

PREA Audit: Subpart B Short-Term Holding Facilities Audit Report



U.S. Customs and
Border Protection

AUDITOR

Name of Auditor:	(b)(6)(b)(7)(C)	Organization:	Creative Corrections, LLC
Email Address:	(b)(6)(b)(7)(C)	Telephone Number:	(b)(6)(b)(7)(C)

AGENCY

Name of Agency:	U.S. Customs and Border Protection
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PROGRAM OFFICE

Name of Program Office:	U.S. Border Patrol
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SECTOR OR FIELD OFFICE

Name of Sector or Field Office:	Rio Grande Valley Sector
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Name of Chief or Director:	(b)(6)(b)(7)(C)
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PREA Field Coordinator:	(b)(6)(b)(7)(C)
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Sector or Field Office Physical Address:	4400 South Expressway 281, Edinburg, Texas 78539
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Mailing Address: (if different from above)	NA
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SHORT-TERM HOLDING FACILITY BEING AUDITED

Information About the Facility

Name of Facility:	Harlingen Station
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Physical Address:	3902 S Expressway 83, Harlingen, TX
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Mailing Address: (if different from above)	NA
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Telephone Number:	(b)(6)(b)(7)(C)
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Facility Leadership

Name of Officer in Charge:	(b)(6)(b)(7)(C)	Title:	Patrol Agent in Charge
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Email Address:	(b)(6)(b)(7)(C)	Telephone Number:	(b)(6)(b)(7)(C)
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AUDIT FINDINGS

NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS:

Directions: Discuss the audit process to include the date(s) 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 initial Prison Rape Elimination Act (PREA) audit of the U.S. Customs and Border Protection (CBP), U.S. Border Patrol (BP), Harlingen Station was conducted on August 21, 2019, by (b)(6)(b)(7)(C), PREA Certified Auditor, contracted through Creative Corrections, LLC, Beaumont, Texas. The facility is located in Harlingen, Texas and is utilized by CBP for short-term detention of individuals arriving at the border pending return to their country of origin, release from custody or transfer to a court, jail, prison, other agency, or another unit of the agency.

The PREA audit is to determine compliance with the Subpart B of the Department of Homeland Security (DHS) Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities, 6 C.F.R. Part 115, (the "DHS PREA Standards").

(b)(6)(b)(7)(C), Preventive Sexual Assault (PSA) Coordinator, Headquarters (HQ), (b)(6)(b)(7)(C), Deputy Director, Personnel Security Division (HQ); (b)(6)(b)(7)(C), Employee Relations Specialist (HQ); (b)(6)(b)(7)(C) Branch Chief, Recruitment and Consulting Staffing Services in lieu of (b)(6)(b)(7)(C), Branch Chief CBP Hiring Center (HQ); (b)(6)(b)(7)(C), Sexual Abuse and Assault Investigations Coordinator (SAAI), (HQ); (b)(6)(b)(7)(C), Assistant Chief, Policy Division, Strategic Planning and Analysis Directorate provided the (HQ) Pre-Audit Questionnaires (PAQ) along with supporting documents for Harlingen on the secure CBP SharePoint website prior to the on-site portion of the audit. Pre-audit preparation included a thorough review of all supplied documentation and supporting materials provided by the facility along with the data included in the completed PAQs. The documentation received included agency policies with corresponding attachments, procedures, forms, training curricula, and other PREA-related materials provided to demonstrate compliance with the PREA standards.

The Auditor arrived at Harlingen Station at 5:45 a.m. on the August 21, 2019, and proceeded to the office of PREA Field Coordinator, (b)(6)(b)(7)(C). At approximately 8:00 a.m. the Auditor proceeded to the facility conference room where the in-briefing was conducted. Those in attendance were:

(b)(6)(b)(7)(C), PSA Coordinator, Privacy and Diversity Office (PDO), HQ
(b)(6)(b)(7)(C), National USBP PREA Coordinator, HQ
(b)(6)(b)(7)(C), Patrol Agent in Charge
(b)(6)(b)(7)(C), PREA Field Coordinator
(b)(6)(b)(7)(C), Director of Policy and Compliance, RGV Sector
(b)(6)(b)(7)(C), Deputy Patrol Agent in Charge

There are (b)(7)(E) at Harlingen Station. The rooms have (b)(7)(E) (b)(7)(E). Harlingen Station is essentially a transport hub versus a holding station.

Each holding room contains a toilet, posters on the walls in Spanish and English informing detainees of how and whom to report any allegations of sexual abuse (in writing, anonymously to the Office of Inspector General (OIG), or may report an incident of sexual abuse by telling a CBP official. There are sitting areas inside of the holding rooms and outside of the holding rooms in the processing area. Harlingen Station is staffed around the clock by USBP agents only. There are no volunteers or contractors allowed unaccompanied into the holding room at any time. Harlingen Station receives males, females, family units, and juveniles. Contractors provide transportation services while DHS volunteers provide logistical support in food and supply areas.

There are (b)(7)(E) (b)(7)(E) The Shift Duty Officer (b)(7)(E) is available to anyone in the Shift Duty Officer's control room. Interior and exterior areas are monitored, including all detainee detention areas. Toilet areas are (b)(7)(E).

During the site visit, the Auditor was able to view the detainee intake processing area. Agents walked the Auditor through the arrival and intake process that each detainee undergoes upon arrival. Detainees are held at Harlingen Station for just a few hours and then transferred. Detainees are provided food and bedding to sleep on for the duration

of the time they are there.

Scope of the Audit: The Auditor reviewed all relevant policies, procedures, and documents in assessing the Harlingen Station PREA procedures. The Auditor had access to all parts of the facility and observed (b)(7)(E). While on-site, the Auditor interviewed nine Agents and three local SMEs. There were no detainees at the facility during the audit which is not unusual since they arrive and depart onward rapidly from this hub.

The Auditor also reviewed background investigation and PREA training records for nine randomly selected CBP staff assigned to the facility. There were no allegations of sexual assault reported at the facility within the last 12 months.

SUMMARY OF OVERALL FINDINGS:

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

On August 21, 2019, an exit briefing was held in the Harlingen Station Conference Room. In attendance were:

- (b)(6)(b)(7)(C), PSA Coordinator, PDO, HQ
- (b)(6)(b)(7)(C), National USBP PREA Coordinator, HQ
- (b)(6)(b)(7)(C), Patrol Agent in Charge
- (b)(6)(b)(7)(C), Deputy Patrol Agent in Charge
- (b)(6)(b)(7)(C), Special Operations Supervisor
- (b)(6)(b)(7)(C), PREA Field Coordinator

The Auditor discussed observations made during the on-site audit and gave preliminary findings of the audit. He informed those present of the initial concerns but advised a final determination would not be made until the on-site notes from interviews, policies and Standard requirements were reviewed.

The Auditor did not find compliance with 2 Standards: 115.113 (b) no annual review for detainee supervision guidelines as required; and 115.115 (f) no specific transgender search training as required.

SUMMARY OF AUDIT FINDINGS	
Number of standards exceeded: 0	
Number of standards met: 22 +1 N/A (Upgrades to facilities and technologies)	
Number of standards not met: 2	
OVERALL DETERMINATION	
<input type="checkbox"/> Exceeds Standards (Substantially Exceeds Requirements of Standards)	<input checked="" type="checkbox"/> Low Risk
<input type="checkbox"/> Meets Standards (Substantial Compliance; Complies in All Material Ways with the Standards for the Relevant Review Period)	<input type="checkbox"/> Not Low Risk
<input checked="" type="checkbox"/> Does Not Meet Standards (Requires Corrective Action)	

PROVISIONS

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

§115.111(a) – 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:

(a) The CBP Policy on Zero Tolerance of Sexual Abuse and Assault signed by CBP's Commissioner on March 11, 2015, is the agency's zero tolerance policy. Additionally, CBP Directive 2130-030, Prevention, Detection and Response to Sexual Abuse and/or Sexual Assault in CBP Holding Facilities, dated January 19, 2018, was issued to all staff on February 5, 2018 and reissued on February 12, 2018. These two policies mandate zero tolerance toward all forms of sexual abuse and/or sexual assault and outline the agency's approach to preventing, detecting and responding to such abusive contact. The Directive further defines in detail for all staff and detainees the prohibited acts. These policies are supplemented with CBP National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015, which sets forth nationwide standards that govern CBP's interaction with detained individuals. Posters were observed on the walls in Spanish and English informing detainees of how and whom to report an incident of sexual abuse and/or sexual assault in writing and/or anonymously to the Office of Inspector General (OIG), or to a CBP official. The posters were also observed in the sitting areas outside of the hold rooms in the processing area. The random staff interviews confirm they were provided and are familiar with CBP Directive 2130-030. This policy is currently available to everyone on the agency webpage. Interviews with the PSA Coordinator, SME, and random staff interviews reflected the local leadership's commitment to zero tolerance and all were aware of the procedures in place to minimize any issues or threat to detainees, including targeted intake processes and interviews, holding UAC's separately from adults by age and gender, maintaining parent/child contact, direct and immediate supervision, and oversight of all movement within the detainee areas.

§115.113(a) through (c) – 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:

(a) The standard requires the agency to ensure that each facility maintains sufficient supervision of detainees, including through appropriate staffing levels and where, applicable, (b)(7)(E), to protect detainees against sexual abuse. The Auditor spoke with the facility SMEs and the PREA Field Coordinator who discussed at length the supervision guidelines. There are no definitive daily staffing numbers established at Harlingen Station since the workload varies considerably from day to day, or even hour to hour. Staff numbers are driven by the number of detainees brought in. Harlingen Station always maintains enough Agents to provide a safe and secure environment for detainees. All staff are subject to be realigned to detainee management at any time in order to ensure detainee safety. The local SME staff and the PREA Field Coordinator state the established staff positions are appropriate and flex daily.

(b)(c) CBP Directive 2130-030 requires that OFO and USBP develop and document comprehensive detainee supervisions guidelines for facilities under their respective control which has been accomplished through the CBP National Standards on Transport, Escort, Detention, and Search. The Directive further states the detainee supervision guidelines are to be reviewed annually to determine whether adequate levels of detainee supervision and monitoring exist with the results provided to the PSA Coordinator. The review of the detainee supervision guidelines include considering the physical layout of the facility, composition of detainees, the prevalence of substantiated and unsubstantiated instances of sexual abuse, findings and recommendations of incident reviews and any other relevant factors. Harlingen Station has planned for the flexibility required to respond to rapidly evolving transfer schedules and needs which can vary widely over a few days. It is noted that leadership interviewed did consider all required factors, had established ratios driven by detainee population sizes, had developed guidance for supervision ratios for juveniles and unaccompanied children so the factors in the standard appear to have been considered and utilized during their day-to-day operations, however, the Auditor was not provided documentation of a formalized annual review as required in standard provision (b).

Corrective Action: Provide documentation of an annual review of the supervision guidelines taking into account all elements listed in subsection (c) of the standard and provide the results to the PSA Coordinator in accordance with the Directive.

§115.114(a) and (b) – Juvenile and family detainees.

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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:

(a)(b) CBP TEDS requires Harlingen Station to place each juvenile in the least restrictive setting appropriate to their age and special needs, provided the setting is consistent with the need to ensure the safety and security of the detainee and that of others. The Auditor interviewed Agents who process these juveniles and children brought to Harlingen Station who state they are processed as either accompanied by a parent or legal guardian or as an unaccompanied alien child (UAC). The UAC is always held separately from any adult and is always under the direct supervision of an Agent. Commingling is never permitted. The minor child/juvenile is typically placed in a sitting area in front of the agent or in an office or holding room, if available. According to these Agents, the UAC remains under the supervision of the Agent until removal from the holding room. These Agents also state minors accompanied by an adult are thoroughly vetted to the extent possible to ensure a parental or legal guardianship relationship. This includes use of consulates, legitimate documentation, and interviews. If a legal relationship cannot be established the minor is handled as a UAC and is separated from adults and placed under the least restrictive setting under the direct supervision of an Agent. Families are placed as a unit in the separated Family Room which is equipped with sleeping chairs and cribs. They are provided with any supplies needed to care for a child or infant. There were no juveniles present for the Auditor to interview during the site visit.

§115.115(b) through (f) – 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)
- X Does not meet Standard (requires corrective action)

Notes:

(b)(c) CBP TEDS details the type and conditions under which searches can and will be performed to ensure the safety of Agents, civilians, and detainees. It prohibits cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances including consideration of officer safety, or when performed by medical practitioners. If performed the policy requires these strip/body cavity searches be recorded in the electronic system of record. CBP TEDS details that Officers/Agents must not conduct visual body cavity searches of juveniles and shall refer all such body cavity searches of juveniles to a medical practitioner. During random interviews the local SME, Agents, and Supervisors explained according to policy requirements the conditions under which pat searches, strip searches, and body cavity searches could be performed. All indicate strip searches and body cavity searches are not done at Harlingen Station. Their explanations follow the standard and the policy and any such search would require supervisory approval and entry into the E3DM Detention Module. There have been no such searches in the past 12 months.

(d) CBP TEDS specifies the requirement that enables detainees to shower (where showers are available), perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or under medical supervision. As previously noted, (b)(7)(E) and there is a half-wall around the toilets in each of the holding rooms. Detainees usually see the Agents prior to their knocking and entering. Detainees are transported outside of the facility for showers as Harlingen Station has no showers for them onsite. There are (b)(7)(E) area, and three covering the sally port. The Shift Duty Officer monitors (b)(7)(E) is available to anyone in the Shift Duty Officer's control room.

(e) CBP TEDS prohibits staff from searching or physically examining a detainee for the sole purpose of determining the detainee's gender-related characteristics. If the detainee's gender is unknown, officers/agents are to ask the detainee their gender or gender identity. If the detainee declines to state their gender, the gender will be recorded in the appropriate electronic system(s) of record as unknown. Interviews with random staff indicate staff is aware of the prohibition on searching detainees to determine their gender.

(f) A review of both policy and the training curriculum for staff at Harlingen Station reveals Law Enforcement staff did not receive specific training on conducting pat-down searches of intersex and transgender detainees in a professional and

respectful manner and as required by the standard. Random staff indicates in their interviews all pat searches are performed in a professional manner. They stated that same sex pat searches are the norm but, in a situation, involving safety of the Agent and no females are available to conduct the search of a female detainee, male Agents may conduct pat searches. Several interviewed random staff informed the Auditor they did not receive pat search training specific to transgender and intersex detainees, therefore, the standard provision is not compliant. **Corrective Action:** Provide documentation all staff have been trained to conduct pat searches of transgender and intersex detainees as required by the standard.

§115.116(a) through (c) – 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:

(a)(b) CBP TEDS and CBP Directive 2130-030 requires detainees with disabilities (e.g., detainees who are hearing impaired, those who are blind or have low vision or those who have intellectual, psychiatric, or speech disabilities) to have access to CBP efforts to prevent, detect, and respond to sexual abuse and/or assault. When necessary to ensure effective communication with detainees who are hearing impaired, steps are to include providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. When necessary to ensure effective communication with detainees who are hearing impaired, steps are to include providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. During the staff interviews, the Auditor was informed if an LEP (Limited English Proficiency) communication problem exists during processing; the Agent utilizes the CBP interpreter service, Language Line, to provide information to detainees in a language they understand. The station maintains a poster (“I Speak”) that includes many languages from which the detainee can identify their own. The Agents further state visually challenged or deaf detainees would be dealt with individually, with the Agents reading them information and/or providing visual information as appropriate to challenged detainees as with the LEP posters through an interpreter, if necessary, and could even include referral to outside medical authorities for assistance. Subjects who fall into these categories are prioritized for processing (expedited placement with Immigration and Customs Enforcement/Enforcement Removal Operations (ICE/ERO) Department of Health and Human Services/Office of Refugee and Resettlement (HHS/ORR) so that their stay in USBP custody is minimized as much as possible. This facility has held two detainees who were deaf during the last 12 months. Staff was able to communicate with these detainees using written communication and additional services were not required. It was further stated there were local agencies that have sign language interpreters available; however, Agents have also relied on written communication and coordination through accompanying family members. During the last 12 months this facility has not held any detainees that are blind or have low vision.

(d) CBP Directive 2130-030 directs other detainees are not to be utilized as interpreters when a detainee has alleged sexual abuse or has been found to be sexually abused. According to interviews with the PREA Field Coordinator, detainees would not, under normal circumstances, be allowed to interpret for another detainee unless the detainee expressed a preference for the detainee to provide interpretation, and a Watch Commander or Shift Duty Officer determines that such interpretation would be consistent with DHS policy. This is normally the accompanying family member as it is extremely rare for these deaf or low-functioning individuals to travel alone and unaccompanied. However, the interpretation would never be provided by alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser.

§115.117(a) through (f) – 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:

(a)(b)(e)(f) CBP Directive 2130-030 requires the Office of Human Resource Management (HRM) to establish policy and procedures and ensure CBP does not hire or promote personnel who have had previous substantiated allegations of engaging in sexual abuse and/or assault to any positions where the employee may interact with detainees in CBP holding facilities. The Auditor interviewed the HQ HRM SME prior to the site visit and was informed CBP will not hire or promote any employee, contractor or enlist service of any volunteer, who has been found to have engaged, been convicted of engaging, or civilly or administratively adjudicated to have engaged in sexual abuse as defined in the standard and agency policy. She also states interviews conducted with new applicants as well as any applicants for promotion include

specific questions about any previous sexual abuse misconduct, and material omissions regarding this type of misconduct or providing false information are grounds for termination or withdrawal of an offer of employment. The HQ HRM SME informed the Auditor all staff has an affirmative duty to disclose any such misconduct, false information, and any material omissions. This information is provided to them upon hiring when they are issued the U.S. Customs and Border Protection Standards of Conduct document. They are reminded annually during training on the Performance and Learning Management System (PALMS).

(c)(d) CBP Directive 2130-030 requires the Office of Professional Responsibility (OPR) to ensure background investigations are conducted for applicants for employment and contractors having contact with detainees to determine their suitability and that updated background investigations be conducted every five years for CBP personnel who may have contact with detainees. The HQ OPR/Personnel Security Division (PSD) SME indicates background checks (Tier 4, Tier 5) for CBP are the most thorough investigations performed for DHS. She informed the Auditor question number three asked by all credentialed background investigators is "have you even engaged in or have you ever been charged with sexual abuse?" According to her, an affirmative response results in the individual not be hired. The SME also informed the Auditor rechecks are initiated every five years. The Auditor submitted 12 names to OPR to review for background rechecks. The documentation provided by HQ demonstrated the five-year recheck was initiated within five years resulting compliance.

§115.118(a) and (b) – 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)
- X Not Applicable (provide explanation in notes):

Notes:

(a)(b) Harlingen Station was opened in August 2000 and there has been no substantial expansion or modification to the Station since 2014. (b)(7)(E). Accordingly, the standard is not applicable.

§115.121(c) through (e) – Evidence protocols and forensic medical examinations.

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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:

(c)(d) CBP Directive 2130-030 requires Harlingen Station to provide emergency medical treatment and crisis intervention services, including a forensic medical exam, in accordance with professionally accepted standards of care to alleged victims of sexual assault. The treatment is without financial cost to the detainee and regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident. CBP TEDS requires if the detainee (alleged victim) is transported for a forensic examination to a medical facility that offers victim advocacy services, officers/agents will permit the detainee to use such services to the extent available, consistent with security needs. The Auditor interviewed the facility SMEs and Agents who confirm detainee victims receive medical and mental health treatment at no cost as well as allowing advocacy personnel access to detainees. Detainees are sent to Valley Baptist Medical for treatment. The Sexual Assault Nurse Examiner (SANE) supervisor was contacted telephonically by the auditor and verified the hospital forensic capabilities meet PREA requirements. The auditor also verified the presence of victim advocate support team through their Sexual Assault Response Team around the clock in their emergency department. (e) The Harlingen Station provided a letter to the Chief of Police in Harlingen verifying the need for the Harlingen PD to utilize PREA standards in any CBP incident involving their station.

§115.122(c) and (d) – Policies to ensure investigation of allegations and appropriate agency oversight.

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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:

(c)(d) CBP Directive 2130-030 requires staff with knowledge, suspicion, or information of any incident of sexual abuse and/or assault of a detainee in a holding facility; retaliation against any person, including a detainee, who reports, complains about, or participates in an investigation about an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation to report to the Joint Intake Center (JIC) and the Commissioner's

Situation Room. The HQ SAAI SME and the local SME both indicate sexual abuse allegations are reported to JIC and the Commissioner's Situation Room in accordance with policy. The PREA Field Coordinator states the Watch Commander would submit an Incident Report to the JIC and the Commissioner's Situation Room upon learning of an incident. The Directive also requires Harlingen Station report allegations of sexual assault/abuse to law enforcement agencies with the legal authority to conduct criminal investigations. According to the PREA Field Coordinator, the facility Watch Commander would be required to notify local Law Enforcement after notification to the JIC. This notification becomes part of the Incident Report. The PSA Coordinator indicates in her interview that upon any notification of sexual abuse or sexual assault made to the JIC she is notified by the JIC (email) and/or the Commissioner's Situation Room as stipulated in CBP Directive 3340-025E, Reporting Significant Incidents to the Commissioner's Situation Room, dated May 21, 2018. The facility had no sexual abuse allegation made and investigated during the prior 12 months. Staff, including SMEs, indicated that non-employee involved allegations would be referred to the Harlingen PD and employee involved allegations would be referred to the Office of Professional Responsibility. Law enforcement investigations could then be initiated by either the local PD or the FBI if more appropriate than OIG.

§115.131(a) through (c) – Employee, contractor and volunteer 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:

(a)(b)(c) CBP Directive 2130-030 requires all uniformed agents and officers, special agents, fact finders, contractors, and volunteers who may have contact with detainees in CBP holding facilities receive PREA training as required in Subpart B of the DHS Standards. The Directive was provided to all staff through the agency email program referred to as CBP Central. The Auditor reviewed the training curriculum provided to staff at Harlingen Station through PALMS. This training includes the agency's zero tolerance policy for all forms of sexual abuse, the definitions and examples of prohibited and illegal sexual behavior, the right of detainees to be free from sexual abuse, and the right of staff and detainees to be free from retaliation for reporting it. The training also provides information on where sexual abuse may occur, recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing and responding to such occurrences. Staff is instructed in how to avoid inappropriate relationships with detainees, and how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, and transgender, intersex, or gender non-conforming detainees. Agents also verified that their training included details and instruction on procedures for reporting knowledge or suspicion of sexual abuse and the requirement to limit reporting to personnel with a need to know. Interviews with random staff and local SMEs confirm the information is provided to staff in this training. They also informed the Auditor PREA training is provided to them every two years. The PALMS system provides an up-to-date listing of staff trained and those needing training. Based on provided information from the local SME, all individuals currently assigned to Harlingen Station have the required PREA training. The Auditor was informed that training records for staff are maintained for their entire employment and an additional five years. As previously noted, there are no contractors or volunteers in contact with detainees at Harlingen Station requiring this training. The Auditor was informed if contractors or volunteers were to come in contact with detainees, they would be required to attend the same PREA training as required by policy. The Auditor interviewed nine random Agents and three SMEs and verified their training file information and dates of training received.

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

- 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:

Harlingen Station makes the zero tolerance policy available to the general public through its webpage <https://www.cbp.gov/about/care-in-custody> and to all detainees through posters located in the processing area and outside the detainee living areas. The posters observed were in English and Spanish. Information on the posters includes: CBP has zero tolerance for sexual abuse/assault; reporting can be anonymous and confidential; be safe and get help; tell a CBP official; call the DHS OIG (toll-free number provided), and telecommunication devices available by calling a provided toll-free number. There were no detainees to interview during the audit.

§115.134 – 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)
- X Not Applicable (provide explanation in notes):

Notes:

N/A – Refer to the CBP Sexual Abuse Investigations Audit Report.

§115.141(a) through (e) – Assessment for risk of victimization and abusiveness.

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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:

(a)(b)(c)(d): CBP TEDS states before placing any detainees together in a holding room the processing Agent must assess the information before them to determine if the detainee may be considered an at-risk detainee, or at risk of posing a threat to others. This assessment by policy includes: whether the detainee has exhibited a mental, physical or developmental disability; the age of the detainee; their physical build; any prior arrests or incarcerations; is the detainee identified as LGBTI or gender non-conforming; any prior sexual victimization and the detainee’s own concerns about his/her physical safety. The Auditor reviewed the training all staff receives (PALMS) in order to perform this assessment. It is provided at the same time as the zero tolerance training and is part of that curriculum. The random Agent interviews conducted by the Auditor confirm this assessment is performed on each detainee arriving at Harlingen Station to assess the detainee’s potential vulnerability and potentially abusive behavior. They further state if the assessment indicates any vulnerability or abusive behavior with any detainee, he/she is provided with heightened protection. If the detainee is abusive, he/she is kept separate from those who are vulnerable. This may include direct sight and sound supervision, single room placement or seated in front of the Agent in the processing room. At the time of the site visit, there were no detainees processed into the Harlingen Station for the Auditor to observe the process. However, the process was walked through in order to demonstrate the steps.

(e) CBP TEDS requires Harlingen Station to implement appropriate controls on the dissemination of private and/or sensitive information provided by detainees during this risk assessment. Agents can disclose this information only to personnel with a need-to-know per TEDS Section 4.2, Privacy. Staff interviewed (Agents, SME Supervisors and SOS staff) indicate this information is never shared and only provided on a need to know basis or under investigation questioning.

§115.151(a) through (c) – Detainee reporting.

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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:

(a)(b) CBP Directive 2130-030 requires detainees be provided multiple ways to privately report sexual abuse and/or assault, retaliation for reporting sexual abuse and/or assault, or staff neglect or violations of responsibilities that may have contributed to such incidents. It further requires the facility to provide at least one way for detainees to report sexual abuse to a public or private entity not connected to the agency. Detainees must be able to report confidentially, anonymously, verbally and in writing. CBP’s procedures for reporting alleged sexual abuse and/or assault are to be visible or continuously and readily available to detainees at holding facilities and posted on the CBP public website. The Auditor interviewed random Agents about the process for making anonymous and confidential reports to OIG. The Agents stated the detainee only needs to tell the Agent they wish to report something, not disclose what they wish to report, and escort the detainee to the private telephone room and give them an outside line to call. The Agents indicate they would step out of the room and close the door observing the detainee through the glass in the door. The local SMEs, random Agents and Supervisors also confirm detainees are provided PREA information, through posters (Spanish and English) on how to report sexual assault, retaliation, and staff failure to perform their duties while remaining confidential and anonymous. For those who are not English or Spanish fluent in speaking or writing the Agents utilize Interpreters and Translators Incorporated which provides over the telephone translations for over 150 languages. Posters indicate detainees may report, verbally or in writing to any CBP Official or by utilizing the toll-free telephone number to DHS OIG. DHS OIG is a government agency, open to public reporting but not a part of CBP. The Auditor tested the OIG toll-free report number, from the same telephone detainees would use, and found it operational.

(c) CBP TEDS requires Agents at Harlingen Station to receive allegations reported to them from third parties and promptly

record such reports according to operational procedures. The Auditor was informed by the random Agents and Supervisors, during interviews, all verbal allegations of sexual abuse or sexual assault made to them are documented in writing to their supervisor and all are forwarded to higher authority in accordance with CBP requirements.

§115.154 – Third-party reporting.

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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:

CBP Directive 2130-030 states detainees may utilize third party individuals to report allegations of sexual abuse. The agency provides reporting information for anyone wishing to report any allegation on behalf of a detainee on their webpage <https://www.cbp.gov/about/care-and-custody/how-make-report>. The information on the webpage provides a toll-free telephone number, USPS address and email address to the JIC, and a toll-free telephone number, a direct complaint link and USPS address for DHS OIG for anyone wishing to make an allegation on behalf of a detainee. Posters throughout the processing area inform detainees of the DHS OIG reporting telephone number for them to report an allegation. The Auditor tested the website and found it to be operational.

§115.161(a) through (d) – Staff reporting duties.

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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:

(a)(b) CBP Directive 2130-030 requires staff to report as promptly as possible any knowledge, suspicion, or information of the following: an incident of sexual abuse and/or assault of a detainee in a holding facility; retaliation against any person, including a detainee, who reports, complains about, or participates in an investigation about an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. CBP Directive 2130-030 also requires all staff to report any misconduct upon becoming aware of it. CBP TEDS requires staff to immediately report: any knowledge, suspicion, or information regarding an incident of sexual abuse against any detainee; retaliation against detainees or staff who reported or participated in an investigation about such an incident; and staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. CBP Directive 51735-013A, Standards of Conduct, dated March 13, 2012, not only allows staff to report within their chain of command it requires them to report outside of their chain of command to either the JIC hotline or email, or by contacting CBP Office of Professional Responsibility(OPR), or the DHS OIG to report all allegations of misconduct. The Auditor confirmed the reporting requirements during the interviews conducted with the nine random staff and three local SME staff. They all indicate their responsibility to immediately report any allegation of sexual abuse, retaliation or staff failure to perform their duties within and outside of the chain of command if necessary. CBP Commissioner Memo of March 11, 2015, clearly specifies the mandatory nature of immediate reporting of every incident and that every allegation will be considered significant and major.

(c) CBP Directive 2130-030 requires staff not reveal any information related to a sexual abuse report except as necessary to aid the detainee, protect other detainees or staff or to make security and management decisions. This information about confidentiality is provided to all staff in the mandatory PALMS PREA training as well as in policy.

(d) CBP Directive 2130-030 requires CBP staff to notify relevant agencies if the alleged victim of a sexual assault is a vulnerable adult or under the age of 18. The local SME interviews and the PREA Field Coordinator informed the Auditor that should a vulnerable adult or person under eighteen be sexually assaulted at the Harlingen Station the normal protocol would be to notify the Watch Commander who would submit an Incident Report to the JIC and the Commissioner’s Situation Room. Notifications would be completed as required by CBP Directive 3340-025E. The PREA Field Coordinator stated that he/or the Watch Commander would make these notifications to the appropriate local State Agencies if required and would update the JIC with this information. Staff at Harlingen Station state the facility has not had any incidents requiring this type of notification during the last 12 months.

§115.162 – Agency protection duties.

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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:

CBP TEDS states if an Agent has a reasonable belief a detainee may be subject to a substantial risk of imminent sexual

abuse, he or she shall take immediate action to protect the detainee. This specific question was asked of the nine random staff and three local SMEs interviewed. All indicate any detainee believed to be in imminent danger of being sexually abused would be separated from the other detainees and placed under constant supervision of an Agent. The safety of the detainee would be their primary focus. Depending on the number of rooms being used at the time, the detainee would be placed in a holding room alone or under the direct supervision of an Agent.

§115.163(a) through (d) – 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:

(a) CBP Directive 2130-030 requires staff at Harlingen Station make reasonable efforts to promptly report any allegation of sexual abuse the facility becomes aware of occurring at another facility. This notification is required to be made to the appropriate office or Administrator of the facility where the alleged incident occurred. The local SMEs and the PREA Field Coordinator state the notification is made in the same manner as any incident is reported. The Harlingen Station Watch Commander would submit an Incident Report to the JIC and the Commissioner’s Situation Room. Notifications would be completed as required by CBP Directive 3340-025E. Interviews with the local SMEs and the PREA Field Coordinator confirm these notifications would be done immediately in accordance with the policy. There were no notifications made by this facility during the last 12 months as no alleged incidents at other facilities have been reported to any Harlingen Station staff.

(b) The documentation provided to the Auditor requires these notifications to other facilities be done promptly. Staff interviews indicate the same. All interviews indicated that notification would be made to the Sector HQ immediately, generally within the first hour, upon learning the information. The August 13, 2014, Memorandum from the Chief U.S. Border Patrol directs that any allegation of sexual abuse of a detainee will be reported by all 3 of the following methods: to local law enforcement; submitting a Significant Incident Report; and ensuring prompt notification to the PSA Coordinator. The additional Memorandum of March 6, 2018, from the Acting Chief, USBP provides CBP Directive 2130-030 that requires: 1) that all reports will be submitted immediately to the JIC and Commissioner’s Situation Room and will include data regarding any other facility from which the detainee was transferred; and, 2) Section 13.1.6 and 13.1.7, which require notification to the administrator or appropriate management office of the facility where the alleged abuse occurred. It also requires notice to any facility to which the detainee is subsequently transferred, whether to a DHS or non-DHS facility, including any medically pertinent data.

(c) The standard requires that notifications must be documented. CBP requires all such reports are also required to be recorded in the electronic records system, the e3DM, a detention module used for detainee records management and tracking as well the records maintained at the JIC and the Commissioner’s Situation Room. Interviews with the SMEs confirm the notification would be documented by notation in the detainee’s electronic file. There have been no notifications made by this facility as there have not been any alleged incidents reported to any staff during the last 12 months.

(d) The standard requires the agency/office receiving a notification of an allegation occurring, in a facility covered by this subpart, must ensure the allegation is referred for investigation. A memorandum dated August 13, 2014, to all Chief Patrol Agents from the USBP Chief provides guidelines on the implementation of the DHS PREA Standards regarding a sexual abuse allegation from another facility of an incident occurring at their facility is to ensure the allegation is referred for investigation.

§115.164(a) and (b) – 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:

(a)(b) CBP Directive 2130-030 details the responsibilities of the first law enforcement staff on the scene of a reported allegation of sexual abuse. The Directive and PREA Training in PALMS reinforces the policy by requiring law enforcement staff members to separate the alleged victim and abuser, preserve and protect the crime scene, and if the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim and ensure that the alleged abuser do not to take any actions that could destroy physical evidence. As previously noted, there are no contractors allowed in the holding rooms while detainees are present. CBP Directive 2130-030 does, however, address non-law enforcement first responder duties if they were ever to allow them in the holding room. The policy requires non-law enforcement staff request the alleged victim not take any actions that could destroy physical evidence

and they notify law enforcement staff. During the random interviews staff detailed their responsibilities as first responders. All staff told the Auditor they would separate the victim from the abuser, provide medical assistance if needed, preserve evidence to the extent possible and notify their supervisor. Harlingen Station utilizes the CBP PREA response card to guide staff actions when an incident would occur. This card is a very helpful tool in view of the rarity of incidents.

§115.165(a) through (c) – 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:

(a) CBP Directive 2130-030 stipulates this entire document constitutes CBP’s written institutional plan outlining the coordinated multidisciplinary team approach to responding to sexual abuse. The 21 sections of this Directive cover aspects form hiring, training, reporting, responding, medical and mental health services, investigations, and data collection. The PREA Field Coordinator discussed this institutional plan during his interview. He stated information about specific responsibilities are explained in the Directive and reinforced in training.

(b)(c) CBP Directive 2130-030 states if an alleged victim of sexual abuse and/or assault is transferred to another DHS facility, Harlingen Station must inform the receiving DHS agency of the alleged incident and the alleged victim’s potential need for medical or social services. If the alleged victim of sexual abuse and/or assault is transferred to a non-DHS facility, Harlingen Station must inform the receiving facility or agency, as permitted by law, of the incident and the alleged victim’s potential need for such services, unless the alleged victim requests otherwise. Each of the local SMEs and the PREA Field Coordinator informed the Auditor during their interviews that during the last 12 months Harlingen Station has had no cases requiring any such notification to a DHS or non-DHS facility. As previously noted, all incidents of this type require the Watch Commander to submit an Incident Report to the JIC and the Commissioner’s Situation Room. Any transfer or move would require the Watch Commander to update JIC of the incident update and then he would notify the receiving facility. This process was detailed to the Auditor by the PREA Field Coordinator as Harlingen Station has had no incidents for the Auditor to review. Notifications would be completed as required by CBP Directive 3340-025E.

§115.166 – 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:

CBP Directive 2130-030 requires agency management to consider whether any staff, contractor or volunteer alleged to have perpetrated sexual abuse and/or assault should be removed from duties requiring detainee contact pending the outcome of an investigation and shall do so if the seriousness of the allegation makes removal appropriate. The HQ SAAI SME interview indicates any allegation of sexual assault or sexual abuse involving staff, a contractor or volunteer would result in the person being removed from detainee contact pending the outcome of the investigation if the seriousness and the possibility of the allegation make removal appropriate. This policy requirement was also communicated to the Auditor by the local SMEs and the PREA Field Coordinator. The local SMEs indicate there has not been any allegation of sexual abuse made against a staff member or contractor requiring this type of response. Harlingen Station currently has no volunteers and contractors are not allowed contact with detainees without supervision.

§115.167 – Agency protection against retaliation.

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

Notes:

CBP Directive 2130-030 prohibits agents, officers, and other CBP personnel from retaliating against any person or detainee, who reports, complains about, or participates in an investigation of sexual abuse and/or assault. This retaliation prohibition is also detailed in the PREA training (PALMS) each staff member receives at Harlingen Station. The Auditor interviewed nine random staff, three local SMEs and the PREA Field Coordinator. Each was aware of the policy prohibiting retaliation against anyone who makes an allegation of sexual misconduct or participates in the investigation. There were no detainees at the facility who either made an allegation of sexual abuse or who participated in an investigation to

interview. The PREA Field Coordinator informed the Auditor there have been no allegations of retaliation made at Harlingen Station during the last 12 months.

§115.171 – 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)
- X Not Applicable (provide explanation in notes):

Notes:

N/A – Refer to the CBP Sexual Abuse Investigations Audit Report.

§115.172 – 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)
- X Not Applicable (provide explanation in notes):

Notes:

N/A – Refer to the CBP Sexual Abuse Investigations Audit Report.

§115.176(a) and (c) through (d) – Disciplinary sanctions for staff.

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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:

(a) CBP Directive 2130-030 informs CBP personnel they may be subjected to disciplinary or adverse action up to and including removal from their position and Federal Service for substantiated allegations of sexual abuse and/or assault and/or for violating CBP's sexual abuse policies. The Auditor interviewed HQ LER SME and HQ SAAI SME. Both of these individuals indicate that staff would be subject to disciplinary action up to and including removal from Federal Service for a substantiated allegation of sexual abuse or violating the agency sexual abuse policy.

(c) CBP Directive 2130-030 requires OPR to report all removals or resignations in lieu of removal to appropriate law enforcement agencies for violations of the agency or facility sexual abuse and/or assault policies unless the activity was clearly not criminal. The interview with the HQ SAAI SME indicates the Watch Commander, PREA Field Coordinator or Senior Operations Specialist would notify law enforcement of all removals or resignations in lieu of removal for violations of the agency zero tolerance policy. The HQ SAAI SME indicates there were no such resignations or removals at Harlingen Station within the last 12 months.

(d) CBP Directive 2130-030 requires OPR to report all removals or resignations in lieu of removal to any relevant licensing bodies for violations of the agency or facility sexual abuse and/or assault policies, to the extent known. The interview with the HQ SME from OPR indicates their office would notify licensing bodies, if known, of all removals or resignations in lieu of removal for violations of the agency zero tolerance policy. She indicated there were no such resignations or removals at the Harlingen Station within the last 12 months.

§115.177(a) and (b) – Corrective action for contractors and volunteers.

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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:

(a)(b) CBP Directive 2130-030 requires any contractor or volunteer suspected of perpetrating sexual abuse and/or assault be removed from all duties requiring detainee contact pending the outcome of an investigation, as appropriate. As noted throughout the report, Harlingen Station only allows law enforcement staff contact with detainees. Interviews with the Harlingen Station SMEs did indicate if the facility changes the policy to allow them in contact with detainees, any sexual misconduct alleged to have occurred by them would result in their removal from duties and contact with any detainees pending investigation. The PREA Field Coordinator informed the Auditor that if contractors were ever allowed inside the holding room area and were found to violate CBP's zero tolerance policy they would be removed from contact with any detainee. The PREA Field Coordinator would be responsible to notify both the local law enforcement and any licensing

bodies.

§115.182(a) and (b) – Access to emergency medical 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:

(a)(b) CBP Directive 2130-030 requires alleged sexual assault victims be provided 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. It also requires emergency medical treatment services to be provided to the alleged victim without financial cost and regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident. Interviews with the local SMEs and the PREA Field Coordinator confirm supervisors are aware of alleged victims of sexual assault are to receive all medical service and medications without cost even if they do not name the abuser or cooperate with the investigation. They are also aware all detainees requiring any medical treatment must be sent to Valley Baptist Hospital in Harlingen for treatment.

§115.186(a) – 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:

(a) CBP Directive 2130-030 requires at the conclusion of every investigation of sexual abuse and/or assault, a sexual abuse incident review is to be conducted within 30 days. The review is to determine whether the allegation or investigation indicates a change is needed in policy or practice to better prevent, detect, or respond to sexual abuse. The recommendation(s) for improvement outlined in the review must be implemented by the Station Chief or the agency must document the reasons for not doing so in a written response. The report and response are to be forwarded to the PSA Coordinator. An interview was conducted with the HQ PSA Coordinator who states their office receives sexual abuse incident reviews within 30 days after the conclusion of a sexual abuse investigation consistent with the procedures outlined in Section 18.1 of CBP Directive No. CBP Directive No. 2130-030, Prevention, Detection, and Response to Sexual Abuse and/or Assault in CBP Holding Facilities. Harlingen Station had no incident reviews conducted during the audit period as the facility had no allegations of sexual abuse incidents investigated requiring one.

§115.187 – 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)
- Not Applicable (provide explanation in notes):

Notes:

N/A – Refer to the CBP Sexual Abuse Investigations Audit Report.

ADDITIONAL NOTES

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

None.

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.

(b)(6)(b)(7)(C)
Auditor

December 18, 2019
Date

**PREA Audit: Subpart B
Short-Term Holding Facilities
Corrective Action Plan Final Determination**



U.S. Customs and Border Protection

AUDITOR

Name of Auditor:	(b)(6)(b)(7)(C)	Organization:	Creative Corrections, LLC
Email Address:	(b)(6)(b)(7)(C)	Telephone Number:	(b)(6)(b)(7)(C)

AGENCY

Name of Agency:	U.S. Customs and Border Protection
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PROGRAM OFFICE

Name of Program Office:	U.S. Border Patrol
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SECTOR OR FIELD OFFICE

Name of Sector or Field Office:	Rio Grande Valley Sector
Name of Chief or Director:	(b)(6)(b)(7)(C), Chief Patrol Agent
PREA Field Coordinator:	(b)(6)(b)(7)(C), Supervisory Border Patrol Agent
Sector or Field Office Physical Address:	4400 South Expressway 281, Edinburg, Texas 78539
Mailing Address: (if different from above)	Same as Above

SHORT-TERM FACILITY BEING AUDITED

Information About the Facility			
Name of Facility:	Harlingen Station		
Physical Address:	3902 S Expressway 83, Harlingen, TX		
Mailing Address: (if different from above)	Same as Above		
Telephone Number:	(b)(6)(b)(7)(C)		
Facility Leadership			
Name of Officer in Charge:	(b)(6)(b)(7)(C)	Title:	Patrol Agent in Charge
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.

An on-site audit of the U.S. Customs and Border Protection (CBP), U.S. Border Patrol (BP), Harlingen Station was conducted on August 21, 2019, and the preliminary findings report was submitted on October 20, 2019. Following comments from CBP Headquarters and from the Auditor, the report was submitted as a Final Draft on December 18, 2019.

At that time, the Auditor reviewed the compliance of 25 Subpart B standards and the Harlingen Station was found to be in compliance with 22 standards: (115.111; 115.114; 115.116; 115.117; 115.122; 115.131; 115.132; 115.141; 115.151; 115.154; 115.161; 115.162; 115.163; 115.164; 115.165; 115.166; 115.167; 115.176; 115.177; 115.182 and 115.186). The Harlingen Station was found not to be in compliance with two standards: (115.113 and 115.115). Standard 115.118 was not applicable at the Harlingen Station.

On December 18, 2019, the Harlingen Station submitted a preliminary Corrective Action Plan (CAP) with a completion date of January 1, 2020. The CAP was reviewed by the Certified PREA Auditor and agreed the CAP would meet compliance of the standards identified during the audit. On March 20, 2020, an Annual Review of Detainee Supervision Guidelines document was submitted to comply with standard 115.113. The report was reviewed and the Auditor determined the documentation complied with standard 115.113. On November 14, 2020, the Harlingen Station submitted a memorandum dated October 26, 2020, from the Harlingen Station Patrol Agent in Charge to the Chief Patrol Agent, Rio Grande Valley Sector, advising that agents assigned to the Harlingen Station were provided the guidance and directive regarding searching transgender, intersex or gender non-conforming individuals. In addition, the Harlingen Station submitted a memorandum issued to all Chief Patrol Agents and Directorate Chiefs on September 17, 2020, regarding the pat search of transgender, intersex, or gender non-conforming individuals. In conjunction with memorandum, the Harlingen Station submitted a muster module with techniques for conducting a systematic and thorough search of such detainees and staff muster sign-offs of acknowledgement and understanding to comply with standard 115.115. The Auditor reviewed the documents and determined that standard 115.115 is in compliance. All submitted documents were reviewed by the Auditor and the Harlingen Station is now compliant with all PREA standards.

Although there was on-going communication between Creative Corrections and CBP Headquarters, the CAP was not completed within the required 180 day time period.

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 insert the provision(s) below that required corrective action and state if the facility's implementation of the provision now "Exceeds Standard," "Meets Standard," or "Does not meet Standard." The auditor shall include the evidence relied upon in making the compliance or non-compliance determination for each provision that was found non-compliant during the audit.

§115.113

- Exceeds 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:

On March 19, 2020, the Harlingen Station submitted a record of an Annual Review of Detainee Supervision Guidelines document dated March 12, 2020, to comply with standard provision (b). The Auditor reviewed the document and determined the Annual Review of Detainee Supervision Guidelines included the review of all the elements required in standard provision (c). The Harlingen Station is now compliant with 115:113 (b).

§115.115

- Exceeds 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:

On November, 14, 2020, the Harlingen Station submitted a memorandum dated October 26, 2020, from the Harlingen Station Patrol Agent in Charge to the Chief Patrol Agent, Rio Grande Valley Sector, advising that agents assigned to the Harlingen Station were provided the guidance and directive regarding searching transgender, intersex or gender non-conforming individuals. In addition, the Harlingen Station submitted a memorandum that was issued to all Chief Patrol Agents and Directorate Chiefs on September 17, 2020, regarding techniques to conduct pat searches of transgender, intersex, or gender non-conforming detainees. In addition, the memorandum states that when operationally feasible, searches will be conducted by a Border Patrol Agent of the same gender as the subject to be searched and that Border Patrol Agents should ask the subject to identify their gender identity when the gender of the subject to be searched is unknown. The memorandum referenced sections 4.3 and 5.5 of the National Standards on Transport, Escort, Detention and Search (TEDS) policy, which provides additional information on search techniques. A Muster Module providing additional instructions was also attached to the memorandum. The Muster Module included procedures to Patrol Agents in the safe search of suspects, threat assessments, and pat search techniques for cross gender, same gender, transgender, and intersex detainees. In conjunction with the documents, the Harlingen Station submitted staff training muster sign-offs and acknowledgements of the training received on the aforementioned documents. The Harlingen Station is now compliant with Standard 115.115 (f).

OVERALL DETERMINATION - AFTER IMPLEMENTATION OF THE CORRECTIVE ACTION PLAN	
<input type="checkbox"/> Exceeds Standards (Substantially Exceeds Requirements of Standards) <input checked="" type="checkbox"/> Meets Standards (Substantial Compliance; Complies in All Material Ways with the Standards for the Relevant Review Period) <input type="checkbox"/> Does Not Meet Standards (Requires Corrective Action)	<input checked="" type="checkbox"/> Low Risk <input type="checkbox"/> Not Low Risk

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.

 (b)(6)(b)(7)(C)
Reviewing Auditor's Signature

 November 27, 2020
Date