

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:	San Diego 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:	2411 Boswell Road, Chula Vista, California
Mailing Address: (if different from above)	

SHORT-TERM HOLDING FACILITY BEING AUDITED

Information About the Facility			
Name of Facility:	San Diego Sector Transit Facility (San Diego TSA)		
Physical Address:	311 Athey Street. San Diego, California		
Mailing Address: (if different from above)			
Telephone Number:	(b)(6)(b)(7)(C)		
Facility Leadership			
Name of Officer in Charge:	(b)(6)(b)(7)(C)	Title:	Program Manager (PM), STA Field PREA Coordinator
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 San Diego Transit Facility (TSA), was conducted on September 12, 2019, by PREA certified Auditor (b)(6)(b)(7)(C), a contractor for Creative Corrections, LLC. The San Diego TSA is set up as a transfer facility for male and female detainees being sent to U.S. Immigration and Custom Enforcement (ICE) facilities from one of the eight stations within the San Diego Sector. The facility does not accept juveniles or families. Once the San Diego Sector is notified that ICE beds are available, detainees are sent to this facility for pickup by ICE. Detainees are normally moved to TSA 24 hours prior to pick up by ICE. The facility is located at 311 Athey Street, San Diego, California.

The purpose of the audit was 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), CBP's 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, (b)(6)(b)(7)(C), National USBP PREA Coordinator, USBP, HQ, and (b)(6)(b)(7)(C), Assistant Chief, USBP, HQ, provided the HQ Pre-Audit Questionnaires (PAQ) along with supporting documents for the facility 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.

The Auditor arrived at the San Diego TSA at 5:40 a.m., on September 12, 2019, and proceeded to the Watch Commander's Office and was provided with a roster of staff working during the on-site visit. The Auditor used this roster to select the random list of staff to be interviewed. There were no contractors or volunteers listed or observed in contact with detainees in the detention section at the facility. Once the logistics for the on-site visit were completed, the Auditor proceeded to the facility Conference Room at 8:10 a.m., where the entry-briefing was conducted. Those in attendance were:

(b)(6)(b)(7)(C), Supervisory Border Patrol Agent (SBPA), San Diego TSA
(b)(6)(b)(7)(C), SBPA, San Diego TSA
(b)(6)(b)(7)(C), Program Manager (PM), STA Field PREA Coordinator
(b)(6)(b)(7)(C), PSA Coordinator, PDO, HQ
(b)(6)(b)(7)(C), Language Access Coordinator, PDO, HQ
(b)(6)(b)(7)(C), National USBP PREA Coordinator, USBP, HQ

After introductions, the Auditor provided an overview of the audit process to include the on-site visit. There was a brief question and answer period that concluded the entry briefing. A tour of the San Diego TSA area began following the entry briefing. At the time of the site visit there were no detainees present. The typical hold time is 24 hours but can be as little as three hours depending on the bus schedule. The detention area includes (b)(7)(E) Barrack number 5, where all intakes are conducted (b)(7)(E). Each of the barracks differs in size and rated capacities. Each of the barracks, including the (b)(7)(E). The toilets have a half-wall for privacy when using the toilet. Detainees are allowed the clothes they are wearing and do not change from what they are wearing. There are a total of (b)(7)(E) throughout each of the (b)(7)(E) and in all living area in each of the barracks. There is one control room in Barrack 5 typically staffed by an Agent and Supervisor that (b)(7)(E) (b)(7)(E). The Auditor toured this area and found (b)(7)(E) in any barracks or (b)(7)(E).

Scope of the Audit: The Auditor reviewed all relevant policies, procedures and documents in assessing the San Diego TSA. The auditor reviewed 10 background clearances, and staff training records (all staff) at the San Diego TSA to determine standard compliance. The Auditor had access to all parts of the facility to include access to the (b)(7)(E). The Auditor was allowed to review all documentation to make necessary determinations for the audit. While on-site, the

Auditor conducted necessary interviews in a secure, confidential and private setting. The Auditor interviewed 10 staff (7 Agents, 2 Supervisors, and 1 local SME). The Auditor spoke with an Emergency Room Supervisor from the hospital (Palomar Health Center) that San Diego TSA would access for appropriate forensic medical examinations, crisis intervention and victim advocacy services. The hospital staff member indicated the facility utilizes Sexual Assault Nurse Examiner (SANE) examiners and has local advocates they call for all victims of sexual assault. Audit notices were posted at the facility and observed by the Auditor during the site visit.

No correspondence from detainees was received prior to or during the on-site visit. The Auditor noted the PREA signage throughout the facility with the reporting telephone number. The Auditor checked the reporting telephone number and found the reporting line operational. Those detainees needing to utilize the phone for any reason, according to staff, would only need to request to use the telephone and not specify the reason for the call. While on site, the Auditor interviewed no detainees as there were none present.

HQ and facility staff reported that there have been no allegations of sexual abuse/assault at San Diego TSA within the 12-month audit period.

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 September 12, 2019, an exit-briefing was held at approximately 4:10 p.m. In attendance were:

- (b)(6)(b)(7)(C), Program Manager, TSA
- (b)(6)(b)(7)(C), SBPA, San Diego TSA
- (b)(6)(b)(7)(C), PSA Coordinator, PDO, HQ
- (b)(6)(b)(7)(C), National USBP PREA Coordinator,, USBP, HQ

The Auditor discussed observations made during the on-site visit and gave preliminary findings of the audit. He informed those present of the PREA Standards that presented concerns; however, the Auditor would not be able to make any final determination until further reviews were conducted of all on-site notes from the tour, interviews, and policies.

Of the 25 standards reviewed during this audit, the Auditor found one standard (115.114) to be Not Applicable (N/A), 22 standards have been found to be compliant, and 2 standards, listed below, have been found to be non-compliant. There are four additional standards (115.134, 115.171, 115.172, and 115.187) that were not reviewed during this facility audit. They will be audited during an agency level audit that covers the Sexual Abuse Investigation standards.

Standards not found compliant:

115.113 As required by the standard, San Diego TSA did not provide documentation of an annual review of detainee supervision guidelines at the facility that takes into account all the elements required in Subpart (c) of the standard. Additionally, as required by CBP policy, San Diego TSA must provide the PSA Coordinator with the results of the annual review of the detainee supervision guidelines.

115.115 The Auditor was unable to find specific training on pat down searches of intersex and transgender detainees in a professional and respectful manner as required by the Standard. Agents indicated during interviews they were not provided search training specific to transgender or intersex detainees.

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

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) Every CBP employee was provided a copy of the agency written policy mandating zero tolerance toward all forms of sexual abuse and outlining its approach to preventing, detecting, and responding to such conduct through the March 11, 2015, CBP Commissioner's memorandum, CBP Policy on Zero Tolerance of Sexual Abuse and Assault. The agency Directive 2130-030, Prevention, Detection, and Response to Sexual Abuse and/or Assault in CBP Holding Facilities, issued January 19, 2018, is the most current policy directive mandating zero tolerance toward all forms of sexual abuse and sexual assault outlining the agency's approach to preventing, detecting, and responding to such conduct. These two documents are supplemented by CBP's National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015. This information mandating zero tolerance has been provided to all staff through email, attachments to staff leave and earnings statements, included in ongoing training, postings at the facility, and through the agency web page. Formal and informal questioning of staff confirmed their knowledge of the zero-tolerance policy and their responsibility to help prevent, detect and respond to sexual abuse.

§115.113(a) through (c) – Detainee supervision and monitoring.

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

Notes:

(a) CBP Directive 2130-030 requires CBP to ensure that each of its facilities maintains sufficient supervision of detainees, through appropriate staffing levels and, where applicable, (b) (7)(E), to protect detainees against sexual abuse. CBP TEDS requires that Agents closely supervise (b) (7)(E), when detainees are present and checked on in a regular and frequent manner. The local SME explained how the facility supervises its detainee population to protect against sexual abuse and, on a daily basis if necessary, modifies its supervision approach to protect detainees from sexual abuse. He further stated that when faced with a large number influx of detainees they have the ability to move Agents from other areas to meet their demands. Overtime would be utilized to provide proper supervision if necessary.

(b)(c) The Directive further requires CBP develop and document comprehensive detainee supervision guidelines to determine and meet each facility's detainee supervision needs and review those supervision guidelines and their application at each facility at least annually. The review must take into consideration the physical layout of the facility, composition of the detainee population, the prevalence of substantiated and unsubstantiated instances of sexual abuse, findings and recommendations of incident reviews and any other relevant factors. Per CBP policy, the results of the development of comprehensive detainee supervision guidelines and annual review must be provided to the PSA Coordinator. The Auditor was not provided with documentation to support that an annual review of the agency's comprehensive detainee supervision guidelines and application at the facility was performed during the audit period. Subparts (b)(c) of this standard are, therefore, found out of compliance since (b) requires a review annually and (c) requires what must be considered in the review. **Corrective Action:** San Diego TSA must provide documentation of an annual review of detainee supervision guidelines at the facility that takes into account all of the elements required in Subpart (c) of the standard. Additionally, as required by CBP policy, the review must be provided to the PSA Coordinator.

§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) This standard is not applicable as San Diego does not handle juveniles or families as noted in the PAQ and interview with the local SME.

§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 for Agents and Supervisors that cross-gender strip searches and cross-gender visual body cavity searches will not be conducted except in exigent circumstances, including consideration of Agents safety, or when performed by medical practitioners. The policy further requires whenever operationally feasible, officers/agents conducting a search must be of the same gender, gender identity, or declared gender as the detainee being searched. If any strip search or body cavity search is performed, including cross gender, it must be recorded/documentated in the appropriate electronic system(s) of record. The random Agents, Supervisors and the local SME confirmed during their separate interviews that cross-gender strip searches and cross-gender visual body cavity searches are not performed except in exigent circumstances or by medical staff. The local SME informed the Auditor that San Diego TSA had no cross-gender strip searches or body cavity searches performed during the previous 12 months. As noted earlier, there are no juvenile detainees placed at San Diego TSA.

(d) San Diego TSA has policy and practice in place through CBP TEDS requiring Agents to allow detainees to shower, 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 monitored bowel movement under medical supervision. Agents confirmed when questioned that each announces their presence prior to entering any area where detainees are likely to be showering, performing bodily functions, or changing clothing, except in exigent circumstances or when viewing is incidental to routine cell checks. San Diego TSA has detainee showers allowing privacy for the detainee from staff of the opposite gender. The shower area has (b) (7)(E). Also noted earlier, each of the (b) (7)(E) and all of the Barracks' sleeping areas (b) (7)(E). However, upon touring the station that had (b) (7)(E), the Auditor found no privacy concerns or cross-gender viewing issues.

(e) (b) (7)(E) prohibits Agents from searching or physically examining any detainee for the sole purpose of determining the detainee's gender. During random interviews, Agents confirmed if the detainee's gender is unknown, and the information is needed, it may be determined by the Agent during conversations with the detainee or by reviewing medical records (if available).

(f) The standard requires law enforcement staff be trained in the proper procedures of conducting pat down searches including cross-gender, transgender and intersex detainees. The Auditor reviewed the training curriculum on conducting pat down searches from the Performance and Learning Management System (PALMS). The training curriculum was not specific on pat down searches of intersex and transgender detainees in a professional and respectful manner as required by the Standard. Agents interviewed indicated they perform all pat searches in a professional manner. Four of the Agents interviewed informed the Auditor they did not receive pat search training specific to transgender and intersex detainees. They also stated same sex pat searches are the norm except in situations involving the safety of the Agent or exigent circumstances. The subpart (f) of this Standard is not compliant. **Corrective Action:** Provide documentation of specific training on intersex and transgender pat searches by San Diego TSA staff.

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

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

Notes:

(a)(b) CBP Directive 2130-030 and CBP TEDS require the agency to take appropriate steps to ensure that detainees with disabilities, including detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities, have an equal opportunity to participate in or benefit from all aspects

of the agency's efforts to prevent, detect, and respond to sexual abuse. Agents and Supervisors confirmed communication with detainees who are hearing impaired or deaf would include providing access to in-person interpretive services and written materials (signage). They further stated that providing information to a detainee who was blind or visually impaired would include individualized help from the Agents. This may include reading the sexual safety information to the detainee through an interpreter if the situation required it. They also confirmed that dealing with any detainee with an intellectual, psychiatric, or speech disability would also include individualized attention (medical or outside intervention) depending upon the need. The Auditor observed two CBP posters in each barrack and multiple areas in the detention area. The zero-tolerance signs were posted in both English and Spanish with a note in Arabic, Farsi, French, Hindi, Korean, Romanian, Simplified Chinese, Tagalog and Urdu informing detainees to report sexual abuse. The interviewed Agents confirmed that if a detainee speaks a language which is not listed on these posters, the Agent would provide written information to the detainee available either from the CBP intranet, which are translated into ten foreign languages, utilize translations services or Google translate. The PSA Coordinator confirmed the PREA posters are translated into ten foreign languages based upon frequency of encounters with Limited-English-Proficient (LEP) travelers nationwide, and the facility may access these posters in the PREA Resource Center located on the agency's Intranet website for printing and posting as needed. Should staff experience a detainee not from these predominant languages, the Agent has options available to provide the detainee with the information.

(c) CBP Directive 2130-030 and CBP TEDS requires in all matters relating to allegations of sexual abuse, the agency shall provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation, and the agency determines that such interpretation is appropriate and consistent with Department of Homeland Security (DHS) policy. The local Agents interviewed as well as the local SME indicted in all cases involving sexual abuse, San Diego TSA would utilize in-person services (depending on availability) or telephonic interpretation services that enables effective, accurate, and impartial interpretation. They also stated that in-person interpretation by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship another detainee would never be allowed. The use of another detainee, if requested by the alleged victim, would have to receive supervisory approval that is appropriate and consistent with the operational policies and procedures.

§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) The Human Resource Management (HRM) office at Headquarters (HQ) is responsible for establishing policy and practice to ensure CBP does not hire or promote personnel who have had previous substantiated allegations of engaging in sexual abuse and/or assault to any positions where the employee may interact with detainees in CBP holding facilities. Standard provision (a) also does not allow San Diego TSA to enlist the services of any volunteer who have had previous substantiated allegations of engaging in sexual abuse and/or assault. These specific requirements are outlined in CBP Directive 2130-030. During the interview with the HQ HRM Subject Matter Expert (SME), she confirmed CBP is prohibited from hiring or promoting any employee or contractor who has been found to have engaged, been convicted of engaging in, or civilly or administratively adjudicated to have engaged in sexual abuse as defined in this Standard and agency policy. She further stated that they do not enlist the services of a volunteer who have had previous allegations as required in standard provision (a). The HQ HRM SME also indicated that all prospective employees are asked on numerous occasions during the application and hiring process about any previous sexual abuse misconduct in their history. She further disclosed, unless prohibited by law, the agency would provide information on substantiated allegations of sexual abuse involving former employee upon receiving a request from an institutional employers for whom such employee has applied to work. This request would usually be handled by the legal department. She stated that policy HRM PREA SOP 2-29-16 prohibits promoting any staff member who violated the agency zero tolerance policy and any material omissions by any applicant or current employee regarding this type of misconduct or providing materially false information are grounds for termination or withdrawal of an offer of employment. The information on each employee's affirmative duty to disclose any such misconduct is provided to them, upon hiring, in their copy of the U.S. Customs and Border Protection Standards of Conduct. These reporting requirements are reviewed annually during staff training on PALMS as well. Agents interviewed were aware of this requirement and affirmative duty to disclose this information.

(c)(d) CBP Directive 2130-030 details suitability requirements for all staff including background investigations to be conducted on all applicants for employment and contractors. The Office of Professional Responsibility (OPR) is the department within CBP to ensure these background investigations are conducted and updated every five years on all

applicants for employment and contractors having contact with detainees. The HQ Personnel Security Division (PSD) SME confirmed that CBP background investigations (Tier 4 and Tier 5) are the most thorough investigations performed for DHS. Questions about prior incidents of sexual abuse or misconduct begin with the job announcement and continue throughout the suitability and eligibility determinations made for each applicant and contractor. Field interviews are conducted for contractors and employees with the questions specifically asked about sexual abuse misconduct. CBP utilizes five Investigative Service Providers to perform all field investigations. The HQ PSD SME informed the Auditor that question number three asked by all credentialed background investigators is, "Have you ever engaged in or have you ever been charged with sexual abuse?" An affirmative response to this question results in the individual not being hired. The local SMEs at San Diego TSA indicated the facility has no contractors having contact with any detainees. The Auditor did not observe anyone but law enforcement staff in any of the barracks or hold areas. The Auditor submitted 10 names to OPR to review for background rechecks. Documentation provided by HQ demonstrated the five year rechecks for each of the 10 staff were completed or 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)
- Not Applicable (provide explanation in notes):

Notes:

(a)(b) San Diego TSA was built during the 1940's and, according to the Patrol Agent in charge (PAIC); there has been no substantial expansion or modifications since May 2014. The facility has not expanded their (b) (7)(E) during the audit period; however, the local SMEs stated the recording time has been increased to 90 days.

§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) Alleged detainee victims of sexual abuse are to receive medical treatment services without financial cost regardless of whether the victim names the alleged abuser or cooperates with any investigation. This requirement is found in CBP Directive 2130-030. This policy also requires that a forensic medical examination be performed by a qualified health care personnel, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. The document further requires if the forensic examination is performed in a medical facility that offers victim advocacy services that Agents permit the detainee to use such services to the extent available, consistent with security needs. The Auditor interviewed the Emergency Room Supervisor from Palomar Health Center where detainees from San Diego TSA would be sent for forensic medical examinations. The hospital staff member stated their hospital utilizes SANE examiners and has local advocates they call for all victims of sexual assault. Interviews with Agents confirmed the advocates would be allowed access to the alleged victim consistent with security needs.

(e) The investigative process for allegations of sexual abuse includes the process where DHS OIG has the right of first refusal for all investigations of sexual abuse. If they decline, then OPR has the right to investigate the allegation according to the HQ SAAI SME. She indicated that local law enforcement would, in most cases, assist the criminal investigation. The local Police Department San Diego TSA utilizes is the San Diego Police Department. The Auditor tried to contact the investigators from this department, left messages, but received no return calls. The local SME confirmed this department would be responsible for responding to any criminal activity at the facility and he provided the Auditor with documentation requesting the Police Department comply with sections (a-d) of the standard.

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

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

Notes:

(c)(d) San Diego TSA is required by CBP Directive 2130-030 and CBP Directive 3340-25E, Reporting Significant Incidents to the Commissioner's Situation Room, dated May 21, 2018, to ensure each sexual abuse allegation is reported to the Joint Intake Center (JIC) and Commissioner's Situation Room, unless the allegation does not involve potentially criminal behavior, and is promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations. As noted in standard 115.121, the San Diego Police Department would be the appropriate

law enforcement agency to conduct an investigation. According to the local SME, the shift Watch Commander would make these notifications if and when required. The facility has had no reported incidents, so notifications have not been made. The PSA Coordinator confirmed that upon any notification of sexual abuse or sexual assault being made to the JIC and/or Commissioner's Situation Room, she would receive the allegation as soon as it is entered in the SIR Reporting System as stipulated in CBP Directive 3340-025E, and CBP Directive 2130-030. The facility has had no incidents to verify these notifications.

§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 the training of all employees, contractors, and volunteers who may have contact with holding facility detainees, on how to be able to fulfill their responsibilities under the PREA standards. The required training must include: 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; information on where sexual abuse may occur; recognition of physical, behavioral, and emotional signs of sexual abuse; methods of preventing and responding to such occurrences; how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender non-conforming detainees; and how to avoid inappropriate relationships with detainees. The curriculum for training these individuals, as required by policy and standard, is found in the CBP Commissioner's memorandum dated March 2016, (Mandatory General PREA Training). All Agents, contractors and volunteers who may have contact with detainees at San Diego TSA are required to receive PREA training through the PALMS System. As noted earlier, there are no contractors or volunteers at San Diego TSA having contact with any detainee. The PALMS System provides an up-to-date listing of all staff trained and those still requiring training. The Auditor was provided documentation that all individuals currently assigned to San Diego TSA have successfully completed the agency required PREA training. Agents interviewed confirmed the PREA training they received and discussed the topics as required by the standard. These individuals also confirmed refresher training is provided to them every two years. The local SME confirmed training records for staff are maintained for their entire employment and an additional five years. The Auditor was informed that if contractors or volunteers were to come in contact with detainees, they would be required to attend the PREA training as required by policy. The agency's zero- tolerance policy and CBP Directive 2130-030 were provided to all staff through the agency email program referred to as CBP Central. These documents were also attached to staff leave and earning statements and are currently available on the agency web page. As noted, the Auditor interviewed 10 staff (7 CBP Agents, 2 supervisors and 1 local SME).

§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:

Key information regarding CBPs' zero-tolerance policy regarding sexual abuse is provided to the general public through the CBP webpage (<https://www.cbp.gov/about/care-in-custody>). Key information regarding the agency's zero tolerance policy is provided to the detainees through signage placed throughout the facility. Two CBP posters were observed in multiple locations of the holding area containing a notice of zero-tolerance toward sexual abuse, as well as information regarding how and whom to report any incident of sexual abuse. The zero-tolerance signs were posted in both English and Spanish with a note in Arabic, Farsi, French, Hindi, Korean, Romanian, Simplified Chinese, Tagalog and Urdu informing detainees to report sexual abuse. These posters detail CBP's 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). The PSA Coordinator confirmed to the Auditor that the PREA poster has been translated into ten foreign languages based upon frequency of encounters with LEP travelers nationwide and that facilities may access these posters in the PREA Resource Center located on the agency's Intranet website for printing and posting as needed. Agents confirmed should they encounter a detainee who speaks a language other than those listed; the Agent would provide written information to the detainee available from this CBP intranet or utilize translations services available including Google translate. There were no detainees present at San Diego TSA to interview while the Auditor was on site.

§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)(e): Agents are responsible to process detainees and assess the information before him/her to determine if the detainee is considered to be an at-risk detainee, or at risk of posing a threat to others. This risk determination is required by CBP TEDS. This assessment considers, to the extent that the information is available: 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. Agents confirmed detainees processed at San Diego TSA are assessed about their safety but do not go through the typical routine "intake" procedures as they receive the detainees from another CBP facility. The Agents' processing desk has a laminated card reminding him/her to ask about concerns the detainee may have about their safety.

§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) Detainees at San Diego TSA must 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. This requirement is outlined in CBP Directive 2130-030. This document also requires the agency provide detainees with at least one way to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request. DHS utilizes the OIG as the public agency that is not part of CBP for detainees to report allegations of sexual abuse. While on-site, the Auditor checked the reporting telephone number for the OIG and found it to be operational. Other reporting information for every detainee at San Diego TSA is visible and readily available through signage providing detainees with reporting information in English, Spanish, Arabic, Farsi, French, Hindi, Korean, Romanian, Simplified Chinese, Tagalog and Urdu. The reporting information includes: telephone number (toll free), email address and physical address to JIC, email address and physical address and telephone number to the OIG. The PSA Coordinator also confirmed to the Auditor that the PREA poster has been translated into ten foreign languages based upon frequency of encounters with LEP travelers nationwide and that facilities may access these posters in the PREA Resource Center located on the agency's Intranet website for printing and posting as needed. Agents confirmed if they encounter a detainee who speaks a language not provided on the posters, they would provide written information to the detainee in the identified language available from the internet. The Auditor also asked Agents the process for detainees making anonymous and confidential reports to OIG. According to them, a detainee only needs to ask the Agent to use the phone. The Agent would then take him/her to a private office, dial the number and step out of the room allowing privacy for the call.

(c) The Agents interviewed confirmed all verbal allegations of sexual abuse made to them, including third party reports, are documented in writing and reported to their supervisor. This requirement is also outlined in CBP Directive 2130-030, requiring staff accept and promptly document in a significant incident report any allegation of sexual abuse of a detainee made verbally, in writing, anonymously, and from third parties.

§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 can receive third-party reports of sexual abuse in any of its holding facilities through reporting options available on the CBP web page, <https://www.cbp.gov/about/care-and-custody/how-make-report>. The Auditor verified the web page 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 toll free telephone number to report an allegation. The Auditor, as required, ensured the telephone line was working. There were no detainees available for interview during the site visit.

§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) Agents confirmed during interviews their requirement to report as promptly as possible all knowledge, suspicion, or information regarding: any incident of sexual abuse and/or assault of a detainee in a holding facility; any 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 as required to their supervisor. Each of the Agents also acknowledged their ability to report allegations of sexual abuse or any misconduct, outside their chain of command to the JIC hotline, email to the JIC, contacting the CBP Office of Professional Responsibility, or contacting DHS OIG.

(c)(d) Apart from the reporting requirement of subpart (a) of the standard, CBP Directive 2130-030, prohibits staff from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions. This policy also requires Agents and staff to report sexual abuse allegations involving alleged victims under the age of 18 or considered a vulnerable adult to the designated State or local services agency under applicable mandatory reporting laws. The local SME confirmed if any employee encounters a detainee at San Diego TSA and are unsure whether the detainee is a “vulnerable adult”, under respective applicable State or local law, the employee should contact the Office of Chief Counsel (OCC) for consultation on whether the individual qualifies under applicable law and how to proceed. He also indicated that reporting obligations for any juvenile or a vulnerable adult would be handled by the Watch Commander at San Diego TSA. The Watch Commander would submit an Incident Report to the JIC and the Commissioner’s Situation Room as required by CBP Directive 3340-025E. The PAQ and local SME confirmed they have not had any incidents requiring this type of notification during the 12-month audit period.

§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 requires any agency employees who believe circumstances exist which place a detainee at imminent risk of sexual assault to take immediate action to protect the detainee. Each of the Agents, Supervisors and the local SME were specifically questioned about what action they would take upon the reasonable belief that a detainee may be at substantial risk of being sexually abused. All confirmed their primary concern would be the safety of the detainee and taking immediate action to protect him/her. Separation and assessing the well-being of the detainee specific to medical needs would be their first response until a Supervisor arrived.

§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)(c)(d) As noted earlier, all sexual abuse allegations are to be handled and reported as a significant incident as outlined in CBP Directive 3340-025E, which states when allegations of sexual abuse having occurred at another facility are reported to any San Diego TSA staff, they are to be immediately report the incident. This reporting, according to the local SME, would be to the Commissioner’s Situation Room, the JIC and to the facility Administrator where the alleged abuse

took place. The notice to the facility Administrator must be accomplished within 72 hours of San Diego TSA becoming aware of the incident. The 72-hour requirement is outlined in the memorandum issued from the Chief, USBP, dated August 13, 2014, titled "Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities." The local SME confirmed that the allegation is also reported in the same manner as any significant incident as required in CBP Directive 3340-025E. The shift supervisor would be responsible for contacting the JIC and the Commissioner's Situation Room, and would include notification to the facility where the sexual abuse is alleged to have occurred. If the facility where the incident allegedly took place is a CBP facility, then the allegation would be investigated as outlined in policy. San Diego TSA received no allegations of sexual abuse occurring at another facility during the last 12 months.

§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) Agents interviewed confirmed their roles as law enforcement first responders to any sexual abuse incident to include: separating the alleged victim and abuser, preserving and protecting the crime scene, and if the abuse occurred within a time period that still allows for the collection of physical evidence, requesting that the alleged victim and ensuring that the alleged abuser do not take any action that could destroy physical evidence. CBP Directive 2130-030 details the responsibilities of the first law enforcement staff member on the scene of a reported allegation of sexual abuse. Agents also stated these responder duties are detailed to them in the mandatory PALM PREA training and outlined in CBP Directive 2130-030.

(b) First responder duties for non-law enforcement staff are outlined in **(b) (7)(E)**. It requires them to request the alleged victim not take any actions that could destroy physical evidence and notify law enforcement staff. As previously noted in this report, no contractors/volunteers are allowed in the secondary holding area while detainees are present.

§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) San Diego TSA utilizes CBP Directive 2130-030 as the written institutional plan for a coordinated multidisciplinary team approach to respond to sexual abuse and/or assault. This agency zero tolerance directive states, "This Directive also constitutes CBP's written institutional plan pursuant to 6 C.F.R. § 115.165" and outlines for each facility with CBP specific duties for staff.

(b)(c) If a detainee victim of sexual abuse is transferred to another DHS facility, San Diego TSA must inform the receiving DHS facility of the alleged incident and the alleged victim's potential need for medical or social services. If a detainee victim of sexual abuse is transferred to a non-DHS facility, San Diego TSA 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. These notification requirements are outlined in Directive 2130-030. The local SME confirmed that an incident of this type would result in the submission of an incident report to the JIC and the Commissioner's Situation Room by the Watch Commander, as required in CBP Directive 3340-025E. This would include notifying them of any transfer or move and notifying the receiving facility as well. He also confirmed San Diego TSA had no allegations or incidents requiring notifications be made to either a DHS or non-DHS facility.

§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:

Any staff member, contractor, or volunteer alleged to have perpetrated sexual abuse and/or assault requires agency management consider removing him/her from duties requiring detainee contact pending the outcome of an investigation. This direction is outlined in CBP Directive 2130-030. The HQ SAAI SME and HQ LER SME both indicated allegations of sexual assault or sexual abuse involving staff, contractor, or volunteer would result in the person being removed from detainee contact pending the outcome of an investigation when the seriousness and plausibility of the allegation makes

removal appropriate. The local SMEs confirmed there have been no allegations of sexual abuse made against a staff member requiring this type of response at the San Diego TSA.

§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:

Retaliating against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of staff misconduct, including s (b) (7)(E) or for participating in sexual activity as a result of force, coercion, threats, or fear of force is prohibited by (b) (7)(E). This type of prohibitive behavior is also detailed in the PALM PREA training as well, and was reviewed by the Auditor. Agents were knowledgeable of the retaliation restrictions from both the (b) (7)(E) policy and through the training each received. The local SME informed the Auditor there have been no allegations of retaliation at San Diego TSA during the 12-month audit period.

§115.171 – Criminal and administrative investigations.

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

Notes:

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

§115.172 – Evidentiary standard for administrative investigations.

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

Notes:

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

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

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

Notes:

(a) Staff members found to have violated CBP’s sexual abuse policies or who engaged in substantiated allegations of sexual abuse and/or assault will be subject to disciplinary or adverse action up to and including removal from their position and Federal Service. This agency requirement is found in CBP Directive 2130-030. The HQ HRM LER SME detailed the review process and penalty determinations for staff misconduct including sexual assault/abuse. She indicated the penalties could range from a letter of reprimand to removal from service depending on the seriousness of the misconduct. Both the HQ HRM LER SME and the HQ SAAI SME confirmed sexual abuse/assault, if substantiated, constitutes serious misconduct, for which the presumptive disciplinary sanction is removal from their position and Federal service.

(c) CBP Directive 2130-030 requires OPR to report to the appropriate law enforcement agencies all staff removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies, unless the activity was clearly not criminal. The HQ OPR SAAI SME informed the auditor that her office would make these notifications. There were no removals or resignations at San Diego TSA during the 12-month audit period.

(d) OPR is required 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 as required by CBP Directive 2130-030. The HQ OPR SAAI SME confirmed OPR would handle these notifications to any licensing bodies, if known. The documentation provided to the Auditor indicates there have been no removals or resignations in lieu of removals at San Diego TSA during the 12-month audit period.

§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:

(a)(b) CBP Directive 2130-030 requires contractors or volunteers suspected of perpetrating sexual abuse and/or assault be removed from all duties requiring detainee contact pending the outcome of an investigation. As noted earlier, San Diego TSA does not allow contractors or volunteers in the detention areas according to Agents. The Auditor did not observe anyone other than law enforcement in the detention area of the facility during the onsite review. The Auditor was also informed that if contractors were ever allowed inside the (b) (7)(E) areas and were found to violate CBP zero-tolerance policy, they would be removed from the facility and all future contact with any detainee.

§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) All victims of sexual assault at San Diego TSA must 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 as mandated by CBP Directive 2130-030. Emergency medical treatment services are to be provided to the alleged victim without financial cost regardless of whether the victim names the alleged abuser or cooperates with any investigation. The local SME confirmed detainee victims of sexual abuse/assault are taken to Palomar Health Center for forensic examinations. He also stated that medical treatment services are provided to the alleged victim without financial cost regardless of whether the victim names the alleged abuser or cooperates with any 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:

At the conclusion of a sexual abuse investigation, and within 30 days, a sexual abuse incident review, utilizing a multi-disciplinary team approach by USBO HQ, is conducted to determine whether the allegation or investigation indicates a change in policy or practice to better prevent, detect, or respond to sexual abuse is warranted. This requirement is outlined in CBP Directive 2130-030. The policy also requires if the review makes any recommendation(s) for improvement, it must be implemented, or the agency must document the reasons for not doing so in a written response. A copy of this review and any response to recommendations are to be forwarded to the PSA Coordinator. The PSA Coordinator confirmed the incident review is conducted through Headquarters consistent with the procedures outlined in section 18.1 of this same directive. San Diego TSA had no incident reviews conducted during the audit period as the facility had no allegations of sexual abuse made during the audit period.

§115.187 – Data collection.

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

Notes:

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

ADDITIONAL NOTES

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

None.

AUDITOR CERTIFICATION:

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

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

January 20, 2020
Date

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



U.S. Customs and Border Protection

AUDITOR

Name of Auditor:	(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:	San Diego 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:	2411 Boswell Road, Chula Vista, California
Mailing Address: (if different from above)	Same as Above

SHORT-TERM FACILITY BEING AUDITED

Information About the Facility

Name of Facility:	San Diego Sector Transit Facility
Physical Address:	311 Athey Street. San Diego, California
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:	Program Manager (PM), STA Field PREA Coordinator
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), San Diego Transit Facility, was conducted on September 12, 2019, and the preliminary findings report was submitted on October 26, 2019. Following comments from CBP Headquarters and from the Auditor, the report dated January 20, 2020, was submitted as a Final Draft on January 20, 2020.

At that time, the Auditor reviewed the compliance of 25 Subpart B standards and the San Diego Transit Facility was found to be in compliance with 22 standards: (115.111; 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 San Diego Transit Facility was found to not be in compliance with two standards: 115.113 and 115.115. Standard 115.114 was found to not apply at the San Diego Transit Facility.

On February 22, 2020, the San Diego Transit Facility submitted a preliminary Corrective Action Plan (CAP), dated January 27, 2020, with a completion date of January 31, 2020. The Auditor reviewed the CAP and accepted the plan as written, however, requested supporting documents to comply with standards 115.113 and 115.115. On April 1, 2020, the San Diego Transit Facility submitted a record of an Annual Review of Detainee Supervision Guidelines to comply with standard 115.113. The Auditor reviewed the document and determined the documentation to satisfy the standard. On October 27, 2020, the San Diego Transit Facility submitted an email, dated September 29, 2020, from the Supervisory Border Patrol Agent, to all Border Patrol Agents, requesting them to review an attached memorandum from the Chief, Strategic Planning Analysis Directorate regarding the pat search techniques for transgender, intersex, or gender non-conforming individuals to comply with standard provision 115.115. In conjunction with the memorandum, a training muster module and re-training roster of understanding and acknowledgement was also received. The Auditor reviewed the documents and determined compliance with standard 115.115. The San Diego Transit Facility is now compliant with all PREA standards.

Although regular communication existed with the San Diego Transit Facility, the corrective action was not completed within the 180-day time period.

PROVISIONS

Directions: After the corrective action period, or sooner if compliance is achieved before the corrective action period expires, the auditor shall complete the Corrective Action Plan Final Determination. The auditor shall insert the provision(s) below that required corrective action and state if the facility's implementation of the provision now "Exceeds Standard," "Meets Standard," or "Does not meet Standard." The auditor shall include the evidence relied upon in making the compliance or non-compliance determination for each provision that was found non-compliant during the audit.

§115.113

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

Notes:

On April 2, 2020, the San Diego Transit Facility submitted a record of an Annual Review of Detainee Supervision Guidelines, dated January 27, 2020. The document included all of the elements as required in standard provision 115.113 (c). The San Diego Transit Facility is now compliant with standard provision 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:

On October 26, 2020, the San Diego Transit Facility submitted an email from the Supervisory Border Patrol Agent, dated September 29, 2020, to all Border Patrol Agents instructing them to read and comply with the 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, intersex, and gender non-conforming detainees according to the detainee's declared gender identity. The memorandum also references sections 4.3 and 5.5 of the National Standards on Transport, Escort, Detention and Search (TEDS) policy. In conjunction with the memorandum, a Muster Module that provides instruction to Border Patrol Agents in the safe search of suspects, threat assessments, and pat search techniques for cross gender, same gender, transgender, and intersex detainees was provided to all agents. The San Diego Transit Facility also submitted a roster of staff re-training and understanding of the afore-mentioned documents. The Auditor reviewed the documents and has concluded the San Diego Facility is now compliant with standard provision 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

October 30, 2020
Date