

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



U.S. Customs and  
Border Protection

## AUDITOR

Name of Auditor:	(b)(6)(b)(7)(C)	Organization:	Creative Corrections, LLC
Email Address:	(b)(6)(b)(7)(C)	Telephone Number:	(b)(6)(b)(7)(C)

## AGENCY

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

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

Name of Sector or Field Office:	El Paso 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:	9400 Viscount Suite, El Paso, TX 79925
Mailing Address: <i>(if different from above)</i>	NA

## SHORT-TERM HOLDING FACILITY BEING AUDITED

### Information About the Facility

Name of Facility:	Deming Station
Physical Address:	3300 J Street, Deming, NM 88030
Mailing Address: <i>(if different from above)</i>	NA
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)

## AUDIT FINDINGS

### NARRATIVE OF AUDIT PROCESS AND DESCRIPTION OF FACILITY CHARACTERISTICS:

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

The initial Prison Rape Elimination Act (PREA) audit of the Customs and Border Protection (CBP), U.S. Border Patrol (USBP), Deming Station, Deming, New Mexico, was conducted on February 11, 2019, by PREA certified Auditor (b)(6)(b)(7)(C), a contractor for Creative Corrections, LLC. The single-story facility is located at 3300 J Street, Deming, New Mexico, and is utilized by CBP for short-term detention of individuals pending release from custody or transfer to a court, jail, prison, other agency or other unit of the agency.

The PREA audit is to determine compliance with the Department of Homeland Security (DHS) PREA Standards. (b)(6)(b)(7)(C), CBP's Preventive Sexual Assault (PSA) Coordinator, Headquarters (HQ); (b)(6)(b)(7)(C), Deputy Director, Personnel Security Division (HQ); (b)(6)(b)(7)(C), Employee Relations Specialist (HQ); (b)(6)(b)(7)(C), Branch Chief CBP Hiring Center (HQ); (b)(6)(b)(7)(C), Sexual Abuse and Assault Investigations Coordinator (HQ); (b)(6)(b)(7)(C), Assistant Chief, USBP, HQ, and (b)(6)(b)(7)(C), Special Operations Supervisor, Deming Station, provided the (HQ) and local Pre-Audit Questionnaires (PAQ) along with supporting documents for Deming Station on the secure CBP SharePoint website approximately three weeks prior to the on-site portion of the audit. Pre-audit preparation included a thorough review of all supplied documentation and supporting materials provided by the facility along with the data included in the completed PAQs. The documentation received included agency policies with corresponding attachments, procedures, forms, training curricula, and other PREA-related materials provided to demonstrate compliance with the PREA standards.

The Auditor arrived at Deming Station at 5:00 a.m. on the 11<sup>th</sup> of February 2019 and proceeded to the office of PREA Field Coordinator (b)(6), (b)(7)(C). At approximately 8:30 a.m. the Auditor proceeded to the facility conference room where the in-briefing was conducted. Those in attendance were:

(b)(6)(b)(7)(C), Patrol Agent-in-Charge, Deming Station  
(b)(6)(b)(7)(C), Deputy Patrol Agent-In-Charge, Deming Station  
(b)(6)(b)(7)(C), PSA Coordinator, HQ  
(b)(6)(b)(7)(C), Assistant Chief, USBP, HQ  
(b)(6)(b)(7)(C), Program Manager, Office of Field Operations (OFO), HQ  
(b)(6)(b)(7)(C), PREA Field Coordinator, Deming Station  
(b)(6)(b)(7)(C), Special Operations Supervisor, Deming Station  
(b)(6)(b)(7)(C), Supervisory Border Patrol Agent, Deming Station  
(b)(6)(b)(7)(C), Operations Officer, USBP, HQ

After introductions and a brief question and answer period the in-briefing ended and the tour of Deming Station began. Deming Station (b)(7)(E) (b)(7)(E) and a secure sallyport area for bus transfers. Each holding room contains a toilet, posters on the walls in Spanish and English informing detainees of how and whom to report (in writing, anonymously to the Office of Inspector General (OIG)) any allegations of sexual abuse, and an area to sit. The (b)(7)(E) at Deming Station are in the Administrative Offices and not in or around the holding rooms. There are sitting areas outside of the holding rooms in the processing area. Deming Station is staffed around the clock by Border Patrol Agents only. There are no volunteers or contractors allowed into the holding room at any time; only sworn law enforcement personnel. Deming Station receives males, females, family units, and juveniles.

During the site visit the Auditor was unable to observe the detainee intake process as no detainees arrived at Deming Station during the time the Auditor was present. Line staff did however walk the Auditor through the arrival and intake process that each detainee receives upon arrival. The typical time to be held at Deming Station for detainees is 48 hours. Detainees are provided food and given bedding to sleep on for the duration of the time they are there.

Scope of the Audit: The Auditor reviewed all relevant policies, procedures and documents in assessing Deming Station. Information not available in the original documents was asked for and received. A sampling of personnel files (15), 5 detainee files for risk assessment, staff rosters, and staff PREA training (all). The Auditor had access to all parts of the facility and found (b)(7)(E) as none exist. While on-site the

Auditor interviewed 14 staff (8-Agents, 2- Supervisors, 4-local SMEs and 1-PREA Field Coordinator) and 10 detainees (9-Adults and 1-Juvenile) from two countries. The Auditor used Language Services Associates to provide interpretative services for the detainee interviews. The Auditor spoke with the staff from the local Hospital (Mimbres Memorial) and the advocacy group La Piñon Sexual Assault Recovery Services.

The Auditor also conducted a records review. This included a sample of 15 personnel files for background checks, staff training records, and 5 detainee files. There were no allegation of sexual assault reported to Deming Station staff within the last 12 months.

**SUMMARY OF OVERALL FINDINGS:**

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

On February 11, 2019, an exit briefing was held in the Deming Station Conference Room. In attendance were:

- (b)(6)(b)(7)(C), Deputy Patrol Agent-In-Charge, Deming Station
- (b)(6)(b)(7)(C), PSA Coordinator, HQ
- (b)(6)(b)(7)(C), Assistant Chief, USBP, HQ
- (b)(6)(b)(7)(C), Program Manager OFO, HQ
- (b)(6)(b)(7)(C), PREA Field Coordinator, Deming Station
- (b)(6)(b)(7)(C), Special Operations Supervisor, Deming Station
- (b)(6)(b)(7)(C), Supervisory Border Patrol Agent, Deming Station
- (b)(6)(b)(7)(C), Operations Officer, USBP, HQ

The Auditor discussed observations made during the on-site audit and gave preliminary findings of the audit. He informed those present of initial concerns but would not be able to make any final determination until he reviewed the on-site notes from interviews, policies and Standard requirements.

The Auditor did not find compliance with five Standards: 115.113 (b,c) no annual review for staffing guidelines as required; 115.115 (f) no specific transgender search training as required; 115.116 no training/guidance to staff on how to accommodate detainees with disabilities; specific information and guidance about accomodating detainees with disabilities was issued after the facility site visit; 115.121 (e) requires those conducting sexual abuse investigations (New Mexico State Police/Sheriff) be asked to comply with sections (a) through (d) of the Standard; the Auditor was not provided documentation this was done, and 115.163 (b,d) staff are not aware of the 72 hour notification requirement to other confinement facilities of allegations occurring at other confinement facilities, and to refer for investigation allegations received from other confinement facilities of incidents alleged to have occurred at Deming Station.

<b>SUMMARY OF AUDIT FINDINGS</b>	
Number of standards exceeded: 0	
Number of standards met: 19	
Number of standards not met: 5	
<b>OVERALL DETERMINATION</b>	
<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, provide an explanation for the reasoning. If additional space for notes is needed, please utilize space provided on the last page.

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

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

#### Notes:

(a) CBP Policy on Zero Tolerance of Sexual Abuse and Assault signed by CBP's Commissioner on March 11, 2015, is CBP's main policy mandating zero tolerance toward all forms of sexual abuse and sexual assault and outlining their approach to preventing, detecting, and responding to such abusive conduct. It defines in detail for all staff and detainees the prohibited acts. This policy is supplemented with CBP National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015, which sets forth nationwide Standards that govern CBP's interaction with detained individuals, and CBP Directive 2130-030, Prevention, Detection and Response to Sexual Abuse and/or Assault in CBP Holding Facilities, dated January 19, 2018. The random staff interviews confirm they were provided and are familiar with the Zero Tolerance Policy, CBP TEDS, and CBP Directive 2130-030. The policies are available to all staff 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) CBP Directive 2130-030 requires Deming Station to develop and document a comprehensive detainee supervision guideline that meets the facility's detainee supervision needs and review those supervision guidelines and application at least annually to determine whether adequate levels of detainee supervision and monitoring exist. The results of the development of comprehensive detainee supervision guidelines and annual review are to be provided to the PSA Coordinator. The Auditor spoke with the facility SMEs and the PREA Field Coordinator who discussed at length the supervision guidelines informing the Auditor there are no definitive daily staffing numbers established at Deming Station. Staff numbers are driven by the number of detainees brought in for processing and situations going on in the community and at the border. The Auditor was informed that on any given day Deming Station maintains enough Agents to provide a safe and secure environment for detainees. The Local SME staff and the PREA Field Coordinator state the established staff positions at Deming Station are appropriate and flex from day to day. The facility has no

(b) (7)(E)

(b)(c) The Standard requires an annual review of these 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. The Auditor was not provided documentation an annual review of the supervision guidelines was performed during the audit period at Deming Station resulting in non-compliance. **Corrective Action:** Provide documentation of the annual review of the supervision guidelines taking into account all areas noted in the Standard and that a copy was submitted to the PSA Coordinator as required by policy.

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

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

**Notes:**

(a)(b) CBP TEDS requires Deming Station to place each at-risk 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 process these juveniles and children brought to Deming Station who state they are processed as either accompanied by a parent or legal guardian or as an unaccompanied child (UAC). The UAC is held separately from any adult under the direct supervision of an Agent. The minor child/juvenile is typically placed in a sitting area in front of the agent or in a holding room if available. According to these Agents the UAC remains under the supervision of the Agent until removal from the holding room. These Agents also state minors accompanied by an adult are thoroughly vetted to the extent they can to ensure a parental or legal guardianship relationship. This includes use of consulates, legitimate documentation and interviews. If a legal relationship cannot be established the minor is handled as an UAC separated from adults, under the least restrictive setting under the direct supervision of an Agent. The Agents also told the Auditor they are required to screen all UAC for credible fear, human trafficking and their ability to make independent decisions. There were no UACs present for the Auditor to interview during the site visit. The Auditor had the opportunity to interview a juvenile with his father present. The Detainees were both asked if they were questioned about the relationship. Both indicate they were interviewed by the Agent and the father was required to produce birth records and paperwork to establish the parental relationship.

**§115.115(b) through (f) – Limits to cross-gender viewing and searches.**

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

**Notes:**

(b)(c) CBP TEDS details the type and conditions under which searches can and will be performed to ensure the safety of Agents, civilians and detainees. It prohibits cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances including consideration of officer safety, or when performed by medical practitioners. If performed the policy requires these strip/body cavity searches be recorded in the electronic system of record. CBP TEDS details that Officers/Agents must not conduct visual body cavity searches of juveniles and shall refer all such body cavity searches of juveniles to a medical practitioner. During random interviews the Local SME, Agents and Supervisors explained according to policy requirements the conditions under which pat searches, strip searches and body cavity searches could be performed. All indicate strip searches and body cavity searches are not done at Deming Station. Their explanations are in compliance with the Standard and the policy.

(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. As previously noted there are (b) (7)(E) in any of the holding rooms and there is a wall around the toilets in each of the holding rooms. Interviews with Agents confirm they knock on the door or window and announce upon entering. It should be noted each of the holding room's exterior walls are entirely made up of glass. Detainees usually see the Agents prior to their knocking and entering. Detainees are transported outside of the facility for showers as Deming Station has no showers for them onsite. Random interviews with detainees indicate staff of the opposite gender knock and/or announce prior to entering the hold rooms.

(e) CBP TEDS prohibits staff from searching or physically examining a detainee for the sole purpose of determining the detainee's gender-related characteristics. If the detainee's gender is unknown, officers/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. Interviews with random staff indicate staff is aware of the prohibition on searching detainees to determine their gender.

(f) A review of both policy and the training curriculum for staff at Deming Station reveals Law Enforcement staff did not receive specific training on conducting pat down searches of intersex and transgender detainees in a professional and respectful manner and as required by the Standard. Random staff indicate in their interviews all pat searches are performed in a professional manner. They stated that same sex pat searches are the norm but in a situation involving safety of the Agent and no females are available to conduct the search opposite gender Agents may conduct pat searches. They informed the Auditor they did not receive pat search training specific to transgender and intersex detainees. The Standard is not compliant. **Corrective Action:** Provide documentation all staff have been trained on the procedures for conducting pat searches of transgender and intersex detainees as required by the Standard.

**§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/or 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 the staff interviews the Auditor was informed if a communication problem exists during processing the Agent utilizes Interpreters and Translations Incorporated to provide information to detainees in a language they understand. The Agents further state deaf detainees would be dealt with individually with the Agents reading them information and providing visual information as with the posters through an interpreter if necessary. The Agents did not give specifics on what they could do to accommodate deaf and can't speak, psychiatric, low level learning or low functioning detainees resulting in non-compliance. The Agents also informed the Auditor other detainees would not, under normal circumstances, be allowed to interpret for another detainee unless the detainee expresses a preference for the detainee to provide interpretation, and CBP determines that such interpretation would be consistent with DHS policy. However, interpretation would never be provided by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser. **Corrective Action:** Provide documentation staff have been trained on how to accommodate psychiatric, low level learning or low functioning, deaf and can't read detainees.

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

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

**Notes:**

(a)(b)(e)(f) CBP Directive 2130-030 requires the Office of Human Resource Management (HRM) to establish policy and procedures and ensure CBP does not hire or promote personnel who have had previous substantiated allegations of engaging in sexual abuse and/or assault to any positions where the employee may interact with detainees in CBP holding facilities. The Auditor interviewed the HQ HRM SME prior to the site visit and was informed CBP will 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. She also states interviews conducted with new applicants as well as any applicants for promotion include specific questions about any previous sexual abuse misconduct, and 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 have an affirmative duty to disclose any such misconduct, false information and any material omissions. This information is provided to them on hiring when issued the Employee Code of Conduct document and they are reminded annually during training on the Performance and Learning Management System (PALMS).

(c)(d) CBP Directive 2130-030 requires the Office of Professional Responsibility (OPR) ensure background investigations are conducted for applicants for employment and contractors having contact with detainees to determine suitability and that updated background investigations be conducted every five years for CBP personnel who may have contact with detainees. The HQ OPR/Personnel Security Division (PSD) SME indicates background checks (Tier 4, Tier 5) for CBP are the most thorough investigations performed for DHS. She informed the Auditor question number three asked by all credentialed background investigators is "have you ever engaged in or have you ever been charged with sexual abuse?" According to her, an affirmative response results in the individual not be hired. The SME also informed the Auditor rechecks are initiated every five years. The word initiated is used by CBP instead of conducted. The Auditor submitted 15 names to OPR to review for background rechecks. Documentation provided by HQ demonstrated the five year recheck were initiated within five years resulting compliance.

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

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



X Not Applicable (provide explanation in notes):

**Notes:**

(a)(b) Deming Station was opened and dedicated in 2000. There has been no substantial expansion or modification to the Station since that time. The (b) (7)(E) has not been added to or improved on since that date. Accordingly, the Standard is not applicable.

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

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

**Notes:**

(c)(d) CBP Directive 2130-030 requires Deming Station provide emergency medical treatment and crisis intervention services, including a forensic medical exam, in accordance with professionally accepted standards of care to alleged victims 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 (alleged victim) is transported for a forensic examination to a medical facility that offers victim advocacy services, officers/agents will permit the detainee to use such services to the extent available, consistent with security needs. The Auditor interviewed the facility SMEs and Agents. Both confirm detainee victims receive medical and mental health treatment at no cost as well as allowing advocacy personnel access to detainees if available at the hospital where the detainee is sent. As noted earlier detainees are sent to the local hospital (Mimbres). The Auditor spoke with this hospital and was informed they only stabilize the patient and then transfer the individual to the La Piñon Sexual Assault Recovery Services of Southern New Mexico if a forensic exam is needed. La Piñon is a full-service sexual assault response agency in Southern New Mexico providing comprehensive sexual assault recovery services, including advocacy and crisis intervention service, for sexual abuse victims and their families. It is located in Las Cruces, New Mexico, 40 miles from Deming, and provides services in all areas of southern and northern Doña Ana County. Their services are bilingual and bi-cultural and they are not mandated to report to law enforcement when victims over the age of 18 want to receive counseling services or just talk to someone. The staff at La Piñon informed the Auditor that regardless of the patient, services are at no cost.

(e) The Auditor was told by HQ Sexual Assault and Abuse Investigator (SAAI) SME that local law enforcement would, in most cases, be notified of any sexual assault and handle criminal investigations for allegations of sexual abuse. Facility staff informed the Auditor the local law enforcement agency would either be the New Mexico State Police or the local Sheriff. The facility did not provide documentation requesting either agency comply with sections (a-d) of the Standard resulting in non-compliance. **Corrective Action:** The facility must request New Mexico State Police and the local Sheriff comply with subparts (a) through (d) of the Standard. **Note:** Documentation was provided to the Auditor reflecting on April 10, 2019, a letter was submitted to the local Sheriff's Office requesting they follow the requirements of the standard when investigating sexual assault allegations at Deming Station.

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

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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 HQ SAAI SME and the Local SME both indicate sexual abuse allegations are reported to JIC and the Commissioner's Situation Room in accordance with policy. The PREA Field Coordinator states the Watch Commander would submit an Incident Report to the JIC and the Commissioner's Situation Room upon learning of an incident. The Directive also requires Deming Station report allegations of sexual assault/abuse to law enforcement agencies with the legal authority to conduct criminal investigations. According to the PREA Field Coordinator the facility Watch Commander would be required to notify local Law Enforcement after notification to the JIC. This notification becomes part of the Incident Report. The PSA Coordinator indicates in her interview that upon any notification of sexual abuse or sexual assault made to the JIC she is immediately notified by the JIC (email) as stipulated in CBP Directive 3340-025E,



Reporting Significant Incidents to the Commissioner's Situation Room, dated May 21, 2018. The facility had no sexual abuse allegations made or investigated during the prior 12 months.

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

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

**Notes:**

(a)(b)(c) CBP Directive 2130-030 requires all uniformed agents and officers, special agents, fact finders, contractors, and volunteers who may have contact with detainees in CBP holding facilities receive PREA training as required in Subpart B of the DHS Standards. The Auditor reviewed the training curriculum provided to staff at Deming Station 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 in 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. Interviews with random staff and Local SMEs confirm the information is provided to staff in this training. They also informed the Auditor PREA training is provided to them every two years. The PALMS system is able to provide an up-to-date listing of staff trained and those needing training. Based on provided information from the Local SME all individuals currently assigned to Deming Station have had the required PREA training. The Auditor was informed training records for staff are maintained for their entire employment and an additional five years. As previously noted there are no contractors or volunteers in contact with detainees at Deming Station requiring this training. The Auditor was informed that if contractors or volunteers were to come in contact with detainees they would be required to attend the same PREA training as required by policy. CBP Directive 2130-030 was provided to all staff through the agency email program referred to as CBP Central. As noted the Auditor interviewed 10 random staff members. The Auditor questioned them about this training they received. All indicated it was received within the last six months and although not all of them cited each of the eight topic requirements of the Standard it was clear during follow-up questions the training included those subpart topics.

**§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:**

Deming Station makes public its zero policy to the general public through its webpage (<https://www.cbp.gov/about/care-in-custody>) and to all detainees through posters located in the processing area and outside the detainee living areas. The posters observed were 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). The Auditor spoke with 10 random detainees. They were all aware of the posters and had a general understanding of the information provided to them on the poster. Most indicate they would call the published telephone number (OIG). All detainees interviewed were limited English proficient.

**§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) (b) (7)(E) states before placing any detainees together in a hold room the processing Agent must assess the information before them to determine if the detainee may be considered as 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 Auditor reviewed the training all staff receives (PALMS) in order to perform this assessment. It is provided at the same time as the zero tolerance training and is part of that curriculum. The random Agent interviews conducted by the Auditor confirm this assessment is performed on each detainee arriving at Deming Station to assess the detainee's potential vulnerability and potential abusive behavior. They further state if the assessment indicates any vulnerability or abusive behavior with any detainee he/she is provided with heightened protection. If the detainee is abusive he/she is kept separate from those who are vulnerable. This may include direct sight and sound supervision, single room placement or seated in front of the Agent in the process room. The random interviews with detainees confirm they were asked about their own safety concerns on admission. At the time of the site visit there were no detainees processed into the Deming Station for the Auditor to observe the process.

(e) (b) (7)(E) requires Deming Station implement appropriate controls on the dissemination of private and/or sensitive information provided by detainees during this risk assessment. Agents can disclose this information only to those personnel with a need to know. The staff interviews detailed for the Auditor the handling of this information: the written assessment is placed in the detainee folder after completion; at the end of the shift the supervisor removes the assessments and turns the documents over to the SOS where they remain in an office under lock and key. Staff interviewed (Agents, Supervisor and SOS staff) indicate this information is never shared and only provided on a need to know basis or under investigation questioning.

**§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 multiple ways to privately report sexual abuse and/or assault, retaliation for reporting sexual abuse and/or assault, or staff neglect or violations of responsibilities that may have contributed to such incidents. It further requires the facility provide at least one way for detainees to report sexual abuse to a public or private entity not connected to the agency. 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/or assault are to be visible or continuously and readily available to detainees at holding facilities and posted on the CBP public website. Interviews with the Local SMEs, random Agents and Supervisors confirm detainees are provided PREA information, through posters (Spanish and English) on how to report sexual assault, retaliation and staff failure to perform their duties while remaining confidential and anonymous. For those who are not English or Spanish fluent in speaking or writing the Agents utilize Interpreters and Translators Incorporated which provides over the telephone translations for over 150 languages. Posters indicate detainees may, verbally or in writing to any CBP Official or by utilizing the toll free telephone number to DHS OIG. DHS OIG is a public agency that is not part of CBP. The Auditor interviewed 10 random detainees. Most were aware there was a telephone number available to them, but all were aware they could inform staff of any allegation of sexual abuse confidentially when asked.

(c) CBP TEDS requires Agents at Deming Station to receive allegations reported to them from third parties and promptly record such reports according to operational procedures. The Auditor was informed by the random Agents and Supervisors, during interviews, all verbal allegations of sexual abuse or sexual assault made to them is documented in writing to their supervisor. The Auditor recommends additional information be provided detainees other than just posters on sexual safety.

**§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. Posters throughout the processing area inform detainees of the DHS OIG reporting telephone number for them to report an allegation. The Auditor tested the OIG toll free report number, from the same telephone detainees would use, and found it operational. During interviews with the 10 detainees they looked somewhat puzzled when asked if they are aware of being able to have someone report sexual abuse allegations on their behalf. As suggested in Standard 115.151 the Auditor strongly suggests discussing in detail the key points outlined in the posters. The Auditor also asked the random Agents about the process for making anonymous and confidential reports to OIG as there are no telephones in any of the holding rooms. Agents state the detainee only needs to tell the Agent they wish to report something, not disclose what they wish to report, and the Agent would escort the detainee to one of the private interview rooms and give them an outside line to call. The Agents indicate they would step out of the room and close the door observing the detainee through the glass in the door. The Auditor recommends the process be put into writing and made available to all staff.

**§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. (b) (7)(E) 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, 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 the JIC hotline, email JIC, contacting CBP Internal Affairs, OPR, and contacting DHS OIG to report all allegations of misconduct.

(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.

(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. The Auditor confirmed the reporting requirements during the interviews conducted with the 10 random staff and local SME staff. They all indicate their responsibility to immediately report any allegation of sexual abuse, retaliation or staff failure to perform their duties within and outside of the chain of command if necessary. They also indicate all information they become aware of is not shared except on a need to know basis or during an investigation into the matter. The Local SME interviews and the PREA Field Coordinator informed the Auditor that should a vulnerable adult or person under eighteen be sexually assaulted at the Deming Station the normal protocol would be the Watch Commander 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 that he/or the Watch Commander would make these notifications to the appropriate local State Agencies if required and would update the JIC with this information. Staff at Deming 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:**

(b) (7)(E) 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. This specific question was asked of the 10 random staff interviewed and the four local SMEs. All indicate any detainee believed to be in imminent danger of being sexually abused would be separated from the other detainees and placed under constant supervision of an Agent. All indicate the response would mirror the response for an allegation of sexual abuse. The safety of the detainee would be their primary focus. Depending on the number of rooms being used at the time the detainee would be placed in a holding room alone or under direct supervision of an Agent.

**§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)
- X Does not meet Standard (requires corrective action)

**Notes:**

(a) CBP Directive 2130-030 requires staff at Deming Station make reasonable efforts to promptly report any allegation of sexual abuse the facility becomes aware of occurring at another facility. This notification is required to be made to the appropriate office or Administrator of the facility where the alleged incident occurred. The local SMEs and the PREA Field Coordinator state the notification is made in the same manner as any incident is reported. The Deming Station Watch Commander 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. Interviews with the Local SMES and the PREA Field Coordinator confirm these notifications would be done immediately in accordance with the policy. 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 Deming Station staff.

(b) Documentation provided to the Auditor requires these notifications to other facilities be done promptly. Staff interviews indicate the same. The language in the Standard requires "as soon as possible but not less than 72 hours". Staff when questioned knew the "immediate" notification but not the "less than 72 hours" requirement. **Note:** After submission of the initial report, on May 23, 2019, the Auditor was provided a memorandum dated August 13, 2014, to all Chief Patrol Agents from the USBP Chief. The memorandum provides guidelines on the implementation of the DHS PREA Standards and is effective upon issuance. The memorandum states notification to other confinement facilities of sexual abuse allegations occurring at the other facility is to be made not later than 72 hours from receipt and documented. **Corrective Action:** Provide documentation staff are aware of the requirement to notify other facilities not less than 72 hours from receipt of an allegation.

(c) CBP Directive 2130-030 states once staff become aware of incidents alleged to have occurred in other facilities Deming Station staff must report the incident to both the JIC and the Commissioner's Situation Room. Interviews with the Local SMEs and the PREA Field Coordinator confirm these notifications would be done immediately by the facility Watch Commander in accordance with policy. There have been no notifications made by this facility as there have not been any alleged incidents reported to any staff during the last 12 months.

(d) The Standard requires the agency/office receiving a notification of an allegation occurring, in a facility covered by this subpart, must ensure the allegation is referred for investigation. Documentation (CBP Directive 2130-030) provided to the Auditor did not state this requirement. Staff interviews reveal staff are not familiar with the requirement to refer such notifications received at Deming Station for investigation. **Note:** After submission of the initial report, on May 23, 2019, the Auditor was provided a memorandum dated August 13, 2014, to all Chief Patrol Agents from the USBP Chief. The memorandum provides guidelines on the implementation of the DHS PREA Standards and is effective upon issuance. The memorandum indicates any CBP Office receiving a sexual abuse allegation from another facility of an incident occurring at their facility is to ensure the allegation is referred for investigation. **Corrective Action:** Provide documentation verifying staff responsible for referring such allegations are aware of the requirement.

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

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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 law enforcement staff on scene of a reported allegation of sexual abuse. The Directive and PREA Training in PALMS reinforces the policy by requiring law enforcement staff members to separate the alleged victim and abuser, preserve and protect the crime scene, and if the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim and abuser do not to take any actions that could destroy physical evidence. As previously noted there are no

contractors allowed in the holding rooms while detainees are present. During the site visit the Auditor did not observe anyone not law enforcement present in the area. CBP Directive 2130-030 does however address non-law enforcement first responder duties if they were ever to allow them in the holding room. The policy requires non-law enforcement staff request the alleged victim not take any actions that could destroy physical evidence and the notify law enforcement staff. During the random interviews staff detailed their responsibilities as first responders. Each staff told the Auditor they would separate the victim from the abuser, provide medical assistance if needed, preserve evidence to the extent possible and notify their supervisor.

**§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 stipulates this entire document constitutes CBP's written institutional plan outlining the coordinated multidisciplinary team approach to responding to sexual abuse. The 21 sections of this Directive cover aspects form hiring, training, reporting, responding, medical and mental health services, investigations, and data collection. The PREA Field Coordinator during his interview discussed this institutional plan. He stated information about specific responsibilities are explained in the Directive and reinforced in training.

(b)(c) CBP Directive 2130-030 states if an alleged victim of sexual abuse and/or assault is transferred to another DHS facility, Deming 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/or assault is transferred to a non-DHS facility, Deming 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. Each of the Local SMEs and the PREA Field Coordinator informed the Auditor during their interviews that during the last 12 months Deming Station has had no cases requiring any such notification to a DHS or non-DHS facility. As previously noted all incidents of this type require the Watch Commander to submit an Incident Report to the JIC and the Commissioner's Situation Room upon any notice. Any transfer or move would require the Watch Commander to update JIC of the incident update and then he would notify the receiving facility. This process was detailed to the Auditor by the PREA Field Coordinator as Deming 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/or assault should be removed from duties requiring detainee contact pending the outcome of an investigation and shall do so if the seriousness and plausibility of the allegation make removal appropriate. The HQ SAAI SME interview indicates any allegation of sexual assault or sexual abuse involving staff, a contractor or volunteer would result in the person being removed from detainee contact pending the outcome of the investigation. This policy requirement was also communicated to the Auditor by the Local SMEs and the PREA Field Coordinator. As previously noted there are no contractors or volunteers currently allowed in the hold room. The Local SMEs indicate there has not been any allegation of sexual abuse made against a staff member requiring this type of response.

**§115.167 – Agency protection against retaliation.**

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

**Notes:**

CBP Directive 2130-030 prohibits agents, officers, and other CBP personnel from retaliating against any person or detainee, who reports, complains about, or participates in an investigation of sexual abuse and/or assault. This retaliation prohibition is also detailed in the PREA training (PALMS) each staff member receives at Deming Station. The Auditor interviewed 10 random staff, 4 local SMEs and the PREA Field Coordinator. Each was aware of the policy

prohibiting retaliation against anyone who makes an allegation of sexual misconduct or participates in the investigation. There were no detainees who either filed an allegation or participated in an investigation to interview. The PREA Field Coordinator informed the Auditor there have been no allegations of retaliation made at Deming 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)
- X 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)
- X 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)
- X 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 subjected to disciplinary or adverse action up to and including removal from their position and Federal service for substantiated allegations of sexual abuse and/or assault and/or for violating CBP's sexual abuse policies. The Auditor interviewed HQ LER SME and HQ SAAI SME. Both these individuals indicate staff would be subject to disciplinary action including removal from Federal Service for a substantiated allegation of sexual abuse or violating the agency sexual abuse policy.

(c) CBP Directive 2130-030 requires OPR to report all removals or resignations in lieu of removal to appropriate law enforcement agencies for violations of agency or facility sexual abuse and/or assault policies, unless the activity was clearly not criminal. The interview with the HQ SAAI SME indicates CBP would notify law enforcement of all removals or resignations in lieu of removal for violations of the agency zero tolerance policy. The HQ SAAI SME indicates there were no such resignations or removals at Deming Station within the last 12 months.

(d) CBP Directive 2130-030 requires OPR to report all removals or resignations in lieu of removal to any relevant licensing bodies for violations of agency or facility sexual abuse and/or assault policies, to the extent known. The interview with the HQ SME from OPR indicate their office would notify licensing bodies, if known, of all removals or resignations in lieu of removal for violations of the agency zero tolerance policy. She indicated there were no such resignations or removals at the Deming Station within the last 12 months.

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

- Exceeded Standard (substantially exceeds requirement of standard)
- X 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/or assault be removed from all duties requiring detainee contact pending the outcome of an investigation, as appropriate. As noted throughout the report Deming Station only allows law enforcement staff contact with detainees. The Auditor did not observe any contractors or volunteers in the holding room during the site visit. Interviews with the Deming Station SMEs did indicate if the facility changes its policy to allow them in contact with detainees any sexual misconduct alleged to have occurred by them would result in their removal from duties and contact with any detainees pending investigation. The PREA Field Coordinator informed the Auditor that if contractors were ever



allowed inside the holding room area and were found to violate CBP zero tolerance policy they would be removed from contact with any detainee; he would be responsible to notify 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 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. Interviews with the Local SMEs and the PREA Field Coordinator confirm supervisors are aware of alleged victims of sexual assault are to receive all medical service and medications without cost even if they do not name the abuser or cooperate with the investigation. They are also aware all detainees requiring any medical treatment must be sent to the local facility hospital (Mimbres Memorial Hospital) in Deming, New Mexico, as there are medical staff or facilities at Deming Station. The Auditor spoke with this hospital and was informed their staff stabilize the patient and then transfer the individual to the La Piñon Sexual Assault Recovery Services of Southern New Mexico. La Piñon is a full-service sexual assault response agency in Southern New Mexico, providing comprehensive sexual assault recovery services, including advocacy and crisis intervention service, for sexual abuse victims and their families. It is located in Las Cruces, New Mexico, 40 miles from Deming, and provides advocate services in all areas of southern and northern Doña Ana County. Their services are bilingual and bi-cultural and they are not mandated to report to law enforcement when victims are over the age of 18 and want to receive counseling services or just talk to someone.

**§115.186(a) – Sexual abuse incident reviews.**

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

**Notes:**

(a) CBP Directive 2130-030 requires at the conclusion of every investigation of sexual abuse and/or 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 is 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 that the operational offices conduct sexual abuse incidents 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/or Assault in CBP Holding Facilities. Deming had no incident reviews conducted during the audit period as the facility had no allegations of sexual abuse incidents investigated requiring one.

**§115.187 – Data collection.**

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

**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)**

May 31, 2019

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



U.S. Customs and Border Protection

**AUDITOR**

<b>Name of Auditor:</b>	(b)(6)(b)(7)(C)	<b>Organization:</b>	Creative Corrections, LLC
<b>Email Address:</b>	(b)(6)(b)(7)(C)	<b>Telephone Number:</b>	(b)(6)(b)(7)(C)

**AGENCY**

<b>Name of Agency:</b>	U.S. Customs and Border Protection
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**PROGRAM OFFICE**

<b>Name of Program Office:</b>	U.S Border Patrol
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**SECTOR OR FIELD OFFICE**

<b>Name of Sector or Field Office:</b>	El Paso Sector
<b>Name of Chief or Director:</b>	(b)(6)(b)(7)(C)
<b>PREA Field Coordinator:</b>	(b)(6)(b)(7)(C)
<b>Sector or Field Office Physical Address:</b>	9400 Viscount Suite, El Paso, TX 79925
<b>Mailing Address: (if different from above)</b>	Same as Above

**SHORT-TERM FACILITY BEING AUDITED**

**Information About the Facility**

<b>Name of Facility:</b>	Deming Station
<b>Physical Address:</b>	3300 J Street, Deming, NM 88030
<b>Mailing Address: (if different from above)</b>	Same as Above
<b>Telephone Number:</b>	(b)(6)(b)(7)(C)

**Facility Leadership**

<b>Name of Officer in Charge:</b>	(b)(6)(b)(7)(C)	<b>Title:</b>	Patrol Agent-in-Charge
<b>Email Address:</b>	(b)(6)(b)(7)(C)	<b>Telephone Number:</b>	(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), Deming Station, was conducted on February 11, 2019, and the preliminary findings report was submitted on March 13, 2019. Following comments from CBP Headquarters and from the Auditor, the report was submitted as a Final Draft on May 31, 2019.

At that time, the Auditor reviewed the compliance of 25 Subpart B standards and Deming Station was found to be in compliance with 19 standards: (115.111; 115.114; 115.117; 115.122; 115.131; 115.132; 115.141; 115.151; 115.154; 115.161; 115.162; 115.164; 115.165; 115.166; 115.167; 115.176; 115.177; 115.182, and 115.186). The Deming Station was found to not be in compliance with five standards: 115.113; 115.115; 115.116; 115.121; and 115.163. Standard 115.118 was found to not apply at the Deming Station.

On April 10, 2019, the Deming Station submitted a letter dated April 10, 2019, to the Luna County Sheriff's Department requesting they follow the PREA standards when conducting sexual abuse and/or sexual assault investigations to comply with standard provisions 115.121 (a-d). Although the submitted documentation occurred prior to the final draft of the audit report, the action occurred after the audit. The documentation has now been determined to be compliant with standard 115.121. On May 23, 2019, the Deming Station submitted documentation to comply with standards 115.163 which included memorandum dated August 13, 2014, to all Chief Patrol Agents from the USBP Chief. The memorandum provides guidelines on the implementation of the DHS PREA Standards and is effective upon issuance. The memorandum indicates any CBP Office receiving a sexual abuse allegation from another facility of an incident occurring at their facility is to ensure the allegation is referred for investigation. The Auditor requested additional information.

The Deming Station submitted a preliminary Corrective Action Plan (CAP) dated July 25, 2019, with a completion date of July 24, 2019. In conjunction with the CAP, a power point presentation was submitted to comply with standards 115.115, 115.116, and 115.163. The Auditor reviewed the documentation and although the power point presentation provided training on transgender pat searches, it did not include pat search techniques for intersex detainees. The power point presentation also provided instruction on accommodating psychiatric, low level learning, or low functioning deaf and illiterate detainees and reporting to other confined facilities. The Auditor requested training roster sign-offs and understanding for the aforementioned standards.

On May 15, 2020, signed training rosters were submitted to comply with the Auditor's request to comply with standards 115.116 and 115.163. The Auditor reviewed the documentation and has determined the Deming Station to be compliant with standards 115.116 and 115.163. In conjunction with the documentation, the Deming Station submitted an Annual Review of Detainee Supervision Guidelines document to comply with standard provision 115.113. The Auditor reviewed the document and determined several elements were missing as identified in standard provision 115.113 (c). On June 17, 2020, the Deming Station submitted an amended Annual Review of Detainee Supervision Guidelines document. The Auditor reviewed the document and determined standard 115.113 to now be in compliance. On October 29, 2020, the Deming Station submitted additional documentation to comply with standard 115.115. The documentation included a retraining roster sign-offs and understanding and a copy of a memorandum dated September 17, 2020, to all CBP Chief Patrol Agents and all Directorate Chiefs reinforcing proper pat search techniques. A Muster Module was attached to the memorandum which provides requirements of Safety Searches, Threat Assessments, and Pat Search Techniques for cross-gender, transgender, and intersex detainees. The Auditor reviewed the documents and has determined standard 115.115 to be in compliance. The Deming Station is now compliant with all PREA standards.

Although regular communication existed with the Deming Station, the corrective action was not completed within the 180-day time period.

## PROVISIONS

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

### §115.113

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

#### Notes:

On May 15, 2020, the Deming Station submitted a record of an Annual Review of Detainee Supervision Guidelines, conducted on March 19, 2019, and dated May 11, 2020, to comply with standard provision 115.113 (b). The Auditor reviewed the document and requested additional information. The document did not address all elements as required in standard provision 115.113 (c). On June 17, 2020, the Deming Station submitted an amended Annual Review of Detainee Supervision Guidelines which included the elements the Auditor identified as not being addressed and has concluded the Deming Station is now in compliance with standard provision 115.113 (c). The Deming Station is now compliant with standard provision 115:113 (b) and (c).

### §115.115

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

#### Notes:

On July 29, 2019, the Deming Station submitted a power point training module titled Processing Searches of Transgender Detainees which referenced Section 4.3 of the National Standards of Transport, Escort, Detention, and Search (TEDS) policy. The module instructed agents they must search or be visible during medical examination of detainees based on their gender identity, same gender, or declared gender. The Auditor reviewed the documents and determined the training did not include the search of intersex detainees. On October 29, 2020, the Deming 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 also references sections 4.3 and 5.5 of the National Standards on Transport, Escort, Detention and Search (TEDS) policy. The memorandum included an attached 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 training muster module, the Deming Station submitted a re-training roster of agent acknowledgement and understanding of the afore-mentioned Muster training module. The Auditor reviewed all submitted documents and found them to meet the requirements of the standard. The Deming Station is now compliant with Standard 115.115 (f).

**§115.116**

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

**Notes:**

On July 29, 2019, the Deming Station submitted a power point training module titled, "Accommodation of Psychiatric, Low Level Learning, or Low Functioning, Deaf, and Illiterate detainees." The training module refers to CBP PREA policy and C.F.R. 115 or providing detainees who are blind, low vision, or those who have intellectual, psychiatric, or speech disabilities the ability to report sexual abuse and/or assault as well as CBP's efforts to prevent, detect, and respond to sexual abuse and/or assault. The training module additionally provides guidance to the staff in each of the above listed disabilities. On May 15, 2020, the Deming Station submitted a re-training roster of agent acknowledgement and understanding. The Auditor reviewed the submitted documents and confirms compliance. The Deming Station is now compliant with standard provisions 115.116 (a), (b), and (c).

**§115.121**

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

**Notes:**

Prior to finalizing the PREA Audit Report, the Deming Station submitted a copy of correspondence dated April 10, 2019, to the Luna County Sheriff's Department requesting that the agency agree to compliance with applicable requirements detailed in standard provision 115.121 (a through d). These policies include detainee victim consent to participation in forensic examinations conducted at a hospital by a SANE/SAFE; victim consent to participation in sexual abuse investigations; and the ability of the victim to have a sexual abuse advocate present at both. The law enforcement agency received the applicable standard requirements as an attachment. The Auditor reviewed and accepted the correspondence, however, because the letter was submitted to the Luna County Sheriff's Department after the conclusion of the audit, the Auditor advised the Deming Station the letter would be utilized as documentation for corrective action. The Deming Station is now compliant with standard provision 115.121 (e).

**§115.163**

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

**Notes:**

On May 23, 2019, prior to finalizing the PREA Audit Report, the Deming Station submitted a memorandum, dated August 13, 2014, from the Chief U.S. Border Patrol to all CBP Stations, titled, "Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse in CBP Holding Facilities." The Auditor reviewed the document and stated the memorandum supported compliance with 115.163 (a) and (b); however, the Auditor requested documentation acknowledging staff were aware of the reporting requirements.

On May 15, 2020, the Deming Station submitted a power point training module of the requirements of reporting sexual abuse and/or assault to other confinement facilities no later than 72 hours from receipt of the allegation. The training module also assigns the Watch Commander to make the notification unless the

Supervisor is under direct order by the Watch Commander to make the notification to the other to other confinements facilities. In conjunction with the training module, the Deming Station submitted a re-training roster of acknowledgment and understanding or reporting requirements. The Deming Station is now compliant with standard provisions 115.163 (b) and (d).

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

**AUDITOR CERTIFICATION:**

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

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

November 2, 2020  
**Date**