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

Homeland Security

| AUDITOR INFORMATION | | | |
|---|---|---|---|
| **Name of auditor:** | Howard Sweeney | **Organization:** | Nakamoto Group, Inc. |
| **Email address:** | (b) (6), (b) (7)(C) | **Telephone number:** | 919-749-(b) (6), (b) |

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

| FIELD OFFICE INFORMATION | |
|---|---|
| **Name of Field Office:** | Philadelphia Field Office |
| **Field Office Director:** | Acting Field Office Director (b) (6), (b) (7)(C) |
| **ERO PREA Field Coordinator:** | Assistant Field Officer Director (b) (6), (b) (7)(C) |
| **Field Office HQ physical address:** | 1600 Callowhill Street, Philadelphia, Pennsylvania 19130 |
| **Mailing address:** *(if different from above)* | |

| INFORMATION ABOUT THE FACILITY BEING AUDITED | | | | | |
|---|---|---|---|---|---|
| **Basic Information About the Facility** | | | | | |
| **Name of facility:** | Berks County Residential Center | | | | |
| **Physical address:** | 1040 Berks Road, Leesport, Pennsylvania 19533- | | | | |
| **Mailing address:** *(if different from above)* | | | | | |
| **Telephone number:** | (610) 374-0743 | | | | |
| **Facility type:** | ☐ SPC | ☐ CDF | ☐ DIGSA | ☑ IGSA | ☐ FRC |
| | ☐ Other, **Describe:** | | | | |

| Facility Leadership | | | |
|---|---|---|---|
| **Name of Official/Officer in Charge:** | Diane Edwards | **Title:** | Executive Director |
| **Email address:** | (b) (6), (b) (7)(C) | **Telephone number:** | (610) 396-(b) (6), (b) (7)(C) |
| **Facility PSA Compliance Manager** | | | |
| **Name of PSA Compliance Manager:** | Marybeth Campitelli | **Title:** | Supervisor |
| **Email address:** | (b) (6), (b) (7)(C) | **Telephone number:** | 610) 396(b) (6), (b) (7)(C) |

## NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS:

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

The on-site Prison Rape Elimination Act (PREA) audit of the Berks County Residential Center, Leesport, Pennsylvania, was conducted March 7-8, 2017. The audit was completed by H. J. Sweeney, a certified auditor with Nakamoto Group, Inc. This was the first PREA audit for this facility. Prior to the on-site audit, the facility completed and submitted the Pre-Audit Questionnaire and provided a comprehensive set of supporting documents for the responses to the questionnaire to the auditors. The documentation consisted of Immigration and Customs Enforcement (ICE), Berks County Residential Center (BCRC), and ICE Health Service Corps (IHSC) policies and procedures, as well as other supporting documents.

An entrance meeting was held the first day of the audit to discuss the audit process and finalize the facility tour and interview schedules. The following persons were in attendance: Team Lead (b) (6), (b) (7)(C) ICE Office of Detention Oversight (ODO) Section Chief (b) (6), (b) (7)(C), Assistant Field Office Director (AFOD) (b) (6), (b) (7)(C) Executive Director Diane Edward, Health Service Administrator (HSA) Commander (b) (6), (b) (7)(C), Supervisory Deportation Officer (b) (6), (b) (7)(C), Program Director (b) (6), (b) (7)(C)
and other ICE and facility support staff. There were 77 detainees housed in the facility during the audit which included 18 males and 59 females. Of the 77 detainees, 39 were juveniles (under the age of 18), all of whom were accompanied by adult family members. A comprehensive tour of the facility was completed. The tour included the intake processing area, all housing units, the medical services department, recreation, food service, the l brary, visiting room, classrooms, telephone rooms, and other facility support areas. During the tour, it was noted that there was sufficient staffing to ensure a safe environment for detainees and staff. Detainees are able to shower, dress and use the toilet facilities without exposing themselves to employees of the opposite gender. Informal and formal conversations with employees and detainees regarding the PREA standards were conducted. Postings' regarding PREA violation reporting and the agency's zero tolerance policy for sexual abuse and harassment were prominently displayed in all housing units, common areas, telephone rooms and throughout the facility. Audit notifications were also located in the same areas. There were no letters received by the auditor, as a result of the audit notifications.

Berks County Residential Center operates the program through an inter-governmental service agreement with the Juvenile and Family Residential Management Units (JFRMU) and ICE/ERO. BCRC was opened in 2001 and is a four story, 96-bed family shelter that sits on ten acres in rural Pennsylvania. BCRC houses non-violent, non-criminal detainee families awaiting completion of immigration proceedings for Immigration and Customs Enforcement (ICE). The facility is a dedicated Inter-Governmental Service Agreement (IGSA). The male and female detainees are housed in 16 bedrooms located on a single floor of a four story building. School age children are taught by state certified educators. Adult classes are available in parenting, English as a Second Language, vocational skills, and arts and crafts. Doors to bedrooms are not locked and detainees are permitted open movement except in administrative office areas of the facility. The total number of staff is (b) (7) and includes ICE personnel, IHSC employees and contractors, and Berks County employees. BCRC has (b) (7) video monitoring cameras that record movement and activities throughout the facility. The (b) (7)(E) . The facility has one courtroom which can be used for immigration hearings operated by Executive Office of Immigration Review (EOIR); however, for the last four years, hearings have been conducted using tele-video equipment. BCRC is licensed by the Commonwealth of Pennsylvania to provide residential/family services. IHSC operates medical and mental health care at the facility.

A total of 19 staff interviews were conducted during the audit. The interviews included counselors and supervisors on all shifts. All were aware of the agency's zero tolerance policy and knew their responsibilities to protect detainees from sexual abuse/harassment and their duties as first responders as part of a coordinated response. Specialized staff were also interviewed and included the Executive Director, the PSA Coordinator, the Director of Mental Health, the Budget Resource Manager, IHSC Health Services Administrator, Registered Nurses, and contractors. All interviewed staff and contractors demonstrated an understanding of DHS PREA and their responsibilities under this program, relative to their position in the organization and employment status. The auditor confirmed that Saint Joseph Hospital has an agreement with BCRC to conduct forensic examinations, when requested by the facility. In addition, the auditor also confirmed that the facility has a Memorandum of Understanding (MOU) with the Berks Women in Crisis for detainee reporting and victim advocate services. Berks Township Police Department confirmed they would conduct criminal investigations involving allegations of sexual assault.
Twelve detainees (four males and eight females) were interviewed and were randomly selected from the housing units. Of the 12 detainee interviews, five involved juveniles, in the presence of and with approval from a parent. The interviewed detainees were of various ages, nationalities and ethnic backgrounds. None of the interviewed detainees self-identified as Lesbian, Gay, Bisexual, Transgender, or Intersex (LGBTI). One interviewed detainee had previously reported an allegation of sexual abuse/sexual harassment prior to being brought into ICE custody. All but one of the interviewed detainees was limited English proficient and was interviewed using a telephonic language interpretation service. All detainees interviewed demonstrated a good understanding of the PREA program, the prevention, protection and reporting mechanisms and stated they felt safe at the facility. No detainees refused to be interviewed.

As there were no allegations of sexual abuse, assault or harassment during the audit period (the 12 months preceding the audit), there were no investigative files to be reviewed and no incident review conducted.

## 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.

When the on-site audit was completed, a close-out meeting was held with the Field Office Director, the BCRC Executive Director, and other staff to discuss audit findings. The facility staff were courteous, cooperative, and professional. The observed staff/detainee interactions were found to be appropriate. There were (b) (7)(E) observed during the tour: (b) (7)(E) [redacted].

The review of screening documents and staff interviews confirmed that BCRC does not reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment.

Corrective Action Required - The facility must develop policy and procedures to reassess and document each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization. BCRC will need to provide documentation that the current resident population has been reassessed.

The standards used for this audit became effective in March 2014. Thirty-eight standards were found to "Meet" the standards, two standards were determined to be "Not-Applicable" and one standard was found as "Does Not Meet" and requires corrective action. The auditor had been provided with extensive and lengthy documents files prior to and during the audit to support the findings of the audit. At the conclusion of the audit, the auditor thanked the FOD, Executive Director and the facility staff for their hard work and dedication to the PREA audit process.

| SUMMARY OF AUDIT FINDINGS | |
|---|---|
| **Number of standards exceeded:** | 0 |
| **Number of standards met:** | 38 |
| **Number of standards not met:** | 1 |

## PROVISIONS

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

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

IHSC Directive 01-20 and BCRC policy 28.010 address the requirements of this standard. The policies mandate zero tolerance towards all forms of sexual abuse. Together, the policies outline the facility's approach to preventing, detecting and responding to sexual abuse and sexual harassment allegations. The facility's Executive Director appointed a Prevention of Sexual Assault (PSA) Manager who reports to the Director on PREA issues. The PSA manager, when interviewed, confirmed she has sufficient time and authority to oversee compliance of the facility's PREA program. Zero tolerance posters are displayed throughout every area of the facility. The posters are in English and Spanish.

### §115.13 – Detainee supervision and monitoring.

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policies 29.015, 21.010 and 40.085 outline the requirements of this standard. Policy requires each facility to review the staffing plans on an annual basis. A review of the BCRC and IHSC staffing plans, organizational chart, post orders, and interviews with the Executive Director and Business Manager confirmed that the facility has a staffing plan which provides adequate staff to ensure a safe and secure environment for staff and detainees. Because the facility houses juvenile detainees, the daytime staff/detainee ratio is (b) (7)(E) [redacted] Night time staffing to detainee ratios are (b) (7)(E) Supervision is supplemented by (b) (7) video cameras, and various ICE and IHSC on-site staff.

### §115.14 – Juvenile and family detainees.

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)
- ☐ Not Applicable (provide explanation in notes):

**Notes:**

At any given time, approximately 50 percent of the detainees housed at BCRC are juveniles. As confirmed by observation and interviews with juveniles and their accompanying parent, all juveniles are housed in the least restrictive setting and always with a parent when the juvenile is around other adults. Unaccompanied minors are not housed at this facility at any time. The facility uses a five group classification system to determine how families with juveniles are housed. Groups one through four use the age and sex of the juveniles to determine how they are housed with the female head of household. Group five families are housed in their own separate bedrooms when families are of mixed gender. All male group five families are housed with other male group five families based on the following restrictions:

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 01.010 and 20.030 outlines the requirements of the standard. Although there is policy defining various search methodologies, BCRC does participate in pat-down searches, strip-searches or visual body cavity searches of any form and therefore no cross-gender searches are performed. If any such searches were performed, they would only be conducted under exigent circumstances and would be documented. The facility reported there was no cross-gender visual body cavity or strip search conducted during the audit period. Interviews with staff and detainees confirmed that pat-searches, strip-searches and visual body cavity searches are not conducted.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes**

BCRC policy 01.010 outlines the requirement of the standard. BCRC takes appropriate steps to ensure detainees with disabilities and detainees with Limited English Proficiency (LEP) have an opportunity to participate in and benefit from the institution's efforts to prevent, detect and respond to sexual abuse and sexual harassment. PREA handouts, bulletin board postings and detainee handbooks are in both English and Spanish. During in-processing procedures, staff uses an Indigenous Language Flow Chart to determine the detainees' primary language. The facility has a contract with Language Service Associates, a telephonic interpretation service, to provide interpretation services for detainees who do not speak English or Spanish.

**§115.17 – Hiring and promotion decisions.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policies 29.015 and 40.100 outlines the requirements of this standard. The Executive Director and Financial Services Manager were interviewed and stated that all components of this standard have been met. Contractors and volunteers receive the same background checks as facility employees. Because the facility houses juvenile detainees, a Pennsylvania Child Abuse History Clearance is also required as part of the background checks. A tracking system, which was reviewed by the auditor, is in place to ensure that updated background checks are conducted every three years. Policy clearly states the submission of false information by any applicant is grounds for termination.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)
- ☐ Not Applicable (provide explanation in notes):

**Notes:**

BCRC policy 28.010 addresses the requirements of the standard. Since May 2014, the facility renovated the fourth floor and added video monitoring equipment. When planning the addition of cameras and designing the renovation, the facility considered how these changes would enhance the ability to protect detainees from sexual abuse. Additionally, windows were installed in the telephone rooms in order to enhance the monitoring of detainee activities in these areas.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

IHSC Directive 01-20 and BCRC policy 128.010 address the requirements of this standard. Facility staff and health care providers were interviewed concerning this standard and all were knowledgeable of their respons bilities as first responders and the procedures required to preserve usable physical evidence, when sexual abuse is alleged. Staff was also aware that the Bern Township Police Department conducted investigations relative to sexual abuse allegations. All forensic medical examinations would be conducted by a Sexual Assault Forensic Examiner/Sexual Assault Nurse Examiner (SAFE/SANE) through an agreement with Saint Joseph Hospital, a hospital in the local community. An interview with the service provider verified the agreement for the SAFE/SANE protocols to be performed at their hospital. There were no

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 outlines the requirements of this standard. BCRC does not employ investigative staff. Administrative investigations would be coordinated through ICE, Department of Homeland Security (DHS) Office of Inspector General (OIG), and the Office of Professional Responsibility (OPR). Criminal investigations would be completed on all allegations of sexual abuse/assault by the Bern Township Police Department. The township detective confirmed that he had received training in performing investigations involving sexual assault. All allegations are reported immediately to the on-site ICE staff.

**§115.31 – Staff training.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policies 28.010, 40.015 and IHSC OM 16-015 address the requirements of the standard. A review of the annual training plan, curriculum and PowerPoint presentation showed all the mandatory training outlined in the standard. Staff receive initial PREA training when they are hired and annually as part of refresher training. Contractors and volunteers are provided training relative to their duties and responsibilities. The auditor reviewed the training curriculum, training sign-in sheets and other related documentation; and, interviewed staff who indicated they were required to acknowledge, in writing, that they both received and understood PREA training.

**§115.32 – Other training.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

**§115.33 – Detainee education.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of the standard. During intake, each detainee receives a pamphlet describing ICE's Sexual Assault and Abuse Awareness policy, the National Detainee Handbook and the facility handbook. The pamphlet and handbooks identify the key elements of the program and informs detainees of the zero-tolerance policy regarding sexual abuse/assault and multiple ways to report any such incidents. The information is available in English and Spanish.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

Not applicable - Neither BCRC nor ICE conducts investigations in the facility. Local and Federal law enforcement agencies have the responsibility for conducting sexual abuse, assault and harassment investigations within the facility.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

IHSC Directive 03-01 outlines the requirements of this standard. All mental health and medical services are provided by IHSC and its contractors. The review of the IHSC Sexual Abuse and Assault Prevention and Intervention Power Point presentation, training documents, and interviews with IHSC personnel confirmed that all received specialized training on victim identification, interviewing, reporting, and clinical interventions.
This training is provided initially and annually thereafter. All cases requiring the processing of a sexual assault evidence collection kit are transported to a local hospital for a forensic examination. This was confirmed through an interview with the vendor (Saint Joseph Hospital) and

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☐ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☑ Does not meet Standard (requires corrective action)

**Notes:**

IHSC directive 03-25, IHSC OM 16-022 and BCRC Housing Classification Bulletin outlines the requirements of this standard. All detainees are assessed by IHSC personnel during in-processing procedures for their risk of being sexually abused or being sexually abusive towards other detainees. In-processing screening occurs within 12 hours of the detainee's arrival. A case management staff member reviews this and all relevant information from other facilities within 72 hours. Detainees identified as high risk for sexual victimization or at risk of sexually abusing other detainees are referred to the mental health staff for additional assessment. Information received during the screening is only available to staff with a need to know and never to other detainees.

**§115.42 – Use of assessment information.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

IHSC directive 03-25 and BCRC Housing Classification tool address the requirements of this standard. The facility uses in-processing screening information (reviewed by auditor) to determine proper housing, bed assignment, and other program assignments, with the goal of keeping detainees at high risk of being sexually abused/sexually harassed separate from those detainees who are at a high risk of being sexually abusive. Housing and program assignments are made on a case by case basis and detainees are not placed in housing units based solely on their sexual identification or status. Interviews with case management staff also support the finding that the facility is in compliance with this standard. Detainees at BCRC do not have work assignments.

**§115.43 – Protective custody.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

Not applicable - As a family residential center, BCRC does not have an administrative or disciplinary special management unit.

**§115.51 – Detainee reporting.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policies 28.010 and 11.010 address the requirements of this standard. A review of documentation and staff/detainee interviews indicated that there are multiple ways (verbally to staff; in writing via grievance or a letter to ICE, the DHS IG or consulate; or by telephone call to a hot line, information line, consulate or crisis center). Many of the methods permit anonymous/private reporting and reporting by a third party for detainees to report sexual abuse. The facility has procedures in place for staff to document all allegations. There are posters and other documents on display throughout the facility (observed by auditor) which also explain reporting methods. The detainee handbook and ICE PREA pamphlet provide detailed information on reporting methods.

**§115.52 – Grievances.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 11.010 addresses the requirements of this standard. Detainees may file a grievance on allegations of sexual abuse or sexual assault at any time. There is no time limit to file such a grievance and no requirement to file an informal grievance or complaint. Detainees are not required to use the informal or formal grievance process. As a family residential center, "Family Grievances" may also be filed. Policy permits staff members to file grievances when they believe a detainee's rights have been violated. Facility procedures allow a detainee to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. Detainees are also able to request assistance from outside sources to complete their grievance. There were no grievances alleging sexual assault in the last year.

**§115.53 – Detainee access to outside confidential support services.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 31.010 addresses the requirements of this standard. The auditor confirmed that the BCRC has an agreement with Saint Joseph Hospital to provide care and perform forensic examination and evidence collection; a memorandum of understanding with Berks Women in Crisis Center to provide victim advocacy and anonymous reporting, and arrangements with Berks Township Police Department for investigation and referral for prosecution services when requested by the facility. Interviews with staff and detainees support their awareness of outside agency resources. Resident telephone calls are not monitored at any time.

**§115.54 – Third-party reporting**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC has established procedures for third-party reporting which includes the ICE ERO Reporting and Information Line and the Office of Inspector General telephone number. Mailing addresses are posted in the units and made available in the detainee handbook. The BCRC website: www.co.berks.pa.us/Dept/BCRC/pages/PREA/aspx assists third party reporters on how to report allegations of sexual abuse. The website provides at least seven methods that third parties may use to report allegations of sexual abuse/harassment. Staff and detainees interviewed were aware of the procedures for third-party reporting.

**§115.61 – Staff reporting duties.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of this standard. Staff interviews confirmed that they were aware of their responsibility to immediately report any knowledge, suspicion, or information about any incident of sexual abuse. They were also aware of the requirement to report retaliation against detainees or staff who report or participate in an investigation about sexual abuse, assault or harassment. Policy requires the information concerning the identity of the alleged detainee victim and the specific facts of the case be limited to staff who need-to-know to maintain the required level of confidentiality due to their involvement with the victim's welfare and the investigation of the incident. Interviews with employees and contractors confirmed they were aware of their reporting duties

**§115.62 – Protection duties.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of this standard. Staff interviews confirmed that they are aware of their responsibility to immediately take action to protect any detainee that they believe is subject to a substantial risk of imminent sexual abuse or harassment. Staff are also aware of their responsibility to separate victims and abusers. There have been no allegations of sexual abuse, assault or harassment, and no detainees believed to be in imminent risk of sexual abuse or harassment during the audit period.

**§115.63 – Report to other confinement facilities.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of this standard. Policy requires the reporting of any PREA related allegation by a detainee to the appropriate office of the facility where the sexual abuse is alleged to have occurred. The notification is to occur as soon as possible, but always within 72 hours of receiving the allegation. Policy requires all such notifications be documented. During the audit period, BCRC did not receive any allegations from detainees regarding sexual abuse, assault or harassment incidents that took place at another facility.

**§115.64 – Responder duties.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of this standard. All staff interviewed were knowledgeable concerning their first responder responsibilities when learning of an allegation of sexual abuse/harassment. They also stated they would separate the potential victim from the alleged predator, secure the scene to protect possible evidence, not allow detainees to destroy possible evidence and contact their immediate supervisor and health care providers. Supervisors would continue to protect the detainee and notify the Executive Director and ICE personnel. Interviews with staff and an examination of documentation confirm compliance to this standard.

**§115.65 – Coordinated response.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of this standard. T h e policy outlines the facility's coordinated response and involves first responders, BCRC management staff, IHSC health care providers, ICE/ERO personnel, local law enforcement, and, if required, community health care providers (for SANE/SAFE exams), and victim advocates. Staff and community provider interviews confirmed that they were knowledgeable regarding their responsibilities in the coordinated response. If a detainee victim of sexual assault is transferred to or received from another facility, BCRC would inform the receiving facility regarding the details of the assault. There were no transfers of sexual abuse victims between facilities during the audit period. Interviews and an examination of documentation also confirm compliance to this standard

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of this standard. Staff, contractors, and volunteers suspected of perpetrating sexual abuse shall be removed from their duties requiring detainee contact pending the outcome of an investigation. An Interview with the Executive Director confirmed compliance with this standard.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

ICE Directive 11062.2 addresses the requirements of the standard. The review of training documents confirmed that all staff are instructed to monitor and report retaliation for reporting sexual abuse, sexual harassment or cooperating in any related investigation. The Executive Director has appointed the PSA Compliance Manager as the designated retaliation monitor. She stated supervisors would monitor the frequency of incident reports and housing reassignments. BCRC detainees do not have job assignments. Concerns regarding retaliation would be reported to the retaliation monitor and Executive Director immediately and discussed in the weekly supervisor's meeting. Monitoring would continue for at least 90 days and could be extended, if required. There have been no suspected or actual incidents of retaliation in the previous 12 months.

**§115.68 – Post-allegation protective custody.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of the standard. As a family residential center, BCRC does not have a segregation unit or protective custody unit. Policy requires sexual assault victims to be kept in the medical department until medically cleared and then returned to their living quarters. Per ICE/ERO personnel, alleged abusers, after evidence gathering was completed, would be immediately transferred to another detention facility pending the results of the investigation. Staff indicated that the detainee would be placed in the most supportive environment to ensure their well-being. There have been no detainees placed in post-allegation protective custody during the last 12 months.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

ICE Directive 11062.2, Sexual Abuse and Assault Prevention and Intervention, addresses the requirements of this standard. BCRC and ICE/ERO refer all criminal investigations to the Berks Township Police Department. BCRC personnel do not conduct administrative investigations and would refer administrative investigations to ICE/ERO and ICE OPR. There were no criminal or administrative investigations during this auditing period. Interviews with the Executive Director and ICE personnel confirmed that the facility would fully cooperate with any outside agency who initiates an investigation.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

ICE Directive 11062.2, Sexual Abuse and Assault Prevention and Intervention, addresses the requirements of this standard. The evidence standard in the policy is a preponderance (51%) of the evidence in determining whether allegations of sexual abuse/assault are substantiated.

**§115.73 – Reporting to detainees.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

ICE Directive 11062.2, addresses the requirements of this standard. The directive indicates that ICE will notify a detainee of the result of the investigation and any responsive action taken as a result of an allegation of sexual abuse. There were no allegations or investigations relating to sexual abuse, assault or harassment during the audit period.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of this standard. Per policy, staff are subject to disciplinary sanctions, including termination, for violating sexual abuse policies. Staff are removed from all duties involving detainee contact pending the outcome of an investigation. As local law enforcement conducts all sexual investigations, the results of such investigations are known to them. Terminations or resignations by IHSC health care staff who would have been terminated, if not for their resignation, are reported to relevant professional/certifying/licensing agencies by IHSC human resources personnel, unless the activity was clearly not criminal. Policy also requires the facility to report the results of investigations to the ICE Chief of the Juvenile and Family Residential Management Unit (JFRMU).

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of this standard. Contractors and volunteers are subject to disciplinary sanctions, including termination, for violating sexual abuse policies. They would be removed from all duties involving detainee contact pending the outcome of an investigation. As local law enforcement conducts all sexual investigations, the results of such investigations are known to them. Terminations or resignations by IHSC contract health care staff who would have been terminated, if not for their resignation, are reported to relevant professional/certifying/licensing agencies by IHSC human resources personnel, unless the activity was clearly not criminal. Policy also requires the facility to report the results of investigations to the ICE Chief of the Juvenile and Family Residential Management Unit.

**§115.78 – Disciplinary sanctions for detainees.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 04.010 addresses the requirements of this standard. The Discipline and Behavior Management policy details detainee rights, levels of offenses, hearing and appeal procedures and disciplinary sanctions. Detainees found guilty of sexual abuse shall be disciplined in accordance with the disciplinary procedures and sanctions shall be commensurate with the nature and circumstances of the abuse committed. The detainee's age, disciplinary history, mental disabilities, and mental illness are considered when making all decisions.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

IHSC directives 03-01 and 07-02 and IHSC Behavioral Health Services Guide address the requirements of this standard. Observation of and interviews with medical and mental health personnel confirm IHSC has a computerized health records system that includes the comprehensive collection of medical and mental health information and has the capacity to provide continued re-assessment and follow-up services. When detainees are referred for medical follow-up, procedures indicate that the health evaluation would take place within two working days and, in the case of mental health referrals, within 72 hours following the referral. The procedures also allow for detainees who report being sexually abusive to be offered a follow up meeting with mental health staff. Treatment services are offered without financial cost to the detainee.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

IHSC 03-01 and IHSC Behavioral Health Services Guide address the requirements of this standard. ICE Health Service Corps (IHSC) provides medical and mental health services to BCRC. Health care personnel are on site at all times and mental health providers are on site five days per week and are subject to call back at any time. Detainee victims of sexual abuse receive timely, unimpeded access to emergency medical/mental health treatment and crisis intervention services within the facility or are transported to a health care facility in the community, when their needs exceed the scope of medical or mental health care available within the facility. Victim advocacy is offered through an agreement with Berks Women in Crisis, a community provider.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

IHSC directive 03-01 and IHSC Behavioral Health Services Guide address the requirements of this standard. Medical and mental health evaluations and, as appropriate, treatment to all detainees who have been victimized by sexual abuse is offered immediately. Services are consistent with a community level of care, without financial cost to the detainee. Detainee victims of sexual abuse, while detained, are offered tests for sexually transmitted infections and lawful and timely pregnancy-related medical services, in accordance with professionally accepted standards of care, where medically appropriate. Community resources would be used when health care needs exceed the scope of health care offered at BCRC.

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

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC 28.010 addresses the requirements of this standard. Policy requires the facility to conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, except where the allegation was determined to be unfounded. The review would be completed within 30 days of the conclusion of the investigation and would consider whether the incident was motivated by race, ethnicity, gender identity, and status and/or gang affiliation. The team also makes a determination as to whether additional monitoring technology should be added to enhance staff supervision. The review team consists of the Assistant Warden, Health Services Administrator, Chief of Psychology, Investigator, and the Chief of Security.

**§115.87 – Data collection.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

BCRC policy 28.010 addresses the requirements of this standard. BCRC, specifically, the Executive Director, maintains all records of PREA related allegations for five years, after the detainee is released from custody. Interviews with the staff support compliance with this standard.

**§115.201 – Scope of audits.**

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard (requires corrective action)

**Notes:**

The auditor was able to access and observe all areas of the facility. The auditor was provided with all relevant documents and conducted private interviews with detainees. Audit notices were posted in each housing unit, common area, and telephone rooms, giving the detainees an opportunity to confidentially correspond with the auditor. The auditor did not receive any correspondence from the detainees at Berks County Residential Center.

## ADDITIONAL NOTES

**Directions:** Please utilize the space below for additional notes, as needed. Ensure the provision referenced is clearly specified.

115.11 - The audit included an examination of video monitoring systems, unannounced rounds reports, detainees' access to telephones, rosters, and staff/ detainee interviews. Staff receive initial training and annual training on the facility's zero-tolerance policy. Interviews with staff and detainees confirmed that each was aware of the zero-tolerance policy towards all forms of sexual abuse.

115.13 - Interviews with staff and review of logs confirmed unannounced rounds to all areas of the institution are conducted on a weekly basis, with no warning to staff. Video cameras with monitoring capabilities are visible throughout the facility. (b) (7)(E) [redacted] The facility is in compliance with the standard.

115.14 - Children ages 0-10 cannot room with unrelated children ages 11-17.
- Children ages 11-13 cannot room with unrelated children ages 14-17.

115.15 - As confirmed by observation during the tour, all detainees are able to shower, change clothes and perform bodily functions without being observed by staff. As staff do not conduct any form of personal searches of detainees, pat-down searches are not performed for the sole purpose of determining the genital status of a transgender or intersex detainee.

115.16 - Staff interviewed confirmed they were well aware of the policy that, under no circumstances, are detainee interpreters or assistants to be used concerning PREA issues. Within their first hour of arrival to the facility, detainees are interviewed by medical personnel to determine if there are physical, intellectual or psychological needs. If such a need exists, a Special Needs Form is prepared or, in the case of juveniles, a Health and Safety Plan is prepared and transmitted to a supervisor before a housing assignment is made. If required, a teletype telephone device would be made available for detainees who are hearing impaired. Blind or seriously visually impaired detainees would not be housed in this facility.

115.17 - The facility makes its "best effort" to contact all prior employers for information on substantiated allegations of sexual abuse or resignations which occurred during a pending investigation of sexual abuse. The auditor reviewed a random sampling of hiring and promotion packets during the audit and found them to be in compliance with the standard.

115.21 - In addition, the auditor also confirmed that the facility has an MOU with the Berks Women in Crisis for detainee reporting and victim advocate services. There were no sexual abuse allegations by detainees during the audit period

115.22 - The on-site ICE staff have the respons bility of notifying the Joint Intake Center, OPR, and, when necessary, the OIG and Juvenile and Family Residential Management Unit (JFMRU). Allegations of sexual assault/abuse or harassment where the alleged perpetrator is a staff member, contractor or volunteer, are reported to the same organizations, as well as the FOD and local law enforcement agency, having jurisdiction for the investigation. There have been no allegations of sexual abuse, assault, or harassment during the audit period. Policy requires the Executive Director to maintain all records relating to sexual assault for at least five years. A review of the BCRC website confirmed that the facility's zero-tolerance policy, reporting and investigation protocols are published.

115.33 - When staff become aware that a detainee is not English or Spanish proficient, telephonic interpretation services are provided to supply education regarding sexual abuse, assault and harassment and, when necessary, the same assistance would be provided to make a confidential report. Detainees sign a form indicating receipt of the information. Interviews with detainees also confirmed that during in-processing procedures, they received the information regarding definitions of sexual abuse/harassment, prevention, reporting methodologies, the right to be free from retaliation and the right to treatment. The review of orientation documents confirmed that detainees receive at least seven methods for reporting sexual abuse, assault, and/or harassment. This information was also noted in the handbook and on posters throughout the facility. The tour of the facility confirmed that PREA education posters were prominently displayed in all housing units and common areas. Interviews with staff and detainees, as well as an examination of documentation, confirm compliance to this standard.

115.35 - Interviews with medical and mental health staff confirmed they are aware of their duty to report allegations and suspicions of sexual abuse/harassment.

115.41 **- The facility does not reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment.**

**Corrective Action Required - The facility must develop policy and procedures to reassess and document each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment and, at any other time when warranted, based upon the receipt of additional, relevant information or following an incident of abuse or victimization.**

115.42 - A memo and interview with the AFOD indicated that transgender and intersex detainees would not be housed at BCRC.

115.51 - Facility staff accept reports made verbally, in writing, anonymously and from third parties and promptly document any form of reporting. Family and friends of detainees may report sexual abuse by using the BCRC website information. All detainees interviewed confirmed that they were aware of multiple methods of reporting sexual abuse/assault allegations. Interviews with staff and an examination of documentation also confirm compliance to this standard.

115.52 - The facility responds to grievances and grievance appeals within five business days of receipt. Procedures are in place to manage emergency grievances that may involve an immediate threat to a detainee's health, safety or welfare. Staff must bring medical grievances involving medical emergencies to the immediate attention of medical personnel. The grievance procedure is explained in the detainee handbook.

## ADDITIONAL NOTES

115.61 - Additional compliance with all aspects of the standard was verified through document and policy review. The facility does house detainees under the age of 18. Policy requires the facility to report sexual abuse/harassment allegations involving juveniles to State and local authorities, as well as the Juvenile and Family Residential Management Unit (JFMRU).

115.67 - Compliance with this standard was determined by a review of policy and staff interviews.

115.76 - There were no allegations of staff-on-detainee sexual abuse during the audit period. Compliance with this standard was determined by a review of policy and staff interviews.

115.78 - Detainees would not be disciplined for unsubstantiated or unfounded allegations made in good faith or for consensual sexual contact with a staff member unless the staff member did not consent to the contact. Interviews with the facility Executive Director and PSA Coordinator support a finding that the facility is in compliance with this standard.

115.81 - There was one detainee determined during their in-processing to have experienced sexual victimization prior to being detained by ICE. A medical record review and an interview with the detainee confirmed a timely referral and assessment by medical and mental health providers that complied with the standard. Regular and frequent monitoring is ongoing. There is no financial cost to the detainee for any sexual abuse/assault related incident, related medical or mental health care or advocacy service, regardless of whether the victim names the abuser or cooperates with the incident investigation. All information is handled confidentially and interviews with staff support a finding that the facility is in compliance with this standard.

115.82 - Detainee victims of sexual abuse, while detained, are offered information about and timely access to information on emergency contraception and sexually transmitted infection prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Follow up mental health services and follow up testing and treatment for sexually transmitted diseases are provided by IHSC medical and mental health providers at BCRC. There has been no instance within the last year that required the outside services of SAFE/SANE or the community advocacy agency. There is no financial cost to the detainee for any sexual abuse/assault related incident, related medical or mental health care, or advocacy service, regardless of whether the victim names the abuser or cooperates with the incident investigation. Compliance with this standard was determined by a review of policy, documentation and interviews with the local hospital representative, victim advocacy agency representative, facility and IHSC personnel.

115.83 - A review of documentation and interviews with IHSC medical and mental health personnel support the finding that this facility is in compliance with this standard.

115.86 - The review team seeks additional information from other staff as needed to ensure a thorough review. The final report is forwarded to the Executive Director and the on-site AFOD. The facility is also responsible for completing a quarterly report which is forwarded to Berks County, the on-site AFOD and the ICE PSA Coordinator.

**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.

*H. J. Sweeney* — March 27, 2017

**Auditor's Signature** — **Date**

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

Homeland Security

| AUDITOR INFORMATION | | | |
|---|---|---|---|
| **Name of auditor:** | Howard Sweeney | **Organization:** | |
| **Email address:** | (b) (6), (b) (7)(C) | **Telephone number:** | (b) (6), (b) (7)(C) |

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

| FIELD OFFICE INFORMATION | |
|---|---|
| **Name of Field Office:** | Philadelphia |
| **Field Office Director:** | (b) (6), (b) (7)(C) |
| **ERO PREA Field Coordinator:** | (b) (6), (b) (7)(C) |
| **Field Office HQ physical address:** | 1600 Callowhill Street, Philadelphia, Pennsylvania 19130 |
| **Mailing address:** *(if different from above)* | |

| INFORMATION ABOUT THE FACILITY BEING AUDITED | | | | | |
|---|---|---|---|---|---|
| **Basic Information About the Facility** | | | | | |
| **Name of facility:** | Berks County Residential Center | | | | |
| **Physical address:** | 1040 Berks Road, Leesport, Pennsylvania 19533 | | | | |
| **Mailing address:** *(if different from above)* | | | | | |
| **Telephone number:** | (610)374-0743 | | | | |
| **Facility type:** | ☐ SPC | ☐ CDF | ☐ DIGSA | ☑ IGSA | ☐ FRC |
| | ☐ Other, **Describe:** | | | | |
| **Facility Leadership** | | | | | |
| **Name of Officer in Charge:** | Diane Edwards | | **Title:** | Executive Director | |
| **Email address:** | (b) (6), (b) (7)(C) | | **Telephone number:** | (b) (6), (b) (7)(C) | |
| **Facility PSA Compliance Manager** | | | | | |
| **Name of PSA Compliance Manager:** | Marybeth Campitelli | | **Title:** | Supervisor | |
| **Email address:** | (b) (6), (b) (7)(C) | | **Telephone number:** | (b) (6), (b) (7)(C) | |

## FINAL DETERMINATION

### SUMMARY OF AUDIT FINDINGS:

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

The on-site Prison Rape Elimination Act (PREA) audit of the Berks County Residential Center, Leesport, Pennsylvania, was conducted March 7-8, 2017. The audit was completed by H. J. Sweeney, a certified auditor with Nakamoto Group, Inc. This was the first PREA audit for this facility. Prior to the on site audit, the facility completed and submitted the Pre-Audit Questionnaire and provided a comprehensive set of supporting documents for the responses to the questionnaire to the auditor. The documentation consisted of Immigration and Customs Enforcement (ICE), Berks County Residential Center (BCRC), and ICE Health Service Corps (IHSC) policies and procedures, as well as other supporting documents.

During the course of the audit, it was determined that the facility's existing policy and procedures did not comply with the requirements of standard 115.41, specifically in that the facility did not reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment. Over the next 180 days, the facility developed a corrective action plan (CAP). The CAP includes a revised local operating procedure (LOP) that requires ICE Health Service Corps (IHSC) Mental Health (MH) to schedule an appointment within 60 days of the initial assessment (or sooner, if necessary) to reassess each detainees risk of victimization or abusiveness. The revised LOP dated September 10, 2017, includes the following requirement: "After the initial intake screening and/or mental health visit, a medical or mental health provider shall reassess each detainee risk of victimization or abusiveness between 60 and 90 days using mental health PREA template (MH- PREA) documented in electronic health records."

The facility provided evidence of completion of the reassessments or evidence of signed refusal forms for detainees declining to participate in the reassessment. The ICE IHSC Health Services Administrator also provided an assurance statement dated September 18, 2017, indicating that all residents of the facility had been offered or undergone reassessment according to the LOP.

Final Determination - The additional procedures developed by the facility and the evidence provided to demonstrate compliance with the new procedures confirms that facility now meets standard 115.41. No further action is required by the facility to comply with the standard.

Additionally, after review of the original Berks PREA Audit Report, the auditor identified an error related to the original determination of 115.34 Specialized Training: Investigations. An updated narrative and finding is included on the last page.

Number of standards exceeded: 0

Number of standards met: 39

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.** 41 - Assessment for risk of victimization and abusiveness

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard

**Notes:**

IHSC Directive 03-25, IHSC OM 16-022 and BCRC Housing Classification Bulletin outlines the requirements of this standard. All detainees are assessed by IHSC personnel during in-processing procedures for their risk of being sexually abused or being sexually abusive towards other detainees. In-processing screening occurs within 12 hours of the detainees arrival. A case management staff member reviews this and all relevant information from other facilities within 72 hours. Detainees identified as high risk for sexual victimization or at risk of sexually abusing other detainees are referred to the mental health staff for additional assessment. Information received during the screening is only available to staff with a need to know and never to other detainees.

The facility does not reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment.

Corrective Action Required - The facility must develop policy and procedures to reassess and document each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment and, at any other time when warranted, based upon the receipt of additional, relevant information or following an incident of abuse or victimization.

Corrective Action - The facility provided an updated Local Operating Procedure (LOP) requiring completion of a 60-90 day risk of victimization or abusiveness reassessment. The reassessment is to be completed by ICE Health Service Corps (IHSC) personnel. The revised LOP dated September 10, 2017, includes the following requirement:

"After the initial intake screening and/or mental health visit, a medical or mental health provider shall reassess each detainee risk of victimization or abusiveness between 60 and 90 days using mental health PREA template (MH- PREA) documented in electronic health records."

Additionally, the facility provided evidence of completion of the reassessments or evidence of signed refusal forms for detainees declining to participate in the reassessment. The ICE IHSC Health Services Administrator also provided an assurance statement dated September 18, 2017, indicating that all residents of the facility had been offered or undergone reassessment according to the LOP.

The facility now meets all requirements of the standard.

**§115.** 34 Specialized Training: Investigations

- ☐ Exceeded Standard (substantially exceeds requirement of standard)
- ☑ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does not meet Standard

**Notes:**

Upon completion of the Berks CAP Report, the Auditor determined a previous mistake in the Preliminary Report, specifically the Not Applicable rating awarded to standard 115.34 Specialized Training: Investigations. The original reported stated: "Neither BCRC nor ICE conducts investigations in the facility. Local and Federal law enforcement agencies have the responsibility for conducting sexual abuse, assault and harassment investigations within the facility". Upon further review, the standard was determined to be applicable to the facility. Below is the updated narrative regarding the findings for 115.34.

Update: Criminal investigations are handled by Bern Township Police Department and administrative investigations are first referred to the JIC for acceptance by DHS OIG, then either handled by ICE OPR or ERO. ICE investigators have completed a specialized investigator training program that meets the requirements of this standard. The training covered the required procedures for obtaining, preserving and securing physical evidence, interviewing victims and witnesses and investigating in a detention facility, when sexual abuse is alleged. The auditor reviewed the specialized training documentation, which confirmed compliance with this standard.

**AUDITOR CERTIFICATION:**

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

*Howard Sweeney* — **Auditor's Signature**

11-08-2017 — **Date**