

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
-----------------	------------------------------------

PROGRAM OFFICE

Name of Program Office:	U.S. Border Patrol
-------------------------	--------------------

SECTOR OR FIELD OFFICE

Name of Sector or Field Office:	Grand Forks Sector
Name of Chief or Director:	(b)(6)(b)(7)(C)
PREA Field Coordinator:	(b)(6)(b)(7)(C)
Sector or Field Office Physical Address:	1816 17th Street NE, Grand Forks, ND 58203

Mailing Address: (if different from above) NA

SHORT-TERM HOLDING FACILITY BEING AUDITED

Information About the Facility			
Name of Facility:	Portal Station		
Physical Address:	500 2nd Avenue West Portal, ND 58772		
Mailing Address: (if different from above)	NA		
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)

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 Customs and Border Protection (CBP), U.S. Border Patrol (USBP), Portal Station, Portal, North Dakota, was conducted on June 4, 2019, by PREA Certified Auditor [REDACTED] (b)(6)(b)(7)(C), a contractor for Creative Corrections, LLC. The single-story facility is located at 500 2nd Avenue West, Portal, ND 58772, and is utilized by CBP for short-term, less than 12 hours, detention of individuals pending 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 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), CBPs Prevention of Sexual Assault (PSA) Coordinator, Privacy and Diversity Office (PDO), Headquarters (HQ); (b)(6)(b)(7)(C), Deputy Director, Personnel Security Division (PSD), 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; (b)(6)(b)(7)(C), Sexual Abuse and Assault Investigations (SAAI) Coordinator, HQ; (b)(6)(b)(7)(C), Assistant Chief, USBP, HQ, and (b)(6)(b)(7)(C), SBPA, Portal Station, provided the HQ and Local Pre-Audit Questionnaires (PAQ) along with supporting documents for the Portal Station on the secure CBP SharePoint website approximately three weeks 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.

No entrance or exit conference was held due to the lack of personnel at the facility; the majority of the agents in the Portal Station coverage area are resident agents and work from home covering specific zones assigned to them. The facility has minimal staff that reports directly to the facility. If a detainee is taken into custody, they are escorted by the agent taking them into custody and are directly supervised at the facility by that agent. If any additional Border Patrol Agents are at the facility at that time, they will assist in supervision if needed. The Auditor arrived at the Portal Station at 6:00 a.m. on June 4, 2019, and a brief discussion was conducted on the audit process.

Those persons informally briefed were:

(b)(6)(b)(7)(C), Assistant Chief, USBP, HQ
(b)(6)(b)(7)(C), SBPA

The Portal Station is a single-story facility that is located adjacent to the Portal Land Point of Entry (POE) to Canada. The facility has a single processing area where the detainees will be brought into for processing. The processing consists of an initial pat-down search and passing through the metal detector. The Detainee is then placed in one of the [REDACTED] (b) (7)(E) [REDACTED]. The cells have a toilet located in the back corner, which is behind a block half-wall; this wall completely blocks the view of the toilet from both the [REDACTED] (b) (7)(E) [REDACTED] in the door. The facility does not have any showers. The interviewed Supervisors stated that they will separate detainees by category, Family Units, Unaccompanied Juveniles, and Single Adults. The Family Units are housed together in a cell or will be seated on the bench in front of the processing counter if no one else is being detained at that time. Unaccompanied juveniles are held separately from other detainees, and in the least restrictive manner as possible. The Supervisors confirmed that they will always keep family units and unaccompanied juveniles separate from any single adult detainee.

[REDACTED] (b) (7)(E) [REDACTED]. These [REDACTED] (b) (7)(E) [REDACTED] in an office located off of the main room.

The main room consists of a counter which is utilized to process the detainees. The normal procedure is to process one detainee at a time to ensure privacy while asking questions. The facility can separate detainees by utilizing different cells.

Posters are located within the processing area; the posters provide the reporting avenues to report sexual abuse or sexual assault. These posters are in both Spanish and English.

Both facility Agents and Resident Agents utilize the Portal Station for processing.

During the site visit, the Auditor was unable to observe the detainee intake process as no detainees arrived at the Portal Station during the time the Auditor was present. The interviewed supervisors explained the intake process in detail and provided the Auditor the information given to the detainees. They further confirm the detainee would only be at the facility until they are processed, and arrangements can be made for transfer to a long-term facility in Grand Forks, ND. This is typically less than 12 hours. The detainees are under direct supervision while in the processing area and 15-minute rounds are made when they are in the holding cells.

The Auditor reviewed all relevant policies, procedures, and documents in assessing the Portal Station. Information not available in the original documents was asked for and received. The Auditor had access to all parts of the facility the

(b) (7)(E)

While on-site, the Auditor interviewed 4 Supervisors, 1 Local SME, and the PREA Field Coordinator. No detainees were present during the audit.

The Auditor also conducted a records review. The auditor conducted a records review for a random selection of staff, which included information on background checks and staff PREA training records. Additionally, Transport, Escort, Detection, and Search Assessment Forms were reviewed for three (3) detainees.

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.

After the audit, the Auditor and Assistant Chief (b)(6)(b)(7)(C) again met with (b)(6)(b)(7)(C), SBPA. The Auditor discussed observations made during the on-site audit and gave preliminary findings of the audit. The Auditor stated that no deficiencies were noted during the onsite audit, but no final determination can be made until all of the on-site notes from interviews, policies, and standard requirements were reviewed.

Upon completion of the Pre-Audit and on-site audit phases, the Auditor conducted a systematic evidence review of all the information obtained during the audit process. The Auditor utilized the PREA Audit: Auditor Factual Assessment Tool of PREA Implementation Subpart B-Short Term Holding Facilities, as a guide to ensure all aspects of each standard were met. This assurance was made by triangulation of the policies and documentation reviewed, the personal observations during the on-site audit, and through information received during the interviews. After taking all of these factors into account, the Auditor found the facility has met 22 standards (115.111; 115.114; 115.116; 115.117; 115.121; 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; 115.118 was not applicable; and did not meet standards 115.113 and 115.115.

Corrective action: The agency is not in compliance with 115.113: The facility needs to conduct an annual assessment of the detainee supervision guidelines and its application at Portal Station, taking into account all of the areas enumerated in the standards.

Corrective Action: The facility is not in compliance with 115.115: No specific transgender search training as required.

SUMMARY OF AUDIT FINDINGS	
Number of standards exceeded: 0	
Number of standards met: 22 + 1 not applicable	
Number of standards not met: 2	
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) CBP Policy on Zero Tolerance of Sexual Abuse and Assault signed by CBP's Commissioner on March 11, 2015, constitutes the agency's zero tolerance policy. CBP Directive 2130-030, Sexual Abuse and Assault Prevention and Response, was issued on February 5, 2018, and reissued on February 12, 2018, to all employees through CBP Central. These two policies mandate zero tolerance toward all forms of sexual abuse and sexual assault and outlines their approach to preventing, detecting, and responding to such abusive conduct. It defines in detail for all staff and detainees the prohibited acts. CBP National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015, sets forth nationwide Standards that govern CBP's interaction with detained individuals. The Supervisory staff interviews confirm staff were provided and are familiar with CBP Directive 2130-030. This policy is currently available to everyone on the agency webpage.

§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 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 confirmed with the facility Supervisors and the PREA Field Coordinator that the facility is staffed by a minimum number of Agents, most of the Agents assigned to the Portal Station coverage area are Resident Agents. The assigned staff who report to the facility is minimal, with the resident agents coming to the facility if they have a detainee in custody, and remaining with them throughout the processing. The Agents are assigned a specific coverage area within the Portal Stations area of responsibility, and they start and end their shift from home. These agents will respond to the station if they apprehend an alien, or for other various reasons such as training, etc. When an Agent detains someone they are in the custody of that specific agent, or a relief agent until they are either transported from the station to ICE custody, custody of other law enforcement, or released. The Supervisor Agents interviewed outlined this process, and the PREA Field Coordinator confirmed that he or the Patrol Agent in Charge would assist when someone is detained, and they are on duty. With the Agents being assigned in this manner the staffing is fluid and will change at the facility depending on the number of detainees in custody. The Auditor was informed the Portal Station maintains enough Agents to provide a safe and secure environment for detainees. The Supervisors and the PREA Field Coordinator state the established staff positions at the Portal Station are appropriate due to the remoteness of the coverage area. The facility has (b) (7)(E) in all of the cells. (b) (7)(E). The Auditor

reviewed the (b) (7)(E), which are located in an office in the holding area; (b) (7)(E) area, which is blocked by the previously mentioned half wall. The (b) (7)(E) someone is in custody; the Supervisors stated that an agent is in the large room at all times so the detainee will be under direct supervision.

(b)(c) CBP Directive 2130-030 requires USBP to develop and document comprehensive detainee supervisions guidelines for facilities under their respective control, which it has done with the issuance of the CBP National Standards on Transport, Escort, Detention, and Search. An annual review of those guidelines is to be performed to determine whether adequate levels are present for detainee supervision and monitoring, with a copy of the review to be provided the agency PSA Coordinator. The facility review must take into consideration: the physical layout of the facility; the composition of

detainees; the prevalence of substantiated and unsubstantiated instances of sexual abuse; findings and recommendations of incident reviews and any other relevant factors. The PREA Field Coordinator confirmed they conduct an annual review of the supervision guidelines taking into account 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. He further confirmed that supervision guidelines are outlined in the policy; this was confirmed during the policy review. The Auditor was not provided documentation that an annual review of the detainee supervision guidelines and its application was performed at the Portal Station. **Corrective action:** Provide documentation of the annual review of the detainee supervision guidelines and their application at the Portal station that takes all enumerated provisions of the standard into consideration.

§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) CBP TEDS requires the Portal 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 Supervisors who would process unaccompanied juveniles and family units taken into custody. They confirm unaccompanied juveniles are held separate from adults; they can place them into a holding cell by themselves or can have them sit in the main area under direct supervision. The Supervisors also confirm that minors accompanied by an adult are thoroughly vetted to the extent they can to ensure a parental or legal guardianship relationship. This includes the use of consulates, legitimate documentation, and interviews. If a legal relationship cannot be established, the minor is handled as an unaccompanied juvenile separated from adults, under the least restrictive setting under the direct supervision of an Agent. All unaccompanied juveniles are screened for credible fear, human trafficking, and their ability to make independent decisions. At the time of the audit no juvenile detainees or family units were being detained.

§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)(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 required, the policy requires supervisory approval prior to performing any strip/body cavity search; it must also be recorded in the appropriate electronic system of record. The policy further states Agents must not conduct visual body cavity searches of juveniles and will refer all such body cavity searches of juveniles to a medical practitioner. During the Supervisory Agent and Local SME interviews, they explained all detainees are cleared through the metal detector, and pat searched. If a female detainee is brought into the facility, and no female Agent is available, a female Customs and Border Protection Officer (CBPO) would respond from the adjacent Portal Port of Entry and conduct the pat search. They further confirm the facility does not conduct strip searches and body cavity searches.

(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. The holding cells at the facility have [REDACTED] (b) (7)(E) [REDACTED]; the Auditor reviewed [REDACTED] (b) (7)(E) [REDACTED]. The toilets in the cells are located behind [REDACTED] (b) (7)(E) [REDACTED]. The Agents confirmed they

knock on the door and announce upon entering. The holding cells have large windows that allow the detainees to see the Agents approaching the cell. The Portal Station does not have shower facilities, and it was confirmed that the detainees are not held at the facility any longer than necessary to process, which is under 12 hours.

(e) CBP TEDS prohibits staff from searching or physically examining a detainee for the sole purpose of determining the detainee's gender. If the detainee's gender is unknown, 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. Supervisory Agent interviews indicate they are aware of the prohibition on searching detainees to determine

their gender. The interviewed Supervisors confirmed that they received cross-gender pat search training in the academy, and conduct these searches utilizing the blade or back of their hands when searching the breast area. These searches are conducted in the field if there are exigent circumstances that exist, such as apprehending a detainee of the opposite gender, and the same-gender agent is not available. The Supervisors state these searches are necessary for overall Agents safety. The Supervisory Agents further confirmed they attend mandatory quarterly use of force training which includes scenario training, and handcuffing and searching.

(f) CBP TEDS specifically section 5.5 Search states under gender determination that if someone's gender is unknown the Agent will ask them how they identify. It also states that whenever operationally feasible the agent conducting the search will be of the same gender, gender identity or declared gender as the detainee being searched. Furthermore, the Agents are trained in cross gender pat searches not only at the academy but searching is one of the five topics that must be covered in the yearly training. During one of the quarterly trainings they cover arrest procedures which includes cross gender pat search procedures. All of the Supervisor Agents interviewed verified that they have received cross gender pat search training and were able to explain the procedure. They further stated that if a detainee's gender was in question, they would ask the detainee how they identified, and pat search them according to their gender identity, as TEDS states. The interviewed Supervisors confirmed that they received cross-gender pat search training in the academy, and conduct these searches utilizing the blade or back of their hands when searching the breast area. These searches are conducted in the field if there are exigent circumstances that exist such as apprehending a detainee of the opposite gender, and the same-gender agent is not available. The Supervisors state these searches are necessary for overall Agents safety. The Supervisory Agents further confirmed they attend mandatory quarterly use of force training which includes scenario training, and handcuffing and searching. The Agents are all sworn law enforcement officers and conduct cross gender pat searches as a normal part of their duties. The Auditor was unable to conduct Agent interviews to determine if they were aware of the procedures for conducting searches of transgender detainees. **Corrective Action:** Provide documentation all law enforcement staff at the Portal Station have received and understand specific training regarding the searching of transgender 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)(b)(c) 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 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. During staff interviews, the Auditor was informed if a communication problem exists during processing; the Agent utilizes Interpreters and Translations Incorporated to provide information to detainees in a language they understand. The Agents further state blind detainees would be dealt with individually with the Agent reading them information, and if deaf they would write back and forth. For low mental functioning individuals, they would provide verbal explanation to ensure they understood the information. The Agents confirm they would refer to the DHS publication, "A Guide to Interacting With People Who Have Disabilities" to assist in giving guidance on the best way to accommodate detainees who are deaf and can't speak, psychiatric, low-level learning, or low functioning detainees. The Auditor reviewed the publication and confirmed all of the disabilities are addressed. The interviewed Supervisor Agents confirmed that they always have found a way to interact with the detainees; this interaction is necessary to complete the processing of the detainee. They further confirmed that they do not use other detainees to interpret and would not in a situation of sexual abuse or assault.

§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) CBP Directive 2130-030 requires the Office of Human Resource Management (HRM) to establish policy and procedures to ensure CBP does not hire or promote employees and contractors or to enlist the service of volunteers who have had previous substantiated allegations of engaging in sexual abuse and assault to any position where they may interact with detainees in CBP holding facilities. The Auditor interviewed the HQ HRM SME and was informed CBP would 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 applicants for promotion, includes specific questions about any previous sexual abuse misconduct.

(b) 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 issued the U.S. Customs and Border Protection Standards of Conduct, and 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) ensure background investigations are conducted for applicants for employment and contractors having contact with detainees to determine the suitability and updated background investigations be conducted every five years for CBP personnel who may have contact with detainees. The HQ PSD SME indicates background checks for CBP are the most thorough investigations performed for DHS. She confirms the background investigators ask all potential employees and contractors if they have engaged in, or have ever been charged with, sexual abuse. She related an affirmative response results in the individual not being hired. The SME also informed the Auditor rechecks are initiated every five years. The Auditor submitted five names to OPR to review for background rechecks. The documentation provided by HQ demonstrated the five-year recheck was initiated within five years as required.

(e) The HQ HRM SME stated material omissions regarding this type of misconduct or providing false information are grounds for termination or withdrawal of an offer of employment.

(f) The HQ HRM SME confirmed that if a former employee were involved in a substantiated investigation and a future institutional employer where the employee applied to work requested the information, they would provide the information.

§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:

(a)(b) There has been no substantial expansion or modification to the Portal Station since original construction. The electronic surveillance system has not been added to or improved upon since that date. Therefore, the Standard is not applicable.

§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)(d) CBP Directive 2130-030 requires the Portal 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 victim detainees 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 is transported for a forensic examination to a medical facility that offers victim advocacy services, Agents will permit the detainee to use such services to the extent available, consistent with security needs. The PREA Field Coordinator confirmed a victim would receive medical and mental health treatment at no cost as well as allowing advocacy personnel access to detainees if available at the hospital where the detainee is sent. He further stated that a detainee would be transported to Trinity Hospital in Minot, ND, for a forensic medical examination. The nurses at the hospital follow the Sexual Assault Forensic Examination Procedures established by the North Dakota Board of Nursing. These procedures include protocols to maximize the potential for obtaining usable physical evidence. The Auditor confirmed this procedure by reviewing the North Dakota Board of Nursing Website and the North Dakota Model Law Enforcement Sexual Assault Policy dated September 2011. The Auditor further confirmed that North Dakota is a Child Advocacy Center State and all child victims under the age of 18 would be taken to the Northern Plains Children's Advocacy Center for treatment. The North Dakota Coalition on Sexual Assault and Domestic Violence website indicate that there is a crisis center in Minot that provides victim advocacy, the Auditor confirmed that it is a law in North Dakota that both a forensic examination and victim advocacy is offered, this is outlined on the coalition website. The facility SME was aware of these protocols and was familiar with the hospital and victim advocacy center. The auditor contacted both the

Trinity Hospital in Minot, ND, and the Northern Plains Children's Advocacy Center. The Auditor confirmed with a supervisor that the agencies will provide the services outlined above.

(e) The standard requires if the agency is not responsible for investigating allegations of sexual abuse; the responsible investigating agency is to be asked to follow the requirements of the standard. North Dakota Model Law Enforcement Sexual Assault Policy dated September 2011 governs sexual abuse investigations and outlines all provisions of the standard; therefore, the investigators would follow the standards during the investigative process. The Local SME confirmed the Burke County Sheriff's Office would conduct the criminal investigation of alleged sexual abuse at the facility, however he did not specify or provide documentation advising Burke County Sheriff's Office follow sections a-d of this standard, resulting in non-compliance. Corrective Action was initially found to be required requesting the Portal Station to provide documentation requesting Burke County Sheriff's Office follow sections a-d of this standard during their investigative process of an allegation of sexual abuse at the Portal Station; however, a letter dated May, 19, 2019 was provided to the Auditor on November 13, 2019, after the conclusion of the audit. The letter was issued to Burke County Sheriff's Office to follow sections a through d during their investigative process of an allegation of sexual abuse at the Portal Station prior to the audit, therefore, the Corrective Action is abated.

§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)(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). The Local SME and Supervisors confirm an allegation of sexual abuse would be reported to JIC and the Commissioner's Situation Room in accordance with policy. The PREA Field Coordinator confirms an Incident Report to the JIC and the Commissioner's Situation Room would be submitted upon learning of an incident. He also indicated the Burke County Sheriff's Office would be notified as they have the legal authority to conduct criminal investigations. All notifications would be documented in the Incident report. The Portal Station did not have any incidents of sexual abuse within the last 12 months.

§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 Auditor reviewed the training curriculum provided to staff at the Portal 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 on how to avoid inappropriate relationships with detainees, and how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender non-conforming detainees. The Auditor confirmed during interviews and review of the training materials that these topics are provided in training. The Auditor was provided a roster printed from PALMS showing all employees assigned to the Portal Station have received this training within the past 12 months. The Auditor further confirmed the training is provided every two years. The Local SME and Supervisors state the Portal Station does not have any contractors or volunteers who have contact with detainees. The facility has a cleaning contractor, however, the interviewed Supervisors stated that he does not enter the holding area when detainees are present and has no physical contact with the detainees.

§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:

CBP has published its zero policy through its webpage (<https://www.cbp.gov/about/care-in-custody>). The Portal Station notifies all detainees of its zero-tolerance policy through posters located in the holding area. The Auditor observed posters 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 toll-free number (provided). At the time of the audit, no detainees were held at the facility.

§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)(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 Local SME and Supervisors confirm the assessment is properly completed. The questions include asking the detainee about safety concerning PREA related issues. They also indicate they received training on the assessment through PALMS. The Local SME and Supervisors further confirm they can keep all detainees separate, and in a holding cell alone. Moreover, if the assessment indicates a detainee is at high risk for victimization or abusiveness, they would ensure the detainee is not placed in a (b) (7)(E) with anyone else.

(e) CBP TEDS requires the Portal Station to implement appropriate controls on the dissemination of private and sensitive information provided by detainees during this risk assessment. Agents can disclose this information only to those with a need to know. The Local SME and Supervisors indicate that the assessment information is transferred with the detainee in a sealed folder to their final destination. The detainees are not held at the facility for any longer than 12 hours, and the facility is not equipped to house long-term detainees.

§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)(b) CBP Directive 2130-030 requires detainees to be provided with multiple ways to privately report sexual abuse and 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 and anonymously, if desired, as well as both verbally and in writing. CBP's procedures for reporting alleged sexual abuse and assault are to be visible or continuously and readily available to detainees at holding facilities and posted on the CBP public website. The Auditor confirmed during the Local SME and Supervisor interviews the detainees are provided the reporting information through posters placed in the holding area. During the facility tour, the Auditor observed the posters; they are in both English and Spanish. The interviewed staff further confirm they utilize Interpreters and Translators Incorporated for any other language interpretation. The posters state the detainee

can report to the DHS OIG. The posters provide the telephone number to call. During the tour, the Auditor was shown the office in the holding area the detainees would be taken to if they wanted to make a phone call to report an allegation. This office was private and the staff indicated they would be placed in the room alone to make the call. The interviewed Supervisors indicated that the detainee did not have to provide a specific reason for wanting to call OIG. They also indicated that they would dial the number for them and leave the room to ensure they were contacting OIG. (c) CBP TEDS requires Agents at the Portal Station to receive allegations reported to them from third parties and promptly record such reports according to operational procedures. The interviewed Local SME and Supervisors confirm all verbal allegations of sexual abuse or sexual assault made to them would be documented in writing.

§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:

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. The posters in the holding area inform detainees of the DHS OIG telephone number.

§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)(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 JIC, or by contacting CBP Office of Professional Responsibility, OPR, and contacting DHS OIG to report all allegations of misconduct. The Auditor confirmed the reporting requirements during the Local SME and Supervisor interviews. They stated they would immediately report any allegation of sexual abuse, retaliation, or staff failure to perform their duties utilizing the reporting avenues outlined in the policy.

(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. Interviews with the Local SME and Supervisors confirm information would not be shared with other staff except on a need to know basis or during an investigation into the matter.

(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. Interviews with the Local SME and Supervisors confirm should a vulnerable adult or person under 18 be sexually assaulted at the Portal Station the Supervisor 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 he would make the notification to the proper State Agencies. Staff at the Portal Station indicate 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)
- 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. The Local SME and Supervisors interviewed indicate any detainee believed to be in imminent danger of being sexually abused will be separated from other detainees and placed under constant supervision. They all confirm the facility can place a detainee in a holding cell by themselves for protection.

§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)(b) CBP Directive 2130-030 requires staff at the Portal Station, upon receiving an allegation that a detainee was sexually abused while confined at another facility, the prior agency or administrator must be notified. Notification will be made as soon as possible but no later than 72 hours, which is outlined in the memorandum titled, Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities issued on August 13, 2014, by the Chief, USBP. An Incident Report to JIC and the Commissioner's Situation Room would be submitted as required by CBP Directive 3340-025E. Interviews with the Local SME and the PREA Field Coordinator confirm these notifications would be done immediately according to 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 Portal Station staff.

(c)(d) CBP Directive 2130-030 requires notification to other confinement facilities are to document the date and time the administrator at the other facility was notified of the allegation. Local SME and the PREA Field Coordinator confirm these notifications and documentation of the notification would be done immediately by the on-duty facility Supervisor. They further indicate if an allegation was received, it would be referred for an immediate investigation as outlined in the policy.

§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 staff on the scene of a reported allegation of sexual abuse. The Directive requires staff members to separate the alleged victim and abuser, preserve and protect the crime scene, and if the abuse occurred within a period that still allows for the collection of physical evidence, request the alleged victim and abuser do not take any actions that could destroy physical evidence. This is further outlined in the PALMS training that all staff complete. The Portal Station does not allow contractors, volunteers, or civilian staff into the holding area while detainees are present. The policy does, however, address their responsibilities if they do encounter a detainee and something is reported to them. The policy requires a contractor, volunteer, or civilian staff to request the alleged victim not to take any actions that could destroy physical evidence and notify law enforcement staff. The interviewed staff indicate they would separate the victim from the abuser, provide medical assistance if needed, preserve evidence to the extent possible, and notify their Supervisor. During the on-site audit, the Auditor did not see any contractors, volunteers, or civilian staff in the holding area.

§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 indicates that the entire document constitutes CBP's written institutional plan outlining the coordinated multidisciplinary team approach to responding to sexual abuse. The policy covers all aspects from hiring, training, reporting, responding, medical and mental health services, investigations, and data collection. The PREA Field Coordinator, during his interview, discussed the institutional plan. 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 assault is transferred to another DHS facility, the Portal 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 assault is transferred to a non-DHS facility, the Portal 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. The Local SME and the PREA Field Coordinator confirm that during the last 12 months, the Portal Station has had no cases requiring any such notification to a DHS or non-DHS facility. All incidents of this type require the Supervisor to submit an Incident Report to the JIC and the Commissioner's Situation Room upon notification. Any transfer or move would require the Supervisor to update JIC of the incident, and notify the receiving facility. This process was detailed to the Auditor by the PREA Field Coordinator as the Portal 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 consider whether any staff, contractor or volunteer alleged to have perpetrated sexual abuse and 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 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 if the seriousness of the allegation makes removal appropriate. The procedure was confirmed during the Local SME interview; he further indicates the Portal Station had not had any allegations of sexual abuse made against a staff member requiring this type of response.

§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:

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 assault. This retaliation prohibition is also detailed in the PREA training (PALMS) each staff member receives at the Portal Station. The Auditor interviewed the local SME, Supervisors, and the PREA Field Coordinator. Each was aware of the policy prohibiting retaliation against anyone who makes an allegation of sexual abuse or participates in the investigation. The PREA Field Coordinator informed the Auditor there had been no allegations of retaliation made at the Portal 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)
- 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) 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 assault and/or for violating CBP's sexual abuse policies. The Auditor confirmed with the HQ LER SME and HQ SAAI SME 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 instead of removal to appropriate law enforcement agencies for violations of the agency or facility sexual abuse and assault policies unless the activity was not criminal. The Local SME and HQ SAAI SME confirm CBP would notify law enforcement of all removals or resignations instead of removal for violations of the agency zero-tolerance policy. They further indicate there were no such resignations or removals at the Portal Station within the last 12 months.

(d) CBP Directive 2130-030 requires OPR to report all removals or resignations instead of removal to any relevant licensing bodies for violations of the agency or facility sexual abuse and assault policies, to the extent known. The Local SME and HQ SME from OPR confirm OPR would notify licensing bodies, if known, of all removals or resignations instead of removal for violations of the agency zero-tolerance policy. They confirm there were no such resignations or removals at the Portal Station within the last 12 months.

§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)

Notes:

CBP Directive 2130-030 requires any contractor or volunteer suspected of perpetrating sexual abuse and assault be removed from all duties requiring detainee contact pending the outcome of an investigation, as appropriate. As previously stated, the Portal Station does not allow contractors or volunteers in the holding area when detainees are present. The Auditor did not observe any contractors or volunteers in the holding room during the site visit. The Local SME indicates that if for some reason they had contact with a detainee and sexual misconduct was alleged to have occurred by them; this would result in their removal from duties and contact with any detainees pending investigation. He indicated he would be responsible for notifying 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. The Local SME and Supervisors confirm they are aware of alleged victims of sexual assault are to receive all medical service and medications without cost even if the detainee does not name the abuser or cooperate 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) CBP Directive 2130-030 requires after every investigation of sexual abuse and 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 are to be forwarded to the PSA Coordinator. The Auditor interviewed the PSA Coordinator about the incident review process for allegations of sexual abuse. She informed the Auditor the operational offices conduct sexual abuse incident reviews 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 Assault in CBP Holding Facilities. The Portal 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.

The Auditor was unable to complete the finalized report. The report was initially submitted by the Auditor on September 9, 2019. The report is now dated on the final submission date. Grammatical edits, added policy verbiage, and corrections were made to the report. The status of the findings has not changed; however, one Corrective Action was abated based on documentation provided after the conclusion of the audit, but prior to the audit being conducted.

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

January 10, 2020

Date



U.S. Customs and
Border Protection

PREA Audit: Subpart B

Short-Term Holding Facilities

Corrective Action Plan Final Determination

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		
PROGRAM OFFICE			
Name of Program Office:	U. S. Border Patrol		
SECTOR OR FIELD OFFICE			
Name of Sector or Field Office:	Grand Forks Sector		
Name of Chief or Director:	(b)(6)(b)(7)(C)		
PREA Field Coordinator:	(b)(6)(b)(7)(C)		
Sector or Field Office Physical Address:	1816 17th Street NE, Grand Forks, ND 58203		
Mailing Address: <i>(if different from above)</i>	Same as Above		
SHORT-TERM FACILITY BEING AUDITED			
Information About the Facility			
Name of Facility:	Portal Station		
Physical Address:	500 2nd Avenue West Portal, ND 58772		
Mailing Address: <i>(if different from above)</i>	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 United States Customs and Border Protection (CBP), U. S. Border Patrol (USBP), Portal Station, was conducted on June 4, 2019, by (b)(6)(b)(7)(C), Certified PREA Auditor, a contractor for Creative Corrections, LLC. The preliminary findings report was submitted on September 9, 2019. Following comments from CBP Headquarters and from (b)(6)(b)(7)(C), Certified PREA Auditor (Reviewing Auditor), the report dated January 10, 2020, was submitted in Final Draft on January 10, 2020.

At that time, the Auditor reviewed the compliance of 25 Subpart B standards and the Portal Station was found to be in compliance with 22 standards: (115.111; 115.114; 115.116; 115.117; 115.121; 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 Portal Station was found to not be in compliance with two standards: (115.113 and 115.115). One standard (115.118) was not applicable.

On February 2, 2020, the Portal Station submitted a Corrective Action Plan (CAP) dated January 27, 2020, with a completion date of January 31, 2020. The Reviewing Auditor requested additional documents to supplement the CAP. On March 19, 2020, the Portal Station submitted an Annual Review of Detainee Supervision Guidelines document, dated February 27, 2020, to comply with standard 115.113. The Reviewing Auditor determined the document satisfied compliance. The Portal Station submitted documents on October 16, 2020, to comply with standard 115.115. The submitted documents included a copy of a memorandum from the Chief, Strategic Planning and Analysis Directorate, dated September 17, 2020, to all CBP Patrol Agents and all Directorate Chiefs reinforcing proper pat search techniques for cross-gender, same gender, transgender, and intersex detainees. In conjunction with the memorandum, a Muster Module was attached which provides requirements of Safety Searches, Threat Assessments, and Pat Search Techniques for cross-gender, same gender, transgender, and intersex detainees. A retraining roster sign-offs was submitted to the Reviewing Auditor on October 19, 2020, confirming attendance and understanding of the aforementioned documents. The Reviewing Auditor reviewed the documents and found Portal Station to now be in compliance with standard 115.115. On October 21, 2020, the Reviewing Creative Corrections Certified PREA Auditor, (b)(6)(b)(7)(C), determined that the Portal Station is now in compliance with all standards.

Although there was ongoing communication between CBP and the Reviewing Auditor, the required Corrective Action was not completed within the 180-day deadline.

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 Portal Station submitted a record of an Annual Review of Detainee Supervision Guidelines as required by Standard Provision (b). The Reviewing Auditor reviewed the Annual Review of Detainee Supervision Guidelines document and determined all elements required by standard provision (c) had been satisfied. The Portal Station is now compliant with Standard 115.113 (b) and (c).

§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:

The Portal Station submitted documents to the Reviewing Auditor on October 16, 2020, to comply with standard provision 115.115 (f). The documents consisted of a memorandum from the Chief, Strategic Planning and Analysis Directorate, dated September 17, 2020, to all Chief Patrol Agents and Directorate Chiefs on the pat search techniques of transgender and intersex detainees according to the detainee's declared gender identity. 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. The memorandum also provided as an attachment, a Muster Module, which provides instruction to Patrol Agents in the safe search of suspects, threat assessments, and pat search techniques for cross gender, same gender, transgender, and intersex detainees.

The Portal Station submitted a staff retraining roster on October 19, 2020, confirming compliance for both staff retraining and understanding of the Muster Module. The Reviewing Auditor reviewed the documents and rosters and found them to meet the requirements of all elements of the standard.

The Portal 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"/> Low Risk
<input checked="" 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 type="checkbox"/> Does Not Meet Standards (Requires Corrective Action)	

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.

Reviewing Auditor's Signature

October 21, 2020

Date