

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



U.S. Customs and
Border Protection

AUDITOR

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AGENCY

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

Name of Program Office:	Office of Field Operations
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SECTOR OR FIELD OFFICE

Name of Sector or Field Office:	Tucson, Arizona
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Name of Chief or Director:	(b)(6)(b)(7)(C)
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PREA Field Coordinator:	(b)(6)(b)(7)(C)
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Sector or Field Office Physical Address:	4760 N. Oracle Road, Suite 316, Tucson, AZ 85705
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Mailing Address: <i>(if different from above)</i>	
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SHORT-TERM HOLDING FACILITY BEING AUDITED

Information About the Facility

Name of Facility:	DeConcini and Mariposa Crossings - Nogales Port of Entry
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Physical Address:	9 N. Grand Avenue, Nogales, AZ 85621
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Mailing Address: <i>(if different from above)</i>	
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Telephone Number:	(b)(6)(b)(7)(C)
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Facility Leadership

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

A Prison Rape Elimination Act (PREA) on-site audit of the Customs and Border Protection (CBP), Office Of Field Operations (OFO), DeConcini and Mariposa Crossings (otherwise known as the "Nogales Point of Entry") (POE) holding facility was conducted on Thursday, July 25, 2019, from 0500 hours until 1600 hours. The audit was conducted by (b)(6)(b)(7)(C) Certified PREA Auditor, contracted through Creative Corrections, LLC, of Beaumont, Texas. This was the first PREA audit for the Nogales POE holding facility. The POE has a short-term processing and holding area detaining male and female adult detainees, unaccompanied alien children (UAC) and family units for a period specified to be under 24 hours, pending transfer for removal or detention. 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"). The on-site audit followed the auditor's electronic review of CBP's PREA policies and procedures and telephonic interviews with CBP Headquarters (HQ) Subject Matter Experts (SMEs).

The Point of Contact for the Nogales POE was Supervisory CBP Officer/PREA Coordinator (b)(6)(b)(7)(C).

Upon arrival at the facility, the Auditor was met by Supervisor (b)(6)(b)(7)(C). After a brief introduction, Supervisor (b)(6)(b)(7)(C) provided the Auditor a tour of the facility.

The Nogales POE is located in Nogales, Arizona. The Nogales POE consists of three entry points into the United States from Mexico. The DeConcini Crossing, the DeConcini Pedestrian Crossing, and the Mariposa Crossing. The DeConcini Crossing is the main crossing for the Nogales POE. Both vehicles and pedestrians enter and exit the United States at this facility, which is operational 24 hours a day. The Mariposa Crossing is operational from 0600-2200 hours and is utilized by cargo and personal vehicles that are entering/exiting the United States. The detention area is located at the DeConcini Crossing and is utilized by all three entry points to house detainees.

The DeConcini Crossing is comprised of several buildings utilized for various functions, including processing, pedestrian entry, offices, and vehicle inspections. The main building contains an initial pat search/holding cell area, and a secondary processing/holding cell area. The initial area consists of four pat search cells, which are utilized to pat search detainees when they are taken into custody. The cells are utilized to provide privacy to the detainee. There are no toilets in the cells and the doors have a small window for observation. These cells are only utilized for pat searching purposes. All detainees taken into custody are immediately taken to the secondary processing area for holding. The cells do not have (b)(7)(E). A (b)(7)(E) is located in the general area outside of the cells, and the Auditor viewed the (b)(7)(E) and confirmed it does not show any areas inside the cells.

The secondary processing/holding cell area is supervised by the supervisors and officers who are assigned to the processing unit. The holding area consists of (b)(7)(E). These areas are constructed with fencing. Neither the cells nor fenced in areas have toilets. (b)(6)(b)(7)(C) are located in the area but not within the cells. The detainees utilize a single occupancy toilet located on the far wall of the holding area. The procedure would be for an officer to let the detainee out of the cell or fenced area and allow them to utilize the bathroom. The bathroom is single occupancy with a solid door. This allows complete privacy while performing bodily functions.

Two showers are located just outside of the area. These showers are behind solid doors and provide complete privacy when showering. The door did have a small vent cut into it; the Auditor verified the interior of the shower could not be seen through this vent. The procedure for showering is that an officer of the same gender as the detainee would accompany the detainee to the shower, unlock the door, and allow the detainee to shower. Once finished, the detainee would knock on the door and the officer would unlock it and accompany the detainee back to the holding area.

The CBP PREA Posters and the DHS Language Identification Posters are located in both the initial pat search/holding cell area, and a secondary processing/holding cell area. The CBP PREA Posters are posted in both English and Spanish.

At the time of the audit, the facility was housing single male and female detainees as well as family units. The facility also has the ability to house unaccompanied juveniles; however, there were no unaccompanied juveniles present.

The DeConcini Pedestrian Crossing does (b) (7)(E); any detainee taken into custody is immediately brought to the DeConcini Crossing.

The Mariposa Crossing consists of two buildings. The main building houses the pedestrian POE, the secondary vehicle search area, and offices for the supervisors and officers. The Mariposa Crossing has two open grated holding areas utilized for pat searching purposes only. If a detainee is taken into custody at the Mariposa Crossing, he/she would be pat searched and immediately taken to the DeConcini Crossing and placed into the holding area. The Mariposa Crossing does not have any toilets or showers for detainees. The second building houses the command staff for the Nogales POE.

The three crossings share supervisors and officers. During the supervisor and officer interviews, the Auditor confirmed they work at all three crossings.

All staff with direct contact with detainees are law enforcement officers. Detainees are removed from any area where janitorial or maintenance contractors must work, and the workers are escorted in and out by law enforcement staff.

The number of officers working in the detention area remains fluid and varies by the flow of detainees. Following the initial facility tour and several interviews, the Auditor conducted an entrance conference at the Mariposa Crossing. The following were in attendance:

- (b)(6)(b)(7)(C), Certified PREA Auditor
- (b)(6)(b)(7)(C), Assistant Port Director
- (b)(6)(b)(7)(C), Watch Commander
- (b)(6)(b)(7)(C), Supervisory CBP Officer/Chief
- (b)(6)(b)(7)(C), Supervisory CBP Officer/Chief/PREA Coordinator

We discussed the overall audit process and findings to that point.

At the conclusion of the audit, the Auditor held an exit conference. The following were in attendance:

- (b)(6)(b)(7)(C), PREA Auditor
- (b)(6)(b)(7)(C), Assistant Port Director
- (b)(6)(b)(7)(C), Watch Commander
- (b)(6)(b)(7)(C), Supervisory CBP Officer/Chief
- (b)(6)(b)(7)(C), Supervisory CBP Officer/Chief/PREA Coordinator
- (b)(6)(b)(7)(C), Prevention Sexual Abuse (PSA) Coordinator, Privacy and Diversity Office (PDO) HQ (telephonically)
- (b)(6)(b)(7)(C), National OFO PREA Coordinator, HQ (telephonically)

We discussed the overall audit findings and the Auditor answered questions.

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.

Scope of the Audit: Before the on-site audit, the Auditor was able to review the HQ Pre-Audit Questionnaires (PAQs), the HQ Responsive Documents and Data Requests, local documents, including the Nogales POE specific documents, HQ participation documents, and medical provider websites. The Auditor was also able to conduct four HQ SME interviews.

The Auditor had complete access to the facility and observed primary screening, secondary screening, processing, and holding areas. The Auditor was provided with a private interview room for officer and detainee interviews.

During the on-site audit, the Auditor was able to interview officers from all three shifts. In total, the Auditor interviewed one local SME and fourteen random officers. The Auditor had the opportunity to observe the officer interactions with adult detainees and family units.

The auditor conducted nine detainee interviews. Two with family units, three with single female detainees, and four with single male detainees.

During the Audit Process, the Auditor reviewed the compliance of 25 Subpart B standards at the Nogales POE holding facility. The Auditor found the Nogales POE met standards 115.111;; 115.114; 115.116; 115.117; 115.121; 115.122; 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 facility has not met standards 115.113; 115.115; 115.121; and 115.131.

Standard 115.118 is not applicable to the facility.

Corrective Action: Provide documentation of an annual review of the detainee supervision guidelines at the Nogales POE that takes into account all elements required in the standard.

Corrective Action: Provide documentation of specific training on pat searches of transgender and intersex detainees.

Corrective Action: Provide documentation that the investigating agency has been requested to follow the requirements as stated in standard provisions (c) and (d).

Corrective Action: During the onsite audit, the facility was utilizing the services of the United States Marine Corps, for security and transport of detainees. Provide documentation they have received PREA Training.

SUMMARY OF AUDIT FINDINGS	
Number of standards exceeded:	0
Number of standards met:	20 + 1 not applicable
Number of standards not met:	4
OVERALL DETERMINATION	
<input type="checkbox"/> Exceeds Standards (Substantially Exceeds Requirements of Standards) <input type="checkbox"/> 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, explain 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) On May 6, 2014, CBP issued a memorandum implementing the Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Assault and on March 15, 2015; CBP Commissioner updated the memorandum, which is titled CBP Policy on Zero Tolerance of Sexual Abuse and Assault. This memorandum constitutes CBP's policy on zero tolerance of sexual abuse and assault. CBP Directive 2130-030, Sexual Abuse and Assault Prevention and Response, dated January 19, 2018, mandates zero-tolerance toward all forms of sexual abuse and sexual assault and outlines their approach to preventing, detecting, and responding to such abusive conduct. It defines in detail for all staff and detainees the prohibited acts. CBP National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015, sets forth nationwide Standards that govern CBP's interaction with detained individuals. CBP Directive 2130-030 was provided to all CBP employees on February 5, 2018, and reissued on February 12, 2018, through the agency email program referred to as CBP Central. The local SME stated that when the original memorandum was issued through the Port Director, a muster training was created by the supervisors. The officers were informed of PREA and a Performance and Learning Management System (PALMS) training was added that trained all of the officers. He further stated they received the DHS reporting posters which were placed in the holding areas. The random officer interviews confirm they were provided and are familiar with CBP Directive 2130-030. This policy is currently available to everyone on the agency webpage.

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

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

Notes:

(a) The standard requires the agency ensure each facility maintain sufficient detainee supervision through staff and where applicable (b) (7)(E) to protect detainees against sexual abuse. The agency must develop and document comprehensive supervision guidelines to meet the facility detainee supervision needs. The Auditor confirmed with the facility supervisors that the DeConcini Crossing is staffed 24 hours a day; the DeConcini Pedestrian Crossing is staffed from 1000-1800 hours, and the Mariposa Crossing from 0600-2200 hours. The staffing levels are fluid depending upon traffic flow and needs of the facility. The processing/holding area is staffed 24 hours a day, and the staffing is set to the shift, and immediate needs of the detainees. When detainees are taken into custody, they will be under direct supervision; the Auditor was informed the Nogales POE maintains enough officers to provide a safe and secure environment for detainees. The supervisors at the Processing Unit stated that they will fill shifts with overtime, or pull officers from other assignments to ensure that the manpower is at full capacity. At the present time the facility was utilizing members of the United States Marines to assist with oversight of the detainees. Their duties included feeding and transportation. The supervisors and the PREA Field Coordinator (PFC) state the established staff positions are appropriate. The facility does not have any (b) (7)(E) in the cells. No toilets are located within any cell, and the showers are located in a separate area, and are single occupancy. The detainees are under constant supervision when in custody. If a detainee is placed into one of the (b) (7)(E) they are checked every 15 minutes, and this is logged on the Personal Detention Log Sheet or appropriate electronic system of record.

(b)(c) CBP Directive 2130-030 requires that OFO and USBP to develop and document a comprehensive detainee supervision guideline that meets the facility's detainee supervision needs and review those supervision guidelines and applications 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. The SME and Assistant Port Director confirmed they conduct a review of the supervision guidelines taking into account the 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 providing daily supervision, therefore in compliance with standard provision (c). No documentation was provided of an annual review being conducted with the results provided to the PSA. The staffing of the processing/holding area is consistent. The Auditor confirmed with the officers interviewed that when someone is in custody, they are checked every 15 minutes or under constant supervision.

Corrective Action: Provide documentation of an annual review of the supervision guidelines that takes into account all elements required in the standard and a copy of the results provided to the PSA.

§115.114(a) and (b) – Juvenile and family detainees.

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

Notes:

(a)(b) CBP TEDS requires the Nogales POE to place each juvenile in the least restrictive setting appropriate to their age and special needs, provided the setting is consistent with the need to ensure the safety and security of the detainee and that of others. The Auditor interviewed officers who process unaccompanied juveniles and family units taken into custody. When discussing family units, or UAC's, the officers confirmed the following process: if a family unit is detained, they will be kept together, unless there is an indication of criminal activity involving the child, child abuse, neglect, unauthorized custody, etc. The family units are placed together in one of the cells, or holding areas. The Officers indicated that unaccompanied juveniles would be placed in the open area located next to the officers' desks and be under constant supervision at all times. The officers stated that if they have both male and female unaccompanied juveniles, one gender would be placed in one of the cells with the door open, and the other next to the officer's desk in the open area. This process provides the least restrictive setting as possible, and allows the officers to have direct supervision. They further stated that if they have a child of tender years or with special needs they will provided one-on-one direct supervision. The above setting provides complete separation of UAC's from adult detainees. The officers also

(b)(7)(E)

(b)(7)(E)

If a legal relationship cannot be established, the minor is handled as an unaccompanied juvenile separated from adults, under the least restrictive setting. At the time of the audit no unaccompanied juveniles were being detained. The Auditor interviewed two family units. The detainees stated they have always been held together, and the relationship was confirmed before allowing them to stay together. The facility has not had any sexual abuse incidents within the past 12 months that involved juveniles or family units.

§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 officers, civilians, and detainees. It prohibits cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances including consideration of officer safety, or when performed by medical practitioners. If performed, the policy requires these strip/body cavity searches be recorded in the electronic system of record. The policy further states officers must not conduct visual body cavity searches of juveniles and will refer all such body cavity searches of juveniles to a medical practitioner. Supervisor and officer interviews confirm the facility does not conduct strip searches and body cavity searches.

(d) CBP TEDS specifies the requirement that enables detainees to shower (where showers are available), perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or under medical supervision. The holding cells/areas do not have (b) (7)(E) within them, but (b) (7)(E) are located in the general area. The toilets are located outside of the cells/area and are single occupancy bathrooms with solid doors that provide complete privacy. The showers are also single occupancy and behind a solid door, which also offers complete privacy. The interviewed detainees stated that they have utilized the bathroom and showered without being viewed by any staff member.

(e) CBP TEDS prohibits staff from searching or physically examining a detainee for the sole purpose of determining the detainee's gender. If the detainee's gender is unknown, officers are to ask the detainee their gender or gender identity. If the detainee declines to state their gender, the gender will be recorded in the appropriate electronic system(s) of record as unknown. Officer interviews indicate they are aware of the prohibition on searching detainees to determine their gender. There were no transgender detainees being held during this review.

(f) The Auditor confirmed that a memorandum from the Executive Director of Admissibility and Passenger Programs was issued to the Directors of Field Operations, and the Director of the Field Operations Academy. This memorandum was supplemented by a Muster memo, and this memo is dated December 10, 2018. The muster memo offers guidelines on how to search a detainee who identifies as gender non-conforming, intersex, or transgender. The memo further states that if an officer finds that an individual identifies with a gender other than the gender on their travel documentation, they will immediately notify a supervisor. Officers of the same gender as identified by the detainee will become the search officer and witness. The supervisors stated that they reviewed the muster memo and provided guidance to all officers at muster as how to proceed in these situations. They further stated muster training was conducted on Transgender and Intersex Detainees pat search training in December of 2018; however, the facility did not have any documentation that the training was conducted, or any individual officer's acknowledgement of the training. The facility has a PREA reference binder that has the muster training memo in it for reference, if needed. The supervisors further confirmed this overall process since they need to authorize all pat searches. The supervisors and officers all confirmed that according to this memo, if a male identified as a female and they still had male genitalia, they would have the female pat search the upper half and a male would search from the waist down. Since the muster memo, some staff reported they pat search the detainee as to how the detainee identifies and use cross-gender pat search techniques, such as the back of the hand, or blade of hand to conduct such search. However, the majority of the staff reported they received pat search and cross-gender pat search training, but did not state they received transgender pat search training nor did they indicate they would search a detainee based on their declared identity. **Corrective Action:** Provide documentation of specific training on pat searches of transgender and intersex detainees.

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

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

Notes:

(a)(b)(c) CBP TEDS and CBP Directive 2130-030 requires detainees with disabilities (e.g., detainees who are hearing impaired; those who are blind or have low vision; or those who have intellectual, psychiatric, or speech disabilities) to have access to CBP efforts to prevent, detect, and respond to sexual abuse and assault. When necessary to ensure effective communication with detainees who are hearing impaired, steps are to include providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. During staff interviews, the Auditor was informed if a communication problem exists during processing; the officer utilizes Interpreters and Translations Incorporated to provide information to detainees in a language they understand. The officers further state blind detainees would be dealt with individually with the officer reading them information, and if deaf, they would write back and forth. For low mental functioning individuals, they would provide a verbal explanation to ensure they understood the information. The officers confirm they would refer to the DHS publication, "A Guide to Interacting with People Who Have Disabilities" to assist in giving guidance on the best way to accommodate detainees who are deaf and cannot speak, psychiatric, low-level learning, or low functioning detainees. During interviews the SME and supervisors confirmed the process for interacting with disabled or LEP detainees. The Auditor reviewed the publication and confirmed all of the disabilities are addressed. This publication was in the aforementioned PREA binder. The interviewed officers confirmed they have always found a way to interact with the detainees; this interaction is necessary to complete the processing of the detainee. They further confirmed that they do not use other detainees to interpret and would not in a situation of sexual abuse or assault.

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

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

Notes:

(a) CBP Directive 2130-030 requires the Office of Human Resource Management (HRM) to establish policy and procedures to ensure CBP does not hire or promote employees and contractors or enlist the services of a volunteer who have had previous substantiated allegations of engaging in sexual abuse and assault to any position where the employee may interact with detainees in CBP holding facilities. The Auditor interviewed the HQ HRM SME and was informed CBP would not hire or promote any employee or contractor or enlist the service of any volunteer who has been found to have engaged, been convicted of engaging, or civilly or administratively adjudicated to have engaged in sexual abuse as defined in the Standard and agency policy.

(b) The HQ HRM SME states interviews conducted with new applicants as well as applicants for promotion includes specific questions about any previous sexual abuse misconduct. The HQ HRM SME also informed the Auditor all staff

have an affirmative duty to disclose any such misconduct. This information is provided to them upon hiring when issued the U.S. Customs and Border Patrol Standards of Conduct and are reminded annually during training on PALMS. (c)(d)(e) CBP Directive 2130-030 requires the Office of Professional Responsibility (OPR) ensure background investigations are conducted for applicants for employment and contractors having contact with detainees to determine the suitability and updated background investigations be conducted every five years for CBP personnel who may have contact with detainees. The HQ PSD SME indicates background checks for CBP are the most thorough investigations performed for DHS. She confirms the background investigators ask all potential employees and contractors if they have engaged in, or have ever been charged with, sexual abuse. She related an affirmative response results in the individual not being hired. She also stated material omissions regarding this type of misconduct or providing false information are grounds for termination or withdrawal of an offer of employment. The SME also informed the Auditor rechecks are initiated every five years. The Auditor submitted fifteen names to OPR to review for background rechecks. The documentation provided by HQ demonstrated the five-year recheck was initiated within five years as required. The facility does not have contractors who have contact with detainees.

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

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

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

Notes:

(a) The standard provision is not applicable as the Nogales POE has acquired no new facility or undergone a major expansion since construction.

(b) The facility has not made any upgrades to the **(b) (7)(E)** at the facility; the SME stated that if any new monitoring system were going to be installed they would take into consideration sexual safety as well as the overall safety of the detainees.

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

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

Notes:

(c)(d) CBP Directive 2130-030 requires the Nogales POE to provide emergency medical treatment and crisis intervention services, including a forensic medical exam, in accordance with professionally accepted standards of care to alleged victim detainees of sexual assault. The treatment is without financial cost to the detainee and regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident. CBP TEDS requires if the detainee is transported for a forensic examination to a medical facility that offers victim advocacy services, officers will permit the detainee to use such services to the extent available, consistent with security needs. The facility SME confirmed a victim would receive medical and mental health treatment at no cost as well as allowing advocacy personnel access to detainees, which is provided at the hospital along with the sexual assault examination. They further stated that a detainee would be transported to the University Medical Center-Banner in Tucson, Arizona, for a forensic medical examination. The facility SMEs confirmed they offer a sexual assault examination provided by a SANE, and victim advocacy would be offered by the Southern Arizona Center Against Sexual Assault. The Auditor contacted both the University Medical Center-Banner and the Southern Arizona Center Against Sexual Assault and spoke with a supervisor at both locations. They confirmed they offer the services as outlined by the facility SMEs. These procedures include protocols to maximize the potential for obtaining usable physical evidence. The Auditor further confirmed with the SMEs that anyone under the age of 18 involved in an incident would be taken to a Southern Arizona Child Advocacy Center for examination. This was confirmed by reviewing the CAC website. The interviewed officers stated they were aware of the general process of a victim being taken to the hospital for a forensic examination but did not know the details of the process.

(e) The standard requires the Nogales POE request the investigating agency to follow the requirements of paragraphs (a) through (d) of this section. The local SME confirmed that local law enforcement, the DHS Office of the Inspector General (OIG), and/or CBP OPR would conduct the criminal investigation of alleged sexual abuse at the facility; however the Nogales POE did not provide documentation requesting local law enforcement follow the requirements as stated in standard provisions (c) and (d). It should be noted the Nogales POE provided documentation after the audit but prior to the report being submitted. The documentation can be applied to the corrective action. **Corrective Action:** Provide

documentation that the investigating agency has been requested to follow the requirements as stated in standard provisions (c) and (d).

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

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

Notes:

(c)(d) CBP Directive 2130-030 requires staff with knowledge, suspicion, or information of any incident of sexual abuse and/or assault of a detainee in a holding facility; retaliation against any person, including a detainee, who reports, complains about, or participates in an investigation about an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation to report to the Joint Intake Center (JIC). The local SME and supervisors confirm an allegation of sexual abuse would be reported to JIC and the Commissioner's Situation Room in accordance with policy. They stated this notification would be made by the on-duty supervisor. The PFC confirms an Incident Report to the JIC and the Commissioner's Situation Room would be submitted upon learning of an incident. He also indicated state or local law enforcement, OIG, and/or OPR would be notified as they have the legal authority to conduct criminal investigations. All notifications would be documented in the incident report. The Nogales POE did not have any incidents of sexual abuse within the last 12 months.

§115.131(a) through (c) – Employee, contractor, and volunteer training.

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

Notes:

(a)(b)(c) CBP Directive 2130-030 requires all uniformed Agents and Officers, Special Agents, fact finders, contractors, and volunteers who may have contact with detainees in CBP holding facilities receive PREA training as required in Subpart B of the DHS Standards. The Auditor reviewed the training curriculum provided to staff at the Nogales POE through PALMS. This training includes the agency's zero-tolerance policy for all forms of sexual abuse, the definitions, and examples of prohibited and illegal sexual behavior, the right of detainees to be free from sexual abuse, and the right of staff and detainees to be free from retaliation for reporting it. The training also provides information on where sexual abuse may occur; recognition of physical, behavioral, and emotional signs of sexual abuse; and methods of preventing and responding to such occurrences. Staff is instructed on how to avoid inappropriate relationships with detainees, and how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, and transgender, intersex, or gender non-conforming detainees. The Auditor confirmed during officer interviews and review of the training materials that these topics are provided in training. The interviewed officers understood the general investigation process, and that local law enforcement, DHS OIG, and/or OPR would be notified to conduct the investigation. They further stated that the process is outlined in the policy. The Auditor was provided a roster printed from PALMS showing all employees assigned to the Nogales POE have received this training within the past 12 months. The Auditor further confirmed the refresher training is provided every two years. The local SME and supervisors state the Nogales POE does not have any contractors or volunteers who have contact with detainees. The Auditor interviewed the training officers for the Tucson Field Office, who provides training and oversight for the training throughout the Tucson Field Office, and this includes the Nogales POE. They stated that the PREA training has been taking place on a yearly basis since 2016, and provided the Auditor records for the officers dating back to 2016. During the onsite audit the facility was utilizing the services of the United States Marine Corp for security and transports of detainees, however, there was no documentation they had received PREA Training. **Corrective Action:** Provide documentation the United States Marine Corps personnel have received PREA Training.

§115.132 – Notification to detainees of the agency's zero-tolerance policy.

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

Notes:

CBP has published its zero-tolerance policy through its webpage (<https://www.cbp.gov/about/care-in-custody>). The Nogales POE notifies all detainees of its zero-tolerance policy through posters located in the holding area. The Auditor observed posters in English and Spanish. Information on the posters includes: CBP has zero-tolerance for sexual abuse/assault; reporting can be anonymous and confidential; be safe and get help; tell a CBP official; call the DHS OIG (toll-free number provided), and telecommunication devices available by calling a toll-free number (provided). During the detainee interviews the Auditor confirmed that the detainees were aware of the zero-tolerance policy and confirmed they knew how to report.

§115.134 – Specialized training: Investigations.

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

Notes:

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

§115.141(a) through (e) – Assessment for risk of victimization and abusiveness.

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

Notes:

(a)(b)(c)(d) CBP TEDS states before placing any detainees together in a holding room the processing officer must assess the information before them to determine if the detainee may be considered at-risk, or at risk of posing a threat to others. This assessment by policy includes: whether the detainee has exhibited a mental, physical or developmental disability; the age of the detainee; their physical build; any prior arrests or incarcerations; is the detainee identified as LGBTI or gender non-conforming; any prior sexual victimization; and the detainee's own concerns about his/her physical safety. The local SME and supervisors confirm the assessment is completed utilizing the US Customs and Border Protection Assessment for Transport, Escort, and Detention form. This form takes into consideration all provisions of the standard. The interviewed officers confirmed the form is completed when the detainee is taken into custody. This can occur at any of the three crossings. The form is given to the processing unit when the detainee is brought to the processing/holding area. The information is transferred to an appropriate electronic system of record. The Processing Unit officers and supervisors stated they have the ability to separate detainees, and the detainees are under direct supervision when housed in the open areas in the processing unit. If there was a concern for someone's safety, they would house them alone and right in front of the officers' desk so they were under direct supervision. They also indicate they received training on the assessment through PALMS. The interviewed detainees stated they were asked questions about their age, prior crimes, and overall concerns of safety. They also stated that they were placed in a general area under direct supervision when they were first detained. The local SME and supervisors stated they follow 4.0 Secure Detention Standards in TEDS, which specifically address all aspects of the standard. The Auditor reviewed TEDS and found that all questions enumerated in the standard are outlined in the policy.

(e) CBP TEDS requires the Nogales POE to implement appropriate controls on the dissemination of private and sensitive information provided by detainees during this risk assessment. Officers can disclose this information only to those with a need-to-know. The information is gathered by the officers during the initial encounter and is given to the processing unit. The detainees are not held at the facility for any longer than required for processing. The facility is not equipped to house long-term detainees.

§115.151(a) through (c) – Detainee reporting.

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

Notes:

(a)(b) CBP Directive 2130-030 requires detainees be provided with multiple ways to privately report sexual abuse and assault, retaliation for reporting sexual abuse and assault, or staff neglect or violations of responsibilities that may have contributed to such incidents. It further requires the facility is to provide at least one way for detainees to report sexual abuse to a public or private entity not connected to the agency. Detainees must be able to report confidentially and anonymously, if desired, as well as both verbally and in writing. CBP's procedures for reporting alleged sexual abuse and assault are to be visible or continuously and readily available to detainees at holding facilities and posted on the CBP public website. The Auditor confirmed during the local SME and officer interviews the detainees are provided the reporting information through posters placed in the holding area and pat search areas. During the facility tour, the Auditor observed the posters; they are in both English and Spanish. The interviewed officers further confirm they utilize Interpreters and Translators Incorporated for any other language interpretation. The posters state the detainee can report to the DHS OIG. The posters provide the telephone number to call. During the supervisor and officer interviews, they confirmed if a detainee indicated they wanted to call OIG, they would be taken into an office to call and placed in the room by themselves to call. The interviewed supervisors and officers indicated the detainee would not have to provide a specific reason for wanting to call OIG. They also indicated they would dial the number for them to ensure they were contacting OIG and leave the room. The interviewed detainees stated that they were aware of the reporting avenues and that these are outlined on the posters in the holding area. The majority of the interviewed detainees were

aware that the reports could be made anonymously, could be made in private, or a third party could make the report for you. The detainees all stated they would refer to the poster for reporting an incident, or tell an officer.

(c) CBP TEDS requires officers at the Nogales POE to receive allegations reported to them orally, in writing or third party reports. Random officer interviews confirm they would accept oral, written, or third party reports of sexual abuse and promptly report such reports to their immediate supervisor. They also confirmed the reports would be documented in a report. The interviewed local SME, supervisors, and officers confirm all verbal allegations of sexual abuse or sexual assault made to them would be documented in writing.

§115.154 – Third-party reporting.

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

Notes:

CBP Directive 2130-030 states detainees may utilize third-party individuals to report allegations of sexual abuse. The agency provides reporting information for anyone wishing to report any allegation on behalf of a detainee on their webpage <https://www.cbp.gov/about/care-and-custody/how-make-report>. The information on the webpage provides a toll-free telephone number, USPS address and email, address to the JIC, a toll-free telephone number, a direct complaint link and USPS address for DHS OIG for anyone wishing to make an allegation on behalf of a detainee. The Auditor confirmed that the toll-free telephone number, USPS address, and email to the JIC and DHS OIG were operational on the day of the audit. The interviewed supervisors stated that they would be notified of a third party report, and they would immediately contact OPR Sexual Assault/Abuse Investigations (SAAI) for investigation.

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

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

Notes:

(a)(b) CBP Directive 2130-030 requires staff to report as promptly as possible any knowledge, suspicion, or information of the following: an incident of sexual abuse and/or assault of a detainee in a holding facility; retaliation against any person, including a detainee, who reports, complains about, or participates in an investigation about an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. CBP Directive 2130-030 also requires all staff to report any misconduct upon becoming aware of it. CBP TEDS requires staff to immediately report: any knowledge, suspicion, or information regarding an incident of sexual abuse against any detainee; retaliation against detainees or staff who reported or participated in an investigation about such an incident; and staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. CBP Directive 51735-013A, Standards of Conduct, dated March 13, 2012, not only allows staff to report within their chain of command, it requires them to report outside of their chain of command to either JIC, or by contacting CBP OPR and contacting DHS OIG to report all allegations of misconduct. The Auditor confirmed the reporting requirements during the local SME, supervisor, and officer interviews. They stated they would immediately report any allegation of sexual abuse, retaliation, or staff failure to perform their duties utilizing the reporting avenues outlined in the policy.

(c) CBP Directive 2130-030 requires staff not reveal any information related to a sexual abuse report except as necessary to aid the detainee, protect other detainees or staff, or to make security and management decisions. This information about confidentiality is provided to all staff in the mandatory PALMS PREA training, as well as in policy. Interviews with the local SME, supervisors, and officers confirm information would not be shared with other staff except on a need-to-know basis or during an investigation into the matter.

(d) CBP Directive 2130-030 requires CBP staff to notify relevant agencies if the alleged victim of a sexual assault is a vulnerable adult or under the age of 18. Interviews with the local SME and supervisors confirm should a vulnerable adult or person under 18 be sexually assaulted at the Nogales POE, the supervisor would submit an Incident Report to the JIC and the Commissioner's Situation Room. Notifications would be completed as required by CBP Directive 3340-025E. The PREA Field Coordinator stated he would make the notification to the proper State Agencies. Staff at the Nogales POE indicates that the facility has not had any incidents requiring this type of notification during the last 12 months.

§115.162 – Agency protection duties.

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

Notes:

CBP TEDS states if an officer has a reasonable belief a detainee may be subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee. The local SME, supervisors, and officers interviewed indicate any detainee believed to be in imminent danger of being sexually abused will be separated from other detainees and placed under direct supervision. They all confirm the facility can place a detainee in a holding cell by themselves for protection if needed.

§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) A memorandum was issued on August 12, 2014, by the Acting Assistant Commissioner, OFO, and is titled "Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities, requires staff at the Nogales POE, upon receiving an allegation that a detainee was sexually abused while confined at another facility, to notify the prior agency or administrator. Notification will be made as soon as possible, but no later than 72 hours. An Incident Report to JIC and the Commissioner's Situation Room would be submitted as required by CBP Directive 3340-025E. Interviews with the local SME and supervisors confirm these notifications would be done immediately. There were no notifications made by this facility during the last 12 months as no alleged incidents at other facilities have been reported to any Nogales POE staff.

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

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

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

Notes:

(a)(b) CBP Directive 2130-030 details the responsibilities of the first staff on the scene of a reported allegation of sexual abuse. The Directive requires staff members to separate the alleged victim and abuser, preserve, and protect the crime scene, and if the abuse occurred within a period that still allows for the collection of physical evidence, request the alleged victim and abuser do not take any actions that could destroy physical evidence. This is further outlined in the PALMS training that all staff complete. The Nogales POE does not allow contractors, volunteers, or civilian staff into the holding area while detainees are present. The policy does, however, address their responsibilities if they encounter a detainee and something is reported to them. The policy requires a contractor, volunteer, or civilian staff to request the alleged victim not to take any actions that could destroy physical evidence and notify law enforcement staff. The interviewed officers indicate they would separate the victim from the abuser, provide medical assistance if needed, preserve evidence to the extent possible, and notify their supervisor. During the on-site audit, the Auditor did not see any contractors, volunteers, or civilian staff in the holding area.

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

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

Notes:

(a) CBP Directive 2130-030 indicates that the entire document constitutes CBP's written institutional plan outlining the coordinated multidisciplinary team approach to responding to sexual abuse. The policy covers all aspects from hiring, training, reporting, responding, medical, and mental health services, investigations, and data collection. The local SME, during his interview, discussed the institutional plan. He stated information about specific responsibilities are explained in the Directive and reinforced in training.

(b)(c) CBP Directive 2130-030 states if an alleged victim of sexual abuse and assault is transferred to another DHS facility, the Nogales POE must inform the receiving DHS agency of the alleged incident and the alleged victim's potential need for medical or social services. If the alleged victim of sexual abuse and assault is transferred to a non-DHS facility, the Nogales POE must inform the receiving facility or agency, as permitted by law, of the incident and the alleged victim's potential need for such services, unless the alleged victim requests otherwise. The local SME confirms that

during the last 12 months, the Nogales POE has had no cases requiring any such notification to a DHS or non-DHS facility. All incidents of this type require the supervisor to submit an Incident Report to the JIC and the Commissioner's Situation Room upon notification. Any transfer or move would require the supervisor to update JIC of the incident, and notify the receiving facility. This process was detailed to the Auditor by the local SME and supervisors as the Nogales POE has had no incidents for the Auditor to review. Notifications would be completed as required by CBP Directive 3340-025E.

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

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

Notes:

CBP Directive 2130-030 requires agency management consider whether any staff, contractor, or volunteer alleged to have perpetrated sexual abuse and assault should be removed from duties requiring detainee contact pending the outcome of an investigation and shall do so if the seriousness and plausibility of the allegation make removal appropriate. The HQ SAAI SME indicates any allegation of sexual assault or sexual abuse involving staff, a contractor, or volunteer would result in the person being removed from detainee contact pending the outcome of an investigation if the seriousness of the allegation make removal appropriate. The procedure was confirmed during the local SME interview; he further indicates the Nogales POE has not had any allegations of sexual abuse made against a staff member requiring this type of response.

§115.167 – Agency protection against retaliation.

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

Notes:

CBP Directive 2130-030 prohibits Agents, Officers, and other CBP personnel from retaliating against any person or detainee, who reports, complains about, or participates in an investigation of sexual abuse and assault. This retaliation prohibition is also detailed in the PREA training (PALMS) each staff member receives at the Nogales POE. The Auditor interviewed the local SME, supervisors, and officers and each were aware of the policy prohibiting retaliation against anyone who makes an allegation of sexual misconduct or participates in the investigation. The local SME informed the Auditor there had been no allegations of retaliation made at the Nogales POE during the last 12 months.

§115.171 – Criminal and administrative investigations.

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

Notes:

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

§115.172 – Evidentiary standard for administrative investigations.

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

Notes:

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

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

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

Notes:

(a) CBP Directive 2130-030 informs CBP personnel they may be subject to disciplinary or adverse action up to and including removal from their position and Federal Service for substantiated allegations of sexual abuse and assault and/or for violating CBP's sexual abuse policies. The Auditor confirmed with the HQ Labor and Employee Relations (LER)

SME and HQ SAAI SME that staff would be subject to disciplinary action including removal from Federal Service for a substantiated allegation of sexual abuse or violating the agency sexual abuse policy.

(c) CBP Directive 2130-030 requires OPR to report all removals or resignations in lieu of removal to appropriate law enforcement agencies for violations of the agency or facility sexual abuse and assault policies unless the activity was not criminal. The local SME and HQ SAAI SME confirm CBP would notify law enforcement of all removals or resignations in lieu of removal for violations of the agency zero-tolerance policy. They further indicate there were no such resignations or removals at the Nogales POE within the last 12 months.

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

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

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

Notes:

CBP Directive 2130-030 requires any contractor or volunteer suspected of perpetrating sexual abuse and assault be removed from all duties requiring detainee contact pending the outcome of an investigation, as appropriate. As previously stated, the Nogales POE does not allow contractors or volunteers in the holding area when detainees are present. The Auditor did not observe any contractors or volunteers in the holding rooms during the site visit. The local SME indicates that if for some reason they had contact with a detainee and sexual misconduct was alleged to have occurred by them, this would result in their removal from duties and contact with any detainees pending investigation. He indicated he would be responsible for notifying both the local law enforcement and any licensing bodies.

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

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

Notes:

(a)(b) CBP Directive 2130-030 requires alleged sexual assault victims be provided timely unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. It also requires emergency medical treatment services to be provided to the alleged victim without financial cost and regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident. The local SME and supervisors confirmed a victim would receive medical and mental health treatment at no cost as well as allowing advocacy personnel access to detainees, which is provided at the hospital along with the sexual assault examination. The Auditor further confirmed with the local SMEs that anyone under the age of 18 involved in an incident would be taken to a Southern Arizona Child Advocacy Center for examination. This was confirmed by reviewing the CAC website.

§115.186(a) – Sexual abuse incident reviews.

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

Notes:

(a) CBP Directive 2130-030 requires after every investigation of sexual abuse and assault, a sexual abuse incident review is to be conducted within 30 days. The review is to determine whether the allegation or investigation indicates a change is needed in policy or practice to better prevent, detect, or respond to sexual abuse. The recommendation(s) for improvement outlined in the review must be implemented, or the agency must document the reasons for not doing so in a written response. The report and response are to be forwarded to the PSA Coordinator. The Auditor interviewed the PSA Coordinator about the incident review process for allegations of sexual abuse. She informed the Auditor the operational offices conduct sexual abuse incident reviews consistent with the procedures outlined in Section 18.1 of CBP Directive 2130-030. The Nogales POE had no incident reviews conducted during the audit period as the facility had no allegations of sexual abuse incidents investigated requiring one.

§115.187 – Data collection.

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

Notes:

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

ADDITIONAL NOTES

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

The Auditor was unable to complete the report. The initial Audit Report was submitted on November 16, 2019. (b)(6)(b)(7)(C) certified PREA Auditor has reviewed the written notes provided by the Auditor for accuracy within the report and made appropriate changes based on the written notes. Additionally, grammatical corrections were made, structure of some standard provisions were adjusted, and post audit policies dated prior to the audit were reviewed and included in the report. The Auditor mistakenly refers to Homeland Security Investigators (HSI) throughout the report as the investigative agency to respond to allegations of sexual abuse at the Port of Entry. Examination of the Auditor's notes does not reflect whether the Auditor was given erroneous information during the audit interviews or assigned this incorrect destination themselves. The correct investigative body is the Office of Professional Responsibility/Sexual Assault/Abuse Investigations (SAAI) unit. The Reviewing Auditor has confirmed these correct procedures with both the HQ PSA Coordinator and the OPR/SAAI Coordinator.

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

November 16, 2019
Date

(b)(6)(b)(7)(C)
Secondary Auditor/Reviewer Signature

February 14, 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:	Office of Field Operations
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SECTOR OR FIELD OFFICE

Name of Sector or Field Office:	Tucson, Arizona
Name of Chief or Director:	(b)(6)(b)(7)(C)
PREA Field Coordinator:	(b)(6)(b)(7)(C)
Sector or Field Office Physical Address:	4760 North Oracle Road, Suite 316, Tucson, Arizona 85705
Mailing Address: (if different from above)	Same as Above

SHORT-TERM FACILITY BEING AUDITED

Information About the Facility

Name of Facility:	DeConcini and Mariposa Crossings - Nogales Port of Entry
Physical Address:	9 Grand Avenue, Nogales, Arizona 85621
Mailing Address: (if different from above)	Same as Above
Telephone Number:	(b)(6)(b)(7)(C)

Facility Leadership

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

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS:

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

An on-site audit of the Office of Field Operations (OFO), Nogales Port of Entry (POE), which consists of the DeConcini and Mariposa Crossings was conducted on July 25, 2019, and the preliminary findings report was submitted on September 16, 2019. Following comments from CBP Headquarters and from the reviewing Auditor, the report was submitted in Final Draft on February 14, 2020.

At the time of the audit, the Auditor reviewed the compliance of 25 Subpart B standards and the Nogales POE was found to be in compliance with 20 standards: (115.111; 115.114; 115.116; 115.117; 115.121; 115.122; 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 Nogales POE was found to not be in compliance with four standards: (115.113; 115.115; 115.121, and 115.131). One standard, 115.118, was found to be Not Applicable to the Nogales POE.

On April 17, 2019, the Nogales POE submitted a preliminary Corrective Action Plan (CAP) through Headquarters. Several documents were requested by the Reviewing Auditor and several clarifications were sought and received by April 16, 2020. This CAP was reviewed by the Reviewing Auditor and Program Manager for Creative Corrections. They also provided a copy of the Annual Review of Detainee Supervision Guidelines, which satisfied all requirements of Standard Provisions 115.113 (b) and (c). On April 16, 2020, the Nogales POE submitted documentation detailing the training of US Marine Corps personnel temporarily serving at the POE by the Chief who provided oversight to the Marine personnel. Marine personnel are no longer serving at the Nogales POE. On June 26, 2020, the Nogales POE submitted satisfactory documentation of staff musters and sign-offs, satisfying the staff retraining requirements of Standard Provision 115.115 (f). The facility also submitted a letter to the Nogales Police Department stating that the Nogales POE is required to follow the DHS PREA regulations and requesting that local law enforcement follow applicable regulations, which satisfied the requirements of Standard Provision 115.121 (e). While CBP Headquarters and Creative Corrections remained in contact during the CAP period, all required Corrective Action was not 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:

On February 12, 2020, the Nogales POE submitted an Annual Review of Detainee Supervision Guidelines document as required by Standard Provision (b). Review of the report revealed that several elements required by the Standard had not been satisfied and the report was returned for revision. On February 26, 2020, an amended Annual Review of Detainee Supervision Guidelines was submitted to the reviewing Auditor and was found to satisfy all elements of the Standard Provision. The Nogales POE is now compliant with Standard 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:

On June 26, 2020, the Nogales POE submitted both local and national documents outlining agent performance requirements regarding proper personal search techniques including juvenile visual cavity searches, determination of detainee gender identification and proper procedures for the pat search of identifying transgender detainees. Also submitted were staff training muster sign-offs and acknowledgements. The Nogales POE is now compliant with Standard 115.115.

§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:

The Nogales POE submitted a copy of correspondence dated February 11, 2020, to the Nogales Police Department requesting the agency agree to comply 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. The Nogales Police Department received the applicable standard requirements as attachments. The Nogales POE is now compliant with standard 115.121.

§115.131

- 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 16, 2020, the Nogales POE submitted documentation detailing the PREA training of U.S. Marine Corps personnel serving on special detail to the Nogales POE. The training was completed by the local Chief who provided oversight of the detail. Marine Corps personnel are no longer serving at the Nogales POE. The Nogales POE is now compliant with 115:131.

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

AUDITOR CERTIFICATION:

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

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

June 29, 2020
Date