

PREA Audit: Subpart B

Short-Term Holding Facilities Audit Report



U.S. Customs and
Border Protection

AUDITOR			
Name of Auditor:	(b) (6), (b) (7)(C)		Organization: Creative Corrections, LLC
Email Address:	(b) (6), (b) (7)(C)		Telephone Number: (b) (6), (b) (7)(C)
AGENCY			
Name of Agency:	U.S. Customs and Border Protection		
PROGRAM OFFICE			
Name of Program Office:	Office of Field Operations		
SECTOR OR FIELD OFFICE			
Name of Sector or Field Office:	El Paso		
Name of Chief or Director:	(b) (6), (b) (7)(C)		
PREA Field Coordinator:	(b) (6), (b) (7)(C)		
Sector or Field Office Physical Address:	9400 Viscount, Suite 104, El Paso, TX 79925		
Mailing Address: <i>(if different from above)</i>	Same as above		
SHORT-TERM HOLDING FACILITY BEING AUDITED			
Information About the Facility			
Name of Facility:	Bridge of the Americas		
Physical Address:	3600 E Paisano, El Paso, TX 79905		
Mailing Address: <i>(if different from above)</i>	Same as above		
Telephone Number:	(b) (6), (b) (7)(C)		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)		Title: Chief
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 Prison Rape Elimination Act (PREA) on-site audit of Customs and Border Protection (CBP), Bridge of the Americas (BOTA) Port of Entry was conducted on February 7, 2019, by (b) (6), (b) (7)(C) PREA Auditor contracted through Creative Corrections, LLC. This is the first PREA Audit for BOTA, an Office of Field Operations (OFO) holding facility. At any given time, the detainee population at BOTA can contain adult male and female detainees, family units, and unaccompanied alien child (UAC). Detainees are ordinarily held at BOTA for a maximum of 72 hours before being moved to another facility. The purpose of this 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.

(b) (6), (b) (7)(C) National OFO PREA Coordinator, OFO, Headquarters (HQ), served as HQ point of contact for the audit; (b) (6), (b) (7)(C) Supervisory CBP Officer, BOTA, served as the facility point of contact. The Auditor was notified three weeks prior to the on-site portion of the audit pre-audit documentation was ready to be reviewed. The documentation provided was complete and included pre-audit questionnaires from HQ and BOTA.

An entry-briefing, led by CBP Prevention of Sexual Assault (PSA) Coordinator, (b) (6), (b) (7)(C) was conducted shortly after arrival at the facility on February 7, 2019. Those in attendance included:

(b) (6), (b) (7)(C)	National OFO PREA Coordinator, OFO, HQ
(b) (6), (b) (7)(C)	Assistant Chief, U.S. Border Patrol (USBP), HQ
(b) (6), (b) (7)(C)	Senior Policy Advisor, DHS Civil Rights and Civil Liberties (CRCL)
(b) (6), (b) (7)(C)	Senior Policy Advisor, DHS CRCL
(b) (6), (b) (7)(C)	Associate Chief, USBP, HQ
(b) (6), (b) (7)(C)	Operations Officer, USBP, HQ
(b) (6), (b) (7)(C)	Supervisory CBP Officer, BOTA
(b) (6), (b) (7)(C)	Chief, BOTA
(b) (6), (b) (7)(C)	Program Manager, Creative Corrections

Once introductions were given, the Auditor introduced herself and provided an overview of the audit process. Immediately following the entry briefing, a tour of the facility was provided. All areas of the facility were toured to include the main processing area, hold rooms, and a secondary holding area. (b) (7)(E) occupy the main processing area. (b) (7)(E) was specifically for family units. This room contained large windows and was in the direct line of sight of staff in the area. The (b) (7)(E) could be used to house adult females, adult males, UACs or for those detainees who are at a higher risk for sexual abuse. All UACs would be seated in chairs in the direct line of sight of the Supervisor working in the area. At no time are they placed in a hold room with other adults. (b) (7)(E) (b) (7)(E) Toilet facilities are not located in the hold rooms; they are in separate area secured by a closed door. Detainees are escorted to the toilets by Officers and direct observation confirms privacy is provided.

The secondary holding area consists of a waiting area and (b) (7)(E) single occupancy cells. Toilets are in two hold rooms behind a half wall. When detainees are placed in a hold room without a toilet, they are escorted by an Officer to an unoccupied hold room with a toilet when needed; no showers are at BOTA. (b) (7)(E)

Scope of the Audit: The Auditor was able to tour BOTA and observe all areas of the facility and revisit areas as requested. During the tour the Auditor noted multiple audit postings and PREA posters highlighting reporting methods for sexual abuse and zero tolerance. The Auditor was provided relevant documentation for review to determine BOTA's level of compliance. The Auditor selected random staff and detainees for interview from rosters provided. The interviews were private and confidential. Nine Officers, four Supervisors, the Watch Commander and the Port Director were interviewed. Nine detainees were interviewed to include adult males and adult females with children. There were no UACs on-site the day of the audit. The detainees were from Honduras, Guatemala and Brazil. Language Services Associates provided interpretive services for the detainee interviews. The main language spoken by these detainees was Spanish. No additional detainees arrived at the facility and no additional interviews were conducted. BOTA has had no sexual abuse allegations in the last 12 months.

SUMMARY OF OVERALL FINDINGS:

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

On February 7, 2019, an exit briefing was conducted at approximately 4:00 p.m. The exit briefing was opened by PSA Coordinator, (b) (6), (b) (7)(C) and then turned over to the Auditor for an overview of the on-site findings and a close out summary. Those in attendance at the exit briefing were as follows:

(b) (6), (b) (7)(C)	National OFO PREA Coordinator, OFO, HQ
(b) (6), (b) (7)(C)	Assistant Chief, USBP, HQ
(b) (6), (b) (7)(C)	Senior Policy Advisor, DHS CRCL
(b) (6), (b) (7)(C)	Senior Policy Advisor, DHS CRCL
(b) (6), (b) (7)(C)	Operations Officer, USBP, HQ
(b) (6), (b) (7)(C)	Supervisory CBP Officer, BOTA
(b) (6), (b) (7)(C)	Chief, BOTA
(b) (6), (b) (7)(C)	Program Manager, Creative Corrections
(b) (6), (b) (7)(C)	PDO, Disability and Language Access Coordinator, PDO, HQ
(b) (6), (b) (7)(C)	Watch Commander, BOTA
(b) (6), (b) (7)(C)	Chief of Staff, BOTA
(b) (6), (b) (7)(C)	Chief, Paso Del Norte Port of Entry

During the exit briefing the Auditor discussed her observations made during the on-site review.

Of the 25 standards reviewed, the Auditor found BOTA met 16 standards: 115.111; 115.114; 115.117; 115.122; 115.131; 115.132; 115.154; 115.162; 115.164; 115.165; 115.166; 115.167; 115.176; 115.177; 115.182, and 115.186. One standard was found to be non-applicable; 115.118. Eight standards were found in non-compliance: 115.113; 115.115; 115.116; 115.121; 115.141; 115.151; 115.161; and 115.163.

SUMMARY OF AUDIT FINDINGS

Number of standards exceeded: 0

Number of standards met: 16

Number of standards not met: 8

OVERALL DETERMINATION

☐ Exceeds Standards (Substantially Exceeds Requirements of Standards)

☐ Meets Standards (Substantial Compliance; Complies in All Material Ways with the Standards for the Relevant Review Period)

☒ Does Not Meet Standards (Requires Corrective Action)

☐ Low Risk

☒ 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): CBP Directive 2130-030, Sexual Abuse and Assault Prevention and Response, dated 1/19/2018, and CBP Policy on Zero Tolerance of Sexual Abuse and Assault signed by CBP's Commissioner on March 11, 2015, confirm CBP has zero tolerance towards all forms of sexual abuse and sexual harassment in facilities it operates directly or under contract. The Directives are the Agency's main policy mandating zero tolerance toward all forms of sexual abuse and sexual assault and outlining their approach to preventing, detecting, and responding to such abusive conduct. It defines in detail for all staff and detainees the prohibited acts. This policy is supplemented with CBP National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015, which sets forth nationwide standards that govern CBPs interactions with detained individuals. The Auditor interviewed four Supervisors along with the Watch Commander and Port Director. The Supervisors indicate information on CBP's policy on zero tolerance was communicated to staff through musters (informal briefings before each shift), emails, and through e-courses on the Performance and Learning Management System (PALMS). The Supervisors state staff were informed during musters of the PREA posters along with reporting procedures. The Auditor interviewed nine Officers. Of these nine Officers, all reported they were aware of the contents of CBP's zero tolerance policy. When asked to describe the contents of the policy, the Officers state sexual abuse in any form is not tolerated. They state the policy covers how to report an allegation and their responsibilities to keep a victim safe.

§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 OFO to develop and document a comprehensive detainee supervision guideline that meets the facility's detainee supervision needs and review those supervision guidelines and application at least annually to determine whether adequate levels of detainee supervision and monitoring exist. The results of the development of comprehensive detainee supervision guidelines and annual review are to be provided to the PSA Coordinator. When asked how BOTA supervises its detainee population to protect against sexual abuse, the Port Director states "We use communication. We make sure we talk with staff when we recognize signs, especially in the high-risk population. We utilize TEDS, criminal history information and look for those who have disabilities." The Port Director added (b) (7)(E) Other Supervisors interviewed state BOTA utilizes direct supervision in the hold rooms with 15-minute security checks. They advise detainees are separated in groups (males, females, family units, UACs, high risk for victimization) and held accordingly. When asked how BOTA would address the sudden influx of detainees into the facility, the Port Director states "If we could not safely hold a person here, we have the ability to transfer them to another bridge. Detainees are a priority. We would close lanes to move Officers over, including myself." The other Supervisors interviewed echoed this statement. The Watch Commander states "We make sure we have the staff we need, even if it means ordering overtime."

(b)(c): The standard requires an annual review of the supervision guidelines taking into account physical layout of the facility, composition of detainees, the prevalence of substantiated and unsubstantiated instances of sexual abuse, findings and recommendations of incident reviews and any other relevant factors. When discussing how BOTA re-evaluates their procedures for supervising detainees, Supervisors report they have multiple levels of Supervisors and they are in constant communication with each other so proper oversight is addressed. Another Supervisors advises the evaluation of supervision of detainees is addressed at every muster. However, the Auditor was not provided

documentation the annual review of the supervision guidelines was performed during the audit period at BOTA resulting in non-compliance. **Corrective Action:** Provide documentation of the annual review of the supervision guidelines and that a copy was submitted to the PSA Coordinator as required by policy.

§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): CBP TEDS requires BOTA 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. Local SME staff report all juveniles who are a part of family units or identified as UAC are held in the least restrictive setting as possible. They state juveniles are kept with their families and in the least restrictive setting the facility has available. The Auditor interviewed multiple family units containing adult females and children under the age of 18. Each family unit reports they have never been separated from their children while at BOTA.

(b): CBP TEDS requires UACs to be held separately from adult detainees. It indicates UACs may be held temporarily with a non-parental adult family member if it is determined to be in the best interest of the UAC or until the relationship is vetted by CBP. Local SME staff report UACs are kept separate from the adults and are then separated by gender. When asked how BOTA supervises UACs, one Supervisor states they are processed first. If they are traveling with an adult, staff vet the relationship to make sure they can keep the juvenile with that adult. They further state if a juvenile is identified as an UAC, they make arrangement to transfer them to Paso Del Norte. Other Supervisors who were interviewed supported this statement. All Supervisors and Officers state juveniles are the first detainees to be processed, no matter what. They report UACs traveling with adults are kept with the adult (b) (7)(E)

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

Interviews with juveniles (over the age of 14) traveling with an adult reveal the only time they had contact with another adult detainee was when their mother was present. Interviews with adult detainees reveal children were never separated from them at any time. The adult members of the family units report they brought documentation with them to prove the parental relationship. Documentation ranged from birth certificates, vaccine records and report cards. While Agents interviewed them (adult family members) about their relationship with the child, they report they were asked for documentation of their relationship with the child. There were no UAC's at BOTA during the on-site audit to be interviewed.

§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. CBP TEDS details that officers/agents must not conduct visual body cavity searches of juveniles and all body cavity searches of juveniles are to be referred to a medical practitioner. It further states if conducted these strip/body cavity searches be recorded in the electronic system of record. While on-site, the Auditor reviewed three checklists documenting the approval of strip searches of detainees. Each checklist contained the date of the search, the name of who conducted the search, detainee information, the reason for the search and Supervisory approval. Interviews with Supervisors resulted in various answers. Some state all strip searches and body cavity searches must have Supervisor approval before they can be conducted and they must be done by an Officer of the same gender. When asked about strip or body cavity searches of juveniles or UACs, one Supervisor states the same practice with adults is followed; approval must be given by Supervisor and only medical personnel can perform the search. Another Supervisor states this type of search is not done on juveniles or UACs at BOTA. The remaining Supervisors interviewed were unable to answer this question; they report they have never had this situation and were not sure of the procedures. Officers interviewed state strip searches are authorized with a Supervisor's approval. However, when asked if cross-gender strip searches are authorized, the Officers interviewed gave differing responses. Specifically, some Officers report strip

searches must be conducted by staff of the same gender while others state they were not sure if they are allowed. The Officers interviewed were also unable to answer this question. Most Officers stated, "I guess they would have to get permission" and "I believe we would take them to the hospital." As staff are not clear on strip search procedures, the standard is in non-compliance. **Corrective Action:** Provide documentation all staff have received training on proper strip search procedures.

(d): CBP TEDS specifies the requirements 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. During the tour of BOTA it was discovered there are no toilets in the primary hold rooms. For a detainee to use the toilet they must notify an Officer and they will be escorted to a bathroom outside of the processing area. Inside the bathroom are benches for groups to sit on and a toilet behind a half wall. (b) (7)(E)

In addition, the Auditor observed a note posted on the door reminding staff to knock and announce themselves before entering. Interviews with Supervisors and Officers reveal detainees have privacy via the half wall to use the toilets without staff observing them. Interviews with detainees confirms the half wall provides privacy to use the toilets without staff observing them. BOTA does not have shower facilities available to detainees. If showers are needed, detainees are transported to another bridge or facility. The Port Director and the Watch Commander state Officers are required to knock and announce their presence before entering the rest room and hold rooms. However, the majority of Supervisors and Officers indicate they did not know, nor had they been informed, of the requirement to make these types of announcements. This results in a non-compliance for subsection (d) of this standard. **Corrective Action:** Provide documentation all staff have been trained on the requirement to announce their presence when entering areas detainees of the opposite gender are likely to be performing bodily functions or changing clothing.

(e): CBP TEDS prohibits staff from searching or physically examining a detainee for the sole purpose of determining the detainee's gender-related characteristics. If the detainee's gender is unknown, CBP TEDS states officers/agents will 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. There were no detainees on-site during the audit who identified as transgender or intersex to be interviewed. All Supervisory staff interviewed state staff are not allowed to physically search an individual to determine gender. They advise if the gender is unclear, staff is to ask the detainee questions and use the information sent with the detainee to make that determination. All Officers interviewed state they are not allowed to physically search a detainee to determine gender. They advise they have been instructed to ask the detainee questions and rely on any documentation they have on the detainee.

(f): Staff interviews confirm all staff at BOTA received basic pat-down search training while attending Officer basic training. Pat-down refresher training is conducted during musters. The Port Director and the Watch Commander indicate pat search training is not categorized as either same-gender, cross-gender or transgender. They indicate staff are trained to conduct all pat searches in the same way: lightly pinching the clothes as the Officer moves down each limb and back of the hand in the breast and groin area. Most Officers interviewed described pat searches in this manner. However, Officers and Supervisors gave varying answers on whether they have been trained on how to conduct cross-gender pat searches or how to conduct pat searches on transgender detainees. Additionally there was no formalized pat search curriculum on-site for the Auditor to review. Due to the lack of a formalized pat-search curriculum, this standard is in non-compliant. **Corrective Action:** Provide documentation all staff have been trained on proper cross-gender pat-down searches and how to search a transgender or intersex detainee.

§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): 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) 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 shall 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. In addition, the Directives require written materials related to sexual abuse be provided in formats or through methods that ensure effective communication with detainees with disabilities, including detainees, limited reading skills, or who are blind or have low vision. They further state

whenever translation or interpretation services are provided, it must be recorded in the appropriate electronic systems(s) of record. All Supervisors interviewed report detainees with disabilities are identified at intake using the TEDS form and by staff asking questions. They advise posters are available for those detainees who are deaf or hearing impaired. One Supervisor adds there are a few staff members who know sign language. He states they could be called to communicate with deaf detainees if necessary. All Supervisors state if they had a visually impaired detainee enter the facility, staff would read all material to them. This would include detainees identified as intellectually impaired. There were no detainees identified with hearing, vision or intellectual disabilities at BOTA available for interview during the on-site audit. Interviews with Officers provided mixed answers when asked how they would communicate with detainees who had hearing, vision, or intellectual disabilities. While most Officers report they have never dealt with a detainee who had such a disability, they did not know the answers and guessed at the answers. As Officers are not aware of CBPs means for communicating with detainees with vision and hearing disabilities, or those with intellectually impaired, this standard is not in compliance. **Corrective Action:** Provide documentation showing all staff have been trained on communicating with detainees with disabilities.

(b): CPB Protocol for Identifying Limited English Proficient (LEP) Persons and Providing Language Services, dated October 2017, outlines steps BOTA is to take to identify LEP detainees. This Protocol directs staff to ask detainees to identify their primary language through the "I Speak" posters, the "Habla?" poster for indigenous language, the "I speak" pocket guide or booklet and the Indigenous Language Identification Tool to identify a resource to provide language assistance. All Supervisors and Officers state if a detainee entered BOTA and did not speak English, staff would use an interpreter service. Staff can access this information through the telephone.

(c): In matters related to allegations of sexual abuse, CBP Directive 2130-030 and CBP TEDS require the provision of in-person or telephonic interpretation services which 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 Supervisor determines that such interpretations is appropriate and consistent with the operational office's policies and procedures. It further states the use of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse. All Officers interviewed report they would not allow a detainee to act as interpreter for another detainee. One Officer stated would use another detainee as an interpreter only if the detainee was asking for food, water or the restroom.

§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)(c)(d): 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. It also informs CBP personnel they may be subjected to disciplinary or adverse action up to and including removal from their position and Federal service for substantiated allegations of sexual abuse and/or assault and/or for violating CBP's sexual abuse policies. An interview with the HQ Hiring Center SME reveals CBP follows federal guidelines and policy requirements. The SME states CBP has delegated authority to do their own suitability determinations after security forms are completed. She states CBP runs a series of background checks, then a polygraph examination. She reports the same process is followed when it comes to promotions and for contract staff except contractors do not undergo a polygraph examination. CBP Directive 2130-030 requires background investigations for applicants for employment who may have contact with detainees to determine suitability and that updated background investigations be conducted every five years. It further requires background investigations for contract staff who may have contact with detainees before enlisting their services. The HQ Hiring Center SME confirms all employees and contractors receive periodic background investigation checks every five years. The Auditor submitted names of 12 staff for verification of background investigations. The HQ Hiring Center SME completed the form "PREA Audits: Background Investigation for Employees and Contractors" and returned it to the Auditor via email. A review of the completed form reveals all names submitted had the required background investigations completed in a timely manner per this standard.

(b)(e)(f): The HQ Hiring Center SME reveals all applicants, including those seeking promotion, are asked about previous sexual abuse with any person in a jail, prison, holding facility juvenile facility, community confinement facility or other institutions. These questions are on a separate form and must be answered and signed by applicant. The SME reports staff have a continuing duty to report sexual abuse incidents and that material omissions or providing false

information are grounds for termination or withdrawal of job offer. The SME states this information is provided to staff on hiring when issued the Employee Code of Conduct document. She states they are also reminded annually during training through PALMS. It was also shared information on substantiate sexual abuse investigations involving former employees would be shared with potential employers if a release was signed by the former employee. The Auditor asked all staff interviewed what would happen if they failed to report sexual abuse of a detainee. Most staff reported they would be terminated for failing to report any knowledge or suspicion of sexual abuse of a detainee.

§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:

Interviews with the Port Director and Watch Commander report no expansions to the building (b) (7)(E)
(b) (7)(E) Based on this information, subsections (a) and (b) are not applicable.

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

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

Notes:

(c): CBP TEDS and Directive 2130-030 require BOTA to provide timely, (including emergency) unimpeded access to medical treatment and crises intervention services, including sexual assault forensics medical exam, emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standard of care to all detainee victims of sexual abuse/assault. CBD TEDS also requires the forensic medical examination should be done by qualified health care personnel, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. Interviews with staff reveals BOTA refers victims of sexual abuse to the University Medical Center or Las Palms Medical Center (both located in El Paso) to undergo forensic medical examinations. In the past 12 months, BOTA has had no detainees undergo forensic medical examination. The Port Director states "We have two hospitals we can use, University Medical Center and Las Palms Medical Center. Before we transport staff is to separate the victim from the abuser, secure the area and make sure medical is notified as soon as possible." The Watch Commanders states "We transport them to a SANE certified facility immediately so they can begin emergency medical treatment. We use University Medical Center and Las Palms Medical Center." The other Supervisors interviewed confirm the practice of transporting the detainees to either of these two hospitals; however, they were unclear if these hospitals provide forensic medical examinations. All Staff interviewed report this is all done at no cost to the detainee.

(d): CBP TEDS requires officers/agents to allow detainee victims access to victim advocacy services, to the extent available and consistent with security needs, while at the hospital for forensic exam due to sexual abuse/assault. Interviews with staff reveal not all staff are aware detainee victims are to be provided victim advocacy services. Specifically, while the Port Director and Watch Commander state detainees are allowed access to victim advocacy services at the hospitals, the remaining Supervisors were unclear if this was allowed. They based their answers on the fact "detainees are usually not here that long to use the services." Interviews with Officers reveals they have not been informed detainees have the right to utilize victim advocates while undergoing forensic medical exams. **Corrective Action:** Provide documentation the El Paso Police Department and El Paso County Sheriff's Office have been asked to comply with the requirements of this 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): CBP Policy on Zero Tolerance of Sexual Abuse and Assault and 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. Interviews with staff

reveal BOTA ensures each allegation is reported to the Commissioner's Situation Room, JIC and local law enforcement, unless the allegation does not involve potentially criminal behavior. The PSA Coordinator reports there have been no allegations of sexual abuse or sexual harassment reported at BOTA. She states if there are allegations, BOTA is required to report them immediately to the Commissioner's Situation Room and JIC. The PSA Coordinator states she is included on automatic distribution of all reports of sexual abuse submitted to the Commissioner's Situation Room and the Office of Professional Responsibility initiates referrals to her of sexual abuse and/or assault received by JIC. Further, while Supervisory interviews confirm all sexual abuse allegations are to be reported to local law enforcement, the Commissioner's Situation Room and JIC, they all gave different answers on who is responsible for making the reports. Some Supervisors state the first line Supervisor who took the report is responsible, others state the Supervisor on Duty is responsible, and others state they are not sure who is responsible for making the 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): CBP Directive 2130-030 requires all uniformed agents and officers, special agents, fact finders, contractors and volunteers who may have contact with the detainees in CBP holding facilities shall receive the training required in Subpart B of the DHS Standards. All Officers and Supervisors interviewed report they have been trained on CBP's sexual abuse policy. When asked to described this training, all Officers and Supervisors advise the training covered zero-tolerance, the right of detainees to be from sexual abuse and retaliation for reporting abuse, definitions of sexual behavior, recognizing situations where sexual abuse may occur, recognizing behaviors victims may display, how to report sexual abuse, how to communicate effectively with lesbian, gay, bisexual, transgender, intersex, and gender non-conforming detainees, and the confidentiality requirements regarding sexual abuse reports. When asked what zero tolerance mean to them, all Officers and Supervisors interviewed report sexual abuse, in any form, is not tolerated and will be reported. BOTA does not have any contractors or volunteers on-site who have direct contact with detainees.

(c): A review of policy, document review, and staff interviews confirms CBP maintains records of all staff, contractors and volunteers trained on the agency's sexual abuse policy and records of any refresher training the staff have received in accordance with CBP Directive 2130-030. The Auditor reviewed a spreadsheet which listed all staff assigned to BOTA. This spreadsheet listed the initial training on CBP 2130-030, and all annual refresher training staff have received since the initial training. Review of the spreadsheet confirms staff have received training within the timeframes established in the standard. All Officers interviewed state they receive annual training through an e-course on PALMS. The Officers report this is mandatory training for all staff.

§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:

The CPB's zero-tolerance policy is made publicly available at <https://www.cbp.gov/employees/eeo/ztp/cbp-policy-zero-tolerance-sexual-abuse-and-assault>. Throughout the on-site portion of the audit, the Auditor observed multiple PREA information posters (Keep Detention Safe) posted in the holding and intake areas. The posters inform the reader of the zero-tolerance policy at CBP and how to report sexual abuse allegations. These posters were in English and Spanish. All Local SME Staff advise detainees receive information on CBP's zero-tolerance policy from the posters displayed throughout the facility and during the intake interviews. Most Officers interviewed report this same information. However, of the nine detainees interviewed, only five stated they knew how to report sexual abuse/sexual harassment allegations.

§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)(c): CBP TEDS states before placing any detainees together in a holding facility, officers/agents are to 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. All Supervisors advise detainees are assessed to determine risk for sexual victimization before they are housed together. Most Supervisors and all Officers indicate staff use the DHS Risk Assessment form to make this determination. Supervisors and Officers advise they takes steps to mitigate this possible danger by placing detainees who have been flagged as a higher risk for sexual victimization in a hold room close to the Supervisor's desk. This hold room is the direct line of sight of the Supervisor.

(b): A review of random detainee files reveals the DHS Risk Assessment was completed on each of the detainees. Most detainees interviewed report when they first arrived at BOTA they were asked questions about where they were from and about their criminal history; however, all nine detainees indicate they were not asked if they had concerns for their physical safety. Staff interviews reveal not all staff are aware of the requirement to directly ask a detainee about their physical safety during the risk assessment. While the Port Director and the Watch Commander state all detainees are asked about their own concerns about their physical safety, the remaining four Supervisors could not conclusively answer yes when asked if detainees are asked this question. Based upon the wide range of responses, this standard is not in compliant. **Corrective Action:** Provide documentation all staff have been advised to ask detainees if they have concerns for their safety while at BOTA. This question is about safety from sexual abuse, not safety for asylum issues.

(d): CBP TEDS requires officers/agents to provide detainees identified as at high risk of sexual abuse victimization heightened protection. This includes continuous direct sight and sound supervision, single-occupancy hold room, monitoring in open areas or placement in a hold room actively monitored on video by an officer/agent sufficiently proximate to intervene, unless no such option is determined to be feasible. Interviews with Officers and Supervisors report detainees who have been identified as being at a higher risk for sexual abuse will be placed in a hold room separate from other detainees. This hold room will be near the Supervisor desk. They advise this allows staff to directly see into the hold room and to hear if anything is going on. All Supervisors interviewed state if a detainee is identified to be at a higher risk to be victimized, staff are to place them in a separate hold room closest to the Officer's station in the processing area. They indicate 15-minute security checks would be conducted. Officers interviewed echoed this statement and Officers stated they would notify a Supervisor of the detainees heightened risk status.

(e): CBP TEDS states efforts should be taken to ensure that all assessments are conducted in a way that provides detainees the greatest level of privacy possible. It further requires all CBP facilities implement appropriate controls on the dissemination of private and/or sensitive information provided by detainees under this section and officers/agents are only to disclose this information to those personnel with a need to know. All Supervisors interviewed report information obtained from the detainee is limited to those with a "need to know. They state only the Officer taking the information and the Supervisor knows what the file contains. They further report all detainee files are kept near the Supervisor's desk in the processing area. All Officers interviewed supported this practice. When the Auditor reviewed random detainee files to view the DHS Risk Assessment, the files were maintained in file cabinets behind a Supervisor desk.

§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)(c): CBP Directive 2130-030 and CBP TEDS require 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 and detainees must be able to report confidentially and anonymously if desired, as well as both verbally and in writing. The Directive states

procedures for reporting alleged sexual abuse and/or assault are to be visible or continuously and readily available to detainees at holding facilities and posted on the CBP public website. The telephone information for OIG is found on the Keep Detention Safe posters. The Port Director and Watch Commander report detainees at BOTA have two ways to report sexual abuse including directly reporting the allegation to staff and using the reporting hotline. The Watch Commander states "We have posters with phone numbers detainees can call. Their family can go the CBP website and make a report." Most Supervisors interviewed report detainees can report directly to staff, call their consulate, or OIG. One Supervisor was not aware detainees could make reports of sexual abuse to other entities. Most Officers interviewed gave the Auditor three ways detainees could report sexual abuse. This included reporting directly to staff, calling their consulate or contacting OIG. Most Officers also state they would accept verbal reports from detainees, anonymous reports, and reports from family outside of the facility. When asked if this information would be documented, these same Officers advise that all allegations would be documented. The Auditor observed the posters outlining zero-tolerance and reporting information during the on-site audit. The posters are in English and Spanish. When asked how a detainee can privately report to OIG or their consulate when there were no phones in the hold rooms, Officers report detainees only need to tell staff they need to make a report and staff will escort them to a private room to make the call. However, when asked if detainees had to tell staff why they needed to contact their consulate or OIG, the Officers could not give definitive answer. Most Officers state detainees had to tell staff why they needed to use the telephone resulting in non-compliance. However, the Officers state once the detainees tell them why they need to use the phone, they would be escorted to a private room. The Officers would then stand outside the room with the door closed for audio privacy for the detainee while the call was made. The Auditor was unable to determine compliance on this standard as staff would ask detainees why they wanted to call their consulate or OIG. Even though privacy was granted to the detainee to make the call, staff was still alerted a phone call was being made to the consulate or OIG. **Corrective Action:** Develop a plan to ensure detainees can make a report to OIG of sexual abuse and/or sexual harassment without having to tell Officers why they need to make contact.

§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:

Information on third-party reporting can be found on CBP's website at <https://www.cbp.gov/about/care-and-custody/how-make-report>. The website states "CBP provides detainees 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. Third parties not connected to a detainee can also report these allegations. Reports are confidential and may be made anonymously, if desired, both verbally and in writing. Reports can be made to a CBP official at the holding facility or by: Calling the toll-free Joint Intake Center Hotline at **1-877-2INTAKE** or sending a fax to **(202) 344-3390**; Sending an e-mail message to Joint.Intake@dhs.gov; Writing to the Joint Intake Center at P.O. Box 14475, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20044; Calling the DHS Office of Inspector General (OIG) at **1-800-323-8603** or **1-844-889-4357 (TTY)**; or sending a fax to **(202) 254-4297**; Accessing the online [DHS OIG Complaint/Allegation Form](#); or Writing to DHS OIG/MAIL STOP 0305, Attn: Office of Inspector General - Hotline, 245 Murry Lane SW, Washington, D.C., 20528-0305." All Supervisors interviewed report third-party reports would be treated as if the detainee reported the information. They indicate they would follow the same protocol as if a detainee made the report. All Officers interviewed indicate they would notify the Supervisor of the third-party report and document the report.

§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)(d): 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 2130-030 states staff have a duty to make reasonable efforts 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. This same Directive requires the facility to report sexual abuse and/or assault allegations involving alleged victims under the age of 18 or considered a vulnerable adult under a State or local vulnerable person's statute to the designated State or local services agency under applicable mandatory reporting laws. Interviews with Supervisors reveal staff are required to immediately report knowledge or suspicion of sexual abuse. They advise staff are to notify Supervisors as soon as they receive the allegation. The Port Director added if the victim was under the age of 18, Child Protective Services (CPS) would also be notified. The remaining Supervisors interviewed were not aware of the need to notify CPS. This lack of knowledge causes this standard to be non-compliant. **Corrective Action:** Provide documentation the Supervisors have been advised of the requirement to notify CPS if a victim of sexual abuse is under the age of 18. Supervisors state they can report sexual abuse of a detainee to any person in the facility; they do not need to stay inside their chain of command. All Officers interviewed reported they are required to immediately report all sexual abuse. They reported they would notify their Supervisor as soon as they receive the allegation. When asked if the allegation involved their immediate Supervisor how they would make that report, most officers report they can make a report to any Supervisor who is on duty at the facility or go directly to the Watch Commander.

(c): CBP Directive 2130-030 states except as necessary to report the incident, CBP and its staff shall not reveal any information related to the incident except as necessary to aid the detainee, to protect other detainees or staff, or to make security and management decisions contemplated by Subpart B of the DHS Standards. All Supervisors, including the Port Director and Watch Commander, report all information regarding sexual abuse is kept on a "need to know basis." They advise only the Officer receiving the allegation; Supervisors and administrative staff are to know an allegation has been made. All Officers interviewed echoed this statement. They report all sexual abuse information is shared with those on a "need to know" basis.

§115.162 – Agency protection duties.

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

Notes:

CBP TEDS states if an officer/agent has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee. The Port Director and Watch Commander state it is the responsibility of CBP Officers to keep all detainees safe. If there is a report of imminent danger, staff is expected to separate the detainee from the rest of the group and notify a Supervisor. The remaining Supervisors report staff are to immediately report this information to their Supervisor and keep the detainee safe until a Supervisor provides further instruction. All Officers interviewed report they would immediately notify their Supervisor if they receive information a detainee is in imminent danger of sexual abuse. They report they would separate the detainee from the rest of the group and secure the area until a Supervisor arrives.

§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): CBP Directive 2130-030 requires BOTA, upon receipt of an allegation that a detainee was sexually abused and/or assaulted while confined at another facility, notify the appropriate office of the agency or the administrator of the facility where the alleged sexual assault and/or abuse occurred. The Port Director and the Watch Commander report a written report would be taken from the detainee and the other facility would be contacted. They advise the information would also be forwarded to JIC and OIG. The Port Director states she would be the one to notify the other facility of the sexual abuse allegation within 24 hours of BOTA receiving the allegation. She advised if BOTA received a report from another facility that a detainee in their custody reported they had been sexually abused/assaulted at BOTA, a report would also be taken and forwarded to JIC and OIG. The remaining Supervisors interviewed state they were not sure who makes the notification to the other facility; however, if they received report from a facility that a detainee in their custody reported sexual abuse while they were at BOTA, they would take the information and forward it to JIC. This lack of knowledge results in this standard being non-compliant. **Corrective Action:** Provide documentation Supervisors have been trained on reporting procedures for allegations involving other facilities. BOTA has not had any reports of detainees being a victim of sexual abuse while confined at another facility nor have they received reports from other facilities of detainees being sexually abuse while confined at BOTA.

§115.164(a) and (b) – First 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): CBP Directive 2130-030 details the responsibilities for the first law enforcement staff on scene of a reported allegation of sexual abuse. The Directive and PREA Training in PALMS reinforces this policy 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 abuser do not take any actions that could destroy physical. All Supervisors and Officers report staff are to immediately separate the victim from the abusers, advise the Supervisor on duty, secure the scene and make sure evidence isn't destroyed (no drinking water, using the restroom). The Watch Commander states, "All staff carry Quick Reference Cards that give step by step instructions on what to do." He stated these cards are a part of the PREA training staff receive. Most of the Officers showed the Auditor the Quick Reference Cards they carry which outline the steps they need to take if they are the first person on the scene of a sexual assault or if they receive a report of sexual abuse.

(b): Procedures are in place for first responders who are not law enforcement staff. CBP TEDS states "If the first staff responder is not law enforcement staff, the responder must request that the alleged victim not take any actions that could destroy physical evidence and then notify law enforcement staff." BOTA does not have non-law enforcement staff who have contact with detainees.

§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 is the coordinated responses plan BOTA follows if there is an allegation of sexual abuse. This Directive outlines the roles and responsibilities of staff when a sexual abuse allegation is reported. It discusses protection of the victim, working with detainees with disabilities, Officer responsibilities, non-Officer responder duties and medical treatment. All Supervisors interviewed report staff are to immediately separate the victim from the abusers, advise the Supervisor on duty, secure the scene and make sure evidence isn't destroyed (no drinking water, using the restroom) and assess the victim for medical needs. Officers interviewed supported this practice.

(b)(c): CBP Directive 2130-030 states if an alleged victim of sexual abuse and/or assault is transferred to another DHS facility, BOTA must inform the receiving DHS agency of the alleged incident and the alleged victim's potential need for medical or social services. If the alleged victim of sexual abuse and/or assault is transferred to a non-DHS facility, BOTA 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. All Supervisors interviewed report all information regarding medical or social follow up services would be transferred with the detainee if they move to another 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:

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 Port Director states all Officers accused of engaging in sexual abuse of a detainee would be reassigned pending the outcome of any investigation. She states they would not have contact with the victim.

§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 and CBP TEDS prohibits CBP staff from retaliating against any person, including a detainee, who alleges or complains about mistreatment, participates in an investigation into an allegation of staff misconduct, including sexual abuse, or for participating in sexual activity as a result of force, coercion, threats, or fear of force. All Officers interviewed report protection from retaliation was covered in their initial training on CBP Directive 2130-030. They report retaliation is not tolerated and protection from retaliation also encompasses them.

§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)(c)(d): CBP Directive 2130-030 states CBP personnel may be subjected to disciplinary or adverse action up to and including removal from their position and Federal service for substantiated allegations of sexual abuse and/or assault and/or for violating CBP's sexual abuse policies. When asked about the agency's process for reviewing reports of misconduct and proposing and considering discipline for employees who violate the sexual abuse policy, and interview with the HQ Labor Employee Relations (LER) SME states "For allegations substantiated through investigation we can suspend an employee up to 14 days. If more than 15 days, it must go to a review board hearing. This includes suspension, demotions or re-assignment". An interview with the HQ Sexual Abuse and Assault Investigations (SAAI) SME states "when discussing the process for reporting all removals or resignations in lieu of removal for violating the agency's sexual abuse policy, the local level does not get involved. OPR consults with LER and the decision is based on their findings." The Port Director states there is a LER process that must be followed. All staff have due process for administrative inquiries. She indicates she can make a proposal or recommendation for discipline, however, they (LER) have the final say."

§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 any contractor or volunteer suspected of perpetrating sexual abuse and/or assault be removed from all duties requiring detainee contact pending the outcome of an investigation, as appropriate. An interview with the Port Director reveals BOTA does not have any volunteers or contractors with detainee access.

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

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

Notes:

(a)(b): CBP Directive 2130-030 requires alleged sexual assault victims be provided timely unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. It also requires emergency medical treatment services 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. Local SME Staff reveal detainees have immediate access to emergency medical treatment when it is needed and state a detainee victim of a sexual assault would receive information on emergency contraception and sexually transmitted infections while at the hospital. They also report all Officers have the authority to initiate a call to the ambulance service for any medical emergency; they do not need a Supervisor's approval to do so. Costs for treatment are not assessed to detainees in accordance to CBP TEDS which indicates emergency medical treatment provided to sexual abuse victims will be without financial cost and regardless of whether the victim names the abuser or assailant or cooperates with any investigation arising out of the incident. All Supervisors interviewed report there is never a charge to the detainee for any medical services provided. This also includes if they chose not to reveal the name of their abuser.

§115.186(a) – Sexual abuse incident reviews.

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

Notes:

(a): CBP Directive 2130-030 requires at the conclusion of every investigation of sexual abuse and/or sexual assault a sexual abuse incident review is to be conducted. The review is ordinarily to occur within 30 days of the conclusion the investigation and a report written. Recommendations are to be included if the allegation or investigation indicates a change in policy or practice could better prevent, detect, or respond to sexual abuse. This Directive requires BOTA to implement the recommendations for improvement, or document the reasons for not doing so, in a written response and forward both the report and the response to the PSA Coordinator. No sexual abuse incident reviews have been conducted at BOTA in the past 12 months due not having any reports of sexual abuse or sexual harassment. An interview with the OFO HQ SME states all incident reviews are completed within 30 day of the conclusion of every investigation. A multidisciplinary team at HQ will meet when a review is ready to be completed. The facility has a chance review the findings and respond to any recommendations. An interview with Port Director reveals BOTA must respond to any recommendations made from the Sexual Abuse Incident Review. She states their response must include a timeline and a plan on implementing the recommendations.

§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.

/s/ (b) (6), (b) (7)(C)

Auditor's Signature

September 23, 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) (b) (6), (b) (7)(C) Reviewing Auditor	Organization:	Creative Corrections, LLC
Email Address:	(b) (6), (b) (7)(C)	Telephone Number:	(b) (6), (b) (7)(C)
AGENCY			
Name of Agency:	U.S. Customs and Border Protection		
PROGRAM OFFICE			
Name of Program Office:	Office of Field Operations		
SECTOR OR FIELD OFFICE			
Name of Sector or Field Office:	El Paso, Texas		
Name of Chief or Director:	(b) (6), (b) (7)(C)		
PREA Field Coordinator:	(b) (6), (b) (7)(C)		
Sector or Field Office Physical Address:	9400 Viscount, Suite 104, El Paso, Texas 79925		
Mailing Address: (if different from above)	Same as above		
SHORT-TERM FACILITY BEING AUDITED			
Information About the Facility			
Name of Facility:	Bridge of the Americas Port of Entry		
Physical Address:	3600 East Pisano, El Paso Texas, 79925		
Mailing Address: (if different from above)	Same as above		
Telephone Number:	(b) (7)(E)		
Facility Leadership			
Name of Officer in Charge:	(b) (6), (b) (7)(C)	Title:	Chief
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.

The Bridge of the Americas Port of Entry on-site audit was completed on Thursday, February 7, 2019, and the preliminary findings report was submitted in March 2019. Following comments from CBP Headquarters and Auditor Review, the report was submitted in Final Draft on September 23, 2019.

At that time, the Auditor reviewed the compliance of 25 Subpart B standards and the Bridge of the Americas (BOTA) Port of Entry (POE) was found to be in compliance with 16 standards: 115.111; 115.114; 115.117; 115.122; 115.131; 115.132; 115.154; 115.162; 115.164; 115.165; 115.166; 115.167; 115.176; 115.177; 115.182 and 115.186. The facility had not met the requirements for eight standards: 115.113; 115.115; 115.116; 115.121; 115.141; 115.151; 115.161; and 115.163. Standard 115.118 did not apply to the facility.

On February 7, 2020, the BOTA-POE submitted a preliminary Corrective Action Plan (CAP) to the Reviewing Auditor through Headquarters. Several document requests were made at that time. On April 21, 2020, the CAP was resubmitted to the Reviewing Auditor. As part of the CAP, the BOTA-POE submitted a copy of several training musters and sign-offs for the Auditor's review. The facility also submitted letters to the County Sheriff's Department and to El Paso Police Department stating that BOTA-POE is required to follow the Federal PREA regulations and requesting that local law enforcement follow applicable regulations. The applicable regulations were attached to the letters. The Annual Review of Detainee Supervision Guidelines for BOTA-POE was also submitted and reviewed. All required corrective action was completed prior to the 180 day deadline.

PROVISIONS

Directions: After the corrective action period, or sooner if compliance is achieved before the corrective action period expires, the auditor shall complete the Corrective Action Plan Final Determination. The auditor shall insert the provision(s) below that required corrective action and state if the facility's implementation of the provision now "Exceeds Standard," "Meets Standard," or "Does not meet Standard." The auditor shall include the evidence 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:

BOTA-POE submitted a record of an Annual Review of Detainee Supervision Guidelines dated September 20, 2019 which initially did not satisfy all elements of the standard. Elements missing were the complete listing of participants and a description of responses employed to respond to the different types of populations entering the Port of Entry determined to be inadmissible. On April 17, 2020, an amended Annual Review of Detainee Supervision Guidelines was submitted to the Reviewing Auditor via Headquarters and was found to be satisfactory. BOTA-POE is now compliant with 115:113.

§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:

BOTA-POE submitted proof of muster attendance and employee understanding on Personal Search requirements from training records dated December 10, 2018. These records satisfied compliance with all elements of standard provisions (a-c). On April 20, 2020, BOTA-POE presented evidence that over 80% of all port employees had received and understood muster training on making announcements to prevent cross-gender viewing of detainees using the lavatory or changing clothing and on proper procedures related to the pat-down search of transgender detainees. BOTA-POE is now compliant with 115:115.

§115.116

- ☐ 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:

BOTA-POE submitted proof of muster attendance and employee understanding from a muster conducted on November 22, 2019 on Providing PREA Protections and Services to Detainees with Physical, Developmental, or Mental Health Disabilities or who are Limited English Proficient (LEP). This corrective action occurred within the 180 day time period. BOTA-POE is now compliant with 115.116.

§115.121

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

Notes:

BOTA-POE submitted copies of correspondence dated May 14, 2019 submitted to the El Paso County Sheriff's Office and the El Paso Police Department requesting that both agencies agree to compliance with applicable requirements detailed in 115.121. These policies include detainee victim consent to participation in forensic examinations conducted at a hospital by a SANE/SAFE; victim consent to participation in sexual abuse investigations; and the ability of the victim to have a sexual abuse advocate present at both. Both law enforcement agencies received the applicable standard requirements as attachments. The corrective action was completed within the 180 day time period. BOTA-POE is now compliant with standard 115.121.

§115.141

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

Notes:

BOTA-POE submitted copies of an employee roster confirming completion and understanding of a training muster dated November 22, 2019 regarding the responsibility of all Officers to ask detainees about their safety concerns in confinement during their processing interview. The corrective action was completed within the 180 day time period. BOTA-POE is now compliant with standard 115.141.

§115.151

- ☐ 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:

BOTA-POE submitted copies of an employee roster confirming completion and understanding of a training muster dated November 6-11, 2019 regarding the responsibility of officers to respond affirmatively to detainees requesting to make private, confidential calls to the Office of the Inspector General (OIG) or the consulate of their country of origin. Officers were instructed to dial the consulate or OIG office and then leave the office while maintaining visual supervision. The corrective action was completed within the 180 day time period. BOTA-POE is now compliant with standard 115.151.

§115.161

- ☐ 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:

BOTA-POE submitted a roster of supervisory personnel indicating participation in and understanding of a training muster dated November 22, 2019 regarding the obligation of supervisors to report any incidents of sexual abuse involving detainees under the age of 18 to the State of Texas' Child Welfare Agency. This corrective action was completed during the 180 day time period. BOTA-POE is now compliant with standard 115.161.

§115.163

- ☐ 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:

BOTA-POE submitted a roster of supervisory personnel indicating participation in and understanding of a training muster dated November 22, 2019 regarding the responsibility of supervisors to report any incidents of sexual abuse occurring at another facility prior to the detainee's arrival at BOTA-POE to that facility's administrator. The report must be made immediately and must be documented in the detainee's electronic file. This corrective action was completed during the 180 day time period. BOTA-POE is now compliant with standard 116.163.

OVERALL DETERMINATION	
<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) _____

Auditor's Signature

April 26, 2020

Date