

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:	Office of Field Operations
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SECTOR OR FIELD OFFICE

Name of Sector or Field Office:	San Diego
Name of Chief or Director:	(b)(6)(b)(7)(C)
PREA Field Coordinator:	(b)(6)(b)(7)(C)
Sector or Field Office Physical Address:	610 W. Ash Street, Suite 1200, San Diego California
Mailing Address: (if different from above)	

SHORT-TERM HOLDING FACILITY BEING AUDITED

Information About the Facility			
Name of Facility:	San Ysidro Port of Entry (POE)		
Physical Address:	720 E. San Ysidro Blvd, San Diego, California 92173		
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:	Port Director
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 San Ysidro Port of Entry (POE), U.S. Customs and Border Protection, was conducted on September 17-18, 2019, by PREA certified Auditor (b) (6), (b) (7)(C) a contractor for Creative Corrections, LLC. The San Ysidro POE is the largest land border crossing between San Diego and Tijuana, and the fourth busiest land border crossing in the world with 70,000 northbound vehicles and 20,000 northbound pedestrians crossing each day, in addition to southbound traffic. This POE connects Mexican Federal Highway 1 on the Mexican side with Interstate 5 on the American side. The San Ysidro POE is one of three ports of entry in the San Diego-Tijuana Metropolitan Region.

The purpose of the audit was to determine compliance with Subpart B of the Department of Homeland Security (DHS) Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities, 6 C.F.R. Part 115, (the "DHS PREA Standards").

(b)(6)(b)(7)(C), CBP's Prevention of Sexual Assault (PSA) Coordinator, Privacy and Diversity Office (PDO), Headquarters (HQ); (b)(6)(b)(7)(C), Deputy Director, Personnel Security Division (PSD), HQ; (b)(6)(b)(7)(C), Employee Relations Specialist, Labor and Employee Relations (LER), HQ; (b)(6)(b)(7)(C), Branch Chief, CBP Hiring Center, HQ; (b)(6)(b)(7)(C), Sexual Abuse and Assault Investigations (SAAI) Coordinator, (b)(6)(b)(7)(C), National OFO PREA Coordinator provided the HQ Pre-Audit Questionnaires (PAQ) along with the necessary supporting documents for the facility 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, agency and facility procedures, forms, training curricula, and other PREA-related materials provided to demonstrate compliance with the PREA standards.

The Auditor arrived at the San Ysidro POE at 7:40 a.m. on September 17, 2019, and proceeded to the Watch Commander's Office and was provided with a roster of staff working during the two-day site visit. The Auditor used the roster to select the random list of staff to be interviewed. There were no contractors or volunteers listed or observed in contact with detainees in the detention section at the San Ysidro POE. Once the logistics for the on-site visit were completed, the Auditor proceeded to the facility Conference Room at 8:15 a.m., where the entry-briefing was conducted. Those in attendance were:

(b)(6)(b)(7)(C), Assistant Port Director
(b)(6)(b)(7)(C), Watch Commander
(b)(6)(b)(7)(C), Branch Chief
(b)(6)(b)(7)(C), Deputy PSA, PDO, HQ
(b)(6)(b)(7)(C), Branch Chief
(b)(6)(b)(7)(C), Civil Rights/Civil Liberties Program Manager, PDO, HQ
(b)(6)(b)(7)(C), National OFO PREA Coordinator, HQ (via telephone)

After introductions and a brief question and answer period detailing the audit process, a tour of the San Ysidro POE began. The daily population at the facility fluctuates. At the time of the site visit there were 248 detainees present. The typical hold time is 48 hours for families and 72 hours for everyone else. The detention area includes (b) (7)(E). Of those (b) (7)(E). Each of these rooms contains a toilet and a wash basin which are separated from the general room by a half wall. Detainees do not change clothes at the facility. There are (b) (7)(E) (b) (7)(E). Each of these holding rooms has (b) (7)(E). The rates are driven by the number and type of detainees being held under secondary hold. There is one control room typically staffed by two to three Officers and a Supervisor. There are (b) (7)(E) where detainees are assessed for risk of sexual abuse and personal safety and whether the individual will be detained prior to placement in one of the holding rooms. The majority (55%) of the detainee population comes from Mexico with the remaining population coming from Central America. The San Ysidro POE has two showering areas. There is one area in the intake area and a larger area with five individual showers in the (b) (7)(E).

Scope of the Audit: The Auditor reviewed all relevant policies, procedures, and documents in assessing the San Ysidro POE. The auditor reviewed a sampling of background clearances (seven), and staff training records (all staff) at the POE to determine standard compliance. The Auditor had access to all parts of the facility to include access to the (b) (7)(E). (b) (7)(E). The Auditor was allowed to review all documentation to make necessary determinations for the audit. While on-site, the Auditor conducted necessary interviews in a secure, confidential, and private setting. The Auditor interviewed 10 staff (seven OFO Officers, two supervisors and one local SME). The Auditor did speak with an Emergency Room Supervisor from the hospital (Palomar Health Center) that the San Ysidro POE would access for appropriate forensic medical examinations, crisis intervention and victim advocacy services. The Supervisor indicated the facility utilizes Sexual Abuse Nurse Examinations (SANE) examiners and has local advocates they call for all victims of sexual assault. Audit notices were posted at the facility and observed by the Auditor during the site visit.

No correspondence from detainees was received prior to or during the on-site visit. The Auditor checked the reporting telephone number noted on the signage throughout the facility, and found the reporting line operational. Those detainees needing to report any misconduct including sexual abuse, staff neglect, or retaliation notify staff they need to use the phone. Staff indicated the detainee does not need to disclose the reason for the call. Staff escort the detainee to one of the (b) (7)(E), places the call for the detainee, and step out of the room allowing privacy for the detainee. There are glass windows in each of these interview room doors allowing the Officer to supervise the detainee while using the phone.

HQ and facility staff reported that there have been two allegations of sexual abuse/assault at the San Ysidro POE within the 12-month period preceding the audit. Both of these cases were still open at the time of the facility site inspection.

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 September 18, 2019, an exit-briefing was held at approximately 1:10 p.m. In attendance were:

(b)(6)(b)(7)(C), Assistant Port Director
(b)(6)(b)(7)(C), Watch Commander
(b)(6)(b)(7)(C), Branch Chief
(b)(6)(b)(7)(C), Deputy PSA, PDO, HQ
(b)(6)(b)(7)(C), Branch Chief
(b)(6)(b)(7)(C), Civil Rights/Civil Liberties Program Manager, PDO, HQ
(b)(6)(b)(7)(C), National OFO PREA Coordinator, HQ (via telephone)

The Auditor discussed observations made during the on-site visit and gave preliminary findings of the audit. He informed those present of the PREA Standards that currently present concerns; however, the Auditor would not be able to make any final determination until further reviews were conducted of all on-site notes from the tour, interviews, and policies. The Auditor found the CBP Officers and local SME's to be very interactive and professional with detainees.

Of the 25 standards reviewed during this audit, the Auditor found one standard (115.118) to be Not Applicable (N/A), 21 standards have been found to be compliant, and 3 standards, listed below, have been found to be non-compliant. There are four additional standards (115.134, 115.171, 115.172, and 115.187) that were not reviewed during this facility audit. They will be audited during an agency level audit that covers the Sexual Abuse Investigation standards.

Standards not found compliant:

115.113 As required by the standard, the San Ysidro POE did not provide documentation of an annual review of detainee supervision guidelines at the facility that takes into account all the elements required in Subpart (c) of the standard. Additionally, as required by CBP policy, the San Ysidro POE must provide the PSA Coordinator with the results of the annual review of the detainee supervision guidelines.

115.115 The Auditor was unable to find specific training on pat down searches of intersex and transgender detainees in a professional and respectful manner as required by the Standard. Officers indicated during interviews that they were not provided search training specific to transgender or intersex detainees.

115.121 The Auditor was not provided with documentation requesting the San Diego Police Department comply with subparts (a-d) of the standard.

SUMMARY OF AUDIT FINDINGS	
Number of standards exceeded: 0	
Number of standards met: 21 + 1 not applicable	
Number of standards not met: 3	
OVERALL DETERMINATION	
<input type="checkbox"/> Exceeds Standards (Substantially Exceeds Requirements of Standards)	<input type="checkbox"/> Low Risk
<input type="checkbox"/> Meets Standards (Substantial Compliance; Complies in All Material Ways with the Standards for the Relevant Review Period)	<input checked="" type="checkbox"/> Not Low Risk
<input checked="" type="checkbox"/> Does Not Meet Standards (Requires Corrective Action)	

PROVISIONS

Directions: In the notes, the auditor shall include the evidence relied upon in making the compliance or non-compliance determination for each provision of the standard, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Corrective Action Plan Final Determination, accompanied by information on specific corrective actions taken by the facility. Failure to comply with any part of a standard provision shall result in a finding of "Does not meet Standard" for that entire provision, unless that part is specifically designated as Not Applicable. For any provision identified as Not Applicable, 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) Every CBP employee was provided a copy of the agency written policy mandating zero tolerance toward all forms of sexual abuse and outlining the agency's approach to preventing, detecting, and responding to such conduct through the March 11, 2015, CBP Commissioner's memorandum, CBP Policy on Zero Tolerance of Sexual Abuse and Assault and Acting Assistant Commissioner's, Office of Field Operations memorandum, Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities. The agency directive 2130-030, Prevention, Detection, and Response to Sexual Abuse and/or Assault in CBP Holding Facilities, issued January 19, 2018, is the most current policy directive mandating zero tolerance toward all forms of sexual abuse and sexual assault outlining the agency's approach to preventing, detecting, and responding to such conduct. These two documents are supplemented by CBP's National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015. This information mandating zero tolerance has been provided to all staff through email, attachments to staff leave and earnings statements, included in ongoing training, postings at the facility, and through the agency web page. Formal and informal questioning of staff confirmed their knowledge of the agency zero tolerance policy contents, their responsibilities on reporting all sexual abuse incidents that they become aware of and providing sexual safety information to detainees.

§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) Each facility operated by CBP must be staffed by the agency to ensure sufficient supervision of detainees through appropriate staffing levels and, where applicable, (b) (7)(E), to protect against sexual abuse. CBP Directive 2130-030 outlines this requirement and CBP TEDS requires that Officers closely supervise hold rooms when detainees are present and be checked on a regular and frequent manner. The shift supervisors and local SME outlined for the Auditor how the Admissibility Enforcement Unit (AEU) supervises their detainee population to protect against sexual abuse. Each of them indicated fluctuation of detainees affect day to day staffing numbers as well as the type of detainees being held since unaccompanied juveniles requires additional supervision. Each confirmed the AEU has the ability to move staff from other areas as well as utilize overtime to accommodate operational needs.

(b)(c) This same directive requires these detainee supervision guidelines and their application be reviewed at least annually taking into consideration the physical layout of the facility, composition of detainees, the prevalence of substantiated and unsubstantiated instances of sexual abuse, findings and recommendations of incident reviews and any other relevant factors. The AEU per CBP policy, the results of the development of comprehensive detainee supervision guidelines and annual review must be provided to the PSA Coordinator. The Auditor was not provided with documentation to support that an annual review of the agency's comprehensive detainee supervision guidelines and application at the facility was performed during the audit period. Subparts (b) (c) of this standard are, therefore, found out of compliance since standard provision (b) requires a review annually and (c) requires what must be considered in the review.

Corrective Action: Provide documentation to support that an annual review of the agency's comprehensive detainee supervision guidelines and application at the facility was performed during the audit period.

§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) Officers at the AEU are required to place juveniles in the least restrictive setting appropriate to their age and special needs, provided that such setting is consistent with the need to ensure the safety and security of the detainee and that of others. This agency wide requirement is outlined in CBP TEDS and further states that unaccompanied children (UAC) should be held separately from adult detainees. Officers interviewed confirmed juveniles may temporarily remain with the non-parental adult family member where the family relationship has been vetted and the agency determines remaining with the non-parental adult family member is appropriate under the circumstances. Family relationships are established through legal documents, phone calls to family members or information provided by consulates. Officers and Supervisors confirmed mothers and their children are detained together in hold rooms with the father held with adult males. These interviews also confirmed unaccompanied juvenile detainees are kept in hold rooms under the direct observation and supervision of a staff member.

§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) Officers at the AEU are prohibited from conducting cross-gender strip searches and cross-gender visual body cavity searches except in exigent circumstances including Officer safety, or when performed by medical practitioners. These searches must be recorded/documented in the appropriate electronic system(s) of record. The restriction and documentation requirements are outline in CBP TEDS. Officer and Supervisors interviewed confirmed their knowledge of the requirements and prohibitions of TEDS regarding cross-gender strip searches and cross-gender visual body cavity searches except in exigent circumstances or by medical staff and the requirement to document them as well. They were also aware of the requirement that a visual body cavity search of a juvenile must be performed by a medical practitioner. The local SME informed the Auditor that AEU has had no cross-gender strip searches or body cavity searches performed on adults or juveniles during the previous 12 months.

(d) The agency policy CBP TEDS requires that detainees be allowed to shower, to perform bodily functions, and to 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 monitored bowel movement under medical supervision. Officers indicated to the Auditor that prior to entering any area where detainees are likely to be showering, performing bodily functions, or changing their clothes each would knock on the door and/or announce their presence prior to entering, except in exigent circumstances or when viewing is incidental to routine cell checks. The AEU has detainee showers, in two areas, allowing privacy for the detainee from staff of the opposite gender. Also noted earlier, each of the holding rooms (b) (7)(E); however, upon touring the control room area that had (b) (7)(E), the Auditor found no privacy concerns or cross gender viewing issues. Detainee interviews also noted no privacy concerns.

(e) The Officers interviewed by the Auditor confirmed if a detainee's gender is unknown and the information is needed, it could be determined during conversations with the detainee or by reviewing medical records if available. Each was aware they were prohibited from searching or physically examining any detainee for the purpose of determining the detainee's gender.

(f) This subpart of the standard requires the agency to train law enforcement staff on the proper procedures for conducting pat down searches including cross gender, transgender, and intersex detainees. The Auditor reviewed the training curriculum for conducting pat down searches for all CBP law enforcement staff, through the Performance and Learning Management System (PALMS). The training curriculum was not specific on pat down searches of intersex and transgender detainees in a professional and respectful manner as required by the Standard. Officers interviewed indicated all perform all searches in a professional manner. Four of the Officers interviewed informed the Auditor they did not receive pat search training specific to transgender and intersex detainees. When asked how to perform transgender pat searches, they indicated a male staff member would search the male anatomy and a female staff member would search the female anatomy. They also stated same sex pat searches are the norm except in a situation involving the safety of the Officer or in exigent circumstances. The subpart (f) of this Standard is not compliant. **Corrective Action:** Provide documentation of specific training on transgender and intersex pat searches by the San Ysidro POE staff.

§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) Detainees with disabilities, including those who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities are required to have an equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse. This requirement is outlined in CBP Directive 2130-030 and CBP TEDS. Officers and Supervisors interviewed confirmed that each has dealt with limited English proficient detainees during their careers. Five of those interviewed indicated that they have dealt with blind and deaf detainees in the past and only one Officer confirmed she had dealt with a detainee with intellectual issues. Staff who indicated they had dealt with detainees who were hearing impaired or deaf are provided information through in-person interpretive services and written materials (signage). Those staff who indicated they had dealt with a blind or visually impaired detainee indicated they provided individualized help including reading the sexual safety information to him/her through an interpreter if the situation required it. The one staff member who indicated she had processed an individual with intellectual issues also confirmed that the detainee was provided individualized attention by her and her Supervisor. She also stated that any detainee with an intellectual, psychiatric, or speech disabilities would be provided medical assistance and/or outside intervention, if needed. The Auditor observed CBP zero tolerance posters throughout the detention area in both English and Spanish with a note in Arabic, Farsi, French, Hindi, Korean, Romanian, Simplified Chinese, Tagalog and Urdu informing detainees to report sexual abuse. The PSA Coordinator confirmed that these PREA posters are translated into ten foreign languages based upon frequency of encounters with limited English proficient travelers nationwide and that facilities may access these posters in the PREA Resource Center located on the agency's Intranet website for printing and posting as needed. Officers interviewed confirmed they would provide written information available from the CBP intranet or utilize translations services available including google translate to communicate with detainees who speak a language not listed on the posters.

(c) CBP Directive 2130-030 and CBP TEDS requires in all matters relating to allegations of sexual abuse, the agency provide in-person or telephonic interpretation that enables effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation, and the agency determines that such interpretation is appropriate and consistent with DHS policy. The local Officers interviewed as well as the local SME indicated in all cases involving sexual abuse at the San Ysidro POE, staff would utilize in-person interpretation or telephonic interpretation services that enables effective, accurate, and impartial interpretation. They also stated that in person interpretation by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship to the alleged abuser would never be allowed. The use of another detainee, if requested by the alleged victim, would have to receive supervisory approval consistent with operational policies and procedures. As noted earlier, there are two allegations under investigation at the time of the site visit. The Auditor did not have the case files to review but was able to determine both incidents involved Spanish speaking detainees. In both cases, in-person interpretation services were used.

§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 details the responsibilities for hiring and promotions for CBP staff and/or enlisting the service of any contractor or volunteer with the Human Resource Management (HRM) office at Headquarters (HQ). This directive further requires HRM to establish policy and practice ensuring the agency 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 HQ HRM Subject Matter Expert (SME) detailed for the Auditor the hiring and promoting processes for the agency. She indicated every potential new hire, employee and contractor, is asked numerous times during the hiring phase about any previous sexual abuse misconduct in their history. If the individual has been found to have engaged, been convicted of engaging in, or civilly or administratively adjudicated to have engaged in sexual abuse as defined in this Standard and agency policy CBP is prohibited from hiring or promoting employees or enlisting the contractor services. She stated that the HRM PREA SOP 2-29-16 prohibits promoting any staff member who violated the agency zero tolerance policy and any material omissions by any applicant or current employee regarding this type of misconduct or providing materially false information. These violations are grounds for termination or

withdrawal of an offer of employment. Each CBP employee, upon hiring, is provided their own copy of the U.S. Customs and Border Protection Standards of Conduct. This document informs all staff about their affirmative duty to disclose any such misconduct. These reporting obligations are reviewed annually during staff training on PALMS. Officers confirmed during their interviews their knowledge and affirmative duty to disclose this information.

(c)(d) Suitability requirements for staff and contactors are outlined in CBP Directive 2130-030. One of the means to determine suitability is through background investigations. The Office of Professional Responsibility (OPR) is required by this policy to ensure background investigations are conducted prior to hiring or enlisting the service of a contractor and updated every five years on all applicants for employment and contractors having contact with detainees. The HQ Personnel Security Division (PSD) SME explained the background investigations process to the Auditor. Job announcements inform applicants of suitability requirements including prohibiting the hiring of anyone who has had previous substantiated allegations of engaging in sexual abuse and/or assault. Field interviews are conducted for contractors and employees and are again specifically asked, "Have you ever engaged in or have you ever been charged with sexual abuse?" An affirmative response to this question results in the individual not being hired. As noted earlier in the report, the Auditor was informed by the local SME, contractors do not have contact with any detainees. The Auditor did not observe anyone but law enforcement staff in the detention areas. The Auditor submitted seven names to OPR to review for background rechecks. Documentation provided by HQ demonstrated the five year rechecks for each of the seven staff were completed or initiated within five years, resulting in 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)
- Not Applicable (provide explanation in notes):

Notes:

(a)(b) The San Ysidro POE was built in 2018 and according to the local SME there has been no substantial expansion or modifications since that date. The facility had not expanded their **(b) (7)(E)** since built either. The recording time for these **(b) (7)(E)**, according to the local SME's is 90 days.

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

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

Notes:

(c)(d) Medical treatment services are to be provided to all alleged detainee victims of sexual abuse without financial cost regardless of whether the victim names the alleged abuser or cooperates with any investigation. A forensic medical examination is to be performed by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE), where practicable. If SAFEs or SANES cannot be made available, the examination may be performed by other qualified health care personnel. These requirements can be found in CBP Directive 2130-030. This policy also requires that if the medical facility offers victim advocacy services that Officers permit the detainee to use such services to the extent available, consistent with security needs. The document further requires if the forensic examination is performed in a medical facility that offers victim advocacy services, officers shall permit the detainee to use such services to the extent available, consistent with security needs. The Auditor interviewed the Emergency Room Supervisor from Palomar Health Center where detainees from the San Ysidro POE would be sent. The Supervisor indicated that their hospital utilizes SANE examiners and has local advocates they call for all victims of sexual assault. Interviews with Officers confirmed that the advocates would be allowed access to the alleged victim consistent with security needs.

(e) The investigative process for allegations of sexual abuse at the San Ysidro POE, according to the HQ SAAI SME and local SME, require OPR to investigate all allegations of sexual assault and abuse within any DHS holding facility. The Office of Inspector General (OIG) has the first right to the criminal investigation and OPR is required to open an administration investigation once the criminal investigation has closed. Most potential criminal activity is reported to and assistance is provided by local law enforcement. OPR is required to offer joint assistance, but if refused, OPR must maintain knowledge of the status of the case and provide assistance upon request. The local Police Department for San Ysidro POE is the San Diego Police Department. The Auditor attempted to contact the investigators at the San Diego Police Department by leaving messages, however, did not receive any returned calls. The local SME confirmed this department would be responsible for responding to any criminal activity at the facility but did not provide the Auditor with documentation requesting the Police Department comply with subparts (a-d) of the standard. **Corrective**

Action: Provide documentation requesting the San Diego Police Department comply with subparts (a-d) of the standard requirement.

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

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

Notes:

(c)(d) Sexual abuse allegations are considered significant incidents according to policy. The San Ysidro POE is required to ensure each sexual abuse allegation is reported to the Joint Intake Center (JIC) and Commissioner's Situation Room, and unless the allegation does not involve potentially criminal behavior, promptly refer it to a law enforcement agency with the legal authority to conduct criminal investigations. These requirements are found in CBP Directive 2130-030 and CBP Directive 3340-25E, Reporting Significant Incidents to the Commissioners Situation Room, dated May 21, 2018. The San Ysidro POE local SME confirmed this reporting to the JIC as well as notifications to OPR, and the DHS OIG. The reporting and documentation would be made by the Watch Commander. As noted in standard 115.121, San Diego Police Department would be the appropriate law enforcement agency to conduct investigations. According to the local SME, the shift Watch Commander would make these notifications to the San Diego Police Department if and when required. The facility has had two reported incidents of sexual abuse in the last 12 months and demonstrated that the notifications had been made to the JIC and Commissioners Situation Room. The PSA Coordinator stated she receives notification from the Commissioner's Situation Room (electronic as soon as the SIR is entered in the SIR reporting system).

§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) The agency is required to provide zero tolerance training to each staff member, contractor, and volunteer who may have contact with detainees in CBP holding facilities. This requirement is found in CBP Directive 2130-030, along with the training curriculum requirements outlined in subpart (a) of the standard. The curriculum for this training is also outlined in the CBP Commissioner's memorandum dated March 2016, Mandatory General PREA Training. The training is to include: 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; information on where sexual abuse may occur; recognition of physical, behavioral, and emotional signs of sexual abuse; methods of preventing and responding to such occurrences; how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender non-conforming detainees; procedures for reporting incidents of sexual abuse: limiting this reporting to personnel with a need to know and how to avoid inappropriate relationships with detainees. During the site visit, the auditor reviewed the training curriculum provided to staff and contractors through DHS Performance and Learning Management System (PALMS). The curriculum also provides information about the right of staff and detainees to be free from retaliation for reporting allegations of sexual abuse. Interviews with Officers, Supervisors, and the local SME confirmed they received the required elements of the training as mandated by the standard. They further stated refresher training is provided every two years. The PALMS system provides an up-to-date listing of all staff trained and those still requiring training. The Auditor was provided 2016 documentation indicating staff assigned to the San Ysidro POE completed PREA training within two years of the effective date of the standards. All subsequent employees at the facility receive the training upon hiring. The local SME confirmed all individuals currently assigned have successfully completed the agency required PREA training and updated PREA refresher training. Training records for staff are maintained for their entire employment and an additional five years. The agency's zero tolerance policy and CBP Directive 2130-030 was provided to all staff through the agency email program referred to as CBP Central. These documents were also attached to staff leave and earning statements and are currently available on the agency web page. As noted, the Auditor interviewed 10 random staff members (seven Officers, two supervisors and one local SME). The Auditor questioned them about the content of the training they received, and it was clear from their responses, the training included each of the 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:

The Agency makes public the CBPs' zero-tolerance policy regarding sexual abuse through its webpage (<https://www.cbp.gov/about/care-in-custody>), signage placed throughout the facility, and through staff during intake. The Auditor observed CBP posters throughout the San Ysidro POE holding areas describing the zero-tolerance toward sexual abuse, as well as information regarding how and whom to report any incident of sexual abuse. The zero-tolerance signs were posted in both English and Spanish with a note in Arabic, Farsi, French, Hindi, Korean, Romanian, Simplified Chinese, Tagalog and Urdu informing detainees to report sexual abuse. Detainees are informed through these posters about: CBP's zero-tolerance for sexual abuse/assault; detainee 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 PSA Coordinator confirmed to the Auditor that the PREA poster has been translated into ten foreign languages based upon frequency of encounters with limited English proficient travelers nationwide and that facilities may access these posters in the PREA Resource Center located on the agency's Intranet website for printing and posting as needed. Officers informed the Auditor that should they encounter a detainee who speaks a language other than those listed, the Officer would provide written information to the detainee available from this CBP intranet or provide information verbally to the detainee utilizing the San Ysidro POE contract translation services (Cyracom Services), and may also utilize Google translate when necessary.

§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)(e) Individuals at the San Ysidro POE detained for adverse action during secondary processing are assessed for risk of sexual abuse before being placed together with other detainees. This risk determination is required by CBP TEDS and is based on information the Officer has before him/her. This assessment specifically questions the detainee about concerns about his/her physical safety. The Auditor observed the risk assessment documentation utilized by the Officers asking each detainee whether they have concern for their own personal safety at the facility. Officer interviews confirmed they ask this safety question of each detainee and the information they receive during this assessment is controlled and not shared with anyone except in an official capacity. All 12 detainee interviews confirmed they were specifically asked about safety concerns they had prior to being placed in a cell with other detainees.

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

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

Notes:

(a)(b) As required by CBP Directive 2130-030 detainees must 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. Detainees must also be provided at least one means to report sexual abuse allegations confidentially and anonymously to a public or private entity not connected to the agency. DHS utilizes the OIG as the public agency that is not part of CBP for detainees to report allegations of sexual abuse. The Auditor checked and verified the reporting telephone number for the OIG and found it to be operational. As noted earlier in the report, the DHS posters were available in every area the detainees have access. These posters were visible and readily available with reporting information in English, Spanish, Arabic, Farsi, French, Hindi, Korean, Romanian, Simplified Chinese, Tagalog and Urdu. The reporting information includes: telephone number (toll free), email address and physical address to the JIC: email address and physical address and telephone number to the OIG. Again as earlier indicated in §115.116, the PSA Coordinator confirmed that the DHS PREA poster has been translated into ten foreign languages based upon frequency of encounters with limited English proficient travelers nationwide and

that facilities may access these posters in the PREA Resource Center located on the agency's Intranet website for printing and posting as needed. Officers indicated when they encounter a detainee who speaks a language not provided on the posters; they would provide written information to the detainee in the identified language available from the internet. The Auditor also asked Officers and two supervisors what the process is for detainees making anonymous and confidential reports to OIG if requested. According to them, a detainee only needs to ask the Officer to use the telephone. The Officer would then take him/her to one of the (b) (7)(E), dial the number, and step out of the room allowing privacy for the call.

(c) Officers, during interviews, informed the Auditor they were required by CBP Directive 2130-030 to document in writing all verbal allegations of sexual abuse they receive, including third party reports, and immediately report them to their supervisor.

§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 has established the agency web site, <https://www.cbp.gov/about/care-and-custody/how-make-report>, to receive third party reports of sexual abuse in each of its holding facilities including the San Ysidro POE. The Auditor verified the web page provides reporting means through 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. Each of these methods of reporting are available to anyone wishing to make a sexual abuse allegation on behalf of a detainee. Posters throughout the detention facility inform detainees of the DHS OIG reporting toll free telephone number to report an allegation. Detainees interviewed knew that allegations could be made by someone other than themselves.

§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 details the reporting obligations for all staff. Officers indicated they are required to immediately report promptly all knowledge, suspicion, or information regarding: incidents 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 as required to their supervisor. The interviews with Officers also confirmed their knowledge of the ability to report allegations of sexual abuse or any misconduct outside their chain of command to the JIC, contacting OPR, or contacting DHS OIG.

(c)(d) These Officers also informed the Auditor they are prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions. According to Officers, this information is provided to them through training and the agency zero tolerance policy. CBP Directive 2130-030 requires the San Ysidro POE staff to report sexual abuse allegations involving alleged victims under the age of 18 or considered a vulnerable adult to the designated State or local services agency under applicable mandatory reporting laws. The local SME confirmed that staff would report any incident involving juveniles or vulnerable adults to their Supervisors. If Supervisors or any staff member encounters a detainee and are unsure whether the detainee is a "vulnerable adult", under respective applicable State or local law, the employee should contact his/her Office of Chief Counsel (OCC) for consultation on whether the individual qualifies under applicable law and how to proceed. The local SME further stated that reporting obligations for juveniles or vulnerable adults would be handled by the Supervisor or Watch Commander. He also explained the Watch Commander would submit an Incident Report to the JIC and the Commissioner's Situation Room as required by CBP Directive 3340-025E. Officers interviewed confirmed in every allegation they would contact their Supervisor who would make those reporting notices as required by policy. The PAQ documentation and an interview with the local SME confirmed they have not had any incidents requiring this type of notification during the 12-month period preceding the audit.

§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:

When an agency employee has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee as required in CBP Directive 2130-030. Interviews conducted with Officers, Supervisors, and the local SME confirmed their primary concern would be detainee safety and taking immediate action to protect them. They indicated this is accomplished through reporting and providing additional supervision or moving the detainee if necessary.

§115.163(a) through (d) – Report to other confinement facilities.

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

Notes:

(a)(b)(c)(d) CBP Directive 2130-030 requires that allegations of sexual abuse occurring at another facility be reported as promptly as possible by the San Ysidro POE staff as a significant incident to the JIC and the Commissioners Situation Room. In addition, CBP Directive 2130-030 requires the San Ysidro POE to notify the appropriate office of the agency or the administrator of the facility where the alleged sexual assault or abuse occurred. This notice must be accomplished within 72 hours of staff at the San Ysidro POE becoming aware of the incident. The 72-hour requirement is outlined in the memorandum issued from Acting Commissioner (OFO) titled Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities. As with any allegation of sexual abuse the local SME confirmed that upon contacting the JIC and the Commissioner's Situation Room, notification to the facility where the sexual abuse is alleged to have occurred would be made by the Watch Commander. If the facility where the incident allegedly took place is a CBP facility, then the allegation would be investigated as outlined in policy. The Watch Commander was aware of the reporting obligation and time frame as outlined in memorandum. Staff at the San Ysidro POE received no allegations of sexual abuse occurring at another facility within the 12 month period preceding the audit.

§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) Responder duties for law enforcement staff, according to Officer interviews, are outlined in CBP Directive 2130-030 and reinforced in the zero tolerance training staff receives. Officers indicated their roles as law enforcement first responders to sexual abuse incidents include: separating the alleged victim and abuser, preserving and protecting the crime scene, and if the abuse occurred within a time period that still allows for the collection of physical evidence, ensuring the alleged victim and abuser do not take any action that could destroy physical evidence.

(b) Responder duties for non-law enforcement staff are outlined in CBP TEDS. Non-law enforcement staff are required to request the alleged victim not take any actions that could destroy physical evidence and notify law enforcement staff. As previously noted contractors and volunteers are not allowed in the secondary holding area while detainees are present.

§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 agency's written zero tolerance policy, CBP Directive 2130-030, states "this Directive also constitutes CBP's written institutional plan pursuant to 6 C.F.R. § 115.165." This document coordinates actions taken by staff first responders, medical and mental health practitioners, investigators and facility leadership in response to incident of sexual abuse. As noted in standard 115.111, the PSA Coordinator stated this information has been provided to all staff through email, attachments to staff leave and earnings statements, included in ongoing training, postings at the facility, and through the agency web page. The Auditor found specific duties for staff outlined in the policy.

(b)(c) Directive 2130-030 requires any DHS facility transferring a detainee victim of sexual abuse to another DHS facility, to inform the receiving DHS facility of the alleged incident and the alleged victim's potential need for medical or social services. If a detainee victim of sexual abuse is transferred to a non-DHS facility, the San Ysidro POE must inform the receiving facility or agency, as permitted by law, of the incident and the alleged victim's potential need for such services, unless the alleged victim requests otherwise. Incidents of this nature, according to the local SME, would result in the submission of an incident report to the JIC and the Commissioner's Situation Room, by the Watch Commander, as required in CBP Directive 3340-025E. The San Ysidro POE has had no allegations or incidents requiring notifications be made to either a DHS or non-DHS facility.

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

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

Notes:

Any staff member, contractor, or volunteer alleged to have perpetrated sexual abuse and/or assault requires agency management consider removing from him/her from duties requiring detainee contact pending the outcome of an investigation. This direction is outlined in CBP Directive 2130-030. The HQ SAAI SME and HQ LER SME both indicated allegations of sexual assault or sexual abuse involving staff, a contractor, or a volunteer would result in the person being removed from detainee contact pending the outcome of the investigation when the seriousness and plausibility of the allegation makes removal appropriate. This could include unpaid leave, administrative paid leave or another assignment with no detainee contact depending on the seriousness of the allegation. The local SMEs confirmed there have been no allegations of sexual abuse made against a staff member at the San Ysidro POE 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 TEDS prohibits retaliation against any person, including a detainee, who alleges or complains about mistreatment, participates in an investigation into an allegation of staff misconduct, including sexual abuse, or for participating in sexual activity as a result of force, coercion, threats, or fear of force. Retaliation prohibition is also part of the required training each staff member receives through PALMS. Officers confirmed during interviews of the policy restriction on retaliation and from the training they had received. There were no allegations of retaliation during the last 12 months according to the local SME.

§115.171 – Criminal and administrative investigations.

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

Notes:

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

§115.172 – Evidentiary standard for administrative investigations.

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

Notes:

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

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

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

Notes:

(a) CBP Directive 2130-030 outlines sanctions for any staff member found to have violated the sexual abuse policies or found to have engaged in any substantiated allegations of sexual abuse and/or assault. The HQ HRM LER SME confirmed that under the conditions outlined in the policy, the staff member would be subject to disciplinary or adverse action up to and including removal from their position and Federal Service. She also stated the penalties could range from a letter of reprimand to removal from Federal service depending on the seriousness of the misconduct.

(c) The HQ OPR SAAI SME informed the auditor that CBP Directive 2130-030 requires all staff removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies, unless the activity was clearly not criminal, be reported by her office (OPR) to law enforcement. During the 12-month period preceding the audit there have been no removals or resignations in lieu of removal according to HQ SAAI SME.

d) The HQ OPR SAAI SME also confirmed, according to CBP Directive 2130-030, OPR is also required 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 as required. During the 12-month period preceding the audit there have been no removals or resignations according to her.

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

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

Notes:

(a)(b) As noted in this report, the San Ysidro POE has no volunteers and does not allow contractors' access to detainees. CBP Directive 2130-030 outlines what the outcome would be of any contractor or volunteer suspected of perpetrating sexual abuse and/or assault. Interviews with the HQ SME and local SMEs 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 the facility and future contact with any detainee. The Auditor did not observe anyone other than law enforcement in the detention area of the facility during the onsite review.

§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 victims of sexual assault at the San Ysidro POE 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. The San Ysidro POE does not have a medical unit on site. Emergency medical services are provided at Palomar Health Center in the Community. The local SME confirmed detainee victims of sexual abuse/assault are taken there for forensic examinations and all medical and crisis intervention services are provided to the alleged victim regardless of whether the victim names the alleged abuser or cooperates with any 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:

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 staff from HQ in Washington conduct the sexual abuse incident reviews consistent with the procedures outlined in directive. The San Ysidro POE had two allegations being investigated and remained open at the time of the visit. They did have two incident reviews for investigations initiated on allegations made prior to the audit period. These reviews were conducted on Joint Integrity Case Management System (JICMS) case 201801212 which closed on June 24, 2019, and JICMS 201711103 case which closed on February 26, 2019. According to the PSA Coordinator these reviews were conducted in compliance with the requirements of CBP Directive 2130-030.

§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

February 5, 2020
Date

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



U.S. Customs and Border Protection

AUDITOR

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

AGENCY

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

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

Name of Sector or Field Office:	San Diego
Name of Chief or Director:	(b)(6)(b)(7)(C), Director, Field Operations
PREA Field Coordinator:	(b)(6)(b)(7)(C), Chief CBPO
Sector or Field Office Physical Address:	610 W. Ash Street, Suite 1200, San Diego California
Mailing Address: (if different from above)	Same as Above

SHORT-TERM FACILITY BEING AUDITED

Information About the Facility	
Name of Facility:	San Ysidro Port of Entry (POE)
Physical Address:	720 E. San Ysidro Blvd, San Diego, California 92173
Mailing Address: (if different from above)	Same as Above
Telephone Number:	(b)(6)(b)(7)(C)

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

FINAL DETERMINATION

SUMMARY OF AUDIT FINDINGS:

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

An on-site audit of the U.S. Customs and Border Protection (CBP) Office of Field Operations (OFO), San Ysidro Port of Entry (POE), was conducted on September 17-18, 2019, and the preliminary findings report was submitted on November 18, 2019. Following comments from CBP Headquarters and from the Auditor, the report was submitted as a Final Draft on February 5, 2020.

At that time, the Auditor reviewed the compliance of 25 Subpart B standards and the San Ysidro POE was found to be in compliance with 21 standards: (115.111; 115.114; 115.116; 115.117; 115.122; 115.131; 115.132; 115.141; 115.151; 115.154; 115.161; 115.162; 115.163; 115.164; 115.165; 115.166; 115.167; 115.176; 115.177; 115.182; and 115.186). The San Ysidro POE was found to not be in compliance with three standards: 115.113; 115.115; and 115.121. Standard 115.118 was found to not apply at the San Ysidro POE.

On March 12, 2020, the San Ysidro POE submitted a preliminary Corrective Action Plan (CAP) dated March 9, 2020. In conjunction with the CAP, the San Ysidro POE submitted an Annual Review of Detainee Supervision Guidelines document to comply with standard provision 115.113. The Auditor reviewed the CAP and the Annual Review of Detainee Supervision Guidelines document and requested the San Ysidro POE include all elements required in standard provision 115.113 (c). On April 1, 2020, the San Ysidro POE submitted an amended Annual Review of Detainee Supervision Guidelines. The Auditor determined the amended document satisfied compliance with standard provisions 115.113 (b) and (c). On May 1, 2020, the San Ysidro POE submitted a letter addressed to the San Diego Police Department requesting they follow the PREA standards when conducting sexual abuse and/or sexual assault investigations to comply with standard 115.121 (e). The Auditor reviewed the documents and determined standard provision 115.121 (e) to now be in compliance. On September 10, 2020, the San Ysidro POE submitted documentation to comply with standard provision 115.115 (f). The Auditor requested documentation for standard provision 115.115 (f) and the requested documentation was received by September 18, 2020. The San Ysidro POE is now compliant with all PREA standards. Although regular communication existed with the San Ysidro POE, 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 replied upon in making the compliance or non-compliance determination for each provision that was found non-compliant during the audit.

§115.113

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

Notes:

On March 12, 2020, the San Ysidro POE submitted a record of an Annual Review of Detainee Supervision Guidelines, dated March 9, 2020. The Auditor reviewed the document and determined several elements were missing from the document. On April 1, 2020, the San Ysidro POE submitted an amended Annual Review of Detainee Supervision Guidelines. The document included all of the elements as required in standard provision 115.113 (c). The San Ysidro POE 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 September 10, 2020, the San Ysidro POE submitted a muster dated February 11, 2020, titled, "Processing Transgender Applicants for Admission" and a memo dated February 11, 2020, from the Division Director of Mission Readiness on processing applicants for admission. The musters reinforce a previous muster from the Executive Director of Admissibility and Passenger Programs on processing transgender applicants for admission dated December 11, 2018. Additionally, an email dated September 13, 2020, from the Unit Commander to all staff provides reinforcement on the search of transgender and intersex individuals by referring to the National Standards, Transport, Enforcement, Detention Search (TEDS) policy which provides proper personal search techniques, cross-gender searches, determination of detainee gender identification and proper procedures for the pat search of transgender detainees. On September 18, 2020, the San Ysidro POE submitted staff training muster sign-offs and acknowledgements. The San Ysidro POE is now compliant with standard provision 115.115 (f).

§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:

On May 1, 2020, the San Ysidro POE submitted a copy of correspondence dated March 5, 2020, to the San Diego Police 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 San Ysidro POE is now compliant with standard provision 115.121 (e).

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

AUDITOR CERTIFICATION:

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

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

September 28, 2020
Date