifications for investigating sexual abuse allegations in the facility. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed all reviewed investigations had been completed by a specially trained investigator as required by subsection (a) of the standard.

Corrective Action:

No corrective action needed.

§115.35 - Specialized training: Medical and mental health care

Outcome: Does Not Meet Standard

Notes:

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

(b)(c): MTC policy 2.11 states, “The OCPC will ensure that all full and part-time medical and mental health care practitioners who work regularly at the facility have been trained in: 1. How to detect and assess signs of sexual abuse and sexual harassment. 2. How to respond effectively and professionally to victims of sexual abuse and sexual harassment. 3. How and to whom to report allegations of suspicious of sexual abuse and sexual harassment. 4. How to preserve physical evidence of sexual abuse. OCPC will maintain documentation that medical and mental health practitioners have received training.” An interview with the HSA indicated all medical and mental health staff are required to attend specialized training and complete general PREA training as required by §115.31. An interview with a facility mental health LPC indicated she had completed PREA specialized medical training as required by subsection (b) of the standard. In addition, the facility mental health LPC provided the Auditor two certificates confirming she had completed the NIC training curriculums “PREA: Behavioral Health Care for Sexual Assault Victims in a Confinement Setting” and “PREA: Medical Health Care for Sexual Assault Victims in a Confinement Setting training.” The Auditor is familiar with the curriculums and has previously confirmed all elements required are included in the training curriculums. During the on-site audit, the Auditor reviewed three medical staff files, one contracted staff file, and one mental health LPC file and confirmed medical staff and the facility mental health LPC have received general PREA training as required by §115.31. However, although requested by the Auditor, the facility did not provide documentation to confirm all medical staff have received the specialized training required by subsection (b) of the standard. Interviews with the FA and Acting AFOD confirmed MTC policy 2.11 has been submitted and approved by the Agency.

Corrective Action:

The facility is not in compliance with subsection (b) of the standard. The Auditor reviewed three medical staff files and one contractor staff file and could not confirm all medical staff and mental health staff, to include the independent contracted physician, dentist, and psychiatrist, have received specialized training as required by subsection (b) of the standard. To become compliant, the facility must provide documentation to confirm all medical and mental health staff, to include the independent contracted physician, dentist, and psychiatrist, have received specialized training in 1. How to detect and assess signs of sexual abuse and sexual harassment. 2. How to respond effectively and professionally to victims of sexual abuse and sexual harassment. 3. How and to whom to report allegations of suspicious of sexual abuse and sexual harassment. 4. How to preserve physical evidence of sexual abuse.

§115.41 - Assessment for risk of victimization and abusiveness

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(f): MTC policy 2.11 states, “The OCPC will also use the information from the risk assessment under 115.41 to inform assignment of detainees to housing, recreation, voluntary work and other activities. Each new arrival will be kept separate from the general population until they are classified and may be housed accordingly. In some cases, segregation maybe warranted. The OCPC's initial screening and classifications processes will be completed within 12 hours of admission to the facility. Each detainee arriving at the OCPC will be screened using the Screening for Risk of Victimization and Abusiveness (SRVA) Form. The SRVA form will be used as a tool to identify detainees who may have a potential risk of sexual victimization or sexually abusive behavior. Information will be gathered by interviewing the detainee and by using the following ICE provided documentation: 1-213 Record of Deportable/inadmissible Alien and Criminal Record Transcription or at any other time when warranted based upon the receipt of additional relevant information.” MTC policy 2.11 further states, “The OCPC will consider the following criteria, to the extent that the information is available, to assess

detainees for risk of sexual victimization: 1. Whether the detainee has a mental, physical, or developmental disability 2. Age of the detainee 3. Physical build and appearance 4. Previously incarcerated or detained 5. Nature of criminal history 6. Any convictions for sex offenses against an adult or child 7. Self-identification as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming 8. Having previously experienced sexual victimization 9. The detainee's own concerns about his or her safety." The OCPC will not discipline detainees for refusing to answer or for not disclosing complete information in response to, questions asked pursuant to items 1, 7, 8, and 9 above" and "the initial screening will consider prior acts of sexual abuse or assault, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse or assault, as known to the facility, in assessing detainees for risk of being sexually abusive." The Auditor reviewed the SRVA form and confirmed it included all required elements of subsections (c) and (d) of the standard. An interview with the Classification Manager indicated Classification staff are present in the facility 24/7 to ensure proper classification and housing of detainees upon arrival. An interview with the Classification Manager further indicated Intake staff will complete the SRVA form within twelve hours of the detainee arrival and once Intake staff have completed the SRVA the Classification staff will run a PREA status report from the facility Operations Data System which provides information to include the housing units where each detainee at risk for victimization and at risk for abusiveness are located. During the on-site audit the Classification Manager ran the report, which indicated there were no detainees at risk for abusiveness currently housed at the facility; however, the report included five detainees who were at risk for victimization. Interviews with 25 detainees confirmed they were asked the risk assessment questions included in the SRVA form when they arrived at the facility in a language, they could understand with the use of staff interpreters or the facility language line. The Auditor reviewed the Intake Language Line log and confirmed the use of the language line was utilized to complete the SRVA form for those detainees whose preferred language was other than English. A review of 25 detainee files further confirmed all 25 detainees had received an initial assessment within an hour of arriving at the facility.

(e): MTC policy 2.11 states, "Utilizing the SRVA form, the CS will reassess each detainee for risk of victimization or abusiveness between 60 and 90 days from the date of the initial assessment, and at any other time when warranted based upon the receipt of additional relevant information or following an incident of abuse or victimization." The Auditor reviewed the facility SRVA form and confirmed the form has a section to indicate if the assessment is an initial, subsequent, or special assessment. An interview with the Classification Manager indicated the facility would reassess the detainee's risk for victimization or abusiveness between 60 to 90 days of the initial risk assessment and when warranted based on new information or following an incident of sexual abuse. The Auditor reviewed 25 detainee files and confirmed 9 detainees had received a reassessment between 60 and 90 days and the remaining 16 files included detainees who were not at the facility long enough to require a reassessment. In addition, the Auditor reviewed 12 sexual abuse allegation investigation files and confirmed a reassessment had been completed for each detainee victim following all allegations of sexual abuse. In addition, a review of three substantiated detainee-on-detainee sexual abuse allegation investigation files confirmed a reassessment was conducted on all and known detainee-on-detainee abusers following the case being substantiated.

(g): MTC policy 2.11 states, "The OCPC staff will take appropriate protections on responses to questions asked pursuant to this screening, limiting dissemination, and ensuring that sensitive information is not exploited to the detainee's detriment by staff or other detainees." An interview with the Classification Manager indicated all detainee files and risk assessments are located in the Classification Manager's office in locked cabinets. During the on-site audit, the Auditor visited the Classification Manager's office and confirmed the location of the files.

Corrective Action:

No corrective action needed.

§115.42 - Use of assessment information

Outcome: Meets Standard

Notes:

(a): MTC policy 2.11 states, “Each detainee arriving at the OCPC will be screened using the Screening for Risk of Victimization and Abusiveness (SRVA) Form. The SRVA form will be used as a tool to identify detainees who may have a potential risk of sexual victimization or sexually abusive behavior.” MTC policy 2.11 further states, “The OCPC will also use the information from the risk assessment under 115.41 to inform assignment of detainees to housing, recreation, voluntary work and other activities.” An interview with the Classification Manager indicated Classification staff are present in the facility 24/7 to ensure proper classification and housing of detainees upon arrival. An interview with the Classification Manager further indicated Intake staff will complete the SRVA form within twelve hours of the detainee arrival and once Intake staff have completed the assessment, the classification staff will run a PREA status report from the facility Operations Data System which provides information to include the housing unit where each detainee at risk for victimization and at risk for abusiveness are located within the facility. During the on-site audit the Classification Manager ran the report, which indicated there were no detainees at risk for abusiveness currently housed at the facility; however, the report included five detainees who were at risk for victimization. In an interview with the PSA Compliance Manager, it was indicated the PREA status report is also used to assign detainees to programming and work assignments. The Auditor reviewed 25 detainee files and confirmed the SVRA form had been utilized to inform assignment of detainees to initial housing, recreation and other activities, and voluntary work programs.

(b)(c): MTC policy 2.11 states, “The OCPC will provide a respectful, safe, and secure environment for all detainees, including those individuals identified as transgender or intersex detainees. The OCPC will consider the detainee's gender self-identification and an assessment of the effects of placement on the detainee's health and safety, when making classification and housing decisions for transgender or intersex detainees. Both medical and mental health professionals will be consulted as soon as practicable on this assessment. The OCPC will not base placement decisions solely on identity documents or the physical anatomy of the detainee, rather a detainee's self-identification and self-assessment of safety needs must always be taken into consideration as well. Housing of a transgender or intersex detainee will be consistent with the safety and security consideration of the facility. Housing and programming assignments for each transgender or intersex detainee will be reassessed at least twice each year to review any threats to safety experienced by the detainee. The detainee identified as a transgender or intersex will be temporarily housed, in a location away from the general population, to include the Medical Observation Unit or protective custody, for no more than 72 hours (excluding weekends, holidays, and exigent circumstances) until classification, housing, and other needs can be assessed by the Transgender Classification and Care Committee (TCC). Placement into administrative segregation due to a detainee's identification as a transgender or intersex will be used as a last resort and when no other viable housing option exist. When operationally feasible, transgender and intersex detainees will be given the opportunity to shower separately from other detainees.” An interview with the PSA Compliance Manager and Classification Manager indicated the facility has established a TCC which is comprised of medical and mental health personnel, the PSA Compliance Manager, and the Classification Manager. An interview with the PSA Compliance Manager further indicated if a transgender or intersex detainee is received at OCPC Intake staff will immediately notify the PSA Compliance Manager who will interview the transgender or intersex detainee to determine the detainee's self-assessment of safety needs before making a decision in regard to the detainee's housing. The PSA Compliance Manager further indicated, if the detainee expresses concerns for his or her safety, the detainee will initially be housed in the medical unit for a period not to exceed 24 hours until an assessment by the TCC can be completed. In addition, an interview with the PSA Compliance Manager indicated a transgender detainee is housed based on both the safety needs of the detainee and the facility and not solely based on the physical anatomy of the detainee. The Auditor conducted an interview with a detainee who identified during the initial risk assessment as being a transgender female and confirmed the detainee was asked about any safety concerns and was housed in general population per the detainee's request allowing the detainee access to all facility programming. In an interview with a transgender detainee the detainee further confirmed the facility had made

accommodations for her to shower privately during count time. The Auditor reviewed the file of the detainee who identified as transgender female and confirmed an initial assessment and a subsequent assessment had been completed as required by subsection (b) of the standard.

Corrective Action:

No corrective action needed.

§115.43 - Protective Custody

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e): MTC policy 2.11 “Victims and vulnerable detainees will 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 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 will 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 OCPC will 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.” Interviews with the FA and the PSA Compliance Manager indicated a detainee vulnerable to sexual abuse would only be placed in administrative segregation/protective custody, not to exceed 30 days, if it is the best option, and as a last resort, until alternative arrangements could be made. Interviews with the FA and the PSA Compliance Manager further indicated detainee victims would be provided access to programming, visitation, counsel, and any other services provided to the general population and any time a detainee is placed into segregation or protective custody the ICE FOD is immediately notified. In addition, interviews with the FA, PSA Compliance Manger, and a DO who supervises detainees in the segregation unit indicated the facility has not placed a detainee vulnerable to sexual abuse in administrative segregation or protective custody during the audit period. The Auditor interviewed one detainee who was identified as being vulnerable to sexual abuse and confirmed he had not been placed into administrative segregation or protective custody while housed at OCPC. Interviews with the FA and Acting AFOD confirmed MTC policy 2.11 has been submitted and approved by the Agency.

Corrective Action:

No corrective action needed.

§115.51 - Detainee Reporting

Outcome: Meets Standard

Notes:

(a)(b)(c): MTC policy 2.11 states, “Detainees will have multiple ways to privately, and if desired, anonymously, report signs or incidents of sexual abuse and assault, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that have contributed to such incidents and will not be punished for reporting. Such reporting can be done verbally, written and or telephonically.” MTC policy 2.11 further states, “Upon admission, all detainees receive instructions through the orientation process, as described above in "Detainee Education," on how he may contact their consular official or the OHS Office of Inspector General, to confidentially and if desired, anonymously, report these incidents. Detainee reports of sexual abuse or assault, retaliation for reporting sexual abuse or assault, and/or staff neglect or violation of responsibilities that may have contributed to such incidents will be made using any available methods of communication, including but not limited to: Reports to the OCPC: a. Verbal reports to any staff member (to include the OCPC PSA Compliance Manager or medical staff) b. Written informal or formal request or grievances to the facility c. Sick call request 2. Reports to Family Members, Friends, or other Outside Entities: a. Family members can be contacted telephonically, in writing or verbally during visit b. Reports can be made to La Pinon Sexual Assault Recovery Services of Southern New Mexico. 3. Reports to OHS/ICE: a. Written informal or formal request or grievances (including emergency

grievance) to the ICE Field Office b. Telephonically or written reports to the DHS/OIG, ICE/OPR, or ICE/DRIL 4. Reports to Consulates: a. Telephonically or written reports to consular officials.” MTC policy 903E.02, Ensuring Safe Prisons, mandates, “Staff must accept reports of sexual assault and sexual harassment made verbally, in writing, anonymously and from third parties with no exceptions” and “MTC will take appropriate steps to ensure that staff document verbal reports in a 24-hour timeframe.” Interviews with the PSA Compliance Manager and five DOs indicated detainees are provided multiple ways to report sexual abuse, retaliation and any staff neglect of their responsibilities that may have contributed to an incident of sexual abuse. During the on-site audit, the Auditor observed information advising detainee’s how to contact their consular official, the DRIL, the JIC, and the DHS OIG, to confidentially and if desired anonymously report an incident of sexual abuse. Interviews with 25 detainees confirmed they could articulate multiple ways to report an allegation of sexual abuse to include anonymously or by third party. During the on-site audit, the Auditor tested each reporting features for the DRIL, JIC and the DHS OIG and confirmed they were in good working order; however, the Auditor had difficulties with the facility PREA Hotline and La Pinon Sexual Assault Recovery Services PREA Hotline. The Auditor advised facility staff who were able to correct the issue and all telephone numbers were in good working order prior to the Auditor concluding the on-site audit.

Corrective Action:

No corrective action needed.

§115.52 - Grievances

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e)(f): MTC policy 6.2, Standard Operating Procedure Grievance System, states, “Upon receipt, the OCPC staff must forward all detainee grievances containing allegations of staff misconduct to a shift supervisor or higher-level official in the chain of command. While such grievances are processed through the OCPC's grievance system, the OCPC will, in a timely manner, forward a copy of any grievances alleging staff misconduct to ICE/ERO, ICE's Office of Professional Responsibility (OPR) Joint Intake Center and/or local OPR office, via the Contracting Officer's Representative. The OCPC will send all grievances related to sexual abuse and assault and the OCPC's decisions to such grievances to the Field Office Director at the end of the grievance process, via the Contracting Officer's Representative. A formal grievance related to sexual abuse and assault can 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. In the event the OCPC receives an emergency grievance involving immediate threat to detainee health, safety, or welfare related to sexual abuse or assault, staff will take immediate action and provide the at-risk detainee with safe haven and notify the shift supervisor. The emergency grievance will be forwarded to the facility PSACM for investigation. The Grievance Officer will provide the detainee a decision on the grievances within five days of receipt and appeals will 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. OCPC staff will take reasonable steps to expedite requests for assistance from these other parties. All grievances related to sexual abuse and assault will be forwarded to and reported to ICE/ERO on the "Daily ICE/ERO Grievance Report." The OCPC's decision on any such grievance will be forwarded to the Field Office Director.” An interview with the GO indicated a detainee can file a grievance alleging sexual abuse at any time, there are no time limits imposed, and detainees are not required to follow the informal grievance process prior to filing a formal grievance. The facility GO further indicated detainees have multiple ways to file a grievance to include the use of the detainee tablets or placing the grievance in grievance boxes available in each housing unit. In addition, an interview with the facility GO indicated grievances boxes are locked, he has the only key, and the boxes are checked daily. The GO further indicated if the detainee requests assistance with filing a grievance, he would facilitate the request and ensure he receives the assistance needed. In addition, in an interview with the GO it was indicated all grievances alleging sexual abuse are considered time-sensitive and an immediate threat to the detainee, health, safety and welfare; and therefore, if he were to receive a grievance alleging sexual abuse, he would ensure the detainee’s safety, inform security and medical staff to ensure an assessment could be completed, would forward the grievance to the facility PSA Compliance

Manager/Investigator to conduct an investigation, and a notice would be issued to the detainee, advising the detainee the grievance will be investigated by the facility Investigator. An interview with the PSA Compliance Manager indicated all grievances alleging sexual abuse and the decisions are forwarded to the FOD with the completed investigative report. Interviews with 25 detainees indicated they were all aware of the process for filing a grievance regarding an allegation of sexual abuse. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed none of the allegations were reported through the grievance process.

Corrective Action:

No corrective action needed.

§115.53 - Detainee access to outside confidential support services

Outcome: Does Not Meet Standard

Notes:

(a)(b)(c)(d): MTC policy 2.11 states, “When deemed prudent, the aforementioned team will engage the resources of the La Pinon Sexual Assault Recovery Services of Southern New Mexico and Otero County Sheriff’s Office (OCSO) on a case-by-case basis, utilizing available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation, and the prosecution of sexual abuse and/or assault perpetrators to most appropriately address victims’ needs.” The Auditor reviewed a MOU between OCPC and La Pinon Sexual Assault Recovery Services, executed on September 14, 2023, which remains in effect unless affirmatively terminated by either party, and confirmed La Pinon Sexual Assault Recovery Services will accompany and support incarcerated victims through the forensic medical examination process and investigatory interviews. A review of a MOU between OCPC and La Pinon Sexual Assault Recovery Services further confirms the MOU includes, “In cases which there is legal obligation to report allegations of sexual abuse and the (La Pinon SARS) knows the identity of the reporting inmate, the (La Pinon SARS) may reveal the identity of the inmate to the external agency as required by law” and OCPC will provide detainees “the extent to which communications will be monitored; the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws...” An interview with the La Pinon Sexual Assault Recovery Services PREA Coordinator Victim Advocate, confirmed in addition to providing detainee victims of sexual abuse access for forensic medical examinations La Pinon Sexual Assault Recovery Services provides emotional support, crisis intervention, resources, information, referrals, and comprehensive advocacy. During the on-site audit, the Auditor observed La Pinon’s telephone number, toll-free hotline number, and mailing address, posted on all housing unit bulletin boards. In addition, the Auditor reviewed the facility detainee handbook and confirmed La Pinon’s telephone number, a toll-free hotline number, and mailing address is included with notification to detainees that all calls are subjected to monitoring; however, although La Pinon Sexual Assault Recovery Services is listed as an avenue to report an allegation in the facility detainee handbook and the facility has agreed to do so in a signed MOU with La Pinon Sexual Assault Recovery Services, a review of the facility detainee handbook, and posted information on the housing units could not confirm the facility advises detainees the extent to which reports of sexual abuse will be forwarded to authorities in accordance with mandatory reporting laws. During the on-site audit, the Auditor tested the phone number provided. The call was answered by the La Pinon office; however, the call should have been answered by the La Pinon Sexual Assault Recovery Services PREA Coordinator. The issue was immediately identified and corrected by the facility prior to the Auditor completing the on-site audit. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed all detainee victims had been provided the DHS-prescribed SAA Information pamphlet and advised of the victim services available through La Pinon Sexual Assault Recovery Services.

Corrective Action:

The facility is not in compliance with subsection (d) of the standard. The Auditor reviewed a MOU between OCPC and La Pinon Sexual Assault Recovery Services, executed on September 14, 2023, which remains in effect unless affirmatively terminated by either party, and confirmed the MOU includes, “In cases which there is legal obligation to report allegations of sexual abuse and the (La Pinon SARS) knows the identity of the reporting inmate, the (La Pinon SARS) may reveal the identity of the inmate to the external agency as required by law” and

OCPC will provide detainees “the extent to which communications will be monitored; the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws...” During the on-site audit, the Auditor observed La Pinon's telephone number, toll-free hotline number, and mailing address, posted on all housing unit bulletin boards. In addition, the Auditor reviewed the facility detainee handbook and confirmed La Pinon's telephone number, a toll-free hotline number, and mailing address is included with notification to detainees that all calls are subjected to monitoring; however, although La Pinon Sexual Assault Recovery Services is listed as an avenue to report an allegation of sexual abuse in the facility detainee handbook and the facility has agreed to do so in a signed MOU with La Pinon Sexual Assault Recovery Services, a review of the facility detainee handbook and posted information on the housing units could not confirm the facility advises detainees the extent to which reports of sexual abuse will be forwarded to authorities in accordance with mandatory reporting laws. To become compliant the facility must provide documentation that detainees are notified the extent to which reports of sexual abuse will be forwarded to authorities in accordance with mandatory reporting laws.

§115.54 - Third-party reporting

Outcome: Meets Standard

Notes:

MTC policy 2.11 states, “Detainees are made aware of third-party reporting of sexual abuse or sexual harassment through the Local Detainee Handbook and Sexual Abuse and Assault Awareness Pamphlet.” During the on-site audit, the Auditor observed posters throughout the facility for the ICE DRIL and DHS OIG which contain reporting information. In addition, the Auditor reviewed the facility handbook and confirmed third-party reporting options are included. The Auditor reviewed the facility website <https://www.mtctrains.com/facility/otero-county-processing-center> and confirmed the MTC PREA Coordinator and Assistant PREA Coordinator’s email addresses are provided to the public to report an allegation of sexual abuse on behalf of a detainee. Utilizing the email provided, the Auditor contacted the MTC PREA Coordinator and immediately received a response confirming the facility has a process in place to receive third party reports of an allegation of sexual abuse on behalf of a detainee.

Corrective Action:

No corrective action needed.

§115.61 - Staff and Agency Reporting Duties

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): Agency policy 11062.2, states, “If the alleged victim is under the age of 18 or determined, after consultation with the relevant OPSA Office of the Chief Counsel (OCC), to be a vulnerable adult under a State or local vulnerable persons statute, report the allegation to the designated State or local services agency as necessary under applicable mandatory reporting laws.” MTC policy 2.11 states, “The OCPC's chain-of-command structure for reporting allegations is as follows: 1. Shift Supervisor 2. Chief of Security 3. Prevent Sexual Assault Compliance Manager 4. Assistant Facility Administrator 5. Facility Administrator 6. ICE/ERO via the Contracting Officer's Representative. However, staff, contractors and volunteers may report any allegations outside of the OCPC's chain-of-command structure, or directly to ICE/ERO, La Pinon Sexual Assault Recovery Services of Southern New Mexico (La Pinon), DHS/OIG or ICE/OPR. The staff member receiving a reported allegation must immediately report the allegation to the shift supervisor” and “the staff member receiving the report must immediately complete an IR documenting all pertinent information ...” In addition, MTC policy 2.11 states, “If the alleged victim is considered a vulnerable adult under a State or local vulnerable person's statute, the OCPC will report that information to the Field Office Director so that ICE can report the allegation to the designated State or local services agency under applicable mandatory reporting laws. Regardless of the type of investigation, information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, will be limited to those who have a need-to-know in order to make decisions concerning the

detainee-victim's welfare, and for law enforcement/investigative purposes. Apart from such reporting, the OCPC staff will not reveal any information related to a sexual abuse and assault report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions.” Interviews with the FA and the PSA Compliance Manager indicated staff are trained on reporting requirements during the annual in-service training. Interviews with the FA and the PSA Compliance Manager further indicated staff are able to report outside their chain of command by utilizing the contact information for the DHS OIG. Interviews with the FA, and the PSA Compliance Manager indicated they were aware an allegation of sexual abuse involving a vulnerable adult would be reported to the Agency and Adult Protection Services as required by New Mexico law. In an interview with the Acting AFOD it was confirmed he was aware of the Agency’s policy to consult with the relevant OPSA Office of the Chief Counsel (OCC) when an allegation of sexual abuse includes a vulnerable adult. Interviews with five DOs confirmed their knowledge of the standard’s requirement to report any knowledge, suspicion, or information regarding a sexual abuse or sexual harassment. Interviews with five DOs further confirmed they could articulate information regarding an allegation of sexual abuse is to remain confidential and cannot be shared with others, unless there was a need-to-know, to protect the detainee or prevent further victimization of other detainees or staff in the facility. In addition, in interviews with five DOs it was confirmed staff were aware they could report outside their chain of command by utilizing the same reporting features as the detainees. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed none of the allegations included a vulnerable adult. Interviews with the FA and Acting AFOD confirmed MTC policy 2.11 has been submitted and approved by the Agency. The facility does not house juvenile detainees.

Corrective Action:

No corrective action needed.

§115.62 - Protection Duties

Outcome: Meets Standard

Notes:

MTC policy 2.11 states, “All OCPC staff (employees, volunteers, and contractors) and detainees 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 an OCPC staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she will take immediate action to protect the detainee.” Interviews with the FA, the PSA Compliance Manager, and five random DOs confirmed if they became aware a detainee is at substantial risk of sexual abuse their first response would be to take immediate action to protect the detainee. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed staff took immediate action and separated the detainee victim from the alleged detainee abuser.

Corrective Action:

No corrective action needed.

§115.63 - Reporting to other Confinement Facilities

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): MTC policy 2.11 states, “Upon the OCPC staff receiving a notification of an allegation that a detainee was sexually abused or assaulted while confined at another facility, the Facility Administrator will notify the ICE Field Officer Director, and the appropriate administrator of the facility where the alleged abuse occurred as soon as possible, but no later than 72 hours after receiving the allegation. This notification will be documented with electronic mail and/or using the PREA Form 115.63 which will be maintained in the detainee's detention file.” MTC policy 2.11 further states, “In the event the OCPC receives a report/notification from another facility that a detainee, who was previously detained at the OCPC, is alleging to have been sexually abused or assaulted. The staff member receiving the allegation will immediately notify the PSA Compliance Manager for investigation

and report the allegation to the ICE Field Office Director.” An interview with the FA indicated if she receives an allegation from another FA indicating an alleged sexual abuse had occurred at OCPC she would immediately refer the allegation to a facility Investigator for investigation and notify the FOD. An interview with the FA further indicated if she received an allegation which alleges a detainee had experienced sexual abuse at another facility, she would notify the FA where the alleged sexual abuse occurred as soon as possible, but no later than 72 hours after receiving the allegation. The notification would be made email to document the notification. In addition, the facility provided the Auditor with an email confirming notification had been made to the El Paso County Detention facility and the FOD after a detainee had reported an alleged sexual abuse had occurred while being housed at the facility. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed none of the allegations included a report of sexual abuse from another facility that occurred at OCPC.

Corrective Action:

No corrective action needed.

§115.64 - Responder Duties

Outcome: Does Not Meet Standard

Notes:

(a)(b): MTC policy 2.11, states, “Immediately upon receiving a report of an alleged sexual abuse or assault the OCPC's first response will be to: a. Take immediate action and isolate (safe haven) the victim from the alleged perpetrator to ensure his safety. If the abuse occurred within a time period, that still allows for the collection of physical evidence. The OCPC detention officer or non-detention staff member, if the first responder, will request the alleged victim not to take any actions that could destroy physical evidence, i.e., washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating. b. Refer the victim to medical, for a medical examination and/or clinical assessment for potential negative symptoms. c. The OCPC staff, contractors and volunteers suspected of perpetrating sexual abuse or assault will be removed from all duties requiring detainee contact pending the outcome of an investigation.” The Facility Administrator will ensure that the incident is immediately referred to the ICE Field Office Director and the OCSO if warranted. d. If identified, the perpetrator will be segregated to prevent further sexual abuse and/or assaults. If the abuse occurred within a time period, that still allows for the collection of physical evidence.” MTC policy 2.11 further states “The OCPC will make every effort to ensure that the alleged abuser does not take any actions that could destroy physical evidence, i.e. washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating. e. If identified, the first detention staff member to respond to a report of sexual abuse or his or her supervisors will preserve and protect to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence. F. Complete detailed Incident Reports and required notifications as soon as possible and before the end of shift.” An interview with the PSA Compliance Manager indicated that MTC policy 2.11 is the facility’s coordinated response plan to coordinate the actions taken by first responders, investigators, medical and mental health, and the facility leadership. Interviews with five random DOs indicated if an incident were to occur the first responder would call for back-up, separate the detainees, secure the crime scene, and take both the detainee victim and the alleged perpetrator to medical for an assessment. Interview with two non-custody first responders indicated they would call for backup and report the incident to their supervisor. However, interviews with five random DOs and two non-security first responders, indicated both detainee victims and alleged abusers would not be allowed to take action that could destroy evidence. During the on-site audit, the Auditor observed each staff member carries a PREA First Responder Duties card on their ID Lanyards. A review of the cards confirmed they include separate the victim and the abuser, preserve and protect any crime scene until the collection of evidence, request the victim and/or the abuser not take any action that could destroy evidence, (washing, brushing teeth, changing clothes, drinking, etc.), if not security staff member, responder shall be required to request the victim not destroy evidence then notify security. However, the Auditor reviewed the facility Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum and confirmed the curriculum includes Initial Report Protocol which states in part, “Do not allow the detainee to shower, wash, bathe or douche until examined by a physician.”

Corrective Action:

The facility is not in compliance with subsection (a) of the standard. The Auditor reviewed the facility Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum. The curriculum includes Initial Report Protocol which states in part, “Do not allow the detainee to shower, wash, bathe or douche until examined by a physician.” Interviews with five random detention officers and two non-security first responders, indicated both detainee victims and alleged abusers would not be allowed to take action that would destroy evidence. To become compliant, the facility must revise the Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum to include if the abuse occurred within a time period that still allows for the collection of physical evidence, request the victim not to take any actions that could destroy physical evidence, i.e., washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating and if the abuse occurred within a time period that still allows for the collection of physical evidence, ensure the abuser not to take any actions that could destroy physical evidence, i.e., washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating. Once revisions are completed the facility must submit documentation that confirms all custody and non-custody first responders have been trained on the revised curriculum.

§115.65 - Coordinated Response

Outcome: Does Not Meet Standard

Notes:

(a)(b): MTC policy 2.11 states, “The OCPC uses a coordinated multidisciplinary team approach when responding to sexual abuse. The team consist of the following: Shift Supervisor, PSA Compliance Manager /Investigator, Nurse Practitioner, Mental Health Practitioner.” An interview with the PSA Compliance Manager indicated that MTC policy 2.11 is the facility’s coordinated response plan to coordinate the actions taken by first responders, investigators, medical and mental health, and the facility leadership. The Auditor reviewed MTC policy 2.11 in its entirety and confirmed the plan coordinates the action taken by security and non-security first responders, medical and mental health practitioners, facility investigators, and facility leadership in response to an incident of sexual abuse. An interview with the PSA Compliance Manager indicated that MTC policy 2.11 is the facility’s coordinated response plan to coordinate the actions taken by first responders, investigators, medical and mental health, and the facility leadership. Interviews with five random DOs indicated if an incident were to occur the first responder would call for back-up, separate the detainees, secure the crime scene, and take both the detainee victim and the alleged perpetrator to medical for an assessment. Interview with two non-custody first responders indicated they would call for backup and report the incident to their supervisor. However, interviews with five random DOs and two non-security first responders, indicated both detainee victims and alleged abusers would not be allowed to take action that could destroy evidence. During the on-site audit, the Auditor observed each staff member carries a PREA First Responder Duties card on their ID Lanyards. A review of the cards confirmed the card includes separate the victim and the abuser, preserve and protect any crime scene until the collection of evidence, request the victim and/or the abuser not take any action that could destroy evidence, (washing, brushing teeth, changing clothes, drinking, etc.), if not security staff member, responder shall be required to request the victim not destroy evidence then notify security. However, the Auditor reviewed the facility Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum and confirmed the curriculum includes Initial Report Protocol which states in part, “Do not allow the detainee to shower, wash, bathe or douche until examined by a physician.” The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed the facility had utilized a coordinated response in all reviewed files when responding to an allegation of sexual abuse.

(c)(d) MTC policy 2.11 states, “When a victim is transferred between detention facilities, the OCPC, as permitted by law, will inform the receiving facility of the incident and the victim's potential need for medical or social services (unless the victim requests otherwise in case of transfer to a non-ICE facility). If the receiving facility is unknown to the OCPC, the facility will notify the Field Office Director, so that he or she can notify the receiving facility. The OCPC will utilize the Continuum of Care Service Request form, PREA 115.65.” However, subsections (c) and (d) of the standard require if a victim of sexual abuse is transferred between facilities covered

by 6 CFR part 115, subpart A or B, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services and (d) if a victim is transferred from a DHS immigration detention facility to a facility not covered by paragraph (c) of this section, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical and social services, unless the victim requests otherwise. Interviews with the FA, PSA Compliance Manager, and the HSA confirmed the facility utilizes a Continuum of Care Request Form which is placed in the medical file prior to the detainee being transferred unless the detainee requests otherwise.

Corrective Action:

The facility is not in compliance with subsections (a), (c), and (d) of the standard. The Auditor reviewed MTC policy 2.11 and confirmed MTC policy 2.11 does not include the requirements of subsections (c) of the standard which states, "if a victim of sexual abuse is transferred between facilities covered by 6 CFR part 115, subpart A or B, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services." In addition, a review of MTC policy 2.11 confirms it does not include the requirements of subsection (d) of the standard which states "if a victim is transferred from a DHS immigration detention facility to a facility not covered by paragraph (c) of this section, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical and social services, unless the victim requests otherwise." The Auditor reviewed the facility Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum and confirmed the curriculum includes an Initial Report Protocol which states in part, "Do not allow the detainee to shower, wash, bathe or douche until examined by a physician." Interviews with five random detention officers and two non-security first responders, indicated both detainee victims and alleged abusers would not be allowed to take action that would destroy evidence. To become compliant, the facility must update policy 2.11 to include the elements required by subsections (c) and (d) of the standard. In addition, the facility must update the Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training curriculum to include if the abuse occurred within a time period that still allows for the collection of physical evidence, request the victim not to take any actions that could destroy physical evidence, i.e., washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating and if the abuse occurred within a time period that still allows for the collection of physical evidence, ensure the abuser not to take any actions that could destroy physical evidence, i.e., washing, defecating, brushing teeth, smoking, changing clothes, drinking, urinating, eating. Once updated the facility must submit documentation to confirm all security and non- security, to include medical, staff have received updated training on the updated policy 2.11 and the updated Sexual Abuse and Assault Prevention and Intervention (SAAPI) PREA training.

§115.66 - Protection of detainees from contact with alleged abusers

Outcome: Meets Standard

Notes:

MTC policy 2.11 states, "If OCPC staff, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse or assault, the OCPC will ensure that the incident is promptly reported to the ICE Field Office Director. OCPC staff, contractors and volunteers suspected of perpetrating sexual abuse or assault will be removed from all duties requiring detainee contact pending the outcome of an investigation." Interviews with the FA and PSA Compliance Manager indicated staff and contractors are removed from contact with detainees until an allegation of sexual abuse investigation has been concluded. An interview with a HR staff member indicated if a staff member is suspected of abusing, or sexually abusing a detainee, they would immediately be placed on administrative leave and subject to termination should the sexual abuse allegation investigation be substantiated. In addition, an interview with a HR staff member further confirmed if a staff contractor, "other" contractor, or volunteer was suspected of sexually abusing a detainee they would be immediately escorted off the facility grounds until the conclusion of the investigation, and if substantiated, the contractor's contract would be terminated. The Auditor reviewed 12 sexual abuse allegation investigations and confirmed 3 of the allegations

involved staff-on-detainee. A review of the three sexual abuse allegation investigations involving staff-on-detainee confirmed staff had been removed from detainee contact pending the results of the investigation and in the one substantiated allegation the staff member had been placed on administrative leave and ultimately terminated.

Corrective Action:

No corrective action needed.

§115.67 - Agency protection against retaliation

Outcome: Meets Standard

Notes:

(a)(b)(c): MTC policy states, “The OCPC staff, contractors, or volunteers will 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 OCPC will 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 the investigation. For at least 90 days following a report of sexual abuse or assault, the OCPC, in concert with ICE, will monitor to see if there are facts that may suggest possible retaliation by detainees or staff and will act promptly to remedy any such retaliation. The OCPC will monitor the following: detainee disciplinary reports, housing or program changes, or negative performance reviews or reassignments by staff. The OCPC will continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.” An interview with the PSA Compliance Manager indicated he is responsible for monitoring detainee and staff retaliation. An interview with the PSA Compliance Manager further indicated a detainee victim of sexual abuse would be monitored for retaliation for up to 90 days and the review would include reviewing the detainee’s housing, disciplinary record, or any program changes, that may have occurred as a result of retaliation. In addition, an interview with the PSA Compliance Manager indicated staff, contractors, or volunteers who report or cooperate with an allegation of sexual abuse investigation would be monitored for retaliation to include negative performance reviews or reassignment of the staff member’s assigned post. The Auditor review 12 sexual abuse allegation investigation files and confirmed all files contained documentation of retaliation monitoring which occurred for up to 90 days or until the detainee was no longer housed at the facility. In addition, an interview with the PSA Compliance Manager confirmed there were no staff members who required retaliation monitoring during the reporting period.

Corrective Action:

No corrective action needed.

§115.68 - Post-allegation protective custody

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): MTC policy 2.11 states, “Victims and vulnerable detainees will 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 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 will 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 OCPC will 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. Victims who are in protective custody after having been subjected to sexual abuse will not be returned to the general population until the completion of a proper re-assessment, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse or assault.” An interview with the FA indicated protective custody would only be used as a last resort, or at the request of the

detainee, until alternative arrangements could be made; however, if a detainee is placed into protective custody, the placement would not exceed five days. An interview with the Classification Manager indicated if a detainee who reported sexual abuse was placed into protective custody a reassessment would be completed prior to returning the detainee to general population. The Auditor reviewed one investigative file, which indicated a detainee who reported sexual abuse had requested protective custody. The Auditor reviewed the Administrative Segregation Order which indicated the reason for placement in protective custody and the FOD had been notified of the placement within 72 hours. In addition, the Auditor reviewed the Administrative Segregation Reviews which confirmed a review had been completed every seven days until the detainee was released to general population and a reassessment had been completed prior to the detainee being placed into general population.

Corrective Action:

No corrective action needed.

§115.71 - Criminal and administrative investigations

Outcome: Meets Standard

Notes:

(a)(b)(c): MTC policy 2.11 states, “At any time, a detainee alleges sexual assault or abuse, the OCPC will coordinate a sensitive response and initiate an administrative investigation. All investigations, administrative or criminal, into alleged sexual assault will be prompt, thorough, objective, fair, conducted, and promptly reported to the ICE Field Office Director by qualified investigators. The OCPC's PSACM will be responsible to conduct an administrative investigation for all allegations of sexual assault or abuse.” MTC policy 2.11 further states, “Upon conclusion of a criminal investigation, where the allegation is substantiated or unsubstantiated, the OCPC will conduct an administrative investigation. Administrative investigations will be conducted after consultation with ICE/ERO and OCSO. The OCPC's administrative investigation includes: 1. Preservation of direct and circumstantial evidence, including any available physical DNA evidence and any available electronic monitoring data. OCPC will collect all direct and circumstantial evidence and will request the assistance from OCSO when physical DNA evidence requires collection. All surveillance will be gathered by OCPC and the facility will have it available during the investigation process. 2. Interviewing alleged victims, suspected perpetrators, and witnesses. OCPC's PSACM will be responsible to conduct an administrative investigation for all allegations of sexual assault or abuse. When initial evidence suggests that a legitimate case of sexual abuse or assault did indeed occur, the alleged perpetrator will not be interviewed during the administrative investigation. The PSACM will notify ICE and will contact OCSO, as OCSO has law enforcement jurisdiction, they will conduct the criminal investigation. 3. Reviewing prior complaints and reports of sexual abuse or assault involving the suspected perpetrator. The detention files for all detainees involved in an allegation of sexual abuse or assault will be reviewed. 4. Assessment of the credibility of an alleged victim, suspect or witness, without regard to individual's status as detainee, staff, or employee and without requiring any detainee who alleged sexual abuse or assault to submit to a polygraph. 5. An effort to determine whether actions or failures to act at the OCPC contributed to the abuse.” In addition, MTC policy 2.11 states “Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility will review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate” and “the departure of the alleged abuser or victim from the employment or control of the facility or agency will not provide a basis for terminating an investigation.” MTC policy 2.11 further states, “Documentation of each investigation by written report, which will include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. The PSACM will be responsible for gathering all evidence and creating an incident report file that will contain the aforementioned information” and “the OCPC will use no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated. In addition, MTC policy 2.11 states, “The OCPC will retain reports for as long as the alleged abuser is detained or employed by the facility, plus five years.” In addition, MTC policy states, “Coordination and sequencing of administrative and criminal investigations to ensure that a criminal investigation is not compromised by an internal administrative investigation. When OCSO investigates an alleged sexual abuse and assault, the OCPC will cooperate with OCSO and will attempt to remain informed about the progress of the

investigation. The OCPC will also cooperate with any administrative or criminal investigative efforts arising from the incident.” An interview with the PSA Compliance Manager/Investigator indicated the facility will complete an administrative investigation on all allegations of sexual abuse after consultation with the OCSO and ICE ERO. The PSA Compliance Manager/Investigator further indicated the facility will cooperate with the OCSO and will remain informed of the status of the investigation through continuous contact. In addition, the PSA Compliance Manager/Investigator indicated an administrative investigation will be completed regardless of whether the alleged abuser or victim has left the employment or control of the facility or Agency. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed all investigations reviewed were completed promptly, thoroughly, and objectively and included all elements required by subsection (c) of the standard. In addition, a review of 12 sexual abuse allegation investigation files confirmed Investigator was qualified and had completed specialized training in sexual abuse and effective cross-agency coordination and the facility general PREA training as required by standard §115.31.

(e)(f): MTC policy 2.11 states, “The departure of the alleged abuser or victim from the employment or control of the OCPC will not provide a basis for terminating an investigation. When the OCSO investigates an alleged sexual abuse and assault, the OCPC will cooperate with the OCSO and will attempt to remain informed about the progress of the investigation. Where an alleged victim of sexual abuse or assault that occurred elsewhere in ICE/ERO custody is subsequently transferred to the OCPC, the OCPC will also cooperate with any administrative or criminal investigative efforts arising from the incident.” An interview with the PSA Compliance Manager/Investigator indicated if a sexual abuse allegation is referred to OCPC he will assist and cooperate with OCPC throughout the investigation and would begin an administrative investigation after consultation with the Agency and OCSO to ensure the case is not compromised. In addition, in an interview with the PSA Compliance Manager it was indicated a sexual abuse allegation investigation would continue regardless of whether the alleged detainee victim or abuser was under the control or employment of the facility.

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.” MTC policy 2.11 states, “The OCPC will use no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.” An interview with the PSA Compliance Manager/Investigator indicated when determining whether allegations of sexual abuse are substantiated the facility will not impose a standard higher than a preponderance of evidence. The Auditor reviewed twelve sexual abuse allegation investigation files and confirmed the outcome of the investigation was not based on a standard higher than a preponderance of evidence.

Corrective Action:

No corrective action needed.

§115.73 - Reporting to detainees

Outcome: Does Not Meet Standard

Notes:

MTC policy 2.11 states, “Following any investigation conducted by the PSACM into a detainee's allegations of sexual abuse, the PSACM will forward all fact-finding information to the Field Office Director. The PSACM will make a determination of substantiated, unsubstantiated, or unfounded following the results of their

investigation into the incident. The determination will be reported to ICE headquarters. The detainee will be notified with the Investigative Findings and Responsive Actions Notification Form provided by ICE/ERO.” An interview with the PSA Compliance Manager, indicated detainee victims of sexual abuse would be notified of the result of the investigation. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed the facility had notified all detainee victims of the investigation outcomes; however, the Auditor reviewed 3 detainee-on-detainee investigation files and 1 staff-on-detainee investigation file and confirmed neither the Agency nor the facility notified the detainee victims of the responsive action taken. In addition, the Auditor submitted a completed Notification to Detainee of PREA Investigation Results form to the TL for follow-up and confirmed neither the Agency nor the facility notified the detainee victims of the responsive action taken.

Corrective Action:

The Agency is not in compliance with the standard. An interview with the PSA Compliance Manager, indicated detainee victims of sexual abuse would be notified of the result of the investigation. The Auditor reviewed three detainee-on-detainee investigation files and one staff-on-detainee investigation file and confirmed neither the Agency nor the facility notified the detainee victims of the responsive action taken. In addition, the Auditor submitted a completed Notification to Detainee of PREA Investigation Results form to the TL for follow-up and confirmed neither the Agency nor the facility notified the detainee victims of the responsive action taken. To become compliant, the Agency must submit all sexual abuse allegation investigations and the corresponding notice to detainee that occur during the CAP period to confirm all detainees who report an allegation of sexual abuse are notified of the results of the investigation and any responsive action taken.

§115.76 - Disciplinary sanctions for staff

Outcome: Meets Standard

Notes:

(a)(b)(c)(d): MTC policy 2.11 states, “The OCPC staff will be subject to disciplinary or adverse action, up to and including removal from their position, for substantiated allegations of sexual abuse or for violating ICE/ERO or the OCPC's sexual abuse rules, policies, or standards. Staff removed from their position is the presumptive disciplinary sanction for those who have engaged in, attempted, or threatened to engage in sexual abuse, as defined under the definition of staff-on-detainee abuse above in section "B. ACTS OF SEXUAL ABUSE AND OR ASSAULT." The OCPC will report all incidents of substantiated sexual abuse by staff, and all removals of staff, or resignations in lieu of removal for violations of sexual abuse policies, to the OCSO unless the activities were clearly not criminal. The OCPC will also report all such incidents of substantiated abuse, removals, or resignations in lieu of removal to the Field Office Director regardless of whether the activities were criminal and will make reasonable efforts to report such information to any relevant licensing bodies, to the extent known.” A review of MTC policy 2.11 confirms it does not include “removal from Federal service is the presumptive disciplinary sanction for staff who have engaged in or attempted or threatened to engage in sexual abuse, as defined under the definition of sexual abuse of a detainee by a staff member, contractor, or volunteer;” however, termination is greater than removal from Federal Service; and therefore, the Auditor finds the facility to be substantial compliance with subsections (a) and (b) of the standard. Interviews with the FA and a HR staff member indicated if there was an allegation of sexual abuse alleged against a staff member, the staff member would be removed and placed on administrative leave and would not have detainee contact until an investigation is concluded. Interviews with the FA and a HR staff member further indicated all terminations and resignations in lieu of termination would be reported to law enforcement and any licensing bodies. Interviews with five random DOs confirmed they were aware termination is the presumptive disciplinary sanction for staff who have engaged in, attempted, or threatened to engage in sexual abuse or violate the Agency and facility sexual abuse rules and policies. The Auditor reviewed one substantiated staff-on-detainee allegation of sexual abuse and confirmed the staff member was terminated. An interview with the FA and Acting AFOD confirmed MTC policy 2.11 has been submitted and approved by the Agency.

Corrective Action:

No corrective action needed.

§115.77 - Corrective action for contractors and volunteers

Outcome: Meets Standard

Notes:

(a)(b)(c): MTC policy 2.11 states, “Contractors suspected of perpetrating sexual abuse or assault will be removed from all duties requiring detainee contact pending the outcome of the investigation. Incidents of substantiated sexual abuse by a contractor or volunteer will be reported to the OCSO, unless the activity was clearly not criminal. The OCPC will also report such incidents to the Field Office Director regardless of whether the activity was criminal and will make reasonable efforts to report such incidents to any relevant licensing bodies, to the extent known. Any contractor or volunteer who has engaged in sexual abuse or assault will be prohibited from contact with detainees. The OCPC will take appropriate remedial measures and will consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse or assault but have violated other sexual abuse policies.” Interviews with the FA and a HR staff member indicated a contractor or volunteer suspected of engaging or attempting to engage in sexual abuse with a detainee or who has violated other provisions of the Agency or facility sexual abuse policies would be removed from the facility, and any detainee contact, until an allegation of sexual abuse investigation had been completed. Interviews with the FA and a HR staff member further indicated the facility would notify the OCSO and any licensing body. Interviews with a staff contractor and a volunteer confirmed they were aware the sanction for violating the Agency and facility sexual abuse policies would be termination. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed none of the files reviewed involved a contractor or a volunteer.

Corrective Action:

No corrective action needed.

§115.78 - Disciplinary sanctions for detainees

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e)(f): MTC policy 2.11 states, “Detainees will 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 OCPC will 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 or assault made in good faith based upon a reasonable belief that the alleged conduct occurred will not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. If a detainee is mentally disabled or mentally ill but competent, the disciplinary process will consider whether the detainee's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.” Interviews with the PSA Compliance Manager and the Disciplinary Officer indicated the facility has a disciplinary process in place and all sanctions are commensurate with the severity of the act committed. Interviews with the PSA Compliance Manager and the Disciplinary Officer further indicated the facility disciplinary process has progressive levels of reviews and appeals and the disciplinary process would consider whether a detainee's mental disabilities or mental illness contributed to his behavior. In addition, interviews with the PSA Compliance Manager and the Disciplinary Officer indicated a detainee would not be disciplined for sexual contact with a staff member unless there is a finding the staff member did not consent to the contact and the facility would not discipline a detainee for falsely reporting an incident or lying if he made a report of sexual abuse in good faith based on a reasonable belief the alleged conduct had occurred. The Auditor reviewed one sexual abuse allegation investigation involving a staff-on-detainee which was determined to be substantiated and confirmed the detainee was not disciplined as a result of the incident. In addition, the Auditor reviewed three substantiated allegations of detainee-on-detainee sexual abuse and confirmed the facility disciplined all abusers identified in the investigations.

Corrective Action:

No corrective action needed.

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

Outcome: Meets Standard

Notes:

(a)(b)(c): MTC policy 2.11 states, “If a detainee discloses, or the screening indicates, that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, the OCPC staff will, as appropriate, ensure that the detainee is immediately referred to a qualified medical and mental health practitioner for follow-up as appropriate. When a referral for medical follow-up is initiated, the detainee will 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 will receive a mental health evaluation no later than 72 hours after the referral.” An interview with an Intake staff member responsible for completing the initial risk assessment indicated if the initial risk assessment indicates a positive answer to prior victimization or perpetrated sexual abuse, or the detainee identifies as being lesbian, gay, bisexual, transgender/intersex or gender non-conforming an email is immediately sent to the Director of Nursing, HSA, Assistant HSA, the PSA Compliance Manager, and the LPC. Interviews with the HSA and the LPC indicated when an email is received indicating the detainee answered positively to experiencing prior victimization or perpetrated sexual abuse, or the detainee identifies as being lesbian, gay, bisexual, transgender/intersex or gender non-conforming the detainee will immediately be given an appointment within two days for medical and within 72 hours for mental health. The Auditor reviewed 25 detainee files and confirmed 2 of the files indicated a referral email had been sent and documentation submitted confirmed the 2 detainees were seen by medical and the LPC within two days. In addition, the Auditor requested additional documentation of a referral and medical and mental health notes to confirm a referral email was sent for three additional detainees and confirmed the three additional detainees had been offered a medical/mental health evaluation as required by the standard; however, the three detainees refused treatment during their follow-up appointment and signed a treatment refusal.

Corrective Action:

No corrective action needed.

§115.82 - Access to emergency medical and mental health services

Outcome: Meets Standard

Notes:

(a)(b): MTC policy states, “The OCPC will provide detainee victims of sexual abuse and assault with timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. The OCPC Medical Department will coordinate with Transportation Officers and/or Emergency Medical Services (EMS), if applicable, to ensure the alleged victim's special needs are taken into account during transportation for emergency care or other services offsite.” MTC policy 2.11 further states, “All treatment services, both emergency and ongoing, will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.” An interview with the HSA indicated if needed a detainee victim of sexual abuse would be immediately transported to Memorial Medical Center located in Las Cruces, New Mexico for emergency medical treatment. An interview with the HSA further indicated a detainee victim of sexual abuse would have unimpeded access to emergency medical treatment and crisis intervention services, which include emergency contraceptives and sexually transmitted infections prophylaxis, according to professionally accepted standards of care and would be free of charge to a detainee victim. In addition, the HSA indicated a detainee victim of sexual abuse does not need to name the abuser or cooperate with an investigation to receive the care needed. An interview with a victim advocate from La Pinon Sexual Assault Recovery Services confirmed if needed a detainee victim of sexual abuse would be transported to Memorial Medical Center for emergency medical treatment and once stable, the detainee victim would be taken to the La Pinon Sexual Assault Office which is located on the grounds of Memorial Medical Center for a SANE exam. An interview with an advocate from La Pinon Sexual Assault Recovery Services further indicated a victim advocate would accompany the detainee to provide crisis intervention and

emotional support and if needed the services would include pregnancy tests and timely information about lawful pregnancy related services. In addition, an interview with an advocate from La Pinon Sexual Assault Recovery Services indicated all detainee victims would be offered tests for sexually transmitted infections and services would be offered at no cost to the detainee and regardless of the detainee naming the abuser or cooperating with an investigation. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed all detainee victims had been seen by medical and mental health immediately following an allegation of sexual abuse; however, none of the allegations required the detainee victim be transported for a SANE forensic exam.

Corrective Action:

No corrective action needed.

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

Outcome: Meets Standard

Notes:

(a)(b)(c)(d)(e)(f)(g): MTC policy 2.11 states, “The OCPC's Medical Department will coordinate with ICE/ERO to offer medical and mental health evaluations and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while detained in immigration detention. The OCPC's evaluation and treatment of such victims will include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The OCPC's Medical Department will provide such victims with medical and mental health services consistent with the community level of care. Detainee victims of sexually abusive vaginal penetration by a male abuser while detained will be offered pregnancy tests. If pregnancy results from an instance of sexual abuse, the OCPC's Medical Department will provide the victim with timely and comprehensive information about lawful pregnancy-related medical services, as well as, timely access to all lawful pregnancy-related medical services. The OCPC's Medical Department will offer detainee victims of sexual abuse, while detained, tests for sexually transmitted infections as medically appropriate. The OCPC's mental health provider will attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history. The OCPC will offer treatment when deemed appropriate by mental health practitioners.” MTC policy 2.11 further states, “All treatment services, both emergency and ongoing, will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.” An interview with the HSA confirmed detainee victims of sexual abuse would receive timely emergency access to medical and mental treatment to 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 in accordance with professionally accepted standards of care. An interview with a mental health LMHC indicated detainee perpetrators of sexual abuse would receive an evaluation immediately upon mental health learning of the abuse history. An interview with the LMHC further indicated a treatment plan would be established if the abuser is willing to participate and is housed at the facility long enough to benefit. The Auditor reviewed 12 investigative files, which included 3 substantiated detainee-on-detainee sexual abuse allegations and confirmed all victims and known perpetrators had been seen by medical and mental health after the allegation was reported or substantiated.

Corrective Action:

No corrective action needed.

§115.86 - Sexual abuse incident review

Outcome: Does Not Meet Standard

Notes:

(a)(b)(c): MTC policy 2.11 states, “The OCPC will conduct a sexual abuse and assault incident review at the conclusion of every investigation of sexual abuse or assault. Regardless of whether the investigation results are substantiated or unsubstantiated the OCPC's PSACM will prepare a written report within 30 days of the conclusion of the investigation. The report will include recommendations, revealed by the allegation or

investigation, to change policy or practice that could better prevent, detect, or respond to sexual abuse and assault. The OCPC will implement the recommendations for improvement or will document its reasons for not doing so in a written response. Both the report and response will be forwarded to the Field Office Director for transmission to the ICE/ERO PSA Coordinator. The OCPC will also provide any further information regarding such incident reviews as requested by the ICE/ERO PSA Coordinator. The review team will consider whether the incident or allegation was motivated by: race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, intersex identification, status or perceived status, gang affiliation or was motivated or otherwise caused by other group dynamics at the OCPC. The OCPC's PSA Compliance Manager will conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention, and response efforts. When the OCPC has not had any reports of sexual abuse during the annual reporting period, the OCPC will prepare a negative report. The result and findings of the annual review will be provided to the Facility Administrator and the Field Office Director for transmission to the ICE/ERO PSA Coordinator.” An interview with the PSA Compliance Manager indicated the facility would conduct a sexual abuse incident review at the conclusion of every administrative investigation regardless of the outcome the investigation. The PSA Compliance Manager further indicated the review team consists of upper-level management officials, medical and mental health practitioners, and investigators. An interview with the PSA Compliance Manager further indicated the facility would complete an incident review report utilizing the “ICE Sexual Abuse or Assault Incident Review Form.” In addition, the PSA Compliance Manager indicated the review team will review the incident within 30 days of the conclusion of the investigation and will make recommendations for a change in policy or practice that could assist with preventing, detecting, or responding to a sexual abuse and the recommendations and the reasons for not complying with the recommendations are documented on the incident review form. The Auditor reviewed the “ICE Sexual Abuse or Assault Incident Review Form” and confirmed the form considers if the incident was motivated by race, ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or motivated or otherwise caused by other group dynamics at the facility. In addition, the Auditor reviewed 12 sexual abuse allegation investigation files and confirmed each file contained the ICE Sexual Abuse or Assault Incident Review Form and the review had been completed within 30 days of the conclusion of the investigations; however, a review of 12 sexual abuse allegation reviews could not confirm the report or the response was forwarded to the Agency PSA Coordinator as required by subsection (a) of the standard. The Auditor reviewed the facility 2022 Annual PREA Report and confirmed the report had been forwarded to the FA, the FOD, and the Agency PREA Coordinator.

Corrective Action:

The facility is not in compliance with subsection (a) of the standard. The Auditor reviewed 12 sexual abuse allegation investigation files and confirmed each file contained the ICE Sexual Abuse or Assault Incident Review Form and the review had been completed within 30 days of the conclusion of the investigations; however, a review of 12 sexual abuse allegation reviews could not confirm the report or the response was forwarded to the Agency PSA Coordinator as required by subsection (a) of the standard. To become compliant the facility must submit documentation to confirm the ICE Sexual Abuse or Assault Incident Review Form report and the response completed in the 12 sexual abuse incident reviews were forwarded to the Agency PSA Coordinator. In addition, the facility must submit all incident review reports and responses that occur during the CAP period to confirm compliance with subsection (a) of the standard.

§115.87 - Data collection

Outcome: Meets Standard

Notes:

MTC policy 2.11 states, “The OCPC will maintain in the PSA Compliance Manager's office all case records associated with claims of sexual abuse or assault, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings and recommendations for post-release treatment, if necessary.” An interview with the PSA Compliance Manager, and Auditor observations, confirmed

the facility sexual abuse allegation investigation files are maintained in the PSA Compliance Manager's Office in a locked file cabinet.

Corrective Action:

No corrective action needed.

§115.201 - Scope of Audit

Outcome: Meets Standard

Notes:

During all stages of the audit, including the on-site audit, the Auditor was able to review available policies, memos, and other documentation required to make an assessment on PREA compliance. Interviews with detainees were conducted on-site, in private, and have 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 detainee, outside entity, or staff correspondence was received prior to the on-site audit, during the on-site audit, or following the on-site audit.

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.

Robin Bruck 12/21/2023

Auditor's Signature & Date

(b) (6), (b) (7)(C) 12/21/2023

Program Manager's Signature & Date

(b) (6), (b) (7)(C) 12/21/2023

Assistant Program Manager's Signature & Date