

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) (b)(6)(b)(7)(C)	Telephone Number:	(b)(6)(b)(7)(C)

AGENCY

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

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

Name of Sector or Field Office:	Tucson Sector
Name of Chief or Director:	(b)(6)(b)(7)(C)
PREA Field Coordinator:	(b)(6)(b)(7)(C)
Sector or Field Office Physical Address:	2430 S. Swan Rd Tucson, AZ
Mailing Address: (if different from above)	

SHORT-TERM HOLDING FACILITY BEING AUDITED

Information About the Facility			
Name of Facility:	Brian A. Terry (Naco) Border Patrol Station		
Physical Address:	2136 S. Naco Highway, Bisbee, AZ 85603		
Mailing Address: <i>(if different from above)</i>			
Telephone Number:	(b)(6)(b)(7)(C)		
Facility Leadership			
Name of Agent in Charge:	(b)(6)(b)(7)(C)	Title:	Patrol Agent in Charge
Email Address:	(b)(6)(b)(7)(C)	Telephone Number:	(b)(6)(b)(7)(C)

AUDIT FINDINGS

NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS:

Directions: Discuss the audit process to include the date(s) of the audit, names of all individuals in attendance, audit methodology, description of the sampling of staff and detainees interviewed, description of the areas of the facility toured, and a summary of facility characteristics.

A Prison Rape Elimination Act (PREA) on-site audit of the Customs and Border Protection (CBP) U.S. Border Patrol (USBP), Brian A. Terry (Naco) Station, Bisbee, Arizona was conducted on Friday, July 19, 2019, from 0600 hours until 1630 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 Brian A. Terry (Naco) Station. The station has a short-term processing and holding area for male and female adult detainees, unaccompanied alien children (UAC) and family units. Under normal operating circumstances, detainees are held less than 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 Brian A. Terry (Naco) Station was (b)(6)(b)(7)(C), Supervisory Border Patrol Agent.

Upon arrival at the facility, the Auditor was met by (b)(6)(b)(7)(C), Assistant Chief USBP HQ, and (b)(6)(b)(7)(C), Supervisory Border Patrol Agent. After a brief introduction, the Auditor conducted a tour of the facility. (b)(6)(b)(7)(C), Tucson Sector Compliance Officer, joined the facility tour. Upon completion of the tour, agent interviews were initiated.

The Brian A. Terry (Naco) Station is located in Bisbee, Arizona. The overall station is comprised of multiple buildings; however, the detainee holding area is located in a single building.

The facility consists of administrative offices located outside of the holding cell area. These offices are occupied by the staff at the station. The detention area is located in a separate secured building. Upon entering, you enter into the main control area. The main control is occupied by a supervisor and agents who are assigned to processing for the day. The control room has the (b)(7)(E)

The cell areas consist of (b)(7)(E), with an overall housing capacity of (b)(7)(E). The cells have a toilet/sink combination located within each cell. These are located behind block walls that are approximately three feet high and provide privacy while detainees use the toilet. All of the cells throughout the facility have large windows that provide a direct view into each cell. The facility does not have showers.

The facility is staffed by Border Patrol Agents who deal directly with the intake and processing of the detainees. The facility also has G4S Transportation Officers who provide transportation for the Tucson Sector. These officers do not handle any detention responsibilities at the facility.

The facility also has DHS volunteers who assist with general functions at the facility. These volunteers are separated into two groups: sworn law enforcement officers and mission support volunteers. The sworn law enforcement officers can assist with direct supervision of the detainees. The mission support volunteers assist with general duties that include assisting in feeding, food cart replenishment, and searching detainee belongings.

The facility can house unaccompanied children, family units, and single male and single female detainees. The family units and unaccompanied children are housed separately from any single adult detainees.

The facility receives detainees in several different ways: Agents assigned to the station will apprehend detainees and bring them to the station for processing; the facility will assist the Tucson Coordination Center with processing detainees; and the facility will receive detainees from other Border Patrol facilities to assist in processing.

Upon the arrival of a detainee, they will be unloaded from the transport vehicle under the supervision of an agent. The detainees will be separated by the family units, unaccompanied children, single males and single females. The agents will conduct pat searches, and search and tag the detainee's belongings. An agent will start the intake process. The detainee will be asked questions related to their safety. All of the information is uploaded into the Detention Module. Upon finishing the intake process, the detainees will be escorted into the facility and placed in a cell.

The location of the cell is determined by the assigned agent, who acts as the coordinator for the processing center. The Auditor was informed the detainees would be under direct supervision at all times while outside of the cells. Multiple agents are assigned to the facility and would continuously monitor the detainees both inside and outside the cells.

An entrance meeting was held with the facility administration at approximately 1300 hours. The following were present at the meeting:

- (b)(6)(b)(7)(C), Certified PREA Auditor, Creative Corrections
- (b)(6)(b)(7)(C), Assistant Chief USBP HQ
- (b)(6)(b)(7)(C), Branch Chief of Compliance, Tucson Sector
- (b)(6)(b)(7)(C), Patrol Agent in Charge (PAIC)
- (b)(6)(b)(7)(C), Assistant Patrol Agent in Charge (APAIC)
- (b)(6)(b)(7)(C), Supervisory Border Patrol Agent

At this meeting, the Auditor explained the audit process and answered any questions. The audit to that point in time was also discussed.

Upon the completion of the interviews, an exit conference was held. The following were present:

- (b)(6)(b)(7)(C), Certified PREA Auditor, Creative Corrections
- (b)(6)(b)(7)(C), Assistant Chief USBP HQ
- (b)(6)(b)(7)(C), Patrol Agent in Charge (PAIC)
- (b)(6)(b)(7)(C), Assistant Patrol Agent in Charge (APAIC)
- (b)(6)(b)(7)(C), Supervisory Border Patrol Agent

At this time, the Auditor provided an overview of the audit and interviews.

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 and Local Pre-Audit Questionnaires (PAQs), the HQ Responsive Documents and Data Requests, local documents, including YSL specific documents, HQ Participation documents, and medical provider websites. The Auditor was also able to conduct four HQ SMEs interviews and to speak to the author of the local PAQ.

The Auditor had complete access to the facility and detention areas. The Auditor was provided with a private interview room for agent interviews with a speaker telephone to access interpretive services if needed.

During the on-site audit, the Auditor was able to interview agents from all three shifts. In total, the Auditor interviewed one local SME and ten random agents. At the time of the audit, no detainees were present.

During the Audit Process, the Auditor reviewed the compliance of 25 Subpart B standards at Brian A. Terry (Naco) Station. The Auditor found Brian A. Terry (Naco) Station met 22 standards (115.111; 115.114; 115.116; 115.117; 115.121; 115.122; 115.131; 115.132; 115.141; 115.151; 115.154; 115.161; 115.162; 115.163; 115.164; 115.165; 115.166; 115.167; 115.176; 115.177; 115.182, and 115.186. One standard not applicable (115.118). The facility has not met standard (115.113 and 115.115).

Corrective Action 115.113: The facility needs to conduct an annual review of the detainee supervision guidelines and its application at the Brian A. Terry (Naco) Station, taking all enumerated provisions of standard provision (c) into consideration. Upon completion of the review, this information shall be forwarded to the HQ-PSA Coordinator.

Corrective action 115.115: The facility needs to develop a specific transgender and intersex pat search training and present this to all agents. Although the random interviewed agents knew how to conduct these searches, they were conducted out of common sense versus a formal training curriculum.

SUMMARY OF AUDIT FINDINGS

Number of standards exceeded:	0
Number of standards met:	22 + 1 not applicable
Number of standards not met:	2

OVERALL DETERMINATION

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

PROVISIONS

Directions: In the notes, the auditor shall include the evidence relied upon in making the compliance or non-compliance determination for each provision of the standard, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Corrective Action Plan Final Determination, accompanied by information on specific corrective actions taken by the facility. Failure to comply with any part of a standard provision shall result in a finding of "Does not meet Standard" for that entire provision unless that part is specifically designated as Not Applicable. For any provision identified as Not Applicable, 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) CBP Policy on Zero Tolerance of Sexual Abuse and Assault signed by CBP's Commissioner on March 11, 2015, is the agency's main policy mandating zero tolerance toward all forms of sexual abuse and sexual assault. CBP Directive 2130-030, Sexual Abuse and Assault Prevention and Response, dated January 19, 2018, was issued to all CBP staff on February 5, 2018 and again reissued on February 12, 2019, through the agency email program referred to as CBP Central. These two policies outline the agency approach to preventing, detecting, and responding to such abusive conduct. It defines in detail for all staff and detainees the prohibited acts. CBP National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015, sets forth nationwide Standards that govern CBP's interaction with detained individuals. The random agent interviews confirm they were provided and are familiar with CBP Directive 2130-030. The local SME stated that the zero tolerance policy was implemented at the facility on May 6, 2014, however updated in March 2015; the agents follow the policy which outlines the ways to prevent, detect and respond to sexual abuse. 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 to ensure that each facility maintains sufficient supervision of detainees, including the use of appropriate staffing levels and where applicable, video monitoring, to protect detainees against sexual abuse. The Auditor confirmed with the facility supervisors the facility is staffed 24 hours a day, and the staffing levels are fluid depending upon detainee flow and needs of the facility. When someone is taken into custody, they will be under direct supervision. The Auditor was informed Brian A. Terry (Naco) Station maintains enough agents to provide a safe and secure environment for detainees. The supervisors and the PREA Field Coordinator state the established staff positions are appropriate. The facility video monitoring in the cells does not provide a view of the toilet area. The cells have toilets located behind a partition that offers privacy. The partitions are approximately three feet tall. The facility does not have showers. If a detainee is placed into the cells, they are checked by agents and DHS volunteers.

(b)(c) CBP Directive 2130-030 requires OFO and USBP to develop and document comprehensive detainee supervisions guidelines for facilities under their respective control. The Agency has provided guidelines for this in the issuance of the CBP National Standards on Transport, Escort, Detention, and Search (TEDS). The Directive further requires a review of 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 local SME confirmed they conduct an annual review of the supervision guidelines taking into account physical layout of the facility, composition of detainees, the prevalence of substantiated and unsubstantiated instances of sexual abuse, findings, and recommendations of incident reviews and any other relevant factors, however, documentation was not provided to the Auditor the annual review was conducted. He further confirmed supervision guidelines are outlined in the policy. This was confirmed during the policy review. The staffing level at the Brian A. Terry (Naco) Station was just recently reviewed to determine the number of DHS volunteers the facility would need for assistance. This document does not address the considerations outlined in the standard.

Corrective Action: The facility needs to conduct an annual review of the detainee supervision guidelines and its application at the Brian A. Terry (Naco) Station, taking all enumerated provisions of standard provision (c) into consideration. Once completed, this information shall be forwarded to the HQ PSA Coordinator.

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

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

Notes:

(a)(b) CBP TEDS requires Brian A. Terry (Naco) Station to place each juvenile in the least restrictive setting appropriate to their age and special needs, provided the setting is consistent with the need to ensure the safety and security of the detainee and that of others. The Auditor interviewed agents who would process unaccompanied juveniles and family units taken into custody. When discussing family units, or unoccupied children, the agents 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 in a cell with the same makeup of detainees such as single mothers and children or single fathers and children. The agents indicated that unaccompanied juveniles would be housed together by gender. The agents also confirm minors accompanied by an adult are thoroughly vetted to the extent they can to ensure a parental or legal guardianship relationship. This includes the use of consulates, legitimate documentation, and interviews. If a legal relationship cannot be established, the minor is handled as an unaccompanied juvenile and separated from adults. The juvenile is placed under the least restrictive setting. The process of housing was confirmed during the interviews with both the supervisors and agents. The facility has not had any allegations of sexual abuse in last 12 months.

§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 agent 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 agents must not conduct visual body cavity searches of juveniles and will refer to all such body cavity searches of juveniles to a medical practitioner. During the supervisor and agent interviews, they explained an agent would conduct an immediate pat-down search either in the field or upon arrival at the facility. When necessary, the agents conduct same-gender pat searches. This was confirmed by interviews with the agents. All agents have been trained in cross-gender pat-down search procedures. These techniques were initially taught at the academy. The agents attend quarterly training and one of the mandatory yearly training topics is an arrest, handcuffing, and search procedures. The interviewed agents confirmed they received the training in the academy and during scenario training yearly. They further confirm the facility does not conduct strip searches or 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 have (b)(7)(E). The toilets in the cells are located behind a partition that completely blocks the view from both the windows. The agents confirmed they knock on the door and announce upon entering. The holding cells have large windows that allow the detainees to see the agents approaching the cell. The facility does not have shower facilities and it was confirmed the detainees are not held at the facility any longer than necessary to process.

(e) CBP TEDS prohibits staff from searching or physically examining a detainee for the sole purpose of determining the detainee's gender. If the detainee's gender is unknown, agents are to ask the detainee their gender or gender identity. If the detainee declines to state their gender, the gender will be recorded in the appropriate electronic system(s) of record as unknown. Agents' interviews indicate they are aware of the prohibition on searching detainees to determine their gender.

(f) CBP TEDS directs the agent to ask the detainee what their gender identity is if it is unknown. CBP TEDS further directs the agent, if feasible, to have the same gender agent conduct the pat-down search. The agents confirmed that if detainees identified as a transgender, they would utilize an agent of the same gender identity to conduct the pat-down search. If the same-gender agent was not available, the agents confirmed they would utilize the cross-gender pat-down search techniques to pat search the detainee. At the time of the audit, no transgender or intersex detainees were in custody. The interviewed agents confirmed that they received cross-gender pat search training and would conduct these searches utilizing the blade or back of their hands, however, they did not receive training in transgender searches. The agents further confirmed they attend mandatory quarterly use of force training, which includes scenario training,

handcuffing and searching. The training was also confirmed through an interview with the training agents. **Corrective Action:** The facility needs to develop a specific transgender and intersex pat search training and present this during to all agents. Although the interviewed agents knew how to conduct these searches, they were conducted out of common sense versus a formal training curriculum.

§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) 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 screening; the agent utilizes Interpreters and Translations Incorporated to provide information to detainees in a language they understand. The agents further stated blind detainees would be dealt with individually with the Agent reading them information, and if deaf, they would write back and forth. For low mental functioning individuals, they would provide a verbal explanation to ensure they understood the information. The agents confirm they would refer to the DHS publication, "A Guide to Interacting with People Who Have Disabilities" to assist in giving guidance on the best way to accommodate detainees who are deaf and can't speak, psychiatric, low-level learning, or low functioning detainees. The Auditor reviewed the publication and confirmed all of the disabilities are addressed. This publication was in the aforementioned PREA Binder. The interviewed agents confirmed they always have found a way to interact with the detainees. This interaction is necessary to complete the processing of the detainee. They further confirmed 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 personnel 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, contractor or enlist service of any volunteer, who has been found to have engaged, been convicted of engaging, or civilly or administratively adjudicated to have engaged in sexual abuse as defined in the Standard and agency policy.

(b) The standard requires the Agency prior to hiring or promoting staff ask the applicants who may have contact with detainees directly about misconduct as stated above. The HQ PSD SME states interviews conducted with new applicants as well as applicants for promotion includes specific questions about any previous sexual abuse misconduct. The HQ PSD SME further confirmed 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.

(c)(d) CBP Directive 2130-030 requires the Office of Professional Responsibility (OPR) to ensure background investigations are conducted for applicants for employment and contractors having contact with detainees to determine suitability. It also requires that updated background investigations be conducted every five years for CBP personnel who may have contact with detainees. The HQ PSD SME informed the Auditor background investigations are conducted to determine suitability for employment. She further stated background rechecks are initiated every five years. The Auditor submitted eleven names to OPR to review for background rechecks. The documentation provided by HQ demonstrated the recheck was initiated within five years as required. The facility does not have contractors who have contact with detainees.

(e) The HQ PSD SME stated material omissions regarding this type of misconduct or providing false information are grounds for termination or withdrawal of an offer of employment. The HQ HRM SME informed the Auditor all staff has an affirmative duty to disclose any such misconduct, false information, and any material omissions. This information is provided to them upon hiring when issued the U.S. Customs and Border Protection Standards of Conduct document and they are reminded annually during training on the Performance and Learning Management System (PALMS).

(f) The HQ PSD SME confirmed if a former employee was 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 is not applicable as Brian A. Terry (Naco) Station has not acquired a 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 local SME stated 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 Brian A. Terry (Naco) Station to provide emergency medical treatment and crisis intervention services, including a forensic medical exam, in accordance with professionally accepted standards of care to alleged victim detainees of sexual assault. The treatment is without financial cost to the detainee and regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident. CBP TEDS requires if the detainee is transported for a forensic examination to a medical facility that offers victim advocacy services, agents will permit the detainee to use such services to the extent available, consistent with security needs. The local 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 local SME 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 local SME. These procedures include protocols to maximize the potential for obtaining usable physical evidence. The Auditor further confirmed with the local SME 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 facility has not had any sexual abuse investigations within the past 12 months.

(e) The local SME confirmed that the Cochise County Sheriff's Office would conduct the criminal investigation of alleged sexual abuse at the facility. He confirmed that they would follow the provisions of the standards and all applicable Arizona State Laws. This was confirmed by reviewing a letter to the Sheriff and confirmation through an email.

§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 further stated that the supervisor overseeing the initial response would make this notification. The PREA Field Coordinator confirms an Incident Report to the JIC and the Commissioner's Situation Room would be submitted upon learning of an incident. He also indicated the Blaine Police Department would be notified as they have the legal authority to conduct criminal investigations. All notifications would be documented in the Incident report. Brian A. Terry (Naco) Station did not have any incidents of sexual abuse within the last 12 months.

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

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

Notes:

(a)(b)(c) CBP Directive 2130-030 requires all uniformed Agents and Officers, Special Agents, fact finders, contractors, and volunteers who may have contact with detainees in CBP holding facilities receive PREA training as required in Subpart B of the DHS Standards. The Auditor reviewed the training curriculum provided to staff through PALMS. This training includes the agency's zero-tolerance policy for all forms of sexual abuse, the definitions, and examples of prohibited and illegal sexual behavior, the right of detainees to be free from sexual abuse, and the right of staff and detainees to be free from retaliation for reporting it. The training also provides information on where sexual abuse may occur; recognition of physical, behavioral, and emotional signs of sexual abuse; and methods of preventing and responding to such occurrences. Staff is instructed on how to avoid inappropriate relationships with detainees, and how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender non-conforming detainees. They are also informed of the reporting procedures, and the requirement to limit the information to only those who are involved in the incident. The Auditor confirmed during interviews and review of the training materials that these topics are provided in training. The Auditor was provided a roster printed from PALMS showing all employees assigned to Brian A. Terry (Naco) Station have received this training within the past 12 months. The Auditor further confirmed the training is provided every two years. The local SME and supervisors state Brian A. Terry (Naco) Station does not have any contractors or volunteers contact with detainees. The DHS volunteers have all received training. This was confirmed through the documentation provided through the PSA Coordinator showing all non-DHS volunteers were trained through Federal Emergency Management Agency (FEMA), and all DHS volunteers took the PALMS course.

§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>). Brian A. Terry (Naco) Station notifies all detainees of its zero-tolerance policy through posters located in the holding area. The Auditor observed posters in English and Spanish. Information on the posters includes: CBP has zero-tolerance for sexual abuse/assault; reporting can be anonymous and confidential; be safe and get help; tell a CBP official; call the DHS OIG (toll-free number provided), and telecommunication devices available by calling a toll-free number (provided).

§115.134 – Specialized training: Investigations.

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

Notes:

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

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

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

Notes:

(a)(b)(c)(d) CBP TEDS states before placing any detainees together in a holding room the processing agent must assess the information before them to determine if the detainee may be considered an at-risk detainee, or at-risk of posing a threat to others. This assessment by policy includes: whether the detainee has exhibited a mental, physical or developmental disability; the age of the detainee; their physical build; any prior arrests or incarcerations; is the detainee identified as LGBTI or gender non-conforming; any prior sexual victimization; and the detainee's own concerns about his/her physical safety. The local SME, supervisors, and agents confirm the assessment is completed upon intake to the facility. The interviewed agents further confirmed that they ask if the detainee has any safety concerns before placing them into a holding cell. They further confirmed if they had any concerns of self-harm or victimization, they would keep the detainee separate, rather than placing them into a cell with any other detainees. They also indicate they received training on the assessment through PALMS. At the time of the audit, no detainees were being held at the facility.
(e) CBP TEDS requires Brian A. Terry (Naco) Station to implement appropriate controls on the dissemination of private and

sensitive information provided by detainees during this risk assessment. Agents can disclose this information only to those with a need to know. The supervisors and agents understood their obligation on not disclosing any information from the assessment.

§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 to provide at least one way for detainees to report sexual abuse to a public or private entity not connected to the agency, this established reporting avenue is through the OIG. 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 Agent interviews the detainees are provided the reporting information through posters placed in the holding area. During the facility tour, the Auditor observed the posters in both English and Spanish. The interviewed agents 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 agent 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. The interviewed supervisors and agents 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 and leave the room to ensure they were contacting OIG. The phone line was operational. All agents and supervisors stated they would accept any report of sexual abuse, including in writing and verbally, and document in a report.

(c) CBP TEDS requires agents at Brian A. Terry (Naco) Station to receive allegations reported to them from third parties and promptly record such reports according to operational procedures. The interviewed local SME, supervisors, and agents confirm all verbal allegations of sexual abuse or sexual assault made to them would be documented in writing.

§115.154 – Third-party reporting.

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

Notes:

CBP Directive 2130-030 states detainees may utilize third-party individuals to report allegations of sexual abuse. The agency provides reporting information for anyone wishing to report any allegation on behalf of a detainee on their webpage <https://www.cbp.gov/about/care-and-custody/how-make-report>. The information on the webpage provides a toll-free telephone number, USPS address and email, address to the JIC, and a toll-free telephone number, a direct complaint link and USPS address for DHS OIG for anyone wishing to make an allegation on behalf of a detainee. The interviewed SME stated that the third party reporting avenues go directly to the CBP Headquarters, and are immediately reported back to the facility supervisor on duty.

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

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

Notes:

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

supervisor, and agent 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. The facility has not had any reports of sexual abuse within the past 12 months.

(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 agents 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 Brian A. Terry (Naco) Station the supervisor would submit an Incident Report to the JIC and the Commissioner's Situation Room. Notifications would be completed as required by CBP Directive 3340-025E. The PREA Field Coordinator stated he would make the notification to the proper State Agencies. Staff at Brian A. Terry (Naco) Station indicate the facility has not had any incidents requiring this type of notification during the last 12 months.

§115.162 – Agency protection duties.

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

Notes:

CBP TEDS states if an agent has a reasonable belief a detainee may be subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee. The local SME, supervisors, and agents interviewed indicate any detainee believed to be in imminent danger of being sexually abused will be separated from other detainees. 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) CBP Directive 2130-030 requires staff at Brian A. Terry (Naco) Station to notify the prior agency or administrator upon receiving an allegation that a detainee was sexually abused while confined at another facility. Notification will be made as soon as possible, but no later than 72 hours. This requirement is outlined in the memorandum, titled Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities, , on August 13, 2014, by the Chief, USBP. An Incident Report to JIC and the Commissioner's Situation Room would be submitted as required by CBP Directive 3340-025E. Interviews with the local SME and 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 Brian A. Terry (Naco) Station staff.

(c)(d) CBP Directive 2130-030 requires 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 notification and documentation of the notification would be done immediately by the on-duty facility supervisor. They further indicate if an allegation was received, it would be referred for an immediate investigation as outlined in the policy.

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

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

Notes:

(a)(b) CBP Directive 2130-030 details the responsibilities of the first staff on the scene of a reported allegation of sexual abuse. The Directive requires staff members to separate the alleged victim and abuser, preserve and protect the crime scene, and if the abuse occurred within a period that still allows for the collection of physical evidence, request the alleged victim and abuser do not take any actions that could destroy physical evidence. This is further outlined in the PALMS training that all staff complete. Brian A. Terry (Naco) Station does not allow contractors, volunteers, or civilian staff into the holding area by themselves. Supervisors or agents are always present. The policy does, however, address their responsibilities if they do encounter a detainee and something is reported to them. The policy requires a contractor, volunteer, or civilian staff to request the alleged victim not to take any actions that could destroy physical evidence and notify law enforcement staff. The interviewed agents indicate they would separate the victim from the abuser, provide

medical assistance if needed, preserve evidence to the extent possible, and notify their supervisor. The DHS volunteers have all been trained on the PREA Policy, and the Auditor confirmed that part of the training is their duty to report immediately to an agent. The interviewed DHS volunteers confirmed they would immediately report to an agent if something was reported to them.

§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 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 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, Brian A. Terry (Naco) Station must inform the receiving DHS agency of the alleged incident and the alleged victim's potential need for medical or social services. If the alleged victim of sexual abuse and assault is transferred to a non-DHS facility, Brian A. Terry (Naco) Station must inform the receiving facility or agency, as permitted by law, of the incident and the alleged victim's potential need for such services, unless the alleged victim requests otherwise. The local SME confirms that during the last 12 months, Brian A. Terry (Naco) Station has had no cases requiring any such notification to a DHS or non-DHS facility. All incidents of this type require the supervisor to submit an Incident Report to the JIC and the Commissioner's Situation Room upon notification. Any transfer or move would require the supervisor to update JIC of the incident, and notify the receiving facility. This process was detailed to the Auditor by the local SME and supervisors as Brian A. Terry (Naco) Station has had no incidents for the Auditor to review. Notifications would be completed as required by CBP Directive 3340-025E.

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

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

Notes:

CBP Directive 2130-030 requires agency management consider whether any staff, contractor or volunteer alleged to have perpetrated sexual abuse and assault should be removed from duties requiring detainee contact pending the outcome of an investigation and shall do so if the seriousness and plausibility of the allegation make removal appropriate. The HQ SAAI Coordinator and the local SME stated 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 and possibility of the allegation make removal appropriate. The local SME further stated that the supervisor would remove the staff, contractor or volunteer from contact with the detainees. He further indicates Brian A. Terry (Naco) Station had not had any allegations of sexual abuse made against a staff member requiring this type of response.

§115.167 – Agency protection against retaliation.

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

Notes:

CBP Directive 2130-030 prohibits agents, 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 Brian A. Terry Station. The Auditor interviewed the local SME, supervisors, and agents. Each was aware of the policy prohibiting retaliation against anyone who makes an allegation of sexual abuse or participates in the investigation. The local SME informed the Auditor there had been no allegations of retaliation made at Brian A. Terry (Naco) Station during the last 12 months.

§115.171 – Criminal and administrative investigations.

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

Notes:

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

§115.172 – Evidentiary standard for administrative investigations.

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

Notes:

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

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

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

Notes:

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

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

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

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

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

Notes:

CBP Directive 2130-030 requires any contractor or volunteer suspected of perpetrating sexual abuse and assault be removed from all duties requiring detainee contact pending the outcome of an investigation, as appropriate. As previously stated, Brian A. Terry (Naco) Station does not allow contractors or volunteers in the holding area without the presence of supervisors or agents. The Auditor did not observe any contractors or volunteers alone in the holding rooms during the site visit. The local SME indicates that if sexual misconduct was alleged to have occurred by them; this would result in their removal from duties and contact with any detainees pending investigation. He indicated he would be responsible for notifying both the local law enforcement and any licensing bodies.

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

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

Notes:

(a)(b) CBP Directive 2130-030 requires alleged sexual assault victims be provided timely unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care. It also requires emergency medical treatment services to be provided to the alleged victim without financial cost and regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident. The local SME and supervisors confirm they are aware alleged victims of sexual assault are to receive all medical services and medications without cost even if the detainee does not name the abuser or cooperate with the investigation. The Auditor further confirmed with the SME that

anyone under the age of 18 involved in an incident would be taken to the Southern Arizona Child Advocacy Center for examination.

§115.186(a) – Sexual abuse incident reviews.

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

Notes:

(a) CBP Directive 2130-030 requires after every investigation of sexual abuse and assault, a sexual abuse incident review is to be conducted within 30 days. The review is to determine whether the allegation or investigation indicates a change is needed in policy or practice to better prevent, detect, or respond to sexual abuse. The recommendation(s) for improvement outlined in the review must be implemented, or the agency must document the reasons for not doing so in a written response. The report and response are to be forwarded to the PSA Coordinator. The Auditor interviewed the PSA Coordinator about the incident review process for allegations of sexual abuse. She informed the Auditor the operational offices conduct sexual abuse incident reviews consistent with the procedures outlined in Section 18.1 of CBP Directive No. CBP Directive No. 2130-030, Prevention, Detection, and Response to Sexual Abuse and Assault in CBP Holding Facilities. Brian A. Terry (Naco) Station had no incident reviews conducted during the 12 months as the facility had no allegations of sexual abuse incidents investigated.

§115.187 – Data collection.

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

Notes:

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

ADDITIONAL NOTES

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

The Auditor conducting the audit was unable to complete any corrections required in this report. The initial report was submitted by the Auditor on September 13, 2019. (b)(6)(b)(7)(C), Certified PREA Auditor reviewed the Auditor's notes and has made grammatical changes, policy references, and restructuring of the paragraphs within the report applying them to the appropriate standard provisions.

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

September 13, 2019
Date

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

February 10, 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) – 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:	U.S. Border Patrol
--------------------------------	--------------------

SECTOR OR FIELD OFFICE

Name of Sector or Field Office:	Tucson Sector
Name of Chief or Director:	(b)(6)(b)(7)(C), Chief Patrol Agent
PREA Field Coordinator:	(b)(6)(b)(7)(C), Supervisory Border Patrol Agent
Sector or Field Office Physical Address:	2430 S. Swan Road, Tucson, Arizona 85711
Mailing Address: (if different from above)	Same as Above

SHORT-TERM FACILITY BEING AUDITED

Information About the Facility			
Name of Facility:	Brian A. Terry (Naco) Border Patrol Station		
Physical Address:	2136 S. Naco Highway, Bisbee Arizona 85603		
Mailing Address: <i>(if different from above)</i>	Same as Above		
Telephone Number:	(b)(6)(b)(7)(C)		
Facility Leadership			
Name of Officer in Charge:	(b)(6)(b)(7)(C)	Title:	Patrol Agent In Charge
Email Address:	(b)(6)(b)(7)(C)	Telephone Number:	(b)(6)(b)(7)(C)

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS:

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

An on-site audit of the U.S. Customs and Border Protection (CBP), U.S. Border Patrol (USBP), Brian A. Terry (Naco) Station, Bisbee, Arizona, was conducted on July 19, 2019, by (b)(6)(b)(7)(C), Certified PREA Auditor, Creative Corrections, LLC, and the preliminary findings report was submitted on September 13, 2019. Following comments from CBP Headquarters and from (b)(6)(b)(7)(C) (Certified Reviewing PREA Auditor), the report dated February 10, 2020, was submitted as a Final Draft on February 10, 2020.

At that time, the Auditor reviewed the compliance of 25 Subpart B standards and the Brian A. Terry (Naco) Station was found to be in compliance with 22 standards: (115.111; 115.114; 115.116; 115.117; 115.121; 115.122; 115.131; 115.132; 115.141; 115.151; 115.154; 115.161; 115.162; 115.163; 115.164; 115.165; 115.166; 115.167; 115.176; 115.177; 115.182 and 115.186). The Brian A. Terry (Naco) Station was found to not be in compliance with two standards: 115.113 and 115.115. Standard 115.118 was not applicable to the Brian A. Terry (Naco) Station.

On March 23, 2020, the Brian A. Terry (Naco) Station submitted a preliminary Corrective Action Plan (CAP) with a completion date of June 30, 2020. Several documents were requested by the Reviewing Auditor. In conjunction with the CAP, an Annual Review of Detainee Supervision guidelines (Standard 115.113) was submitted by the Brian A. Terry (Naco) Station. The Auditor requested that additional information regarding the supervision of detainees including Unaccompanied Alien Children (UAC) be included. On April 29, 2020, an amended Annual Review of Detainee Supervision Guidelines was submitted. This information was reviewed by the Certified PREA Reviewing Auditor and Program Manager for Creative Corrections and was accepted. The Brian A. Terry (Naco) Station is now compliant with standard 115.113.

On December 30, 2020, the Brian A. Terry (Naco) Station submitted a copy of a memorandum from the Chief, Strategic Planning and Analysis Directorate, dated September 17, 2020, to all Chief Patrol Agents and to all Directorate Chiefs reinforcing proper pat down search techniques. In conjunction with the memorandum, a Muster Module was attached which provides requirements of Safety Searches, Threat Assessments and Pat Search Techniques for cross-gender, transgender and intersex detainees. The Brian A. Terry (Naco) Station also submitted all training rosters to the Auditor on December 30, 2020. The Auditor reviewed the Muster Modules and training rosters and determined that they meet the requirements of Standard 115.115. The Brian A. Terry (Naco) Station is now compliant with Standard 115.115. The Brian A. Terry (Naco) Station is now in compliance with all PREA standards.

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

PROVISIONS

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

§115.113

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

Notes:

The Brian A. Terry (Naco) Station submitted a record of an Annual Review of Detainee Supervision Guidelines dated February 28, 2020, which satisfied standard provision (b) Review of the report by the Reviewing Auditor revealed that several elements required by standard provision (c) had not been satisfied and the report was returned to the Station for revision. The elements missing were a description of responses employed to respond to the different types of populations entering the Station. This included the direct supervision of Family Units and Unaccompanied Alien Children (UAC). On April 29, 2020, an Amended Annual Review of Detainee Supervision Guidelines was submitted to the Reviewing Auditor via Headquarters and was found to now satisfy all elements of standard provision (c).

The Brian A. Terry (Naco) Station is now compliant with standard provisions 115:113 (b) and (c).

§115.115

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

Notes:

On December 30, 2020, the Brian A. Terry (Naco) Station submitted a memorandum from the Chief, Strategic Planning and Analysis Directorate, dated September 17, 2020, to all Chief Patrol Agents and Directorate Chiefs on the pat search techniques of transgender and intersex detainees according to the detainee's declared gender identity. The memorandum references sections 4.3 and 5.5 of the National Standards on Transport, Escort, Detention and Search (TEDS) policy. The memorandum also included a Muster Module that provides instruction to Patrol Agents in the safe search of suspects, threat assessments, and pat search techniques for cross-gender, same gender, transgender, and intersex detainees. In conjunction with the memorandum and the Muster Module, the Brian A. Terry (Naco) Station submitted a training roster, which confirmed substantial compliance for both staff retraining and understanding, with regard to the afore-mentioned Muster Module. The Reviewing Auditor had the opportunity to review both documents and found them to meet the requirements of all elements of the standard.

The Brian A. Terry (Naco) Station is now compliant with standard provision 115.115 (f).

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

AUDITOR CERTIFICATION:

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

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

January 2, 2021
 Date