

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:	Office of Field Operations
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SECTOR OR FIELD OFFICE

Name of Sector or Field Office:	New York Field Office
Name of Chief or Director:	(b)(6)(b)(7)(C)
PREA Field Coordinator:	(b)(6)(b)(7)(C)
Sector or Field Office Physical Address:	One World Trade Center, Suite 50.200, New York, NY 10007
Mailing Address: (if different from above)	

SHORT-TERM HOLDING FACILITY BEING AUDITED

Information About the Facility

Name of Facility:	John F. Kennedy International Airport
Physical Address:	JFK International Airport, Bldg. #77, Jamaica, NY 11430
Mailing Address: (if different from above)	
Telephone Number:	(b)(6)(b)(7)(C)

Facility Leadership

Name of Officer in Charge:	(b)(6)(b)(7)(C)	Title:	Port Director
Email Address:	(b)(6)(b)(7)(C)	Telephone Number:	(b)(6)(b)(7)(C)

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) New York Field Office, John F. Kennedy International Airport Port of Entry (JFK POE), was conducted April 23-24, 2019, by PREA certified Auditor (b) (6), (b) (7)(C) a contractor for Creative Corrections, LLC. JFK POE is a short-term processing and holding area detaining male and female adults, Unaccompanied Alien Children (UAC), and family units pending the inadmissible traveler's flight back to their point of origination or transfer for removal or detention. The PREA audit is to determine compliance with Subpart B of the Department of Homeland Security (DHS) PREA standards. (7)(E), Prevention of Sexual Assault (PSA) Coordinator, Privacy and Diversity Office (PDO), Headquarters (HQ); (b)(6)(b)(7)(C), National Office of Field Operations (OFO) PREA Coordinator, HQ; (b)(6)(b)(7)(C), Deputy Director, Personnel Security Division (PSD), HQ; (b)(6)(b)(7)(C), Sexual Abuse and Assault Investigations Coordinator (SAAI), HQ; (b)(6)(b)(7)(C), Employee Relations Specialist, Labor and Employee Relations (LER), HQ; (b)(6)(b)(7)(C), Branch Chief, CBP Hiring Center, HQ, and (b)(6)(b)(7)(C), Chief of Integrity and Professionalism and PREA Field Coordinator (PFC), JFK POE, provided the HQ and local pre-audit questionnaires (PAQs), along with supporting documents, for the audit on the CBP secure SharePoint about three weeks before the on-site audit. Pre-audit preparation included a review of all documentation and materials provided by HQ and the facility, along with the data in the completed PAQs. The documentation included, but was not limited to, agency policies with attachments, procedures, forms, and PREA training modules.

The Auditor arrived at JFK POE Terminal 4 (T-4) at 5:30 a.m. on April 23, 2019, and was met by the PFC. The Auditor was provided a list of staff working and made a random selection of six officers to interview. Two male detainees were being detained in the main lounge area and were interviewed. At approximately 8:00 a.m. the Auditor was escorted to the facility conference room in T-4 for the audit in-briefing. The following were in attendance:

(b)(6)(b)(7)(C), PSA Coordinator, PDO, HQ
(b)(6)(b)(7)(C), Chief, Integrity and Professionalism, PFC, JFK POE
(b)(6)(b)(7)(C), Deputy Chief, JFK POE
(b)(6)(b)(7)(C), PDO, HQ
(b)(6)(b)(7)(C), Chief, Passenger Operations, JFK POE
(b)(6)(b)(7)(C), National OFO PREA Coordinator, HQ (by telephone)

Following introductions and a question and answer period, the participants discussed the logistics of the tour. JFK POE has hold rooms in T-4 and satellite hold rooms in four other international terminals (T-1, T-5, T-7, and T-8). The decision for the tour was to cover T-4 and T-7 the first day and to tour T-1, T-5, and T-8 on the following day. T-4, JFK POE's largest terminal, is also the primary location of the JFK POE Field Office. It has the largest number of incoming international flights and is open 24 hours a day 7 days a week. International passengers in all terminals who are not granted entry into the United States are normally held as detainees at JFK POE until the next available return flight to their country of origin. The Auditor was informed if there are delays, after 24 hours at JFK POE detainees are normally transferred to Elizabeth Detention Center, a nearby Immigration and Customs Enforcement (ICE) facility.

The terminals with satellite holding rooms close at varying times depending on the time of the last arriving or departing flight. Any detainees remaining in satellite holding rooms when the terminals close for the night are brought to T-4 and then returned to the appropriate terminal the next day for their departing flight. The satellite holding areas use only minimal staff (one officer and one supervisor) when there are no detainees in the area and no arriving or departing flights scheduled for the terminal. Staff is supplemented as needed from elsewhere in the airport when there are flights or when the detainees are held. All staff dealing with detainee operations at JFK POE are sworn Law Enforcement Officers; no contractors or volunteers are utilized.

The PSA Coordinator, PFC, and the Auditor began the tour in T-4. The Auditor was able to observe the primary and secondary processing areas. The primary processing space is a large area where all arriving international passengers are checked for admissibility into the United States. This area also includes a common baggage claim area. The secondary processing area, where an officer is stationed at the door to check identification, includes a main lounge divided in three sections. Up against the wall in the middle of the lounge area is a raised counter area with eight

officer stations for processing. To the left of the counter at floor level are three desks for officers processing detainees. Additional officers and a supervisor provide direct supervision in this area. On the other side of the wall behind the raised counter is a hallway with eight private offices for interviews. On either side and to the back of the lounge area are the hold rooms. T-4 has (b) (7)(E) on the other side. The hold rooms are for adult males and females; UAC's are placed in the family unit room if not otherwise occupied. If a family unit room is not available, the UAC is placed in any unoccupied adult hold room to provide separation from adults. The hold rooms contain benches bolted to the floor. There is a single toilet with a privacy partition around the toilet inside each of the hold rooms. The family unit room contains sofas and padded chairs. The restroom for the family unit room is down the hall; detainees must ask the officer stationed outside the door in order to access the restroom; it is a single unisex restroom which remains locked unless in use. The officer post outside the family room is not staffed unless there are detainees in the room. Since T-4 has the only hold rooms open 24/7, there is also a single one-stall male shower and a single one-stall female shower available for detainees. An officer would escort a detainee to a shower. T-4 is the only terminal at JFK POE with showers for detainees. There are (b) (7)(E) in all the hold rooms and in the family unit room. There are (b) (7)(E) in the bathrooms, and all bathrooms provide sufficient privacy. The (b) (7)(E) from the control room in T-4. When detainees occupy a hold room, there is always an officer on duty to make 15-minute checks which are logged electronically. The Auditor verified there are no privacy issues regarding opposite-gender viewing in either the restrooms or the showers. There were no detainees in any of the T-4 hold rooms or the family unit room at any time when the Auditor was in T-4; all detainees observed were in the lounge area.

In the late afternoon the Auditor toured T-7. The primary and secondary processing areas of T-7 are similar in size and configuration to T-4, although there were no offices directly connected to the area. T-7 contains (b) (7)(E) (b) (7)(E) all of which have benches bolted to the floor and a toilet with a privacy partition. At the time of the tour, there were only two staff on duty, which is the normal staff deployment when there are no detainees in the hold rooms and no incoming or outgoing flights. There are (b) (7)(E) located in the restroom areas. The Auditor departed JFK POE at 5:45 p.m.

The Auditor arrived at T-4 the next morning at 6:00 a.m. and after interviewing a female detainee, began tours of T-5, T-8 and T-1. Each of these satellite holding areas has a different configuration of hold room capacities. However, the primary and secondary processing areas of each of the terminals are similar in configuration to the arrangement in T-4 with the hold and family unit rooms to the back and either side of the lounge area. Each terminal has its own control room, and UAC's would be assigned to a unoccupied family unit room if available in a given terminal or otherwise be assigned to an unoccupied adult male or female hold room if available to provide complete separation from adults. If need be UACs would be assigned to the terminal's lounge area under direct supervision and separated from adults.

The processing area in T-5 is similar to T-4 but much more compact; officers work behind a floor-level counter. T-5 has (b) (7)(E), all with toilets. T-8 also has a more compact processing area than T-4 with officers working behind a floor-level counter. T-8 has (b) (7)(E) and (b) (7)(E). Each hold room has a toilet with a partition. T-8 also has one family hold room with a unisex restroom located down a hallway outside the room. T-1 has (b) (7)(E). The primary and secondary processing area is similar in size and configuration to the arrangement in T-4, although the officers work behind a floor-level counter. As in all of the other hold areas, there are (b) (6)(b)(7)(C), (b) (7) in all the hold rooms.

At no time did the Auditor observe any detainees in the hold rooms, family unit rooms, or the lounge areas of T-5, T-8, or T-1. Additionally, processing operations were not active in the terminals since there were no arriving/departing flights at the time of the tour. Furnishings in the holding areas in T-5, T-8 and T-1 duplicate the furniture previously noted: benches in the hold rooms and sofas and padded chairs in the family rooms. When there are detainees in the family rooms there is an officer stationed outside the room who can give the occupants access to the male/female restroom facilities. UAC's who arrive at a terminal with a family unit hold room are placed there if there are no other occupants there. If the room is occupied or if there is no family unit room in the terminal, the UAC would be placed in an unoccupied male or female hold room. The staffing pattern is the same at each of these terminals; one first-line supervisor and one officer when there are no detainees in the hold rooms and no arriving/departing flights during the tour. The Auditor interviewed the first-line supervisor at each of these terminals.

Scope of the Audit: The Auditor reviewed all relevant policies, procedures and documents in assessing JFK POE. Prior to the on-site portion of the audit, the Auditor conducted telephone interviews with six HQ Subject Matter Experts

(SME) using a standardized format for his questioning. Information not available in the original documents was furnished on request. The Auditor also viewed a sampling of background checks and PREA training records. He had access to all parts of the massive facility, with an officer providing the needed transportation from terminal to terminal. He observed the (b) (7)(E) and assessed the (b) (7)(E) by checking the views when touring the hold rooms and by checking the views from the control rooms in each terminal. He determined there were no privacy issues related to (b)(6)(b)(7)(C), or opposite gender viewing in any of the restrooms or shower areas. While on-site the Auditor interviewed 16 staff (six random officers, six first-line supervisors, two chiefs, two deputy chiefs), and five detainees (two females and three males), all traveling as single adults. The detainees were from China, Mexico, Brazil, Korea, and Guyana. The Auditor used Language Services Associates for interpretative services for two of the detainee interviews. None of the detainees identified as lesbian, gay, bi-sexual, transgender, or intersex to the Auditor. No detainee reported a disability, and no detainee expressed any fear for his/her physical safety related to sexual misconduct in a hold room. There were no UAC's or family units available for interviews at any time during the on-site audit. The varied schedule of arriving flights did not afford the Auditor an opportunity to witness the actual processing of any detainee nor did the Auditor observe any detainee who was in a designated hold room or family unit room.

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.

The exit briefing was held on April 24, 2019 at 4:15 p.m. in the T-4 conference room. It was opened by PSA Coordinator (b) (6), (b) (7)(C) and turned over to the Auditor. In attendance were:

- (b)(6)(b)(7)(C), PSA Coordinator, PDO, HQ
- (b)(6)(b)(7)(C), Chief, Integrity and Professionalism, PFC, JFK POE
- (b)(6)(b)(7)(C), Assistant Port Director (APD), JFK POE
- (b)(6)(b)(7)(C), Chief, Passenger Operations, JFK POE
- (b)(6)(b)(7)(C), National OFO PREA Coordinator, HQ (by telephone)

During the audit process, the Auditor reviewed 25 Subpart B PREA standards at JFK POE for compliance. The Auditor found JFK POE met 20 standards: 115.111; 115.114; 115.116; 115.117; 115.122; 115.131; 115.132; 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. Standard 115.118 is not applicable. JFK POE did not meet 4 standards: 115.113; 115.115; 115.121, and 115.141.

SUMMARY OF AUDIT FINDINGS	
Number of standards exceeded: 0	
Number of standards met: 20 + 1 not applicable.	
Number of standards not met: 4	
OVERALL DETERMINATION	
<input type="checkbox"/> Exceeds Standards (Substantially Exceeds Requirements of Standards)	<input 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 checked="" 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) JFK POE meets the standard provision. CBP Directive 2130-030, Prevention, Detection and Response to Sexual Abuse and/or Assault in CBP Holding Facilities, dated January 19, 2018, and CBP Policy on Zero Tolerance of Sexual Abuse and Assault signed by CBP's Commissioner on March 11, 2015, are the agency's primary policies mandating zero tolerance toward all forms of sexual abuse and sexual assault and outlining its approach to preventing, detecting, and responding to abusive conduct. The policies define the prohibited acts for all staff and detainees. These policies are supplemented by CBP National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015, which sets forth nationwide standards which govern CBP's interaction with detainees. The policies were provided to staff through the agency's central email program. The random officer interviews confirm they were provided the information and are familiar with their responsibilities to prevent, detect and respond to sexual abuse.

§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) JFK POE meets the standard provision. The agency shall 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. Direct observation by the Auditor and an understanding of the staffing plan confirm the level of detainee supervision is more than adequate given the average population JFK POE deals with on a daily basis. T-4, the busiest terminal, had numerous officers handling processing duties, along with other officers providing direct supervision to the travelers in the lounge area, including supervision of the detainees who were seated in an area apart from the others. The operational procedures and (b) (7)(E) ensure the detainees are held in a safe and protective environment. Interviews with the PFC and supervisors verify their staffing plan always provides for ample officer coverage and supervision of detainees. The plan provides for full coverage for all terminals when needed, such as during flight arrivals/departures. At other times, those officers are available to be deployed where needed; remaining as minimal staff in a terminal with empty hold rooms, providing the required number of staff when hold rooms are occupied when there are no arriving/departing flights, or being assigned to other duties elsewhere at JFK POE.

(b) JFK POE does not meet the standard provision. CBP Directive 2103-030 requires that the Office of Field Operations develop and document comprehensive detainee supervision guidelines to determine and meet each facility's detainee supervision needs and to review those supervision guidelines and application at least annually to determine whether adequate levels of detainee supervision and monitoring exist. Corrective action is required for this subsection.

Corrective Action: Provide evidence of an annual review of the supervision guidelines for JFK POE that evaluates the adequacy of such guidelines for meeting the supervision needs of the detainees at JFK POE.

(c) JFK POE meets the standard provision. The requirements listed in the standard are discussed by supervisory staff on a daily basis, including such matters as the layout of the facility, the current size and composition of the traveler/detainee population, and length of time detainees are in custody. These discussions address the intent of this subsection, and interviews with the PFC and supervisors confirm this practice.

§115.114(a) and (b) – 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:

(a)(b) JFK POE meets the standard provision. CBP TEDS requires JFK POE 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 random officers who have processed juveniles arriving at JFK POE that were determined to be inadmissible for entry into the U.S. The officers state juveniles and children are processed as either accompanied by a parent or legal guardian or as an UAC. The officers state UACs are held separately from any adult and under the direct supervision of an officer. UACs are typically placed in a sitting area in front of the officer or in a family unit room if an unoccupied one is available. Another option is placement in an unoccupied adult hold room where the UAC would remain as the sole occupant. According to the officers, the UAC remains under the supervision of the officer until removal from the holding room. The officers also state minors accompanied by an adult are thoroughly vetted to the extent possible, to ensure a parental or legal guardianship relationship exists. This includes use of consulates, legitimate documentation and interviews. If a legal relationship cannot be established, the minor is handled as an UAC and separated from adults under the least restrictive setting and under the direct supervision of an officer. The family unit rooms at JFK POE are all separated from the adult hold rooms. The officers told the Auditor they are required to screen all UACs for credible fear, human trafficking and their ability to make independent decisions. There were no juveniles/UACs 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)
- Does not meet Standard (requires corrective action)

Notes:

(b) JFK POE meets the standard provision. CBP TEDS sets specific restrictions for cross-gender viewing and searches, in the absence of truly exigent circumstances. Interviews with local SMEs and random officers provided answers consistent with TEDS in determining when and how strip searches and body cavity searches would be performed. There have been no strip or cavity searches at JFK POE in the past 12 months. Routine pat searches are not performed on juveniles at JFK POE with the exception of an immediate targeted pat search for a suspected weapon. UACs are transported to a medical facility for a strip or body cavity search by a licensed medical practitioner if necessary. This practice was verified by the PFC during his interview.

(c) JFK POE meets the standard provision. CBP TEDS requires all strip and body cavity searches be documented. The PFC verified no strip or body cavity searches were performed at JFK POE in the past 12 months. The Auditor also confirmed this information during interviews with supervisors.

(d) JFK POE meets the standard provision. JFK POE has developed procedures which allow for detainee privacy while changing clothes or using the restroom. One male shower and one female shower are available for detainees in a room secured for CBP use only in the intransit lounge of T-4. The Auditor inspected these areas and determined there are no privacy issues regarding the showers. Random staff and detainee interviews confirm the consistent use of announcements and/or knocking when opposite gender staff enter a hold room or family unit room; however, because there were no detainees in the various hold rooms when the Auditor visited these rooms, he did not personally witness this practice.

(e) JFK POE meets the standard provisions. CBP TEDS prohibits the search or examination of a detainee's person solely to determine their gender. The first-line supervisors and random officers interviewed by the Auditor said they would ask a detainee to self-identify if they had a need to know the detainee's gender. If the detainee declines to state their gender, the gender will be recorded in the appropriate electronic system as unknown. Interviews with random officers confirm they are aware of the prohibition on searching detainees to determine their gender. Everyone interviewed reported strip searches cannot be performed except in exigent circumstances and with supervisory review when there is reasonable suspicion contraband is present. No detainee identified as transgender was presented to the Auditor for an interview, and no detainee interviewed identified himself/herself as transgender.

(f) JFK POE does not meet the standard provision. The facility produced no specific training materials for pat searches, cross gender searches, or searches of transgender detainees, to include searching the breast and groin areas. Although supervisors and officers made reference to the proper techniques for such searches in CBP TEDS and the

Personal Search Handbook, specifics on how staff conduct the searches was minimal. The PFC indicates the agency training on pat searches covers searching transgender and opposite-gender detainees. Additionally, every officer and supervisor interviewed said conducting cross-gender and transgender people pat searches was a part of their training, even though they had never actually performed that kind of search. According to the PFC, no opposite-gender or transgender people searches have taken place at JFK POE in the past 12 months. Regarding searches of transgender people, the PFC stated CBP would “accommodate the traveler and provide different gender officers to search those areas of the body that are appropriate for the same gender. There are no slides or pamphlets but the training for searching transgender people is provided for all post academy officers.” However, a review of the materials, the interviews with the officers and the supervisors does not establish JFK POE complies with this subsection of the standard. **Corrective Action:** Provide documentation that everyone conducting searches has been trained to conduct appropriate searches of transgender and intersex detainees.

§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) JFK POE meets the standard provision. Following the substance of this PREA standard, CBP TEDS and CBP Directive 2130-030 require 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’s 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. Interviews with officers and supervisors reflect an understanding of the need to communicate with detainees with disabilities. The officers were confident in their ability to communicate with detainees with disabilities, although none of them had ever actually encountered a detainee who was blind, deaf, or intellectually impaired. Prior to the audit, the Auditor reviewed a relevant job aid titled “Guide to Communicating with Detainees with Disabilities,” which was issued to all CBP employees through CBP Central (CBP’s electronic email system) on February 19, 2019. This job aid did, in fact, list a wide range of disabilities that might present obstacles for detainees in understanding the protections of PREA. It also listed strategies for dealing with a number of specified disabilities. The dissemination of the job aid was verified. TEDS 6.0 also provides additional directions for strategies that must be employed when communicating with detainees who have a wide range of disabilities. An interview with the PFC indicates communication with detainees with disabilities would be addressed on a case by case basis, such as contacting an available family member to help in the case of a blind detainee who might be traveling with a family member or securing medical assistance in case of a psychiatric issue. The PFC, the supervisors, and the officers know their duty to meet the needs of detainees with disabilities; satisfactory training has been provided to reinforce that duty and provide strategies to accommodate those needs.

(b) JFK POE meets the standard provision. CBP Directive 2130-030 requires limited English proficient (LEP) detainees be provided in-person or accurate, effective and impartial telephonic interpretation services. All PREA posters at JFK POE are posted in both English and Spanish, with an inset which provides PREA information in a variety of other languages. Most interviewed officers are fluent in Spanish and English. All officers stated they have used the U.S. Citizenship and Immigration Service (USCIS) interpretive language telephone line to assist LEP detainees. Of the five detainees interviewed, four of them (from Guyana, Mexico, Brazil, and China) affirmed their understanding of the posters.

(c) JFK POE meets the standard provision. CBP Directive 2130-030 states other detainees are not to be used as interpreters when a detainee has alleged sexual abuse or has been found to be sexually abused. The officers interviewed all said in cases where there was no staff member available who spoke the detainee’s language, they would use the interpretation line. They also said they knew not to use other detainees as interpreters.

§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) JFK POE meets the standard provision. CBP Directive 2130-030 requires the Office of Human Resources Management (HRM) ensure compliance with hiring, promotion and discipline requirements as outlined in the standard

provision. The interview with the HQ Hiring Center SME verifies compliance with the standard provision for employees. This Directive requires the Office of Acquisition develop policies and procedures to ensure CBP does not enlist the services of any contractors or volunteers who have a history of sexual abuse; however, this provision does not apply to JFK POE since it does not use either contractors or volunteers.

(b) JFK POE meets the standard provision. CBP Directive 2130-030 requires the Office of Human Resource Management (HRM) establish policy and procedures to 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. An interview with the HQ Hiring Center SME reveals new employees and employees seeking promotion must complete an application which asks about previous sexual misconduct and informs staff of an affirmative duty to disclose any such future misconduct.

(c) JFK POE meets the standard provision. The Auditor selected the names of 11 random officers and local SMEs at JFK POE. The PSA Coordinator submitted these names to the Office of Professional Responsibility, (OPR) Personnel Security Division (PSD). A computer check of these employees found the agency in compliance with pre-hire and five-year updated background investigations.

(d) JFK POE meets the standard provision. JFK POE does not use contractors.

(e) JFK POE meets the standard provision. CBP Directive 2130-030 requires HRM promulgate policies and procedures ensuring compliance with the requirements of the standard provision. The interview with the HQ Hiring Center SME confirms it is agency policy to rescind an offer of employment to a prospective employee, or to terminate the employment of any employee, who makes false statements or material omissions about sexual abuse misconduct. Employees are advised of this requirement in CBP Directive 2130-030.

(f) JFK POE meets the standard provision. CBP Directive 2130-030 allows for the provision of any substantiated allegation of sexual abuse regarding a former employee upon receiving a request to do so from an institutional partner for whom such an employee has applied to work, unless prohibited by law. The interview with the HQ Hiring Center SME verifies this practice by the agency.

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

Notes:

Not Applicable. The PFC informed the Auditor there have been no upgrades to the facilities or to technologies used at JFK POE during the relevant time period.

§115.121(c) through (e) – 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:

(c) JFK POE meets the standard provision. 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 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. The standard says the agency "shall arrange for or refer the alleged victim detainee to a medical facility" for an examination by appropriate personnel. The Auditor's interview with the PFC verified what the supervisors had already stated to the Auditor: Supervisors are aware alleged victims of sexual assault are to receive all medical services and medications without cost, even if they do not name the abuser or cooperate with the investigation. They are also aware detainees requiring any PREA-related examination or treatment are transported by the Port Authority Police Department (PAPD); a JFK POE officer accompanies the detainee on the escort. PAPD uses Jamaica Hospital Medical Center to provide treatment and/or sexual assault medical exams; the PFC said JFK POE is required to use the nearest hospital, which is Jamaica Hospital. According to the PFC, these exams are provided by a Sexual Assault Forensic Examiner (SAFE), a Sexual Assault Nurse Examiner (SANE), or a trained medical practitioner. The PAPD does not have a contract or a memorandum of understanding with the Medical Center for these services. However, the Medical Center has assured the PAPD they will accept any and all detainee cases from JFK POE. This agreement was verified by the PFC during a telephone interview with a lieutenant at the PAPD. There have been no referrals for these

services during this audit period. JFK POE has duly “arranged for” the victims to have the services set out under this subsection.

(d) JFK POE meets the standard provision. Even though the detainee victim has been turned over to the PAPD for transportation to a medical facility, a CBP officer accompanies the detainee. The detainee will have access to a community support group if needed while at the Medical Center. The PFC confirmed the access to victim support services by telephone with a lieutenant with the PAPD. The telephone call was made in the Auditor’s presence.

(e) JFK POE does not meet the standard provision. According to the PFC, all allegations of sexual abuse are referred to the Office of Professional Responsibility (OPR). However, interviews reveal supervisors are not clear local law enforcement is also to be notified to investigate sexual abuse allegations at JFK POE, and no documentation was provided JFK POE has requested the local law enforcement agency responsible for investigating sexual abuse allegations has been asked for comply with the standard resulting in non-compliance. **Corrective Action:** Provide documentation the local law enforcement agency responsible for investigation sexual abuse allegations at JFK POE has been asked to follow the requirements of the standard.

§115.122(c) and (d) – 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:

(c) JFK POE meets the standard provision. CBP Directive 2130-030 requires prompt reporting of all sexual assaults/allegations to the facility administrator or agency office. All interviewed local SMEs and random officers state they would immediately report such incidents up the chain-of-command and to the Joint Intake Center (JIC). Additional confirmation of the reporting protocol was received during the interview with the PFC; he said he is informed of all allegations and ensures all appropriate entities are notified immediately. These requirements are also specified on the PREA Quick Reference Card.

(d) JFK POE meets the standard provision. The interview with the PSA Coordinator verifies allegations are received at her office from the Commissioner’s Situation Room (electronic as soon as the Significant Incident Report (SIR) is entered in the SIR reporting system) or from the Joint Intake Center.

§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) JFK POE meets the standard provision. CBP Directive 2130-030 mandates training requirements for all employees, contractors and volunteers. Officer interviews confirm JFK POE staff have received the mandatory PREA training, including the agency’s zero tolerance policies, the detainee’s rights to be free of sexual abuse, the officers’ duty to report all allegations of sexual abuse and the other requirements of the standard. Officers indicate training is provided via the Performance and Learning Management System (PALMS) and is required biennially. Note: References to training for contractors and volunteers are not applicable as JFK POE does not use contractors and volunteers.

(b) JFK POE meets the standard provision. The Auditor viewed a sample of 11 training records for officers and local SMEs. The records reflect the dates of initial PREA training and the date of the most recent refresher training. The review confirms all staff at JFK POE were trained on PREA within two years of the effective date of the standards issuance or upon hire, if hired after the initial training. Training records also confirm staff receive refresher training as required.

(c) JFK POE meets the standard provision. An interview with the PFC verifies training records are maintained electronically and these records document the required training for those employees who may have contact with detainees. As JFK POE does not utilize contract staff or volunteers with detainee access, the contractor/volunteer training documentation requirement does not apply.

§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:

JFK POE meets the standard provision. CBP Policy on Zero Tolerance for Sexual Abuse and Sexual Assault requires all detainees be notified of the policy. JFK POE has large posters of DHS's Zero Tolerance Policy in all detainee hold rooms and in all processing areas. The posters are in English and Spanish, with an inset of PREA information in a number of different languages. The Auditor verified the posters contain all of the basic PREA zero-tolerance information. Detainee interviews reflect all of the detainees who spoke some English or Spanish read and understood them. The policy is available to the public at <https://www.cbp.gov/about/care-in-custody>.

§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)
- 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)
- 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) JFK POE does not meet the standard provision. Although an entity's compliance with CBP TEDS and CBP Directive 2130-030 is a matter beyond the scope of a PREA audit, those documents certainly point to an understanding of the importance of all detainees being assessed for being at high risk of sexual abuse before being placed in a hold room. If a detainee is found to be at high risk, staff must take steps to mitigate the danger. Staff interviews consistently reflect PREA screenings as required by the standard do not occur at JFK POE. Everyone interviewed during the audit stated that the JFK POE screening is limited to asking detainees (1) whether they fear for their physical safety and (2) whether they have any medical issues related to being held in a confined space. At the time of the audit, the question asked of detainees regarding their fear for physical safety lacked sufficient context to ensure that the detainee understood the question. After the on-site part of the audit, the physical safety question was revised slightly to provide additional context for the detainee; officers now ask specifically whether the detainee has concerns for his/her physical safety while at JFK POE. However, the second question asked is certainly not PREA-related, and the physical safety question does not necessarily provide any insight regarding whether "...a detainee may be at a high risk of being sexually abused...." This physical safety question, by itself, cannot produce enough information for a proper assessment of the risk of sexual vulnerability. Without a proper risk assessment, JFK POE lacks sufficient information for making a proper decision regarding steps needed to mitigate danger to a detainee. Corrective action is required. **Corrective Action:** Provide documentation officers are trained to assess detainees in accordance with this standard provision to determine whether the detainee is at high risk of being sexually abused, along with documentation detainees are being properly assessed and documentation of what actions the facility has taken in any situation where the mitigation of danger was required.

(b) JFK POE does not meet the standard provision. Under this subsection of the standard, two separate things must happen: (1) detainees who may be held overnight with other detainees "...shall be assessed to determine their risk of being sexually abused by other detainees or sexually abusive toward other detainees....", and (2) "...staff shall ask each such detainee about his or her own concerns about his or her physical safety." There is no PREA screening or assessment at JFK POE that covers the kind of assessment contemplated by the first part of 115.141(b). Although detainees at JFK POE are asked whether they fear for their physical safety at the facility, that question alone--even if answered truthfully--is insufficient to address the assessment required in the first part of subsection (b) of this standard. This subsection sets out that there is a requirement to assess, which has not been properly addressed, and a requirement to ask about concerns for physical safety, which has been addressed. While the assessment requirement in the first part of 115.141(b) possibly is being partially addressed by officer observation, review of documents presented, and/or a criminal history check, much of the information vital to a valid assessment of sexual vulnerability or abusiveness is not being sought. Corrective action is required to address the inadequacies of the current assessment process so that JFK POE can address the potential impact of an incomplete screening on the placement of detainees. **Corrective Action:** Provide documentation officers are trained to conduct assessments in conformity with this standard provision to determine the potential risk of all detainees for being sexually abused by other detainees or for being sexually abusive toward other detainees. Provide documentation all detainees are being assessed in accordance with the standard.

(c) JFK POE does not meet the standard provision. CBP PREA Pocket Guides list for the processing officer the factors outlined in the standard provision. The Auditor could see the PREA Quick Reference Cards on the person of the majority of randomly interviewed officers, but there is no doubt the officers ask only two screening questions, with one of these questions being unrelated to PREA. Some of the factors listed in subsection (c) can be addressed through an officer's observation (such as size and build of detainee or an observable disability) and some others can potentially be addressed through documentation presented (such as age or declared gender), or a criminal history check. However, considering the kind of risk assessment contemplated under this standard, considering the detainee's physical presence in front of the officer doing the assessment, and further considering the potential peril to a detainee from an inadequate assessment, corrective action is required. **Corrective Action:** Provide documentation that all detainees being placed in hold rooms are being assessed/screened in accordance with the standard provisions to the extent information as set out in this subsection can reasonably be sought, with such screening to include efforts beyond asking only a single physical safety question and beyond what can be gleaned from officer observation, documents presented or criminal history checks.

(d) JFK POE does not meet the standard provision. This subsection, as well as CBP Directive 2130-030 states if a detainee is assessed as being high risk, he or she is to be provided various measures of heightened protection. Although a detainee is asked about fear for physical safety at JFK POE and some additional detainee information about appearance/demeanor, age or declared gender on a passport, or criminal history from a computer check may be available, no further information is sought. The officers at JFK POE stand ready to offer heightened protection to a detainee who needs it, but without a legitimate assessment as required under this standard, it is not possible to give the facility's best efforts to determining which detainees are at the greatest risk. Corrective action is required.

Corrective Action: Provide documentation that any detainee identified through a proper PREA assessment as set forth in 115.141 as being at high risk is afforded the heightened protection needed.

(e) JFK POE meets the standard provision. CBP TEDS requires staff to make assessments in private so sensitive information cannot be learned by others. The dissemination of sensitive information is to be controlled on a "need to know" basis. The Auditor observed careful attention by staff to issues of detainee privacy regarding personal information. The Auditor observed detainee interviews conducted in private offices and at no time were any files left in the open. The Auditor finds JFK POE is mindful of its duty to keep personal information secure and all detainee information is treated in the same manner.

§115.151(a) through (c) – 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:

(a) JFK POE meets the standard provision. CBP TEDS and CBP Directive 2130-030 provide multiple ways for detainees to report sexual abuse/assault, retaliation and/or staff neglect, or violations leading to sexual assault. HQ and local SME interviews verify detainees may report abuse orally or in writing to staff; third party reports are accepted, and detainees may request to make private anonymous telephone calls to OIG. All random officers interviewed were aware detainees at JFK POE could call OIG in private and not have to provide a reason for the call.

(b) JFK POE meets the standard provision. Random officers and local SME interviews confirm detainees are informed how they can report sexual abuse to an outside entity privately and anonymously through the posters.

(c) JFK POE meets the standard provision. Random officers and local SME interviews confirm they must accept oral, written or third party reports of sexual abuse. Officers and local SMEs verified all reports, regardless of type, must be immediately forwarded to their supervisor and an incident report must be immediately generated.

§115.154 – 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:

JFK POE meets the standard provision. CBP Directive 2130-030 states third parties may report sexual abuse on behalf of detainees. CBP PREA posters inform third parties how to make written or telephone reports to OIG. Random officer interviews confirm their knowledge of the third-party reporting information on the PREA posters. CBP informs the public of reporting procedures on its website at <https://www.cbp.gov/about/care-in-custody>.

§115.161(a) through (d) – 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:

(a) JFK POE meets the standard provision. CBP Directive 2130-030 requires all staff report immediately any knowledge, suspicion or information regarding an incident of sexual abuse/assault, retaliation against detainees or staff who made such a report or participated in an investigation of sexual abuse, or any staff neglect or violation of responsibilities contributing to an incident of sexual abuse/assault. All interviewed local SMEs and random officers confirm their responsibility to report all incidents. Random officers state they could report sexual abuse outside of the chain-of-command by reporting to another supervisor or calling OIG.

(b) JFK POE meets the standard provision. All JFK POE officers have been issued PREA Quick Reference Cards. During interviews, officers state they must immediately report incidents to their supervisors, who will then ensure the incident is reported to JIC and the Commissioner's Situation Room.

(c) JFK POE meets the standard provision. Random officer interviews verify dissemination of information about sexual assault is limited to their supervisor, staff necessary to protect the detainee, and anyone else with a need to know. Under CBP Directive 2130-030, except as necessary to report the incident, CBP and its staff are not to reveal any information related to the incident except as necessary to aid the detainee, to protect other detainees or staff, or to make security and management decisions.

(d) JFK POE meets the standard provisions. CBP Directive 2130-030 requires 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 SMEs and PFC informed the Auditor should a vulnerable adult or person under the age of 18 be sexually assaulted, the protocol would be for the supervisor to submit an Incident Report to JIC and the Commissioner's Situation Room. The PFC would then make notifications to the appropriate local state agencies if required and would update JIC with this information. There were no incidents requiring this type of notification at JFK POE during the last 12 months.

§115.162 – Agency 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:

JFK POE meets the standard provisions. CBP TEDS states if an officer has a reasonable belief a detainee may be subject to a substantial risk of imminent sexual abuse, he or she is to take immediate action to protect the detainee. The Auditor asked all of the staff interviewed how they would respond if they reasonably believed a detainee might be at substantial risk of imminent sexual abuse. All staff responded without hesitation a detainee at risk would be separated from the other detainees and placed under constant supervision of an officer. All indicate the response would be the same as the response for an allegation of sexual abuse; the safety of the detainee would be the primary focus. Staff indicate depending upon the number of rooms being used at the time; the detainee would be placed in a hold room alone or under direct supervision of an officer.

§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) JFK POE meets the standard provision. CBP Directive 2130-030 specifies if any detainee reports having been sexually abused/assaulted at another facility before arriving at JFK POE, the agency or administrator of the sending facility must be notified. The PFC stated he would make this notification.

(b) JFK POE meets the standard provision. The standard requires the notification be made within 72 hours of receiving the allegation. According to the PFC, any allegation of sexual abuse anywhere at JFK POE must immediately be reported to the Watch Commander on duty. The incident would be reported up the chain-of-command by the Watch Commander before the end of the tour, well within the 72-hour requirement of the standard.

(c) JFK POE meets the standard provision. The PFC indicated the notification would be documented in the detainee's record.

(d) JFK POE meets the standard provision. Interviews with supervisors confirm they are aware of this requirement and would ensure any allegation received from another facility of sexual abuse occurring at JFK POE would be referred for investigation as required.

§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) JFK POE meets the standard provision. CBP Directive 2130-030 requires upon learning of a detainee sexual assault, the first responding officer or their supervisor is to perform all first responder duties required by the standard provision. In addition to being trained as first responders, all officers have been given pocket reference cards listing their first responder duties. Random officer interviews reveal a very good understanding of their first responder requirements for PREA-related issues. The officers all indicate they are trained as first responders for PREA incidents, in addition to being trained for the tasks required for security first responders.

(b) This standard provision is not applicable at JFK POE since only sworn officers have contact with detainees at JFK POE.

§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) JFK POE meets the standard provision. CBP Directive 2130-030 is the agency's institutional plan for prevention, detection and response to sexual abuse. The Directive provides a progressive plan for the prevention, detection and response components of addressing sexual abuse in hold rooms and is considered the agency's coordinated response plan.

(b)(c) JFK POE meets the standard provision. If a victim of sexual abuse/assault is transferred to another DHS facility, CBP Directive 2130-030 requires JFK POE to notify the receiving facility about the transfer, along with information about the detainee's potential need for medical and/or social services. The same kind of notifications must be made if the transfer is to a non-DHS facility, if the law permits. An interview with the PFC reveals he is responsible for making the notifications. There were no incidents to report to other confinement facilities during this audit period.

§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:

JFK POE meets the standard provision. CBP Directive 2130-030 requires agency management 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 and plausibility of the allegation make 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. This policy requirement was verified by the PFC. There are no contractors or volunteers at JFK POE. The PFC stated there were no allegations of sexual abuse made against a staff member during this audit period.

§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 for the relevant review period)
- Does not meet Standard (requires corrective action)

Notes:

JFK POE meets the standard. 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 prohibition of retaliation is also detailed in PALMS PREA training each JFK POE staff member receives. The Auditor interviewed six random officers, nine local SMEs and the PFC; all were well aware of the

policy prohibiting retaliation against anyone who makes an allegation of sexual misconduct or participates in the investigation. There were no detainees who either filed an allegation or participated in an investigation at JFK POE. The PFC informed the Auditor there have been no allegations of retaliation made at JFK POE during the audit period.

§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)
- 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)
- 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)
- 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) JFK POE meets the standard provision. CBP Directive 2130-030 informs CBP personnel they may be subject 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. There were no substantiated allegations of sexual abuse at JFK POE during the last 12 months. The interview with the HQ LER and PSD SMEs verifies disciplinary action is pursued in all cases of substantiated sexual assault or violating sexual abuse policies and removal is always the presumptive action.

(c) JFK POE meets the standard provision. CBP Directive 2130-030 requires OPR to report all removals or resignations in lieu of removal to appropriate Law Enforcement agencies for violations of agency or facility sexual abuse and/or assault policies, unless the activity was clearly not criminal. The interview with the HQ LER SME reveals there were no reports of substantiated sexual abuse/violation of sexual abuse policies for staff at JFK POE. The interview with the HQ SAAI SME confirms all substantiated cases of sexual abuse are referred to appropriate Law Enforcement agencies by the PFC and notification is coordinated by HQ SAAI SME. The PFC confirmed he is aware of these duties.

(d) JFK POE meets the standard provision. CBP Directive 2130-030 requires OPR to report all removals or resignations in lieu of removal to any relevant licensing bodies for violations of agency or facility sexual abuse and/or assault policies, to the extent known. The interview with the HQ SAAI SME verifies removals for substantiated sexual abuse/violations of sexual abuse policies would be reported to relevant licensing bodies, to the extent known. This report would be made by SAAI.

§115.177(a) and (b) – 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)
- Not Applicable (provide explanation in notes)

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. However, JFK POE does not use contractors or volunteers; only sworn officers have contact with detainees.

§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) JFK POE meets the standard provision. Detainee victims of sexual abuse at JFK POE would be immediately treated by CBP Emergency Medical Technicians (EMT'S) at JFK POE, if available. The victims would then be transported by PAPD to Jamaica Hospital Medical Center; an officer accompanies the detainee until he/she is discharged from the hospital and returned to JFK POE. According to the PFC, Jamaica Hospital Medical Center offers the comprehensive medical services as outlined in the standard provision. The services are provided without cost to the detainee and regardless of the detainee's cooperation with the investigation.

§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) JFK POE meets the standard provision. 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 or the agency must document the reasons for not doing so in a written response. The report and response is to be forwarded to the PSA Coordinator. The Auditor interviewed the PSA Coordinator about the incident review process for allegations of sexual abuse. The PSA Coordinator stated the operational offices of CBP conduct sexual abuse incident reviews consistent with the procedures outlined in Section 18.1 of Directive 2130-030 at the headquarters at the vice regional level. If the recommendations are not adopted by the facility, then the reason for not implementing them would be documented in writing with both documents forwarded to the PSA Coordinator. The PFC confirmed his awareness of the requirement recommendations are to be implemented. There were no sexual abuse allegations during this audit period.

§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's Signature

May 1, 2020

Date

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



U.S. Customs and Border Protection

AUDITOR

Name of Auditor: [REDACTED]	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

PROGRAM OFFICE

Name of Program Office: Office of Field Operations

SECTOR OR FIELD OFFICE

Name of Sector or Field Office: New York Field Office
Name of Chief or Director: (b)(6)(b)(7)(C)
PREA Field Coordinator: (b)(6)(b)(7)(C)
Sector or Field Office Physical Address: One World Trade Center, Suite 50.200, New York, NY 10007
Mailing Address: (if different from above) Same as Above

SHORT-TERM FACILITY BEING AUDITED

Information About the Facility

Name of Facility: John F. Kennedy International Airport Port of Entry
Physical Address: JFK International Airport, Bldg. #77, Jamaica, NY 11430
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: Port Director
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) Office of Field Operations (OFO), John F. Kennedy (JFK) International Airport Port of Entry (POE), was conducted on April 23-24, 2019, and the preliminary findings report was submitted on June 21, 2019. Following comments from CBP Headquarters and from the reviewing Auditor, the report was submitted as a Final Draft on May 1, 2020.

At that time, the Auditor reviewed the compliance of 25 Subpart B standards and the JFK International Airport POE was found to be in compliance with 20 standards: (115.111; 115.114; 115.116; 115.117; 115.122; 115.131; 115.132; 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 JFK International Airport POE was found to not be in compliance with four standards: (115.113; 115.115; 115.121; and 115.141). One standard was found to be not applicable: (115.118).

On June 1, 2020, the JFK International Airport POE submitted a preliminary Corrective Action Plan (CAP) with a completion date of June 30, 2020, however, at the Reviewing Auditor's request, the CAP was updated and received on August 7, 2020. In conjunction with the CAP, the JFK International Airport POE submitted an Annual Review of Detainee Supervision Guidelines document to comply with 115.113; training musters, and rosters of staff completing the course to comply with standard provision 115.115 (f); and a letter to the Port Authority of NY/NJ Police Department requesting they follow the PREA standards when conducting sexual abuse and/or sexual assault investigations to comply with standard provision 115.121 (b). The Reviewing Auditor reviewed the documents received and requested additional information for standard provisions 115.113 and 115.115, however, the document received for standard provision 115.121 was found to be sufficient. On August 19, 2020, the JFK International Airport POE submitted the documents as requested. The information received was reviewed by the Certified PREA Reviewing Auditor and accepted. The JFK International Airport POE is now compliant with all the PREA Standards.

Although there was regular 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 replied 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 June 1, 2020, the JFK International Airport POE submitted a record of an Annual Review of Detainee Supervision Guidelines dated January 7, 2020. The record included all of the elements as required in standard provision 115.113 (c); however, the document excluded the participant names of the leadership who conducted the annual review of the detainee supervision guidelines. The Reviewing Auditor sought and received an additional document which listed the names of the leadership conducting the annual review of detainee supervision guidelines on August 7, 2020. The JFK International Airport POE is now compliant with standard provision 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 June 1, 2020, the JFK International Airport POE submitted musters dated December 2018, titled "Processing Transgender Applicants for Admission," and a partial roster of staff acknowledging and understanding of the performance requirements of the proper pat-search of transgender detainees. On June 18, 2020, the JFK International Airport POE submitted additional evidence establishing that 75% to 80% of all port employees participated in re-training. The Reviewing Auditor reviewed the documents and determined additional information was required since the documents were dated prior to the audit. On August 19, 2020, the JFK International Airport POE submitted a supplemental muster to staff re-iterating the December 2018 musters that outlined officer performance requirements of the proper pat-search of transgender detainees. The Reviewing Auditor determined these records satisfied compliance. The JFK International Airport POE is now compliant with standard 115.115 (f).

§115. 121

- 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 June 1, 2020, the JFK International Airport POE submitted a copy of correspondence dated May 1, 2020, to the Port Authority of NY/NJ Police Department requesting that the agency follow the requirements of Section 115.121 (a – d) of the DHS PREA Standards setting forth provisions regarding evidence protocols and forensic medical examinations, when investigating allegations of sexual abuse and/or assault at the facility.

These policies include detainee victim consent to undergo a forensic medical examination at a medical facility, including SANE/SAFE where practicable or if not available, other qualified health care personnel can perform the examination. The law enforcement agency received the applicable standard requirements as an attachment. The JFK International Airport POE is now compliant with standard provision 115.121 (e).

§115.141

- 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 August 17, 2020, the JFK International Airport POE submitted re-training documentation to comply with standard 115.141 (a). The re-training consisted of staff completing a PREA Risk Assessment checklist to identify if detainees are at a high risk of being sexually abused or sexually abusing others and steps to be taken if they are identified as such. A training roster of staff understanding and acknowledgements were also received to comply with the standard provision. The Reviewing Auditor reviewed the documentation and the standard provision meets satisfactory compliance.

On August 7, 2020, the JFK International Airport POE submitted a blank PREA Risk Assessment form to comply with standard 115.141 (b) and (c). The Reviewing Auditor requested a random sampling of completed PREA Risk Assessments. On August 17, 2020, the JFK International Airport POE submitted a random sampling of completed detainee PREA Risk Assessments. The PREA Risk Assessment form is a checklist completed by officers based on their observation and/or documentation, to the extent that the information is available, to assess risk of sexual victimization and includes: if the detainee appears to have or identified as having a mental, physical, or developmental disability; if the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender non-conforming; if the detainee has self-identified as having previously experienced sexual victimization; and whether they have concerns regarding their physical safety. Additionally, the checklist also includes medical data which include: if the detainee appears to have psychological or medical needs; are on medication, pregnant or nursing; and determine if the detainee is able-bodied, deaf, blind or mute. Lastly, based on available documentation, the checklist includes: determining if the detainee has been previously incarcerated or detained; prior history for sexual offenses; prior history of violent offenses; and if there are signs of gang affiliation. At the conclusion of the interview and documentation, the officer makes a determination of the level of risk to the detainee or others. If necessary, heightened protection measures are initiated for the detainee and/or others. The Reviewing Auditor reviewed the training materials, rosters, and random completed PREA Risk Assessment forms and determined the standard provisions meet satisfactory compliance.

On August 7, 2020, the JFK International Airport POE submitted a random sampling of Safety Check documentation verifying staff were conducting 15-minute checks for those detainees who were determined to be at high risk to themselves or others. Additionally, they utilized the training document submitted on August 17, 2020, for standard provision 115.141 (a) which also directed staff to place a "Caution" sign for those detainees who were housed in individual holding rooms. The JFK International Airport POE also submitted photographs of the signs which have been posted by staff when a detainee is determined to be at-risk to themselves or others. A review of the documentation has determined the standard provision meets satisfactory compliance.

The JFK International Airport POE is now in compliance with standard provisions 115.141 (a) (b) (c) and (d).

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

September 8, 2020
Date