

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



U.S. Customs and
Border Protection

AUDITOR

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

AGENCY

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

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

Name of Sector or Field Office:	Rio Grande Valley (RGV) 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:	4400 South Expressway 281, Edinburg, Texas 78539
Mailing Address: (if different from above)	

SHORT-TERM HOLDING FACILITY BEING AUDITED

Information About the Facility			
Name of Facility:	Rio Grande City Station		
Physical Address:	730 Border Patrol Lane, Rio Grande City, TX 78582		
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 U.S. Customs and Border Protection (CBP), U.S. Border Patrol (BP), Rio Grande City Station was conducted on August 27, 2019, by PREA certified Auditor (b)(6)(b)(7)(C), a contractor for Creative Corrections, LLC. The facility is located at Rio Grande City Station, Texas, and is utilized by CBP for short-term detention of individuals arriving at the border pending return to their country of origin, release from custody or transfer to a court, jail, prison, other agency or other 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), Preventive Sexual Assault (PSA) Coordinator, Privacy and Diversity Office (PDO), Headquarters (HQ); (b)(6)(b)(7)(C), Deputy Director, Personnel Security Division (PDO), HQ; (b)(6)(b)(7)(C), Employee Relations Specialist, HQ; (b)(6)(b)(7)(C), Branch Chief, Recruitment and Consulting Staffing Services in lieu of (b)(6)(b)(7)(C), Branch Chief, CBP Hiring Center, HQ; (b)(6)(b)(7)(C), Sexual Abuse and Assault Investigations Coordinator, HQ; (b)(6)(b)(7)(C), Assistant Chief, Policy Division, Strategic Planning and Analysis Directorate provided the (HQ) Pre-Audit Questionnaires (PAQ) along with supporting documents for Rio Grande City Station on the secure CBP SharePoint website prior to the on-site portion of the audit. Pre-audit preparation included a thorough review of all supplied documentation and supporting materials provided by the facility along with the data included in the completed PAQs. The documentation received included agency policies with corresponding attachments, procedures, forms, training curricula, and other PREA-related materials provided to demonstrate compliance with the PREA standards.

The Auditor arrived at Rio Grande City Station at 5:45 a.m., on August 27, 2019, to begin interviews. At approximately 8:00 a.m., the Auditor proceeded to the facility conference room where the in-briefing was conducted. Those in attendance were:

- (b)(6)(b)(7)(C), PSA Coordinator, PDO, HQ
- (b)(6)(b)(7)(C), National USBP PREA Coordinator, HQ
- (b)(6)(b)(7)(C), Deputy Patrol Agent in Charge
- (b)(6)(b)(7)(C), Agent/PREA Field Coordinator
- (b)(6)(b)(7)(C), Agent/PREA Field Coordinator
- (b)(6)(b)(7)(C), RGV Sector HQ
- (b)(6)(b)(7)(C), Supervisory Border Patrol Agent
- (b)(6)(b)(7)(C), SOS
- (b)(6)(b)(7)(C), Supervisory Border Patrol Agent
- (b)(6)(b)(7)(C), Supervisory Border Patrol Agent
- (b)(6)(b)(7)(C), Supervisory Border Patrol Agent

After a brief introduction session, the tour of Rio Grande City Station was conducted. There are (b)(7)(E) at Rio Grande City Station. Rooms have (b)(7)(E). This station is highly active in drug interdiction versus being a detainee holding station, but it is noted that both roles have been significant in the past year. The detainee holding mission was greatly reduced recently but is also subject to further change if conditions or Sector needs change in the future.

Each holding room contains (b)(7)(E), and the overall intake area has required posters on the walls in Spanish and English informing detainees of how and whom to report (verbally, including confidentially and anonymously, to the Office of Inspector General (OIG)) any allegations of sexual abuse, or reporting an incident of sexual abuse by telling a CBP official. They are also provided a sitting area within the hold room. Additionally, there are sitting areas outside of the holding rooms in the processing area. Rio Grande City Station is staffed around the clock by Agents. There are National Guard members and DHS Surge Force Volunteers allowed into the holding room, but Agents are always present. Rio Grande City Station receives males, females, juveniles and family units. Rio Grande City Station recently placed a new process by sending unaccompanied alien children (UAC)

directly to the Central Processing Center at Donna, Texas, since more resources and support exist at that facility. Rio Grande City Station processed significant numbers of detainees in recent years, but the new distribution processes have significantly reduced those numbers. The facility now focuses on drug interdiction rather than detention.

During the site visit the Auditor was able to review the detainee intake process by observing Agents walk the Auditor through the arrival and intake process that each detainee undergoes upon arrival. The typical time to be held at the Rio Grande City Station for detainees is normally just a few hours, and detainees are provided food and bedding to sleep on for the duration of the time they are there. There were no detainees present during the site visit.

Scope of the Audit: The Auditor reviewed all relevant policies, procedures and documents in assessing the Rio Grande City Station PREA procedures. The Auditor had access to all parts of the facility and observed the (b)(7)(E) in operation. While on-site, the Auditor interviewed 11 line Agents, one Volunteer and three local SMEs, including a Sector Training Officer. There were no detainees at the facility during the audit, not unusual in recent weeks due to a significant mission change that redirected their former populations to the Central Processing Center at Donna, Texas. Prior to that mission change, however, this station was routinely occupied with large detainee populations.

The Auditor also reviewed background investigation and training records for 11 randomly selected Agents assigned to the facility. There was one allegations of sexual abuse reported at the facility within the last 12 months. The report was closed on August 27, 2019, with a finding of unsubstantiated.

SUMMARY OF OVERALL FINDINGS:

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

On August 27, 2019, an exit briefing was held in the Rio Grande City Station Conference Room. In attendance were:

- (b)(6)(b)(7)(C), PSA Coordinator, (PDO), HQ
- (b)(6)(b)(7)(C), National USBP PREA Coordinator, HQ
- (b)(6)(b)(7)(C), Agent/PREA Field Coordinator
- (b)(6)(b)(7)(C), Agent/PREA Field Coordinator
- (b)(6)(b)(7)(C), Acting Watch Commander
- (b)(6)(b)(7)(C), SOS

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

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

SUMMARY OF AUDIT FINDINGS

Number of standards exceeded: 0

Number of standards met: 23

Number of standards not met: 2

OVERALL DETERMINATION

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

PROVISIONS

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

§115.111(a) – Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator.

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

Notes:

(a) CBP's Policy on Zero Tolerance of Sexual Abuse and Assault signed by the Commissioner on March 11, 2015, is the agency's main policy on zero tolerance which constitutes zero tolerance of sexual abuse and sexual assault. Additionally, CBP Directive 2130-030, Sexual Abuse and Assault Prevention and Response, dated January 19, 2018, was provided to staff on February 5, 2018 and again reissued on February 12, 2018, through the agency email program referred to as CBP Central. These two policies outline the agency's approach to preventing, detecting, and responding to all forms of sexual abuse and sexual assault. The policies are supplemented with CBP National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015, which sets forth nationwide Standards that govern CBP's interaction with detained individuals. The random staff interviews confirm they were provided and are familiar with CBP Directive 2130-030 and the Commissioner's Memorandum. They also receive this information during initial training and annual refresher training and it is covered routinely at shift muster trainings. The training SME also stated that PREA is a routine topic at quarterly refresher trainings in addition to the annual training. The policy is available to all staff on the agency webpage. Interviews with the PSA Coordinator, SME, and random staff interviews reflect the local leadership and staff commitment to zero tolerance toward all forms of sexual assault/abuse. All were aware of the procedures in place to minimize any issues or threat to detainees, which includes generally holding UAC's separately from adults, maintaining parent/child contact, and constant Agent monitoring and visual oversight. All Agents interviewed were aware of methods to separate potential problematic detainees and how to report any issues through the chain of command. Posters regarding PREA information and compliance are located in all rooms, along all key walls in transit areas and at each desk used to intake detainees.

§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 each facility to maintain sufficient supervision of detainees, appropriate staffing levels and, where applicable, (b)(7)(E), to protect detainees against sexual abuse. The Auditor spoke with the facility SMEs and the PREA Field Coordinator (PFC) who discussed at length the supervision guidelines. There are no definitive daily staffing numbers established at Rio Grande City Station since the workload can vary a great deal. Staff numbers are driven by the number of detainees brought in for processing. Rio Grande City Station always maintains enough Agents to provide a safe and secure environment for detainees, and all agents are subject to be realigned to detainee management at any time in order to ensure detainee safety. The Local SME staff and the PFC state the established staff positions are appropriate and flex from day to day. The following parts of the facility are monitored (b)(7)(E): parking lot, lobby, sally port, detention, detainee population general movement areas outside their holding rooms, halls and holding rooms that are monitored by BPA/SBPA Staff, G4S & National Guard (Control Room). (b)(7)(E) is used to supplement staff but is not to substitute for staff presence.

(b)(c) The Standard requires an annual review of these 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. CBP Directive 2130-030 requires U.S. Border Patrol develop and document comprehensive detainee supervision guidelines for facilities under their control and has done so through the issuance of CBP TEDS. The directive further states that an annual review of the detainee supervision guidelines and the results of the review be provided to the PSA Coordinator. The Auditor was not provided written

documentation that an annual review of the supervision guidelines was performed during the audit period at Rio Grande City Station resulting in non-compliance. It is noted that leadership interviewed did consider all required factors and had developed guidance for supervision for juveniles and UACs so the factors in the standard appear to have been considered and utilized. Therefore, while meeting sections of this standard provision, Rio Grande City Station did not provide documentation that annual review of the detainee supervision guidelines was conducted. **Corrective Action:** Provide documentation of the annual review of detainee supervision guidelines at Rio Grande Valley Station taking into consideration all elements within standard provision (c).

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

§115.115(b) through (f) – Limits to cross-gender viewing and searches.

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

Notes:

(b)(c) CBP TEDS details the type and conditions under which searches can and will be performed to ensure the safety of Agents, civilians and detainees. It prohibits cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances including consideration of officer safety, or when performed by medical practitioners. If performed, the policy requires these strip/body cavity searches be recorded in the electronic system of record. CBP TEDS details that Officers/Agents must not conduct visual body cavity searches of juveniles and shall refer all such body cavity searches of juveniles to a medical practitioner. During random interviews, the Local SME, Agents, and Supervisors explained according to policy requirements the conditions under which pat searches, strip searches and body cavity searches could be performed. All indicate strip searches and body cavity searches are not done at the Rio Grande City Station. Their explanations are in compliance with the Standard and agency policy, and any such search would require supervisory approval and entry into the e3DM Detention Module, the electronic CBP detainee information and tracking module. There have not been any such searches in the past 12 months at Rio Grande City Station.

(d) CBP TEDS specifies the requirement that enables detainees to shower (where showers are available), perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or under medical supervision. As previously noted, there are (b)(7)(E) and there is a partition I around the toilets in each of the holding rooms which provides for appropriate privacy for the detainee. Detainees can see the Agents prior to their knocking, announcing and entering. Detainees were transported outside of the facility for showers, either to the Central Processing Center or the Donna facility since Rio Grande City Station had no showers onsite, but a modular shower facility was in the process of being located at this facility at the time of the site visit, and the PFCs report that it is now in operation. The (b)(7)(E) (b)(7)(E) which are largely glass. (b)(6)(b)(7)(C) and available to anyone in the control room. Rio Grande Station has (b)(7)(E) within

the processing/open areas (b)(7)(E) . (b)(7)(E) . The facility has had no (b)(7)(E) since opening in 2001. (b)(7)(E) . There is a half-wall around the toilets in each of the holding rooms to provide some privacy and (b)(7)(E) . Interviews with Agents confirm they knock on the door or window and announce upon entering.

(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. Interviews with random staff indicate staff are aware of the prohibition on searching detainees to determine their gender.

(f) TEDS 3.4, states, "Whenever operationally feasible, officers/agents conducting a search or that are present at a medical examination, must be of the same gender, gender identity, or declared gender as the detainee being searched. Cross-gender strip searches or cross-gender visual body cavity searches must not be conducted except in exigent circumstances including consideration of officer safety, or when performed by medical practitioners. When officers/agents of the opposite gender perform a strip search or are present at a medical examination such as a body cavity search, monitored bowel movement, or X-ray, it is mandatory that two Agents be present." Random staff indicated in their interviews all pat searches are required to be performed in a professional manner, but the specific manner of conducting searches of transgender detainees is not identified. They stated that same sex pat searches are the norm, but in a situation involving safety of the Agent and no same gender Agents are available to conduct the search, opposite gender Agents may conduct pat searches. Some interviewees informed the Auditor they have not yet received pat search training specific to transgender and intersex detainees that is aligned with new guidance and direction. The interviewed staff gave differing answers that reflected two different understandings of transgender search policies and procedures: one based on the old policy of search based on detainee gender assigned at birth; the other one based on the new policy of searching by the same gender staff as the detainee identifies. A review of both policy and the training curriculum for staff at the Rio Grande City Station reveals Law Enforcement staff did not receive specific training on conducting pat down searches of intersex and transgender detainees as required by the Standard provision. The Standard provision is not compliant. **Corrective Action:** Provide documentation all staff have been trained on the procedures for conducting searches of transgender and intersex detainees as required by the Standard.

§115.116(a) through (c) – Accommodating detainees with disabilities and detainees who are limited English proficient.

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

Notes:

(a)(b)(c) 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 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. Detainees who arrive at the Rio Grande Station and have a hearing, vision or cognitive disability have been accompanied by family members that have assisted in translation as needed. Family members are asked if there are any special accommodations needed for the detainee. All subjects who fall into this category are prioritized for expedited placement with Immigration and Customs Enforcement/Enforcement and Removal Operations (ICE/ERO) or the Department of Health and Human Services/Office of Refugee Resettlement (HHS/ORR so that their stay in USBP custody is minimized as much as possible. During the staff interviews, the Auditor was informed if a communication problem exists during processing the Agent utilizes the Language Line translation service to provide information to detainees in a language they understand. The intake area has wall posters ("I Speak") that enable the detainee to identify their language of origin. Family members also assist with the care of the detainee while in custody, explaining the process to the detainee and explaining their specialized needs as an impaired detainee. The Agents further stated deaf detainees are dealt with individually with the Agents providing them information through accompanying family members. Local agencies and private services have deaf signing personnel available, including VAIL Deaf Services, Rio Grande Valley Interpreters for the Deaf, and a deaf signing certification training program at STC (South Texas College). There have reportedly been only a few deaf individuals in the past 12 months and written communications were adequate, and interpreters were not required in either case although the family did, in each case, provide support and assistance. Agent and SME interviews indicate that they have provided information to visually challenged or blind detainees by reading salient PREA intake risk assessment questions and also reading data and information to them, and simultaneously acting as an interpreter, if necessary. Detainees would not, under normal circumstances, be allowed to interpret for another

detainee unless the detainee expressed a preference for the detainee to provide interpretation, and CBP determines that such interpretation would be consistent with DHS policy. This is normally the accompanying family member, as it is extremely rare for deaf or low-functioning individuals to travel alone and unaccompanied. However, interpretation would never be provided by alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser. There were no detainees present during the audit visit to interview.

§115.117(a) through (f) – Hiring and promotion decisions.

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

Notes:

(a)(b)(e)(f) CBP Directive 2130-030 requires the Office of Human Resource Management (HRM) to establish policy and procedures and ensure CBP does not hire or promote personnel who have had previous substantiated allegations of engaging in sexual abuse and/or assault to any positions where the employee may interact with detainees in CBP holding facilities. The Auditor interviewed the HQ HRM SME prior to the site visit and was informed CBP will not hire or promote any employee or contractor who has been found to have engaged, been convicted of engaging, or civilly or administratively adjudicated to have engaged in sexual abuse as defined in the Standard and agency policy. She also states interviews conducted with new applicants as well as any applicants for promotion include specific questions about any previous sexual abuse misconduct, and material omissions regarding this type of misconduct or providing false information are grounds for termination or withdrawal of an offer of employment. The HQ HRM SME informed the Auditor all staff have 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 suitability and that updated background investigations be conducted every five years for CBP personnel who may have contact with detainees. The HQ OPR/Personnel Security Division (PSD) SME indicates background checks (Tier 4, Tier 5) for CBP are the most thorough investigations performed for DHS. She informed the Auditor a question asked by all credentialed background investigators to applicants is, "Have you ever engaged in or have you ever been charged with sexual abuse?" According to her, 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 11 names to HQ to review for background rechecks and these were all scheduled in compliant time frames. Documentation provided by HQ demonstrated the five year rechecks were initiated within five years, resulting in compliance.

§115.118(a) and (b) – Upgrades to facilities and technologies.

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

Notes:

(a)(b) Rio Grande City Station was opened in August 2000 and there has been no substantial expansion or modification to the Station since that time. Between March 2019, and June 2019, the Rio Grande City Station expanded its detention capability by enclosing the sally port in order to safely manage the influx and detention of detainees, and to provide additional open space in which detainees could move around. When this was done, significant attention was given to ensuring (b)(7)(E) of the sallyport especially through the use of expanded (b)(7)(E) (b)(7)(E) in the sallyport area. Interviews with SMEs indicated that their primary concern was to ensure continued sexual safety of detainees while expanding detainee access to areas outside their holding rooms during their unstructured time periods. The leadership is also working on (b)(7)(E) (b)(7)(E) are supplemental and do not reduce or replace immediate staff supervision of detainees.

§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 Rio Grande City Station provide emergency medical treatment and crisis intervention services, including a forensic medical exam, in accordance with professionally accepted standards of care to alleged victims of sexual assault. The treatment is without financial cost to the detainee and regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident. CBP TEDS requires if the detainee (alleged victim) is transported for a forensic examination to a medical facility that offers victim advocacy services, Agents will permit the detainee to use such services to the extent available, consistent with security needs. The Auditor interviewed the facility SMEs and Agents. Both confirm detainee victims receive medical and mental health treatment at no cost as well as allowing advocacy personnel access to detainees. Medical services are provided by Mission Regional Medical Center, but detainees needing forensic exams and advocacy support are sent to nearby McAllen Medical Center. The auditor has spoken to Sexual Assault Nurse Examiner (SANE) staff at McAllen Medical Center and verified they have the required capabilities to perform forensic examination in compliance with PREA requirements, as well as having access to Victim Advocacy Services. (e) To the extent that the agency is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (d) of this section. The facility SME confirmed in his interview and in a subsequent telephone call that he has personally interacted and negotiated with the police department and hospital resources, including the Victim Advocate, and is aware of their compliance with PREA requirements. The SME provided the auditor a letter to local law enforcement (Sheriff, Starr County) verifying the requested compliance; and the auditor contacted the hospital SAFE/SANE staff at Valley Regional Medical Center, responsible for forensic exams and verified the SAFE/SANE capabilities, adherence to providing PREA requirements, and victim advocate access, available 24/7 through the hospital's Sexual Assault Response Team.

§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) and the Commissioner's Situation Room. The HQ Sexual Abuse and Assault Investigations (SAAI) Coordinator and the Local SME both indicate sexual abuse allegations are reported to the Sector Operations Center and then on to the JIC and the Commissioner's Situation Room in accordance with policy. The PFC states the Watch Commander would submit an Incident Report to the JIC and the Commissioner's Situation Room upon learning of an incident. The Directive also requires the Rio Grande City Station report allegations of sexual assault/abuse to law enforcement agencies with the legal authority to conduct criminal investigations. According to the PFC, the facility Watch Commander would be required to notify local Law Enforcement after notification to the JIC. This notification becomes part of the Incident Report. The PSA Coordinator indicates in her interview that upon any notification of sexual abuse or sexual assault made to the JIC, she is immediately notified by the JIC (email) and/or the Commissioner's Situation Room, as stipulated in CBP Directive 3340-025E, Reporting Significant Incidents to the Commissioner's Situation Room, dated May 21, 2018. The facility had no sexual abuse allegations made and investigated during the prior 12 months. Staff, including SMEs, indicated that non-employee involved allegations would be referred to the Starr County Sheriff's Department. Employee involved allegations are referred to OPR via the Sector Operations Center. Law enforcement investigations could then be initiated by either the local police department or the FBI, if requested by the OIG or OPR. The Rio Grande City Station PFC provided the Auditor a recent letter to the Sheriff of Starr County verifying the need for the Sheriff's department to utilize PREA standards in any CBP incident involving their station. The SME reported that the initial telephonic response was positive but they have not yet received a written response.

§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 Rio Grande City 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, limits on information only to those who have a need to know, 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 are instructed on how to avoid inappropriate relationships with detainees, and how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, and transgender, intersex, or gender non-conforming detainees. Interviews with random staff and SMEs confirm the information is provided to staff in this training. They also informed the Auditor PREA training is provided to them every two years and includes these topics as well as the requirement to limit distribution of detainee information only to those involved with the detainee or whose positions require a need to know this data. The PALMS system is able to provide an up-to-date listing of staff trained and those needing training. Based on provided information from the Local SME, all individuals currently assigned to the Rio Grande City Station have had the required PREA training. The Auditor was informed training records for staff are maintained for their entire employment and an additional five years. As previously noted, there are no contractors or volunteers in contact with detainees at the Rio Grande City Station requiring this training. The Auditor was informed that if contractors or volunteers were to come in contact with detainees they would be required to attend the same PREA training as required by policy. CBP Directive 2130-030 was provided to all staff through the agency email program referred to as CBP Central. The Auditor interviewed 11 random Agents and three SMEs, including the Training Specialist. The auditor verified through HQ personnel office training records compliance for 11 staff and one volunteer.

§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:

Rio Grande City Station makes the zero tolerance policy available to the general public through the CBP webpage (<https://www.cbp.gov/about/care-in-custody>) and to all detainees through posters located in the processing area and outside the detainee holding areas. The posters observed were in English and Spanish. Information on the posters includes: CBP has zero tolerance for sexual abuse/assault; reporting can be anonymous and confidential; be safe and get help; tell a CBP official; how to call the DHS OIG toll free number provided, and telecommunication devices available by calling a toll-free number (provided). The Auditor did not speak with detainees since none were present. There is a private room to be used for phone access to both the OIG and foreign consulate personnel.

§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 hold room, the processing Agent must assess the information before them to determine if the detainee may be considered an at-risk detainee, or at risk of posing a threat to others. This assessment by policy includes: whether the detainee has exhibited a mental, physical or developmental disability; the age of the detainee; their physical build; any prior arrests or incarcerations; is the detainee identified as LGBTI or gender non-conforming; any prior sexual victimization and the detainee's own concerns about his/her physical safety. The Auditor reviewed the training all staff receives (PALMS) in order to perform this assessment. It is provided at the same time as the zero tolerance training and is part of that curriculum. The random Agent interviews conducted by the Auditor confirm this assessment is performed on each detainee arriving at the Rio Grande City Station to assess the detainee's potential vulnerability and/or potential abusive behavior. They further state if the assessment indicates any

potential vulnerability or abusive behavior with any detainee; he/she is provided with heightened protection or is separated from other detainees, as appropriate. If the detainee is abusive he/she is kept separate from those who are vulnerable. This may include direct sight and sound supervision, single room placement or seated in front of the Agent in the processing room. At the time of the site visit there were no detainees processed into the Rio Grande City Station for the Auditor to observe the process.

(e) CBP TEDS requires Rio Grande City Station implement appropriate controls on the dissemination of private and/or sensitive information provided by detainees during this risk assessment. Agents can disclose this information only to those personnel with a need-to-know per TEDS Section 4.2, Privacy. The staff interviews detailed for the Auditor the handling of this information: the written assessment is placed in the detainee folder after completion; at the end of the shift the supervisor removes the assessments and turns the documents over to the SOS where they remain in an office under lock and key. Interviews with Agents, Supervisor and SOS staff confirm this information is never shared and only provided on a need-to-know basis or under investigative questioning.

§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 be provided multiple ways to privately report sexual abuse and/or assault, retaliation for reporting sexual abuse and/or assault, or staff neglect or violations of responsibilities that may have contributed to such incidents. It further requires the facility 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/or assault are for staff to be visible or continuously and readily available to detainees at holding facilities. Additionally, the information is posted on the CBP public website. Interviews with the Local SMEs, random Agents and Supervisors confirm detainees are provided PREA information, through posters (Spanish and English) on how to report sexual assault, retaliation and staff failure to perform their duties, while remaining confidential and anonymous. Posters regarding PREA information and compliance are located in all rooms, along all key walls in transit areas and at each desk used to intake detainees. For those detainees who are not fluent in English or Spanish, the Agents utilize Language Line which provides telephonic translations for over 150 languages. Posters indicate detainees may report verbally or in writing to any CBP Official or by utilizing the toll-free telephone number to DHS OIG. DHS OIG is a government agency open to the public for reporting that is not part of CBP. Rio Grande City Station has a separate dedicated room space for private calls to both the OIG and to foreign consulates. When Agents were interviewed about the process for making anonymous and confidential reports to OIG, as there are no telephones in any of the holding rooms, interviewed Agents and SMEs stated that the detainee only needs to tell the Agent they wish to call the OIG number, not disclose what they wish to report, and the Agent would escort the detainee to the private interview room and give them an outside line to call. The Agents indicate they would step out of the room and close door, observing the detainee through the glass in the door.

(c) CBP TEDS requires Agents at the Rio Grande City Station to receive and act upon allegations reported to them from third parties and promptly report and record such allegations according to operational procedures. The Auditor was informed by the random Agents and Supervisors, during interviews, that all verbal allegations of sexual abuse or sexual assault made to them are documented in writing to their supervisor and treated identically to any received allegation. Although no anonymous allegations have occurred here, they would be treated the same as verbal or written allegations since CBP policies treat any allegation under the same processes and are required to be reported immediately to be investigated. These reports are made immediately (verbally) to supervisors, and the written report is submitted before departing at the end of the shift.

§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. Posters throughout the processing area inform detainees of the DHS OIG reporting telephone number for them to report an allegation. The Auditor accessed the website and found it to be operational. Interviews indicated third parties can contact the agency, including family or friends, attorneys, or consulate personnel, to make allegations of sexual abuse and their allegations are investigated as required of every allegation.

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

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

Notes:

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

(c) CBP Directive 2130-030 requires staff not to 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. The Agents and SMEs interviewed all were aware of, and confirmed their training on, the requirement to ensure all information they receive is not shared 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. The Local SME interviews and the PFC informed the Auditor that should a vulnerable adult or person under eighteen be sexually assaulted at the Rio Grande City Station the normal protocol would be to notify the Watch Commander who would submit an Incident Report to the JIC and the Commissioner's Situation Room. Notifications would be completed as required by CBP Directive 3340-025E. The PFC stated that he or the Watch Commander would make these notifications to the appropriate local and/or State Agencies as required and would inform the JIC of this information.

§115.162 – Agency protection duties.

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

Notes:

CBP TEDS states if an Agent has a reasonable belief a detainee may be subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee. This specific question was asked of the 11 random Agents interviewed and the three local SMEs. All indicate any detainee believed to be in imminent danger of being sexually abused would be separated from the other detainees and placed under constant supervision of an Agent. The safety of the detainee would be their primary focus. Depending on the number of rooms being used at the time the detainee would be placed in a holding room alone or under direct immediate supervision of an Agent.

§115.163(a) through (d) – Report to other confinement facilities.

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

Notes:

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

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

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

(d) The Standard requires the agency/office receiving a notification of an allegation occurring in a facility covered by this subpart to ensure the allegation is referred for investigation. Rio Grande Station has received no such notifications in the past 12 months. The SME interviews confirmed any sexual assault and/or sexual abuse would be referred for investigation.

§115.164(a) and (b) – Responder duties.

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

Notes:

(a)(b) CBP Directive 2130-030 details the responsibilities of the first law enforcement staff on scene of a reported allegation of sexual abuse. The Directive and PREA Training in PALMS reinforces the policy by requiring law enforcement staff members to separate the alleged victim and abuser, preserve and protect the crime scene, and if the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim and ensure that the alleged abuser does not take any actions that could destroy physical evidence. As previously noted, there are no contractors allowed in the holding rooms while detainees are present. During the random interviews, staff detailed their responsibilities as first responders. Each staff told the Auditor they would separate the victim from the abuser, provide medical assistance if needed, preserve evidence to the extent possible and notify their supervisor. During the site visit the Auditor did not observe anyone non-law enforcement personnel present in the area. CBP Directive 2130-030, does however, address non-law enforcement first responder duties if they were ever to allow them in the holding room. The policy requires non-law enforcement staff to request the alleged victim not take any actions that could destroy physical evidence and the notify law enforcement staff.

§115.165(a) through (c) – Coordinated response.

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

Notes:

(a) CBP Directive 2130-030 stipulates this entire document constitutes CBP's written institutional plan outlining the coordinated multidisciplinary team approach to responding to sexual abuse. The 21 sections of this Directive cover aspects from hiring, training, reporting, responding, medical and mental health services, investigations, and data collection. The PFC referred to this policy as one that drives local training to ensure that information about specific responsibilities are explained in the Directive and reinforced in training.

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

§115.166 – Protection of detainees from contact with alleged abusers.

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

Notes:

CBP Directive 2130-030 requires agency management to consider whether any staff, contractor, or volunteer alleged to have perpetrated sexual abuse and/or assault should be removed from duties requiring detainee contact pending the outcome of an investigation and shall do so if the seriousness and plausibility of the allegation make removal appropriate. The HQ SAAI Coordinator 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 when the seriousness and probability of the allegation make removal appropriate. If there is an alleged sexual assault or violation made against a contractor, the Station Chief would seek the removal of the contractor from the facility. The policy requirements were also verified by the local SMEs and the PFC. As noted previously, there are no contractors or volunteers currently allowed to have contact with detainees. The Local SMEs indicate there has not been any allegation of sexual abuse made against a staff member or contractor requiring this type of response.

§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/or assault. This retaliation prohibition is also detailed in the PREA training (PALMS) each staff member receives at the Rio Grande City Station. The Auditor interviewed 11 random staff, three local SMEs and a volunteer. Each was aware of the policy prohibiting retaliation against anyone who makes an allegation of sexual misconduct or participates in the investigation. There were no detainees present at the facility who either made an allegation or participated in an investigation to interview. The PFC informed the Auditor there have been no allegations of retaliation made at the Rio Grande City 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)
- X Not Applicable (provide explanation in notes):

Notes:

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

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

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

Notes:

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

(c) CBP Directive 2130-030 requires OPR to report all removals or resignations in lieu of removal to appropriate law enforcement agencies for violations of agency or facility sexual abuse and/or assault policies, unless the activity was clearly not criminal. The interview with the HQ SAAI Coordinator indicates CBP would notify law enforcement of all removals or resignations in lieu of removal for violations of the agency zero tolerance policy. The interview with the HQ SAAI Coordinator indicates that the Rio Grande City Station leadership, normally the Special Operations Supervisor or Station Chief, would notify law enforcement of all removals or resignations in lieu of removal for violations of the agency zero tolerance policy. The HQ SAAI Coordinator indicates there were no such resignations or removals at the Rio Grande City Station within the last 12 months.

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

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

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

Notes:

(a)(b) CBP Directive 2130-030 requires 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 Coordinator 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 also communicated to the Auditor by the local SMEs and the PFC. The local SMEs indicate there has not been any allegation of sexual abuse made against a staff member or contractor requiring this type of response. Their interviews also stated that CBP headquarters has established a more centralized system to review such cases in order to ensure investigation reviews and decisions are standardized. The removal of any offending contractor would come after the investigation(s) and after subsequent headquarters OPR review and the HQ decision would be executed at the local level by the local Patrol Agent in Charge.

§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 to 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. Interviews with the Local SMEs and the PFC confirm supervisors are aware of 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 all detainees requiring any medical treatment must be sent to McAllen Medical Center if forensic examinations are required. The Local Field PREA SME verified during the visit that both SAFE/SANE and advocate services are available at McAllen Medical Center.

§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:

CBP Directive 2130-030 requires at the conclusion of every investigation of sexual abuse and/or assault, 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 of allegations of sexual abuse. She informed the Auditor that the CBP HQ operational offices conduct sexual abuse incidents reviews consistent with the procedures outlined in Section 18.1 of CBP Directive No. 2130-030. She further stated the PSA Coordinator or Deputy Coordinator notifies the National USBP PREA Coordinator of the closure of the investigation so that an incident review panel of USBP officials can be convened to conduct the incident review. Rio Grande City Station had no incidents of sexual abuse and/or sexual assault allegations to require an incident review.

§115.187 – Data collection.

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

Notes:

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

ADDITIONAL NOTES

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

None.

AUDITOR CERTIFICATION:

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

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

Auditor

December 18, 2019

Date

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



U.S. Customs and Border Protection

AUDITOR

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

AGENCY

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

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

Name of Sector or Field Office:	RGV Sector
Name of Chief or Director:	(b)(6)(b)(7)(C), Chief Patrol Agent
PREA Field Coordinator:	(b)(6)(b)(7)(C), Special Operations Supervisor, (SOS

Sector or Field Office Physical Address:	4400 South Expressway 281, Edinburg, Texas 78539
Mailing Address: (if different from above)	Same as Above

SHORT-TERM FACILITY BEING AUDITED

Information About the Facility	
Name of Facility:	Rio Grande City Station
Physical Address:	730 Border Patrol Lane, Rio Grande City Station, TX 78582
Mailing Address: (if different from above)	Same as Above
Telephone Number:	(b)(6)(b)(7)(C)

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

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS:

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

An on-site audit of the U.S. Customs and Border Protection (CBP), U.S. Border Patrol (USBP), Rio Grande City Station, was conducted on August 27, 2019, and the preliminary findings report was submitted on October 21, 2019. Following comments from CBP Headquarters and from the Auditor, the report dated December 18, 2019, was submitted as a Final Draft on December 18, 2019.

At that time, the Auditor reviewed the compliance of 25 Subpart B standards and the Rio Grande City Station was found to be in compliance with 23 standards: (115.111; 115.114; 115.116; 115.117; 115.118; 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 Rio Grande City Station was found to not be in compliance with two standards: (115.113 and 115.115).

On December 18, 2019, the Rio Grande City Station submitted a preliminary Corrective Action Plan (CAP) with a completion date of January 1, 2020. The Auditor approved the CAP as written. On March 19, 2020, the Rio Grande City Station submitted an Annual Review of Detainee Supervision Guidelines document to comply with standard provision 115.113 (b). The Auditor reviewed the document and determined the document was missing several elements as required by standard provision (c). On May 7, 2020, the Rio Grande City Station submitted an amended Annual Review of the Detainee Supervision Guidelines document. The Auditor reviewed the amended document which met compliance with the standard. On November 14, 2020, the Rio Grande City Station submitted a memorandum from the Rio Grande City Station Patrol Agent in Charge to the Rio Grande Valley Sector Chief Patrol Agent advising him the staff had completed the training in accordance with the memorandum from the Chief, Strategic Planning and Analysis Directorate, dated September 17, 2020, to comply with standard 115.115. The memorandum provided guidance on conducting pat searches of transgender, intersex, or gender non-conforming individuals. The memorandum included a muster module as an attachment to be utilized in the training of the staff. In conjunction with these documents, staff re-training sign-offs documenting the understanding of the aforementioned documents was received. A review determined the documentation concluded the standard is now in compliance. The Rio Grande City Station is now compliant with all PREA standards.

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

PROVISIONS

Directions: After the corrective action period, or sooner if compliance is achieved before the corrective action period expires, the auditor shall complete the Corrective Action Plan Final Determination. The auditor shall insert the provision(s) below that required corrective action and state if the facility's implementation of the provision now "Exceeds Standard," "Meets Standard," or "Does not meet Standard." The auditor shall include the evidence 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 March 19, 2020, the Rio Grande City Station submitted a record of an Annual Review of Detainee Supervision Guidelines dated March 18, 2020, as required by standard Provision (b). The Annual Review of Detainee Supervision Guidelines document was reviewed, however, the document was missing elements as required by standard provision (c). On May 7, 2020, the Rio Grande City Station submitted an amended Annual Review of Detainee Supervision Guidelines. The Auditor reviewed the document and has determined the document meets compliance. The Rio Grande City Station is now in 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 November 14, 2020, the Rio Grande City Station submitted a memorandum from the Patrol Agent in Charge, Rio Grande City Station, to the Chief Patrol Agent, Rio Grande Valley Sector, advising him of the completion of the staff training and that if there were agents on leave, they would be required to complete the training based on the directive from the Chief, Strategic Planning and Analysis Directorate in a memorandum, dated September 17, 2020, issued to Chief Patrol Agents and Directorate Chiefs. The memorandum provides guidance on conducting pat searches of transgender, intersex, or gender non-conforming detainees and states when operationally feasible, searches will be conducted by a Border Patrol Agent of the same gender as the subject to be searched and that Border Patrol Agents should ask the subject to identify their gender identity when the gender of the subject to be searched is unknown. The memorandum further refers staff to sections 4.3 and 5.5 of the National Standards on Transport, Escort, Detention and Search (TEDS) policy which provides additional information on search techniques. A Muster Module providing additional instructions was also attached to the memorandum. The Muster Module included procedures to Patrol Agents in the safe search of suspects, threat assessments, and pat search techniques for cross gender, same gender, transgender, intersex, and gender non-conforming detainees. In conjunction with the documents, the Rio Grande City Station submitted staff training muster sign-offs and acknowledgements of the training received on the aforementioned documents. The Rio Grande City Station is now compliant with Standard 115.115 (f).

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

AUDITOR CERTIFICATION:

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

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

 November 27, 2020
Date