

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



U.S. Customs and
Border Protection

AUDITOR INFORMATION

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|-------------------------|---------------------|--------------------------|---------------------------|
| Name: | (b) (6), (b) (7)(C) | Company Name: | Creative Corrections, LLC |
| Mailing Address: | (b) (6), (b) (7)(C) | City, State, Zip: | (b) (6), (b) (7)(C) |
| Email Address: | (b) (6), (b) (7)(C) | Telephone Number: | (b) (6), (b) (7)(C) |

AGENCY INFORMATION

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|------------------------|------------------------------------|
| Name of Agency: | U.S. Customs and Border Protection |
|------------------------|------------------------------------|

PROGRAM OFFICE

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

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|---|-------------------------------------|
| Name of Sector or Field Office: | El Paso Sector |
| Name of Chief or Director: | (b) (6), (b) (7)(C) |
| PREA Field Coordinator: | (b) (6), (b) (7)(C) |
| Physical Address: | 8901 Montana Avenue, El Paso, Texas |
| Mailing Address: (if different from above) | |

SHORT-TERM HOLDING FACILITY BEING AUDITED

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| Information About the Facility | | | |
| Name of Facility: | Deming Station | | |
| Physical Address: | 3000 J Street, Deming, New Mexico 88045 | | |
| Mailing Address: (if different from above) | | | |
| Telephone Number: | (b) (6), (b) (7)(C) | | |
| Facility Leadership | | | |
| Name of Officer in Charge: | (b) (6), (b) (7)(C) | Title: | Patrol Agent in Charge (PAIC) |
| Email Address: | (b) (6), (b) (7)(C) | Telephone Number: | (b) (6), (b) (7)(C) |

AUDIT FINDINGS

NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS:

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

The Prison Rape Elimination Act (PREA) on-site audit of Customs and Border Protection (CBP) U.S. Border Patrol (USBP) Deming Station was conducted on Thursday April 11, 2024, from 0445 hours until 1600 hours. The audit was conducted by (b) (6), (b) (7)(C), a Certified PREA Auditor, contracted through Creative Corrections, LLC., of Beaumont, Texas. This was the second PREA audit for the Deming Station. The first audit was conducted on February 11, 2019. The Deming Station is a short-term processing and holding facility detaining male and female adults, and/or families for a period specified to be under seventy-two (72) hours, pending transfer for removal to their country of origin, detention, or placement within another Department of Homeland Security (DHS) facility. The Deming Station shares law enforcement duties with other Border Patrol Stations in the El Paso Sector should the need arise. The report was submitted to CBP on May 7, 2024.

The Deming Station was established in 1927 with the assignment of two inspectors to Deming, which is situated 35 miles north of the United States - Mexico border. These inspectors were responsible for patrolling 135 miles of the International Boundary utilizing automobiles and horses.

The purpose of the audit was to determine compliance with Subpart B of 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 electronic documents were provided on the secure CBP SharePoint website which included the HQ Pre-Audit Questionnaire (PAQ), the facility PAQ, and any other supporting materials including training curricula to demonstrate compliance with the PREA standards.

The Point of Contact (POC) for the Deming Station was (b) (6), (b) (7)(C) Special Operations Supervisor (SOS). To facilitate overnight shift interviews and to return agents to their assigned duties, the Auditor initiated overnight shift staff and supervisory interviews prior to the facility tour. (b) (7)(E)

(b) (7)(E). The Auditor was informally introduced to the Deming Station leadership team by the POC upon arrival. The Auditor reviewed the audit format and schedule with each member of the team. Immediately following the entry introductions, the Auditor was provided a private conference room to begin conducting staff interviews.

At approximately 0900 hours, all parties were provided a tour of Deming Station by the SOS (POC). The tour followed the path an individual would take from their encounter/custody, intake, processing, and placement in holding. The Deming Station is comprised of a large masonry building secured by fencing and an electronic gate and sallyports to accept persons or groups of persons placed into custody and providing entry into the detainee holding area. There are portable toilets available and seats for detainees upon exiting the vehicle. Agents begin the individual screening questions to detainees just outside the main building (b) (7)(E) which leads into the detainee hold rooms. Detainees are asked questions regarding their own views and concerns of their safety while outside, prior to entry into the holding area by agents and medical staff. Entry into the secure holding area is gained via (b) (7)(E). Supervisors, agents, and allied law enforcement personnel (b) (7)(E). There is also a secured public entrance which leads to an administrative area, staff office area, a muster room, a (b) (7)(E).

(b) (7)(E)

(b) (7)(E). Due to the short-term holding, there are no showers for detainees to use in the hold rooms. After processing, the detainee is transferred, released, or otherwise removed from CBP. If transferred to a local county jail, as described, the detainees will likely be subject to criminal prosecution or warrants.

The Deming Station has a total of (b) (7)(E) hold rooms within their facility. (b) (7)(E) hold rooms are reserved for juveniles when possible and as needed, (b) (7)(E) or a single adult, and the remainder are for general population and family units. Detainees are separated by gender, vulnerabilities, family units or special need. There is one medical office for contracted medical personnel to assess detainees upon arrival and a small table and chair outside the medical office to also speak privately to detainees by medical personnel. (b) (7)(E) ensured that detainees cannot be seen during any examination or assessment within the medical office. Medical staff work 12-hour shifts. Only law enforcement officers and trained contract staff have direct contact with detainees. Hold rooms are cleaned between stays by non-law enforcement janitorial or maintenance contractors. Cleaning crews never come in direct contact with any detainee. These staff are escorted in and out by law enforcement staff. The flow of detainees is not the primary factor driving staffing levels. Staffing levels are dependent on the border security mission or humanitarian missions.

Scope of the Audit: Prior to 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 the Deming Station specific documents, HQ participation documents, and medical provider websites. The Auditor conducted telephonic interviews with the HQ SMEs and spoke directly on-site with the local SBPA, BPA, and PFC responsible for completing the local PAQ. The Auditor also spoke with and interviewed emergency room hospital reception personnel at the Memorial Medical Center located in Las Cruces, New Mexico to confirm they would provide a Sexual Assault Nurse Examiner (SANE) to any detainee alleging sexual abuse/assault requiring a forensic medical examination (FME). The Auditor was also able to confirm that victim advocacy services would be provided to any victim of sexual abuse at the hospital during a FME should the detainee so desire and any follow-up community advocacy services to include counseling all free of charge to the detainee. The advocacy services would be provided through the La Pinon, Sexual Assault Recovery Services located in Las Cruces, NM. The Auditor was able to speak directly to a victim advocate supervisor to confirm the services would be provided 24-hours a day for all FME and advocacy services. The Auditor was able to use a telephone line in a private interview room within the detention area to access the Office of Inspector General (OIG) to test the outside entity to report sexual abuse by detainees.

The Auditor was given a complete tour of the Deming Station and was able to revisit areas as requested. The Auditor had complete access to the facility and observed all detainee processing areas, and the (b) (7)(E) holding rooms. The Auditor observed PREA Audit Notices posted in various areas of the facility in both English and Spanish for staff and detainees to view along with posters advising detainees of their right to be free from sexual abuse. Posters were also observed with detainee reporting numbers and explaining the zero-tolerance policy of the agency.

During the on-site audit, the Auditor interviewed law enforcement personnel (agents) (b) (7)(E). The Auditor interviewed five local SMEs, four agents and two contract medical staff. Interviews were conducted randomly and based on the size of the facility and staff availability. During the onsite audit, there were no detainees being held, therefore, no detainee interviews were conducted by the Auditor.

An exit briefing for Deming Station was held at approximately 1430 hours. The exit briefing was conducted by Creative Corrections Certified PREA Auditor (b) (6), (b) (7)(C). Those in attendance for the briefing were:

(b) (6), (b) (7)(C), Deputy Patrol Agent in Charge (DPAIC)
(b) (6), (b) (7)(C) Acting Deputy Patrol Agent in Charge (ADPAIC)
(b) (6), (b) (7)(C), Special Operations Supervisor (SOS)
(b) (6), (b) (7)(C), Special Operations Supervisor (SOS)
(b) (6), (b) (7)(C), HQ Program Manager, Equal Opportunity Specialist (EOSPM)
(b) (6), (b) (7)(C), HQ Privacy & Diversity Office (PDO)/Deputy Prevention of Sexual Assault Coordinator (DPSA) – via TEAMS
(b) (6), (b) (7)(C), USBP HQ MPA PREA Coordinator, USBP HQ – via TEAMS
(b) (6), (b) (7)(C), Supervisory Border Patrol Agent (SBPA) - HQ USBP – via TEAMS
(b) (6), (b) (7)(C), Program Manager (PM) Creative Corrections, LLC – via TEAMS
(b) (6), (b) (7)(C), Certified PREA Auditor, Creative Corrections, LLC

During the exit briefing, the Auditor discussed the observations made during the on-site review. The audit process included the pre-audit document review, the on-site audit, and the post audit review of policies, protocols, and

documentation to determine compliance of 25 DHS Subpart B Standards at the Deming Station, with the final determination being 25 standards in compliance. The Auditor reviewed all relevant policies, procedures, and documents in assessing the Deming Station. The Auditor conducted a records review for a random selection of eight staff and two contractors, which included information on background checks and staff PREA training records for all staff while on site. There were no allegations of sexual assault within the audit period reported.

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.

The Deming Border Patrol Station on-site audit was completed on Thursday April 11, 2024, and the findings report was submitted on May 7, 2024.

The Deming Station met 25 standards: 115.111; 115.113; 115.114; 115.115; 115.116; 115.117; 115.118; 115.121; 115.122; 115.131; 115.132; 115.141; 115.151; 115.154; 115.161; 115.162; 115.163; 115.164; 115.165; 115.166; 115.167; 115.176; 115.177; 115.182; and 115.186.

| SUMMARY OF AUDIT FINDINGS | |
|---|--|
| Number of standards exceeded: 0 | |
| Number of standards met: 25 | |
| Number of standards not met: 0 | |
| OVERALL DETERMINATION | |
| <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) | |

PROVISIONS

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

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

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

Notes:

(a): The facility meets the standard. The agency has taken definitive steps to inform the public, all employees, and detainees of its adherence to the PREA Standards. CBP Directive 2130-030 – Prevention, Detection and Response to Sexual Abuse and/or Assault in CBP Holding Facilities, dated January 19, 2018; Commissioners Memorandum dated July 15, 2014, Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Holding Facilities /Prison Rape Elimination Act (PREA); the Commissioner's Memorandum dated March 11, 2015; CBP's Policy on Zero Tolerance of Sexual Abuse and Assault; Acting Commissioner's memorandum dated January 19, 2018, Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities; Chief USBP memorandum dated October 8, 2015, Implementation of the CBP National Standards on Transport, Escort, Detention and Search (TEDS); and Chief USBP memorandum dated August 13, 2014, Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities clearly outlines the duty of all CBP staff members to prevent, detect and respond to all allegations or observations of sexual abuse. Additionally, during Sexual Assault Awareness and Prevention Month observed in April, the Privacy and Diversity Office messaged information to all employees regarding CBP's zero tolerance of sexual abuse and assault policy through payroll notice statements and CBP Central. Zero tolerance posters are positioned throughout the processing and holding areas of the facility in both English and Spanish as well as "Report Sexual Assault" in seven different languages. If the detainee speaks a language other than English or Spanish, (or a language that the agent does not speak) agents can use several CBP language resources available to its employees to include a telephonic language interpretation services available 24 hours a day, seven days a week. In addition to English and Spanish, CBP has PREA posters for adults translated into 12 other languages and for children, translated into 15 other languages for posting as needed. CBP's translated PREA posters may be accessed along with PREA Posters, Information Display System Slides, Videos, and Scripts through CBP's internal website. CBP's language access resources may also be accessed through the internal website. If the detainee speaks one of these languages, translated material is obtained for them. Interviews with the local SMEs emphasized staff training on the agency's zero-tolerance policy and agent interviews verified their training and understanding of the policy and the PREA standard. Reminders of mandatory training available through the CBP Acadis on-line training portal are shared with all employees. Local SME interviews and random agent interviews verified that dedicated personnel are in place to ensure the PREA provision is in compliance.

§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 facility meets the standard provision. The standard requires that each facility maintain adequate levels of detainee supervision through appropriate staff levels (b) (7)(E) to protect detainees against sexual abuse. During the tour, the Auditor noted all hold rooms are in direct line-of-sight of agents in the processing area and the Control Room. The Control Room (b) (7)(E) (b) (7)(E) to view the hold rooms, which are directly in front of the processing station. The Auditor observed direct line of vision from the control room to the multiple hold rooms as an extra measure to observe a

detainee's safety. Each hold room has a large window for staff to easily supervise detainees being held in the holding rooms. The Auditor was able to view through direct observation that detainees could be supervised through the glass windows and doors of the hold rooms by all agents in the processing area, control room (b) (7)(E). The population of detainees is divided by adult males, adult females, and family units with children. The local SMEs advise welfare checks of hold rooms are completed every (b) (7)(E) as verified in the (b) (7)(E). During interviews, staff report the separating of adult males, adult females, and any "at risk" detainees to keep detainees safe. During local SME interviews, it was reported that additional staff are available when needed to increase the supervision of detainees. There were numerous detainees processed through the Deming Station in the past 12-months which including single adult males, single adult females, family units & juveniles, and unaccompanied children (UC) as observed through documentation review submitted prior to the on-site visit. However, SME interviews confirmed that UC are not held at the facility. UC are sent directly to the El Paso Processing Center as they are better equipped to meet the needs of the UC. There were no UC in the facility at the time of the audit.

(b)(c): The facility meets the standard provisions. CBP Directive 2130-030; Chief USBP memorandum dated October 8, 2015, Implementation of the CBP National Standards on TEDS; Chief USBP memorandum dated August 13, 2014, Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities; and Chief USBP memorandum dated February 16, 2020, Review of Comprehensive Detainee Supervision Guidelines requires the U.S. Border Patrol to develop and document comprehensive detainee supervision guidelines to determine and meet the detainee supervision needs which has been accomplished through its National Standards on TEDS. CBP Directive 2130-030 further states, the detainee supervision guidelines, and its application at the Deming Station is to be reviewed at least annually considering the physical layout, composition of detainees, the prevalence of substantiated and unsubstantiated instances of sexual abuse, findings and recommendations of incident reviews, and any other relevant factors. The Directive further requires the results of the annual review are to be forwarded to the PSA Coordinator. Local SME interviews confirm they re-evaluate supervision strategies on a regular basis, especially when there is an influx of detainees. They reveal they also request assistance from other stations when needed. The Auditor reviewed the annual review of detainee supervision guidelines which was conducted on November 16, 2023, prepared by a Special Operations Supervisor (SOS) at the Deming Station. Participants included two DPAICs, two SOSs, and two Supervisory Border Patrol Agents (SBPA). The assessment included all areas as required by the Standard and CBP TEDS (October 2015). The assessment concluded that the Deming Station has sufficient levels of supervision; therefore, meeting the standard provision.

§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): The facility meets the standard provision. CBP TEDS and Chief USBP memorandum dated August 13, 2014, Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities requires juveniles be treated at all times in their best interest and all guidelines for at-risk detainees be taken into consideration and place each juvenile in the least restrictive setting appropriate to their age and special needs, provided the setting is consistent with the need to ensure the safety and security of the detainee and that of others. Local SME and agents report all juveniles who are a part of family units are held in the least restrictive setting as possible. They state juveniles are kept with their families and are also kept in the least restrictive setting the facility has available. All agents interviewed state if juveniles were brought into the Deming Station, they were kept in a hold room with direct observation (b) (7)(E). Local SME interviews confirmed that family units and UC are separated outside at the intake area and are then sent to the El Paso Processing Center shortly after arrival since the processing center is better equipped to meet their needs and therefore, not held at the Deming Station.

(b): The facility meets the standard provision. CBP TEDS requires UC be held separate from adult detainees. Local SMEs and agents report UC are kept separate from the adults and are then separated by gender. UC are processed through intake immediately to limit the time they are near adult detainees. Local SME and agent interviews confirm

juveniles are immediately separated from accompanying adults until the relationship has been properly vetted and determined to be appropriate prior to holding. The interviews also confirmed a combination of agency and State Department database searches with separate interviews of both the minor and the accompanying adult are used to vet the relationship, along with any accompanying documents with the detainee. Staff were able to articulate their interviewing skills included eye contact, speech patterns and direct observation of the relationship between the parties involved. All techniques and vetting processes are measures used to ensure the safety of the juvenile. There were no juveniles detained to interview during the on-site audit.

§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): The facility meets the standard provisions. CBP TEDS details the type and conditions under which searches can be performed to ensure the safety of agents, civilians, and detainees. It prohibits cross-gender strip (partial body) searches and 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 strip/body cavity searches be recorded in the (b) (7)(E). CBP TEDS details that officers/agents must not conduct visual body cavity searches of juveniles and are to refer all body cavity searches of juveniles to a medical practitioner. Interviews with local SMEs and agents report only medical staff can conduct a strip or visual body cavity search of an adult or juvenile. The local SMEs and agents report body cavity searches are not permitted at the Deming Station and would only be conducted at a hospital under a medical practitioner's care. Agents interviewed reported they have never seen strip or body cavity searches conducted at the facility. When asked whom could conduct cross-gender searches, the agents reported that anyone could conduct such searches however, agents would have the detainee searched by staff of the same identified gender as the detainee when operationally feasible and for safety and security of detainee and staff. All agents interviewed report cross-gender searches would rarely occur at the Deming Station due to having both male and female agents on duty each shift.

(d): The facility meets the standard provision. CBP TEDS specifies the requirements of enabling 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 hold room checks. Such viewing may also be appropriate in connection with a medical examination or under medical supervision. Local SMEs and all agents interviewed report detainees do not shower at this facility. Detainees can use the toilet without staff of the opposite gender viewing them. There were no detainees on site to be interviewed. Each hold room contains a toilet which is blocked by a half wall. Views of a detainee using the toilet area, (b) (7)(E) (b) (7)(E) is blocked. The Auditor observed that a detainee cannot be seen due to the half wall (b) (7)(E) (b) (7)(E) CBP TEDS requires all officers/agents of the opposite gender to announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing, except in exigent circumstances or when such viewing is incidental to routine hold room checks. Interviews with local SMEs and agents indicated they knock on the door and make a verbal announcement prior to entering. All staff interviewed report they are aware of the policy requiring staff to announce their presence when entering an area where detainees are likely to be in a state of undress. There were no detainees being held at the facility to interview the day of the on-site visit.

(e): The facility meets the standard provision. CBP TEDS (Memorandum dated August 13, 2014) 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, CBP TEDS states officers/agents will ask the detainee their gender or gender identity. If the detainee declines to state their gender, the gender will be recorded in the (b) (7)(E) as unknown. A memorandum from USBP Deputy Chief, dated January 17, 2023, titled: Reminder on Searching Transgender, Intersex and Gender Non-Conforming Individuals was sent out for all Chief Patrol Agents and All Directorate Chiefs to pass on to all staff during muster. The memorandum directs border agents to not search or physically examine an individual for the sole purpose of determining an individual's gender. There were no detainees onsite who identified as transgender or intersex to be interviewed. Agents at the facility report they do not search detainees solely for the purpose of

determining gender. Agents interviewed state that they ask a detainee their gender identity should any issues arise in making that determination. Any transgender or intersex detainee requiring a pat-down search would be asked which gender they would prefer to complete the search prior to proceeding. The Auditor did not interview detainees as there were no detainees being held during the on-site audit.

(f): The facility meets the standard provision. CBP TEDS directs staff to conduct searches in a professional, thorough, and a reasonable manner consistent with the type of search required and that a search must be of the same gender, gender identity, or declared gender when operationally feasible. A memorandum from USBP Deputy Chief, dated September 17, 2020, and January 17, 2023, entitled: Reminder on Searching Transgender, Intersex and Gender Non-Conforming Individuals was sent out for all Chief Patrol Agents and All Directorate Chiefs to pass on to all staff during muster. Interviews with random agents and local SMEs confirmed that they have had training and refresher training throughout the year regarding pat-down searches, to include transgender detainees. Interviews with local SMEs and agents reported all had been trained in how to conduct pat-down searches, including cross gender pat-down searches. Interviews concluded that staff were able to articulate how they would conduct a cross gender pat-down search per the training received and within the required guidelines. However, staff interviewed advised that they have not had to conduct such a search due to having sufficient staff able to cover those type of searches should the need arise. There were no transgender detainees to interview during the on-site audit.

§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): The facility meets the standard provision. CBP Directive 2130-030 requires staff in holding facilities to provide reasonable accommodations to detainees who are hearing impaired, blind, or visually impaired, or who have intellectual or mental health disabilities. CBP Directive 2130-033, Non-discrimination for Individuals with Disabilities in CBP-Conducted Services, Programs, and Activities (Non-Employment), with an effective date of July 8, 2021, includes a job aid providing guidance to staff on effective communication with individuals with disabilities. The job aid further defines different types of disabilities and examples on how to address those disabilities; CBP Directive 2130-031, Roles and Responsibilities of U. S. Customs and Border Protection and Personnel Regarding Provision of Language Access, December 4, 2018, provide information and guidance to all CBP staff. Staff interviews confirm they have received the recent guidance regarding disabled and Limited English Proficient (LEP) detainees and the materials are frequently discussed during musters. The staff discussed the various steps the agents and supervisors take to provide accommodations to detainees with these disabilities which included reading PREA notices to visually impaired and functionally illiterate detainees, call in a translator, and they would also have the option to have medical clinicians including behavior health care assist where needed. Interviewed local SMEs and agents state there have been no detainees with disabilities held at the Deming Station within the audit period which required special communications or the use of outside translation resources. During the facility tour, the Auditor observed signs at the processing desks which provide contact information for any interpreters should the need arise.

(b): The facility meets the standard provision. CBP Directive 2130-030 requires all holding facilities to provide effective, accurate and impartial in-person or telephonic interpretation services to detainees who are Limited English Proficient (LEP). All PREA posters displayed in plain view for detainees and were observed, in both English and Spanish, but also provide direction in commonly spoken languages. All agents interviewed state they have been able to communicate with LEP detainees because they speak Spanish as a second language. None of the interviewed agents have reported the need to use any additional services available to communicate with a detainee. The Auditor was able to verify through direct observation the contact information to assist any LEP detainee is available to each agent at the processing stations via a list of telephone numbers, and interpreters should the need arise. All interviewed agents were aware of the translation resources available to them should the need arise. There were no detainees being held during the onsite audit, therefore, no detainee interviews were conducted by the Auditor.

(c): The facility meets the standard provision. CBP Directive 2130-030 directs that other detainees are not to be utilized as interpreters when a detainee has alleged sexual abuse or has been found to be sexually abused. The Auditor was able to verify local practices consistent with the Directive through interviews with the local SMEs, and agents. Interviewed staff were able to articulate that the language line, or the use of a neutral staff member would be used in place of a detainee translator to ensure the safety of the detainee reporting the allegation. The only exception to this would be an emergency need for detainee safety per agent interviews.

§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): The facility meets the standard provision. CBP Directive 2130-030 requires the Office of Human Resources Management (HRM) ensure compliance with hiring, promotion and discipline requirements as outlined in the standard provision. Subsequently, HRM Standard Operating Procedures (SOP) Prison Elimination Act, Hiring and Promotions, was issued on February 29, 2016, establishing procedures to ensure the agency does not hire or promote anyone who may have contact with detainees and shall not enlist the services of any contractor or volunteer who may have contact with detainees, who has engaged in or convicted of sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution as defined in (42 USC 1997). The SOP further provides specific directions to staff of the hiring and promotion process to assure the standard is followed. Interviews with the HQ Office of Professional Responsibility (OPR)/Personnel Security Division (PSD) SME and the HRM/Hiring Center SME confirmed the process for determining suitable employment for all perspective CBP staff and contractors and to screen out anyone for promotion who has engaged in this conduct. The HQ/OPR PSD SME and the HRM/Hiring Center SME stated the process includes an Assessment Questionnaire which specifically inquires whether a new employee or a staff member seeking promotion of having engaged or convicted of sexual abuse.

(b): The facility meets the standard provision. Interviews with HQ HRM/Hiring Center SME verifies new employees, employees seeking promotions and contractors must complete an application which asks about previous sexual misconduct and imposes a continuing duty to disclose any such future misconduct.

(c)(d): The facility meets the standard provisions. CBP Directive 2130-030 requires background investigations for applicants seeking employment who may have contact with detainees to determine suitability and that updated background investigations are conducted every five (5) years for CBP personnel who may have contact with detainees. The Directive further requires background investigations for contractors who may have contact with detainees. The Auditor submitted a list of eight randomly selected agents of varying ranks and two contractors who are employed at the facility and submitted those names to the facility for submission to the HQ OPR to ensure their background checks were conducted timely and in compliance with the standard. Review of the submitted checks found the agency to be in compliance with all pre-hire and five-year updated investigations. The agency automatically enrolls employees upon their entrance on duty in the Continuous Evaluation (CE) System which is a personnel security investigative process to review the background of employees. The HQ OPR/PSD SME explained the CE system and stated the system allows for an ongoing assessment of an individual's continued eligibility, thereby, eliminating the need for the five-year re-investigations for those who have been enrolled in the CE System. Prospective employees are asked questions during the application and interview process regarding any prior history of sexual abuse and a continuing duty to report any new sexual misconduct.

(e): The facility meets the standard provision. Interviews with HQ HRM/Labor Employee Relations (LER) SME confirms it is agency policy to rescind an offer of employment to a prospective employee or to terminate the employment of any such employee who makes a material omission or provides false information regarding sexual abuse misconduct. Staff are informed of the policies regarding material omissions and providing any false information in the CBP Directive 51735-013B, Standards of Conduct, with an effective date of dated of December 9, 2020, is provided to staff upon employment and which is referenced in their yearly required ethics training through the Acadis training portal.

(f): The facility meets the standard provision. CBP Directive 2130-030 allows for the provision of any substantiated allegations of sexual abuse regarding former employees upon receiving a request to do so from an institutional partner for whom such an employee has applied to work, unless prohibited by law. The interview with the HQ HRM/LER SME confirmed the Directive is followed by the agency.

§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 Deming Station has not acquired a new facility or undergone a major expansion.

(b): The facility meets the standard provision. (b) (7)(E)
The upgrade was completed in February 2024. The local SME stated that PREA supervision and privacy concerns were taken into consideration for the new/updated technology and how it would enhance the ability to aid in the protection of sexual abuse against detainees. (b) (7)(E)

§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): The facility meets the standard provision. CBP TEDS and CBP Directive 2130-030 requires timely, unimpeded access to medical treatment and crisis intervention, including emergency contraception and sexually transmitted infections prophylaxis, be provided to a detainee victim of sexual assault in accordance with professionally accepted standard of care. CBP Directive 2130-030 further requires a forensic medical examination be conducted by a qualified health care personnel, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE), where practicable. The Deming Station utilizes the services of the Memorial Medical Center in Las Cruces, New Mexico for any needed forensic medical examination (FME) of a sexual abuse/assault victim, at no cost to the detainee and only with the detainee's consent. The examination is performed by a SANE who is available on-call through the hospital. The Auditor confirmed via a telephonic interview with the Memorial Medical Center emergency room receptionist that the services are provided by a SANE, or a qualified medical physician. Local SME interviews confirmed that the Memorial Medical Center would be utilized for a detainee victim of sexual abuse/assault.

(d): The facility meets the standard provision. CBP TEDS requires officers/agents to allow detainee victims access to victim advocacy services, to the extent available and consistent with security needs, while at the hospital for forensic examinations (FME) due to sexual abuse/assault. The Auditor also confirmed through telephonic interview with an advocate at the La Pinon, Sexual Assault Recovery Services, located in Las Cruces, New Mexico that they would provide a variety of services to any victim of sexual abuse/assault including therapeutic counseling, community outreach services, a SANE program and child advocacy services. The advocate also confirmed the use of victim advocates if requested by the victim, to assist with all services to help minimize the amount of suffering a victim may endure as part of the investigative process and the FME. Services are provided free of charge to the detainees and are provided 24-hours a day for all FME and advocacy services. Advocates are called through emergency medical staff at the Memorial Medical Center. Local SMEs and agents, confirmed during interviews their awareness of advocacy services available to detainees through La Pinon for FME, any follow-up assistance within the community, and the alleged victim of sexual assault would be provided timely access to U Nonimmigrant status information.

(e): The facility meets the standard provision. The local SME stated the Deming Police Department, Luna County Sheriff's Department and the New Mexico State Police would be contacted for any potential criminal investigations. All

departments have been advised of and are agreeable to following the PREA requirements. A copy of the confirmation letters to the Luna County Sheriff's Department, Deming Police Department, and the New Mexico State Police all dated October 21, 2021, was provided to the Auditor for verification of services and documentation requesting the law enforcement agencies follow the PREA standards when conducting investigations. The verification letters were reviewed by the Auditor during the pre-audit process.

§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): The facility meets the standard provision. CBP Directive 2130-030 requires prompt reporting of all sexual assault allegations to the Joint Intake Center (JIC) and Commissioner's Situation Room (CBP WATCH), and if potentially criminal, to the appropriate law enforcement agency. All interviewed local SMEs report they will immediately report such incidents up the chain-of-command and the JIC. During an SME interview, it was noted that the delegated WC or supervisor on duty is responsible for informing the local law enforcement as appropriate.

(d): The facility meets the standard provision. Interview with the HQ PDO/DPSA Coordinator and the HQ OPR/Sexual Abuse and Assault Investigative (SAAI) SME reported there were no PREA allegations made within the 12-month audit period at the Deming Station. The HQ PDO/DPSA Coordinator verified that the appropriate offices would be advised of any allegations by the JIC. SME interviews also confirmed that all allegations of sexual abuse are promptly reported to the PSA or DPSA Coordinator by the supervisor on duty.

§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): The facility meets the standard provisions. CBP Directive 2130-030 requires all uniformed agents and officers, special agents, fact finders, contractors and volunteers who may have contact with the detainees in CBP holding facilities shall receive the training required in Subpart B of the DHS Standards. A memorandum dated November 23, 2022, from the Executive Director of the Privacy and Diversity Office was sent out for distribution ensuring all CBP agents and contractors complete the mandatory training within one year of initial hire and thereafter receive refresher training every two years. The Auditor reviewed training records on site to verify that all active staff at the Deming Station were trained within two years of the effective date of the standards or upon their hire, if hired after the initial training. Training records also confirm that all active law enforcement staff receive bi-annual refresher training as required. Agent interviews confirm bi-annual PREA training on the Acadis training portal and refresher pat-down search trainings through musters and quarterly training topics. CBP has also developed two training aides in assisting staff with communicating with detainees with disabilities and a guide to facilitate effective communication with individuals who identify as LBGTQI+. Reminders to staff regarding sexual abuse and/or sexual assault are posted through various forms of communication to the staff. CBP has also created an internal PREA Resource Center which includes policies and various information regarding CBP's zero tolerance of sexual abuse and/or assault. Mandatory training is also required for contractors and volunteers. CBP also provides a training course for Volunteer Training, through the Federal Emergency Management Agency (FEMA), "Preventing and Addressing Sexual Abuse and Assault of Individuals in CBP Holding Facilities." The Auditor reviewed the mandatory training presentation slides, "Preventing Sexual Abuse in CBP Holding Facilities." The training consists of: the agency's zero-tolerance policies; detainees and employees rights to be free from sexual abuse and from retaliation for reporting sexual abuse; definitions and examples of prohibited and illegal sexual behavior; recognition of situations where sexual abuse may occur; recognition of physical, behavior, and emotional signs of sexual abuse, and methods of preventing such occurrences; procedures for reporting knowledge or suspicion of sexual abuse; how to communicate effectively and professional with detainees, including LBGTQI+, or gender nonconforming detainees; and the requirement to limit the reporting of sexual abuse to personal with a need-to-know in order to make decisions concerning the victim's welfare for law enforcement or

investigative purposes. Local SME and agent interviews verified the required mandatory training has been received through the Acadis training portal. Previous training was conducted online through the Performance and Learning Management System (PALMS). All contract employees receive initial training and refresher training bi-annually as confirmed through document review and interviews. The Auditor interviewed two medical contract employees while on site. The contractors were able to articulate the training that was received in accordance with DHS and PREA standards. Medical contractors are provided through Loyal Source. The Deming Station does not utilize volunteers as confirmed through the local SMEs during interviews.

(c): The facility meets the standard provision. CBP Directive 2130-030, stipulates that the agency document PREA training. During the review of training records, the Auditor verified the training is electronically maintained through the Acadis training portal. The Directive further requires the training be documented by the Contracting Officer's Representative (COR) for at least five years after the course completion for all contractors who have completed the training. Training records are maintained electronically as required by the standard. Local SME and agent interviews confirmed compliance. Training records and curriculum were reviewed on-site and through pre-audit documentation provided.

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

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

Notes:

The facility meets the standard. The Deming Station has maintained colorful, large print posters of DHS Zero-Tolerance Policy in view of all detainees hold rooms and processing areas. The posters are printed and posted in English and Spanish, but also contain a box providing zero tolerance and reporting information in all common languages. In addition, CBP addresses zero tolerance prominently on its website, <https://www.cbp.gov/about/care-in-custody>. CBP has added numerous methods of providing information to the detainee population on CBP's zero-tolerance policy. They developed age-appropriate colorful posters, informational display system slides, and scripts to provide key information regarding zero tolerance of sexual abuse and sexual assault and how to report incidents of sexual abuse and/or assault at CBP holding facilities. The posters were observed at the Deming Station which were published in English and Spanish; however, the Deming Station also has access to posters in several other languages depending on the type of population received at the facility. CBP also disseminated two videos for use at the facility in Spanish, one depicting a girl and the other a boy, to encourage compliance with CBP's zero-tolerance policy of sexual abuse and sexual assault and to encourage immediate reporting of behaviors that may constitute sexual abuse and/or sexual assault. The Deming Station has posted information geared toward juveniles and adults in areas for all detainees to view. This was verified during the facility tour by the Auditor. Interviews with the local SME verified that the facility maintains a variety of methods as listed, for detainee notification of the zero-tolerance policy in a visible and continuous manner. Agents were able to confirm when asked questions regarding detainee safety and expressed the knowledge of multiple ways for detainees to understand and receive the zero-tolerance policy. There were no detainees held at the facility for interviews the day of the on-site audit.

§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): The facility meets the standard provisions. CBP Directive 2130-030 requires staff to mitigate and identify dangers to a detainee and will ask the detainee the reasons for their concerns for their physical safety. The Directive further requires that if a detainee is determined to be at risk for sexual victimization be provided with heightened observation. A memorandum from the Chief, U. S. Border Patrol, dated October 8, 2015, to all Chief Patrol Agents, all Directorate Chiefs, and all Directorate Executive Directors advised them CBP TEDS incorporated requirements related to sexual abuse and assault prevention and response, care of at-risk individuals in custody, and personal property. CBP TEDS requires that all detainees be assessed for being at-risk of sexual assault before being placed in a hold room or holding facility. The 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; whether the detainee self identifies as LGBTQI+ or gender non-conforming; any prior sexual victimization and the detainee's own concerns about his/her physical safety. Based upon the assessment, the intake agent is to decide whether the detainee needs to be placed alone or placed away from certain other detainees for their safety or other detainee safety. The Deming Station staff make reasonable efforts to consider those areas when assessing detainees for risk of sexual victimization to the extent it is available at the time of intake prior to placing a detainee in a hold room with other detainees. The Auditor was able to observe where the assessment process would take place while on-site. The Deming Station begin their safety questions with detainees prior to entry into the facility by an agent in the field and subsequently each detainee is asked if they have any safety concerns by a medical contractor at the outside waiting area privately, and again during the intake process. If any concerns are noted by either, the agent documents and passes along the information to the next agent continuing the assessment process inside the intake area prior to entry into hold rooms. Each detainee is then fingerprinted and asked further assessment questions in a private and confidential manner. Agents also "watch" for any discerning cues that may lead them to believe the detainee is at risk for being a potential victim or perpetrator of sexual abuse. All observations and assessment questions are then notated in the (b) (7)(E) for each detainee. Once the required assessment is completed, the agent then places the detainee in a hold room appropriate for their age, gender, assessment results and safety concerns. There were no detainees being held during the on-site audit, therefore, no detainee interviews were conducted. Local SME and agent interviews confirmed this practice is completed prior to a detainee being placed in a hold room. Agent interviews all confirmed they are aware of the importance of detainee safety and the requirement of asking the assessment questions prior to placing any detainee with another that may be of high risk to them. Detainees are asked intake and processing questions individually with staff in a private manner to ensure confidentiality. The Auditor was able to review past assessments within the system to confirm the practice is followed.

(e): The facility meets the standard provision. CBP TEDS requires staff to ensure assessments are provided in private where sensitive information cannot be learned by other parties. The Deming Station agents speak to detainees in a private and confidential manor. The dissemination of sensitive information is to be controlled on a "need to know" basis. Local SME and agent interviews verify this practice as all information on detainees is kept in the (b) (7)(E) and not available to all staff.

§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): The facility meets the standard provision. Both CBP TEDS and CBP Directive 2130-030 requires detainees be provided multiple ways for detainees to privately report sexual abuse/assault, retaliation and/or staff neglect or violations leading to sexual assault. CBP Directive 2130-030 provides procedures for reporting alleged sexual abuse and/or assault are to be visible or readily available to detainees at holding facilities and posted on the CBP public website. The telephone information for the DHS OIG is found on the Keep Detention Safe posters located in the

processing area and the private areas designated for making phone calls and detainee interviews. An email dated February 2018 was sent out to all CBP employees from the CBP central office with links to all policies and updates for staff to review. In December 2022, a memorandum from the USBP Chief was sent out to all employees regarding the Mandatory Training for Preventing and Addressing Sexual Abuse in U.S. Custom and Border Protection Holding Facilities.

(b): The facility meets the standard provision. CBP Directive 2130-030 requires the facility provide at least one way for detainees to report sexual abuse to a public or private entity not connected to the agency and detainees must be able to report confidentially and anonymously, if desired, as well as both verbally and in writing. Local SME and agent interviews verify detainees may report abuse verbally or in writing to staff; third party reports are accepted, and a detainee may request to make a private anonymous telephone call to DHS OIG, their consulate, or any other outside entity. Detainees are informed they can call DHS OIG to report privately. The Auditor, through direct observation viewed the private room and posters in which the DHS OIG number is provided. The Auditor called the number on the Keep Detention Safe poster to confirm a working anonymous telephone could be used by a detainee. This reporting method was verified by the staff on the receiving end of the call. If a detainee requests such a call, the agent will escort the detainee to the room and dial the DHS OIG hotline number if the detainee is unable to dial the number. The detainee will have privacy and be observed visually from the hallway by the agent. There were no detainees being held at the facility to interview the day of the on-site audit.

§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:

The facility meets the standard. CBP Directive 2130-030 informs staff that third parties may report sexual abuse on behalf of detainees. CBP make public reporting procedures for sexual abuse or detainees at: <https://www.cbp.gov/about/care-in-custody>. The website provides a toll-free Joint Intake Center (JIC) Hotline phone number, email address, and physical address to allow different methods of reporting to the JIC. The website also provides, the phone number, email address, and an online reporting site for the DHS OIG. Local SME and agent interviews confirmed that third parties are provided several methods of reporting and further state if they received a third-party allegation, they would promptly notify their supervisor and document the allegation per the directive.

§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): The facility meets the standard provisions. CBP Directive 2130-030 requires all staff to immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse/assault; retaliation against detainees or staff who made such a report or participated in an investigation of sexual abuse, or any staff neglect or violation of responsibilities contributing to an incident or retaliation. CBP Directive 3340-025F, Reporting Significant Incidents to the U.S. Custom and Border Protection Watch, dated November 2, 2021, directs staff that sexual abuse and/or assault be reported to a unified hub which operates 24/7 to assure all significant incidents are reported immediately to all required leadership. All interviewed agents affirmed these responsibilities. When staff were asked how they could report outside of the chain-of-command, they all reported they could call DHS OIG or the JIC. Agents further stated that supervisors reviewed the PREA reporting requirements during musters. A laminated job aid on reporting requirements was made available to all staff. April 2023 emails confirm staff receive reminders and "DHS PREA Standard in Focus" to ensure requirements are reviewed on a regular basis. During an open discussion, a contract employee who has contact with detainees, revealed that they would not advise CBP staff if a sexual abuse allegation was made. The contract employee made the statement during the on-site inspection by the Auditor who was accompanied by other Deming Station staff. The contractor further stated that the allegation would only be reported

to the Contractor's Deputy Program Manager who should in turn advise CBP. This is not in line with the staff reporting duties in CBP directives for immediate reporting requirements. The lapse in immediate reporting to CBP could cause a loss in immediate outside medical assistance for the detainee as well as a potential loss of valuable physical evidence. In addition, the delay in immediate reporting to onsite CBP staff could potentially place other detainees at risk of sexual abuse. However, Deming Station leadership, CBP Office of the Medical Officer (OCMO), and the Contract Administrator took immediate action by conducting contractor policy reviews and taking personnel action by reassigning the contractor. Additionally, the HQ PDO/DPSA has provided documentation regarding the personnel action taken. This issue has been abated; therefore, no Corrective Action will be required.

(c): The facility meets the standard provision. CBP Directive 2130-030 states except as necessary to report the incident, CBP and its staff shall not reveal any information related to the incident except as necessary to aid the detainee, to protect other detainees or staff, or to make security and management. Agent interviews verify that the dissemination of information regarding a sexual assault is limited to their immediate supervisor, other staff necessary to protect the detainee and the crime scene, and only those others on a "need to know" basis.

(d): The facility meets the standard provision. CBP Directive 2130-030 requires the facility to report sexual abuse and/or assault allegations involving alleged victims under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute to the designated State or local services agency under applicable reporting laws. Interviews with local SMEs reveals sexual assault of victims under the age of 18 years and vulnerable adults, will be reported to the State of New Mexico - Children, Youth & Families Department by the WC, supervisor on duty or their designee and at the direction of the HQ OPR/SAAI Coordinator. The SOS (POC) confirmed this practice during the on-site visit and interview.

§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:

The facility meets the standard. CBP TEDS and a Memorandum, dated August 13, 2014, from the Chief, U. S. Border Patrol, to all Chief Patrol Agents and all Division Chiefs requires any agency employee who believed circumstances exist which place a detainee at imminent risk of sexual assault to take immediate action to protect the detainee. Interviews with local SMEs and agents confirm that a detainee who may be at risk would immediately be protected by isolation or direct constant supervision (sight and sound) or both. The detainee would be removed from contact with other detainees and would be supervised, as directed by the local SME WC or supervisor on duty.

§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): The facility meets the standard provision. CBP Directive 2130-030 requires that should a detainee have been sexually abused and/or assaulted at another facility prior to arriving at the Deming Station, the prior agency or administrator must be notified. Interview with the SOS (POC) verified that the PAIC or their designee would make the notification. A memorandum dated October 2015 from USBP Chief was issued with the title "Implementation of the CBP National Standards on TEDS" for staff review.

(b): The facility meets the standard provision. The standard provision requires that notification be made within 72 hours of receiving the allegation. This process was confirmed during interviews with local SMEs who stated the notifications would be made immediately within the hour upon receiving the allegation, which meets the standard provision.

(c): The facility meets the standard provision. The SOS (POC) indicated that the notification would also be notated in the (b) (7)(E).

(d): The facility meets the standard provision. The local SME reported that the Deming Station follows all agency reporting requirements as specified in CBP Directive 2130-030. He stated that upon notification from another facility of an allegation of sexual abuse/assault which was alleged to have occurred at the Deming Station, the JIC shall be notified immediately using the same process as if the detainee was present at the facility. Notifications would also be made to the PSA Coordinator by the supervisor on duty or WC per the SOS (POC) interview.

§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): The facility meets the standard provision. CBP Directive 2130-030 details the responsibilities for the first agent on scene of a reported allegation. The Directive and the PREA training through the Acadis training portal provide the necessary steps to be taken if a detainee is sexually assaulted. The first responding agent or their supervisor is to perform all first responder duties delineated in the standard provision. Interviews were conducted with SMEs and agents, in which they recited their duties to include, separating the alleged victim and abuser, preserving, and protecting the crime scene if the abuse occurred within a time period that would allow for the collection of evidence, and requesting the alleged victim and ensuring the alleged abuser do not take any action that could destroy evidence. During the SME and agent interviews, they were able to articulate that they would ensure detainees do not eat or drink, use the toilet, or change/destroy clothing that may contain physical and or forensic evidence. Agents expressed the importance of maintaining any area/room in which a sexual assault may have occurred and secured from allowing others to enter to safeguard any potential evidence. The local SMEs and agents also stated that in addition to training all law enforcement personnel on first responder duties, the Deming Station review these duties on a regular basis through staff musters and quarterly trainings. Staff also have the responder duties on their issued Quick Reference Card. The Quick Reference Cards provide important information for first responders if they witness or receive a report of sexual abuse. The card directs staff to notify their supervisor; separate the alleged victim and alleged abuser; preserve and protect the crime scene; request the alleged victim and request the alleged abuser not to do anything that could destroy physical evidence, and refer the incident to the appropriate law enforcement agency; promptly report to the Joint Intake Center and the Commissioner's Situation Room (CBP WATCH); provide access to emergency medical treatment and crisis intervention services; and report allegations involving alleged victims under the age of 18 or a vulnerable adult under a State or local vulnerable persons statute to the designated State or local services agency. The card also states that upon receipt of an allegation that a detainee was sexually abused while confined at another facility, notify the appropriate office of the agency or administrator at the facility where the alleged abuse occurred; and if the alleged victim is transferred to another DHS facility, inform the receiving facility of the alleged incident and the potential need for medical or social services.

(b): The facility meets the standard provision. CBP Directive 2130-30 addresses non-law enforcement duties and requires the non-law enforcement staff to request the alleged victim and ensure the alleged abuser does not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, and notify law enforcement staff. The SOS (POC) stated that the Deming Station only allows trained law enforcement and trained medical staff interactions with detainees during their entire holding period. The contract staff have also received first responder duty training in line with the DHS PREA Standards and were able to articulate during interviews the steps necessary to protect a victim of sexual abuse should they be the first responder on the scene. During an open discussion, a contract employee who has contact with detainees, revealed that they would not advise CBP staff if a sexual abuse allegation was made. The contract employee made the statement during the on-site inspection by the Auditor who was accompanied by other Deming Station staff. The contractor further stated that the allegation would only be reported to the Contractor's Deputy Program Manager who should in turn advise CBP. This is not in line with the staff reporting duties in CBP directives for immediate reporting requirements. The lapse in immediate reporting to CBP could cause a loss in immediate outside medical assistance for the detainee as well as a potential loss of valuable physical evidence. In addition, the delay in immediate reporting to

onsite CBP staff could potentially place other detainees at risk of sexual abuse. However, Deming Station leadership, CBP Office of the Chief Medical Officer (OCMO), DPSA, Contractor Administrator took immediate action by conducting contractor policy reviews and taking personnel action by reassigning the contractor. Additionally, the DPSA has provided documentation regarding the action taken. This issue has been abated; therefore, no Corrective Action will be required.

§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): The facility meets the standard provision. A memorandum from the Acting Executive Director, Privacy and Diversity Office, dated February 2, 2018, advising staff of the issuance of CBP Directive 2130-030, constitutes CBP's written institutional plan for utilizing a coordinated multidisciplinary team approach to respond to sexual abuse and/or assault. The Directive provides a clear progressive plan for all components of addressing sexual abuse in holding facilities. On August 15, 2022, CBP developed a job aid, Quick Reference Card, which details first responder duties defining sexual assaults of a detainee by another detainee, sexual assault of a detainee by an employee, contractor, or volunteer. The job aid also includes first responder duties, notifications for investigations, forensic medical examinations, and incident reporting. Interviews with all local SMEs and agents verified an awareness of their requirement to provide medical care. They were also aware detainees must have access to victim advocates, if so desired and would be provided at the Memorial Medical Center through the La Pinon Sexual Assault Recovery Services

(b)(c): The facility meets the standard provision. CBP Directive 2130-030 requires the staff to notify another DHS facility if the victim of sexual abuse/assault is transferred there. This notification must include the detainee's need for medical or social services. These requirements were confirmed through the interviews with the SMEs and the notification would be made by the PAIC or a designated supervisor.

§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:

The facility meets the standard. Regarding an allegation of sexual abuse by a staff member, interviews with local SMEs verified agency policy is to remove the staff member from contact with detainees pending the outcome of an investigation into alleged sexual abuse/assault or violations of agency policies at the consideration and discretion of agency management including the PAIC and Sector Chief. The PAIC would reassign any staff member whose allegations of sexual abuse/assault or violations of policy had been made against, and from public contact. This reassignment would remain in effect until the completion of the investigation. The Deming Station would follow the same procedures for any contractor who has been alleged to commit the same violations as a CBP staff. CBP seek would seek removal of the contractor from the facility through the COR. The Deming Station does not have any volunteers at the facility. This practice was confirmed during interviews with local SMEs. There were no allegations of sexual assault during the audit period at the Deming Station according to the SME HQ/OPR interview and DPSA Coordinator.

§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:

The facility meets the standard. CBP TEDS prohibits all CBP staff from retaliating against any person, including a detainee, who alleges or complains about mistreatment, participates in sexual activity as a result of force, coercion, threat, or fear of force. CBP Directive 51735-013B clearly prohibits retaliation or sexually abusing and/or assaulting a detainee. The training on the implementation of this policy was verified by interviews with local SMEs. Interviews with agents report that retaliation is prohibited by the Directive, and all have been trained to look for signs of it occurring. All agents interviewed were able to recite examples of retaliation and reporting such behavior immediately to their supervisor on duty.

§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): The facility meets the standard provision. CBP Directive 2130-030 states CBP personnel may be subject to disciplinary action up to and including removal from their position and Federal Service for a substantiated allegation of sexual abuse/assault and/or for violating CBP's sexual abuse policies. CBP Directive 51735-013B gives notice to all CBP personnel they may be subject to disciplinary action for substantiated allegations of sexual abuse and/or assault. Interviews with HQ HRM/LER SME verified that disciplinary action is pursued in all cases of substantiated sexual assault or for violations of sexual abuse policies with removal of their position and the employee being barred from future federal service as the presumptive action. The HQ HRM/LER SME interview also confirmed that there have not been any removals or resignations in lieu of removal during the audit period at the Deming Station. SME interviews confirmed their awareness of the disciplinary process for staff and contractors who violate the sexual abuse policy and procedures.

(c): The agency meets the standard provision. The HQ PDO/DPSA Coordinator revealed were no allegations of sexual assault made during the audit period at the Deming Station. The interview with the HQ OPR/SAAI SME confirms all allegations of sexual abuse would be referred to the appropriate law enforcement agency by the facility PAIC or the El Paso Sector Chief and notification is coordinated by the HQ OPR/SAAI SME.

(d): The facility meets the standard provision. The interview with HQ OPR/SAAI SME verified that removals for substantiated sexual abuse/violations of sexual abuse policies would be reported to relevant licensing bodies, to the extent known by HQ OPR/SAAI staff.

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

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

Notes:

(a): The facility meets the standard provision. Interviews with the local SMEs revealed that all suspected contractor perpetrators of sexual abuse would immediately be removed from contact with detainees. The Deming Station does not currently utilize any volunteers. The medical contractors were observed in the medical screening room, located in the detainee processing area of the facility. The interviews with two medical contractors with Loyal Source confirmed they have received the PREA training and are aware of any consequences associated with detainee sexual abuse. Interviews with the local SMEs indicated the consequences of an alleged sexual abuse and/or assault would be immediate removal pending an investigation. The interview with the HQ OPR/SAAI SME verified that any substantiated allegations of sexual abuse by a contractor or a volunteer would result in notification of the allegation to appropriate law enforcement agencies and licensing authorities by the El Paso Sector Chief or their designee.

(b): The facility meets the standard provision. Local SME interviews verified that any contractor suspected of perpetrating sexual abuse would be removed from all duties where detainee contact would occur pending the outcome of the investigation. Local SME interviews confirmed that there have been no allegations of sexual abuse against a contractor and detainee during the audit period.

§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): The facility meets the standard provision. Commissioners memorandum dated July 15, 2014, Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Holding Facilities /Prison Rape Elimination Act (PREA); the Acting Chief USBP memorandum dated March 6, 2018, Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities; Chief USBP memorandum dated October 8, 2015, Implementation of the CBP National Standards on Transport, Escort, Detention and Search (TEDS); and Chief USBP memorandum dated August 13, 2014; and CBP's Policy on Zero Tolerance of Sexual Abuse and Assault; Acting Commissioner's memorandum dated January 19, 2018, Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities were all provided in support of providing 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. Per SME interviews, a detainee victim of sexual assault and/or abuse at the Deming Station are to be immediately transported to the Memorial Medical Center, where they would address any medical emergency or to utilize the SANE for a victim of sexual assault and/or abuse when appropriate. A forensic medical examination (FME) would only be performed with the detainee's consent and where medically and evidentiarily appropriate. A determination on whether the exam is evidentiarily appropriate is made by HQ OPR. The services would be provided to the victim at no charge regardless of the victim's cooperation with the sexual assault investigation. Interviews with the local SMEs verified these services would be provided at no charge, regardless of the detainee's cooperation with any part of an investigation.

§115.186(a) – Sexual abuse incident reviews.

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

Notes:

The agency meets the standard. The HQ PAQ indicates there have been no completed investigations of sexual abuse allegations at the Deming Station during the audit period therefore, no incident reviews have been conducted. Interview with the HQ PDO/DPSA Coordinator reveals their office regularly receives sexual abuse incident reviews within 30 days after the conclusion of a sexual abuse investigation at a facility. The Incident Review Committee (IRC) is comprised of three CBP HQ Program Managers and the local PFC. The SOS (POC) indicated during his interview that the PAIC and El Paso Sector Chief would take any recommendations made by the IRC and make a concerted effort to address deficiencies within their span of control and budgetary restrictions. The HQ OPR/SAAI SME confirmed that the IRC would meet within 30 days after the conclusion of any sexual abuse/assault investigation and prepare a report of its findings.

§115.187 – Data collection.

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

Notes:

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

ADDITIONAL NOTES

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

None

AUDITOR CERTIFICATION:

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

(b) (6), (b) (7)(C) _____

Auditor’s Signature

August 19, 2024

Date