

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



U.S. Customs and
Border Protection

AUDITOR INFORMATION

Name:	(b) (6), (b) (7)(C)	Company Name:	Creative Corrections, LLC
Mailing Address:	(b) (6), (b) (7)(C)	City, State, Zip:	Beaumont, Texas 77706
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AGENCY INFORMATION

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), Acting Chief Patrol Agent
PREA Field Coordinator:	(b) (6), (b) (7)(C), Assistant Chief Patrol Agent (ACPA)
Physical Address:	8901 Montana Avenue, El Paso, Texas, 79925
Mailing Address: (if different from above)	

SHORT-TERM HOLDING FACILITY BEING AUDITED

Information About the Facility			
Name of Facility:	El Paso Border Patrol Station		
Physical Address:	9201 Gateway South, El Paso, Texas, 79924		
Mailing Address: (if different from above)			
Telephone Number:	(b) (6), (b) (7)(C)		
Facility Leadership			
Name of Agent in Charge:	(b) (6), (b) (7)(C)	Title:	Acting 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 Prison Rape Elimination Act (PREA) on-site audit of Customs and Border Protection (CBP), El Paso Border Patrol Station (EPS) was conducted March 23, 2023, by (b) (6), (b) (7)(C), a Certified PREA Auditor, contracted through Creative Corrections, LLC., of Beaumont, Texas. This audit was conducted to determine facility compliance with the Department of Homeland Security (DHS) PREA Standards. As such, along with the on-site portion of the audit, the audit also involved a review of the CBP's PREA policies and procedures, agency, and facility-based documents, as well as telephonic interviews with CBP Headquarters (HQ) Subject Matter Experts (SMEs).

This was the first PREA audit for EPS. At any time, the detainee population may include adult males and females, family units, and unaccompanied children (UC). EPS currently functions as a medical isolation facility for detainees with infectious disease. As such, detainees are generally held at this holding facility for only the time necessary to effectively treat their medical condition. Once detainees are no longer infectious, they are returned to the general detainee population at the adjacent El Paso Centralized Processing Center (CPC). As needed, the local law enforcement agencies are the El Paso Police Department and the El Paso County Sheriff's Office.

Upon entering the facility, the Auditor briefly met with the EPS leadership team to inform them of the audit format and schedule. Immediately thereafter, the Auditor was directed to a private office for commencement of interviews with staff from all shifts: (b) (7)(E). Assistant Chief Patrol Agent/PREA Field Coordinator (b) (6), (b) (7)(C) El Paso Field Office, was the point of contact throughout the audit.

At 0700 hours, all areas of the EPS were inspected. The EPS consists of (b) (7)(E), divided into (b) (7)(E) sections. (b) (7)(E) sections have hold rooms and one of the sections also is an administrative area utilized by SMEs and agents. The primary purpose of this facility is to isolate detainees with infectious diseases from the adjacent El Paso CPC general population. There are (b) (7)(E), which includes (b) (7)(E) and (b) (7)(E) (b) (7)(E) where large detainee groups are held according to their gender, age and medical condition. The on-site inspection found that hold rooms have cameras that capture (b) (7)(E) to protect the privacy of any person utilizing (b) (7)(E). The toilets also had half walls for additional privacy. The facility has one single shower that is secured by a solid metal door with a privacy shield blocking any view into the shower via the shower door window. Detainees are escorted by staff to the shower area.

Unaccompanied children (UC) are held according to their gender, age and medical condition in separate designated areas away from adult detainees. Given the nature of EPS, which is temporary holding facility for persons with infectious disease, holding conditions for juveniles are necessarily more restricted. For medical reasons, juveniles may be isolated in individual hold rooms. Televisions are available in the juvenile and large hold rooms. The juvenile area has a play area with toys, coloring books, model cars, and dolls available for children. All toys are sanitized by contracted personnel between each use. As medically appropriate, juveniles are provided unlimited access to drinks and snacks. They are also given free and frequent access to the toilet, which is located inside of each hold room. To ensure the safety of all juveniles while detained, contracted caregivers of the same gender are assigned to monitor all hold rooms containing juveniles and interact with these children to the greatest extent possible. During the on-site inspection, caregivers were observed interacting with the juveniles. It should also be noted that the hold rooms are in the direct line of sight (b) (7)(E) facing into each hold room.

During the on-site inspection of EPS, the Auditor reviewed the video capability of the facility and the layout of the holding areas. (b) (7)(E) for the entire facility is available. (b) (7)(E) and available upon request. Per the Local SMEs, the (b) (7)(E) across all areas of the facility and are (b) (7)(E) by agents in the Control Room. Nonetheless, the layout of the facility allows for a clear and immediate view into all hold rooms.

Throughout the facility there are age appropriate PREA posters (child, juvenile, and adult age ranges). These posters are printed in both English and Spanish.

Scope of Audit: Prior to the on-site inspection, the Auditor reviewed the HQ and Local Pre-Audit Questionnaires (PAQs), HQ Responsive Documents and Data Requests, local documents, including EPS specific documents, and HQ Participation documents. During the on-site portion of the audit, Notice of Audit postings were displayed throughout the facility, as well as on facility entry doors, for ease in accessibility by agents, detainees, and authorized visitors. The Auditor was provided with a facility roster to select SMEs, agents, and contractors for interviews, which were conducted in a private setting. The Auditor conducted two SME interviews, four agent interviews, and four contractor interviews. The Auditor spoke with the Lead Sexual Assault Nurse Examiner (SANE) of the area hospital. Due to infectious nature of all detainees, it was not medically appropriate to interview detainees. The Auditor conducted a test call to the Department of Homeland Security (DHS) Office of Inspector General (OIG) Hotline. During the audit period, the EPS facility did not receive any allegations of sexual abuse.

At approximately 1530 hours an exit briefing was held to discuss onsite observations. The exit briefing was conducted by Certified PREA Auditor (b) (6), (b) (7)(C). Additionally, the Auditor reiterated how the triangulation process between agency/facility documents, agency/facility interviews, and on-site observations accumulates into the final determination of facility compliance.

Those in attendance for the briefing were:

- (b) (6), (b) (7)(C), Assistant Chief, USBP HQ
- (b) (6), (b) (7)(C), Management Program Analyst, USBP HQ
- (b) (6), (b) (7)(C), Assistant Chief Patrol Agent (ACPA)
- (b) (6), (b) (7)(C), Acting Supervisory Operations Supervisor (ASOS)
- (b) (6), (b) (7)(C), Border Patrol Agent (BPA)
- (b) (6), (b) (7)(C), Supervisory Border Patrol Agent (SBPA)
- (b) (6), (b) (7)(C), Supervisory Border Patrol Agent (SBPA)
- (b) (6), (b) (7)(C), Supervisory Border Patrol Agent (SBPA)
- (b) (6), (b) (7)(C), PREA Auditor, Creative Corrections, LLC.

SUMMARY OF OVERALL FINDINGS:

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

The El Paso Border Patrol Station (EPS) on-site audit was completed on Thursday, March 23, 2023, with the findings report being submitted in April 2023.

The audit process included a review of all documentation, interviews with both agency and facility-based staff, as well as on-site observations of facility procedures and holding conditions. This process has found the EPS in compliance with 24 standards and exceeded one (1) standard for a total of 25 DHS Subpart B Standards.

EPS meets 24 standards: 115.111, 115.113, 115.114, 115.115, 115.116, 115.117, 115.118, 115.121, 115.122, 115.131, 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, 115.186, and 115.187

EPS exceeds 1 standard: 115.132

EPS does not meet standard: N/A

SUMMARY OF AUDIT FINDINGS	
Number of standards exceeded: 1	
Number of standards met: 24	
Number of standards not met: 0	
OVERALL DETERMINATION	
<input type="checkbox"/> Exceeds Standards (Substantially Exceeds Requirements of Standards)	<input checked="" type="checkbox"/> Low Risk
<input checked="" type="checkbox"/> Meets Standards (Substantial Compliance; Complies in All Material Ways with the Standards for the Relevant Review Period)	<input type="checkbox"/> Not Low Risk
<input type="checkbox"/> Does Not Meet Standards (Requires Corrective Action)	

PROVISIONS

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

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

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

Notes:

(a): The facility meets the standard. The agency is required to have a 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. On March 12, 2014, the Commissioner informed all staff through email communication of the adoption of the final rule of the PREA standards and the agency's commitment of in protecting the safety of individuals in CBP custody. The memorandum further stated CBP is committed to a zero-tolerance of sexual abuse and or sexual assault in all CBP holding facilities. The agency developed CBP Directive 2130-030, Prevention, Detection and Response to Sexual Abuse and/or Assault in CBP Holding Facilities (dated January 19, 2018, with a review date of January 19, 2021) establishing procedures for zero tolerance within CBP holding facilities. The agency designated an upper-level, agency-wide Prevention of Sexual Assault (PSA) Coordinator, as well as a Deputy PSA Coordinator, who have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA Standards for DHS holding facilities. In speaking with the HQ Privacy and Diversity Office (PDO) PSA Coordinator, it was noted that this role is a fulltime position within the upper hierarchy of the agency. As such, the PSA Coordinator has both sufficient time and authority to command the responsibility. In speaking with EPS SMEs, it was noted that employees receive training specific to the agency's zero-tolerance policy through several means: required online training through Acadis, agency emails, signature sheets acknowledging receipt and understanding of policies, and zero-tolerance advisement posters throughout the facility. All employees and contractors interviewed stated that they received training on the agency's zero-tolerance policy during the academy or their initial onboarding process. All employees stated that they were familiar with the policy and have received subsequent trainings and information regarding it, in addition to annual refresher courses via Acadis. Additionally, it was noted that the prevalence of zero-tolerance posters throughout the facility, as well as the keep on person zero-tolerance advisement cards given to agents, made information regarding agency procedures readily available.

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

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

Notes:

(a): The facility meets the standard provision. The standard requires EPS to maintain sufficient supervision of detainees, through appropriate staffing levels, as well as (b) (7)(E), to protect detainees against sexual abuse. As noted within agency policy, the safety of CBP employees, detainees, and authorized visitors is paramount during all aspects of CBP operations. CBP National Standards on Transport, Escort, Detention, and Search (TEDS), dated October 2015, require EPS agents to closely supervise hold rooms when in use. During the on-site inspection of EPS, the Auditor reviewed the (b) (7)(E) of the facility and the layout of the holding areas. (b) (7)(E) for the entire facility is available. Per the Local SME, facility (b) (7)(E) across all areas of the facility and are (b) (7)(E) by agents in the Control Room. Nonetheless, the layout of the facility still allows for a clear and immediate view into all hold rooms. Each of the hold rooms have a split wall composed of large glass pane over a brick wall at the front wall of the hold room allowing for direct line of sight supervision. As such, there is no obstruction of visibility into any hold room. There are (b) (7)(E) within each hold room. Each hold room contains a sink and toilet, (b) (7)(E) to protect the user's privacy. Additionally, the toilets are surrounded by a half wall for additional privacy. There is a single shower for the entire facility. The shower door

window was covered to obstruct the view of any person inside. As medically appropriate, detainees are permitted to shower one at a time. After each use, the shower is decontaminated.

The EPS is made of (b) (7)(E), divided into (b) (7)(E) sections. The primary purpose of this facility is to isolate detainee with infectious diseases from the general population. In total, there are (b) (7)(E), with (b) (7)(E) of those being individual hold rooms. The remaining (b) (7)(E) are used to hold large groups of detainees. Detainees are securely held according to their gender, age and their medical condition.

(b)(c): The facility meets the standard provisions. The standard requires EPS to develop and document comprehensive detainee supervision guidelines and review the supervision guidelines at least annually. CBP Directive 2130-030; Chief USBP memorandum dated October 8, 2015, Implementation of the CBP National Standards on TEDS; Chief USBP memorandum dated August 13, 2014, Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities; and Chief USBP memorandum dated February 7, 2020. These policies and supplements include management requirements of developing and documenting comprehensive detainee supervision guidelines, which has been accomplished through TEDS. If there was an influx of detainees, the EPS SME indicated the HQ station would be notified to send additional agents if available. Additionally, neighboring stations would be asked to provide additional staffing. The Directive also requires EPS to review the detainee supervision guidelines at least annually and consider its applicability based on the physical layout, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody. EPS conducted a review of the detainee supervision guidelines on February 1, 2023. The Auditor reviewed the assessment conducted by management at the facility. The report was comprehensive and provided detailed information. A determination was made by EPS that the facility maintains sufficient supervision of detainees. Per policy, this report was submitted to the PSA Coordinator for final review.

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

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

Notes:

(a): The facility meets the standard provision. The standard requires EPS to ensure juveniles are detained in the least restrictive setting appropriate to the juvenile's age and special needs, while still maintaining the welfare of the juvenile and the overall detainee population. CBP TEDS, October, 2015, and Chief USBP Memorandum, Implementation of the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities, dated August 13, 2014; Chief Patrol Agent Memorandum for Patrol Agents in Charge and Unit Supervisors El Paso Sector, 9-2-22; Chief USBP Memorandum, Flores Settlement Guidance for El Paso and Rio Grande Valley Sectors, 8-30-22; states that unaccompanied juveniles are to be held in the least restrictive setting appropriate to the juveniles age and special needs, provided that the setting is consistent with the need to protect the juvenile's well-being and that of others while ensuring compliance with any laws, regulations, and legal requirements. Agents interviewed stated that the juvenile holding area only holds juveniles, with unrelated adult detainees being prohibited in the juvenile hold rooms. Given the nature of EPS, which is temporary holding for persons with infectious disease, holding conditions for juveniles are necessarily more restricted. For medical reasons, juveniles may be isolated in individual hold rooms. There are televisions available for juveniles to use. The juvenile area has toys, coloring books, model cars, and dolls available for children. All toys are sanitized by contracted personnel between each use. As medically appropriate, juveniles are provided unlimited access to drinks and snacks. They are also given free and frequent access to toilet facilities, which are located inside of each hold room. To ensure the safety of all juveniles while detained, contracted caregivers of the same gender are assigned to monitor all juvenile hold rooms and to interact with the children to the greatest extent possible. During the on-site inspection, the caregivers were observed interacting with the juveniles. These hold rooms are in the direct line of sight of (b) (7)(E), facing into each of the hold rooms. Agents are required to conduct welfare checks of juvenile hold rooms every (b) (7)(E). When asked, agents were aware of the agency's need to maintain a safe and positive environment for juveniles.

(b): The facility meets the standard provision. As required by CBP TEDS, 2015, noted within the SME interviews, and observed during the on-site inspection, UCs are held separately from adults. During SME interviews, it was explained

that unaccompanied juveniles may remain with a non-parental adult family member if their relationship has been vetted to the extent feasible and remaining with the non-parental adult family member is appropriate given the totality of the circumstances. Agent interviews thoroughly explained the vetting process. In this, agents stated that the appropriate government agencies within countries of origin are contacted to ensure the documents being presented are legitimately authorized by the persons possessing them.

§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)(d): The facility meets the standard provisions. CBP TEDS restricts the use of cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances, including consideration of Agent safety or when performed by medical practitioners. If an opposite gender staff member must perform a strip search or be present at a medical examination, it is mandatory that two staff are present. In speaking with the EPS SMEs and agents, these requirements were continuously iterated. As such, interviews with the SMEs and the agents confirm their knowledge of policy, as well as the extensive documentation required should an exigent circumstance result in a cross-gender search. Additionally, they articulated the need to conduct all searches in a professional manner appropriate to the gender of the person being searched. During the audit period, EPS has not conducted any strip searches or body cavity searches. As such, there was not any documentation to review. All pat-down searches have been conducted by agents of the same gender as the detainee. When asked, the SMEs stated that there was always sufficient staff available of the same gender to conduct a pat-down search if needed. As such, during the audit period, there were not any cross-gender pat-down searches conducted. Accordingly, there was not any documentation to review.

(e)(f): The facility meets the standard provisions. CBP TEDS has outlined requirements to allow detainees to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine hold room checks. When taken into custody, detainees are placed in hold rooms with other detainees of the same gender. If staff of the opposite gender enter those hold rooms, policy requires said staff to knock and announce their presence before entering. During Agent interviews, it was further noted that staff of the opposite gender do not enter housing areas. Rather, staff stand at the door to call for a detainee, who then approaches the Agent at the doorway. This effort is made to provide detainees with a much privacy as possible while still ensuring an overall safe environment. EPS has a single shower, which is decontaminated between uses. When occupied, the shower is secured by staff of the same gender as the detainee and maintain privacy measures; namely, a door leading into the shower area with the door window covered by a solid privacy shield. The shower area did not contain any cameras. Hold rooms did have (b) (7)(E) the toilet areas. To (b) (7)(E) and protect the privacy of any person utilizing the toilet area, the (b) (7)(E) (b) (7)(E). CBP TEDS clearly outlines the requirements of all pat-down searches. As noted during SME and Agent interviews, all agents stated that they have been trained on proper search procedures and stated that whenever operationally feasible, the search would be conducted by the same gender, gender identity, or declared gender as the detainee being searched. CBP Directive 2130-030 prohibits staff from searching or examining detainees for the sole purpose of determining the person's gender. During SME and Agent interviews, all persons were aware that searching detainees to determine their gender was not within policy guidelines. They further asserted that if the gender of an individual was unknown, they would simply ask the individual how that person identified and would address them accordingly. If a pat-down search of a transgender person was necessary, agents noted that the search would be performed in a manner appropriate for the declared gender of the detainee being searched. Chief Memorandum for All Chief Patrol Agents, Searching Transgender, Intersex, or Gender Nonconforming Individuals, 9-17020. Per policy, all personal searches, as well as the articulated facts leading to those searches, are electronically documented in the (b) (7)(E).

§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): The facility meets the standard provisions. CBP Directive 2130-033, Nondiscrimination for Individuals with Disabilities in CBP-Conducted Services, Programs, and Activities (Non-Employment), dated July 8, 2021, clearly states it is CBP's policy not to discriminate against members of the public because of disability (hearing impaired, blind or low vision, or those who have intellectual, psychiatric, speech disabilities or Limited English Proficient) and for all persons to have access to CBP's efforts to prevent, detect, and respond to sexual abuse and/or sexual assault. All persons are afforded an equal opportunity to participate in, or benefit from, CBP-conducted services, programs, and activities. Directive 2130-031, Roles and Responsibilities of U.S. CBP and Personnel Regarding Provision of Language Access, provides additional instruction on the agency's accommodation effects. As well, CBP Directive 2130-030 further directs staff to provide reasonable modifications to detainees who have disabilities (hearing impaired, blind, or low vision, or those who have intellectual, psychiatric, or speech disabilities) for said persons to have access to CBP's efforts to prevent, detect, and respond to sexual abuse and/or sexual assault. During the on-site inspection, phone numbers and web addresses for providers of accommodation services were readily accessible and observed. Additionally, agency policy requires that any written materials related to sexual abuse should be provided in formats that ensure effective communication with detainees with disabilities. During the on-site portion of the audit, all sexual abuse awareness posters were provided in English and Spanish. There was also an *I Speak* poster at the Intake Station desk to assist staff in determining what language is spoken by detainees. When asked, agents stated they were aware of different resources, such as language assistance lines for detainees who were LEP, to assist in relaying EPS's zero-tolerance policies. It was noted that with the use of video communications, agents also have the ability to provide sign language services for those in need of such. Additionally, agents consistently confirmed that a reasonable effort would be made to communicate with detainees in a manner so that all detainees could receive and comprehend the information provided.

(c): The facility meets the standard provision. CBP TEDS requires that when investigating allegations of sexual abuse, interpretation services may not be provided by another detainee, unless the reporting detainee expresses a preference for another detainee to provide interpretation services, and the supervisor determines that such services are appropriate and consistent with the operational office's policies and procedures. A review of documentation reflects that during the audit period, the EPS has not detained any individuals who were deaf, blind, or cognitively impaired. In speaking with the SMEs and agents, all expressed caution against ever using another detainee to interpret allegations of sexual abuse. Lastly, during the audit period, there has not been any allegation of sexual abuse reported. As such, there were not any investigations to review.

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

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

Notes:

(a): The facility meets the standard provision. CBP Directive 2130-030 directs the Office of Human Resources to develop policy and procedures to ensure that CBP does not hire or promote individuals who have had previous substantiated cases of sexual abuse and/or sexual assault. A memorandum by the Executive Director, with an issue date of February 29, 2016, issued Standard Operating Procedures to ensure the agency offers protection to all detainees of sexual abuse and/or sexual assault when hiring or promoting individuals within the agency. While interviewing the HQ HRM/Hiring Center SME, the importance of staff suitability for employment was clearly expressed. It was noted that applicants are required to answer suitability questions during the application process. Based on their responses, applicants may be screened out for employment and deemed ineligible for further consideration. During the on-site inspections, the Auditor reviewed background investigation information for six staff members to verify suitability measures were used during the hiring and promotion process of staff. The review indicated EPS has followed all agency requirements.

(b): The facility meets the standard provision. The CBP has developed operational guidance through the issuance of the HRM Standard Operating Procedures to provide direction in the hiring and promotion of employees who have direct

contact with detainees. CBP HRM developed Mission Specific Questions and a DHS PREA Questionnaire that includes asking applicants who may have direct contact with detainees about previous misconduct as identified in provision (a) of this standard. While interviewing the HQ HRM/Hiring Center SME, it was noted that all staff must complete a PREA Questionnaire Form, whether the individual is a new hire or applying for promotions, which subsequently determines their suitability. As a function of employment, staff must also acknowledge a continuing affirmative duty to disclose any such misconduct.

(c)(d): The facility meets the standard provisions. CBP Directive 2130-030 requires that background investigations are conducted for all applicants for employment, along with contractor applicants who may have contact with detainees. Additionally, policy requires that subsequent background investigations are conducted every five years for all CBP personnel who may have contact with detainees. The Auditor reviewed a document that summarizes the results of a background investigation, which was useful in addressing whether the employee is asked questions as described in standard provision (a). In speaking with the HQ Office of Professional Responsibility (OPR) Personnel Security Division (PSD) SME, the requirements surrounding continuing background investigations was explained. The Auditor selected four (4) agents, (4) contractors, and two (2) SME for continuing background verifications. Their names were submitted to HQ OPR through the PSA Coordinator. A review of the background checks revealed the agency is following pre-hire background checks as required on employees and contractors.

(e): The facility meets the standard provision. The HQ HRM/Labor Employee Relations (LER) SME stated CBP mandates that all persons have a continuing affirmative duty to report any acts of sexual abuse as required under the PREA standards. Likewise, the HQ HRM/LER SME explained that material omission or the provision of materially false information regarding such misconduct is grounds for termination or withdrawal for an offer of employment. The HQ HRM/LER SME also reported all employees are made aware of this requirement through the issuance of the Standards of Conduct and the Penal Code Table of Contents, as well as provided to them via continuing education throughout the year. When interviewed, agents stated that they were aware of their responsibility.

(f): The facility meets the standard provision. CBP Directive 2130-030 stipulates that unless prohibited by law, the agency will provide information on substantiated allegations of sexual abuse involving former employees upon receiving a request from an institutional employer for whom such employee has applied to work. Specifically, in speaking with the HQ HRM/LER SME, it was noted that if a former employee has applied for employment at another agency, and that person has signed a release of records, then the agency will provide the requesting agency with this information.

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

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

Notes:

(a): The standard provision is not applicable as the EPS SMEs stated the facility has not made any substantial modifications since the previous audit.

(b): The facility meets the standard provision. During the on-site inspection, the SMEs stated that any upgrades to technologies would be made with consideration toward the prevention, detection, and response to sexual abuse and/or sexual assault.

§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): The facility meets the standard provisions. CBP Directive 2130-030 and CBP TEDS require timely, unimpeded medical treatment and crisis intervention, including emergency contraception and sexually transmitted infections prophylaxis be provided to a victim of sexual assault without financial cost to the detainee. Interviews with the EPS SMEs confirm both forensic medical services, as well as victim advocacy services, would be provided to the alleged

victim. The SMEs further stated EPS would transport any person in need of a forensic medical examination to the University Medical Center (UMC). This is a Level One Trauma Facility containing a Crime Victims Unit and has Sexual Assault Forensic Examiner/Sexual Assault Nurse Examiner (SAFE/SANE) staff continuously available. In speaking with the University of Texas Medical Center (UMC) Lead SANE Nurse, it was noted that UMC SANE staff do follow a uniform evidence protocol. The nurse also stated UMC offers rape crisis victim advocates to all persons who undergo a forensic exam. Said advocates are available via the Center Against Sexual and Family Violence. All advocates have received, at a minimum, 40 hours of training qualified by the National Advocate Credentialing Program. The SMEs stated that if operationally feasible, accommodations would be made for any detainee victim with a continuing need to receive victim advocacy services from the UMC while held at the EPS.

(e): The facility meets the standard provision. EPS has requested through memorandums dated November 11, 2022, that the El Paso Police Department and the El Paso County Sheriff's Office, who have jurisdiction for conducting investigations of allegations of sexual abuse made by individuals in custody at EPS, do so in accordance with Section 115.121(a) of 6 C.F.R., Part 115. The SMEs noted that the facility would coordinate any investigations with these agencies. It should be noted, however, that per the HQ OPR Sexual Abuse and Assault Investigations Coordinator (SAAI) SME, during the audit period, EPS did not receive any allegations of sexual abuse that would necessitate a sexual assault forensic exam.

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

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

Notes:

(c): The facility meets the standard provision. CBP Directive 2130-030 requires all allegations of sexual abuse and/or assault to be documented on a Significant Incident Report and promptly reported to the CBP Watch and the Joint Intake Center (JIC). CBP Directive 3340-025F, Reporting Significant Incident to the U.S. Customs and Border Protection WATCH, (dated November 2, 2021, with a review date of November 2, 2024) directs staff to report sexual abuse and/or sexual assault through a united hub, which operates 24 hours a day and seven days a week to ensure significant incidents are immediately reported to agency leadership. The HQ OPR/SAAI SME stated there are multiple layers of agency oversight, as well as policies in place to ensure incidents are immediately reported. The EPS SMEs stated if allegations involve potentially criminal behavior, they are immediately reported to a series of persons: facility supervisors, El Paso Police Department or Sheriff's Office, OPR, OIG, JIC, and PSA, for reporting coordination and investigative purposes.

(d): The facility meets the standard provision. CBP Directive 2130-030 requires all allegations of sexual abuse and/or assault be promptly reported to the PSA Coordinator, the CBP Watch, and the Joint Intake Center (JIC). The PSA Coordinator stated that all allegations of detainee sexual abuse are immediately reported. The PSA Coordinator also stated EPS had not had any allegations of sexual abuse and/or assault within the audit period.

§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): The facility meets the standard provision. CBP Directive 2130-030 requires that all uniformed agents, special agents, fact finders, contractors, and volunteers who may have contact with detainees in CBP Holding Facilities receive the training in Subpart B of the DHS Standards. The Auditor reviewed the training slides of CBP's mandatory training requirement. The training material specifically covers: (1) the agency's zero-tolerance policies for all forms of sexual abuse; (2) the right of detainees and employees to be free from sexual abuse, and from retaliation for reporting sexual abuse; (3) definitions and examples of prohibited and illegal sexual behavior; (4) recognition of situations where sexual abuse may occur; (5) recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing such occurrences; (6) procedures for reporting knowledge or suspicion of sexual abuse; (7) how to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; and (8) the requirement to limit reporting of sexual abuse to personnel with a need-

to-know in order to make decision concerning the victim's welfare and for law enforcement or investigative purposes. The training for employees is through Acadis. During the on-site portion of the audit, six (6) employee training records and four (4) contractor training records were reviewed to ensure the annual completion of PREA training requirements. The Auditor found these training records to comply with the Directive and the Standards. As noted by interviewed employees and contractors, this training is required at least on an annual basis. Additional information is published through Privacy and Diversity Office Payroll Messages, April Sexual Awareness Prevention Month Communication Package, dated April 19, 2022, and the CBP Central CBPnet messaging for employees, memorandums, and email reminders of the mandatory training that continually reminds individuals of CBP's zero-tolerance of sexual abuse and/or sexual assault. Additionally, training for volunteers has been developed through FEMA Emergency Management Institute ISO-990, Preventing Sexual Abuse and Assault in CBP Holding Facilities. The agency has developed a PREA Resource Center to provide information to all CBP employees who have contact with the detainee population. CBP communicates with agency contractors requiring and reminding them of the mandatory training. CBP has also developed two training aids to assist staff in their communications with detainees who have disabilities and how to identify with LGBTQI detainees. PDF versions of these tools can be found here: Office of the Commissioner - Guide to Facilitating Effective Communication with Individuals who Identify as LGBTQI+.pdf - Divisions (sharepoint.com). In speaking with the EPS SMEs, employees, and contractors, it was noted that all possess levels of knowledge regarding the agency's zero-tolerance policies consistent with their required measures of educational training. Lastly, it was noted that one of employees interviewed demonstrated a pocket card containing easily accessible reference materials related to a sexual abuse response.

(b)(c): The facility meets the standard provisions. CBP Directive 2130-030 requires all current agents, contractors, and volunteers who may have contact with detainees have been trained on the DHS PREA Standards and receive subsequent refresher training as appropriate dependent on their roles within the agency. This training is provided, and records maintained, via Acadis. All training documentation is maintained by the Contracting Agent's Representative for at least five years after course completion for all contractors. For volunteers, training documentation is maintained by the holding facility for at least five years after course completion. In speaking with a contracted employee, receipt of required training was verified. As well, it was noted that contractors were consciously aware of the agency's zero-tolerance policy regarding sexual abuse. Contractors are continually trained on the supervision and monitoring of detainees.

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

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

Notes:

The facility exceeds the standard. CBP has established a significant number of informative methods to notify detainees of the agency's zero-tolerance policy. During the onsite inspection, the Auditor noted large zero-tolerance policy posters displayed on the walls throughout the holding area. The posters, in both English and Spanish, provide information on how to report sexual abuse and/or sexual assault. Additionally, CBP addresses the zero-tolerance policy on its public website, <https://www.cbp.gov/about/care-in-custody>. The Auditor observed a substantial number of age-appropriate Zero Tolerance Awareness Posters displayed on the walls throughout the facility. While it was noted that these posters were available only in English and Spanish, interviews with EPS SMEs and agents reflected that if detainees spoke a different language, awareness notices could be printed in any of the seventeen languages noted below, and if necessary, could be translated by way of the language line to any language needed. CBP designed age-appropriate posters that provide information and depict cartoon pictures to make juveniles aware of the agency's zero-tolerance of sexual abuse. The posters were colorfully designed for detainees of tender age (13 and below), juveniles (14 and above), and adults. CBP has also developed educational videos depicting a boy and a girl to encourage juveniles to report violations of CBP's zero-tolerance of sexual abuse and sexual assault. Additionally, at the Intake Desk, there was a language identity poster. This poster contained identifying statements for approximately twenty-six different languages, to include distinct dialects of specific languages: namely, Arabic, Farsi, French, Gujarati, Haitian, Hindi, Japanese, Pashto, Portuguese, Punjabi, Romanian, Simplified Chinese, Tagalog, Urdu, and Vietnamese.

§115.134 – Specialized training: Investigations.

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

Notes:

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

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

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

Notes:

(a)(b)(c)(d): The facility meets the standard provisions. CBP has developed policies to ensure all detainees taken into custody are provided an assessment for risk of victimization and abusiveness before being placed in any hold room. These policies and procedures include Memorandum for CBP Policy on Zero Tolerance of Sexual Abuse and Assault, dated March 11, 2015; CBP Directive 2130-030; CBP TEDS; and Memorandum from the Chief Patrol Agent El Paso Sector, 7-14-22, with an attachment of Issuance of the Prison Rape Elimination Act Risk Assessment Instrument from the Strategic Planning and Analysis Directorate Office, 6-2-22. The DHS Standard 115.141 requires that before placing detainees in hold rooms, the facility will consider any known risk factors and take appropriate steps to mitigate any known risks to detainee safety. During the on-site portion of the audit, the Auditor observed an intake agent conducting a risk assessment. The agent explained to the Auditor that the detainee’s physical state and demeanor are observed during the screening process. If any notable considerations are observed during the risk assessment, it would be recorded in the ■■■ (b) (7)(E) ■■■. Using the detainee’s native language, the detainee was asked three risk assessment questions: (a) if the detainee felt safe; (b) if the detainee had any health problems; and (c) if the detainee was in fear of being sexually abused or abusive. In speaking with the agent performing the risk assessment, the agent explained that these three questions, combined with the agent’s observations, provide the facility sufficient information to make a qualified PREA risk and health assessment. It was also noted that if the detainees volunteer to the agent performing the screening that they are a member of a vulnerable population, such as being gay or transgender, then heightened security precautions would be used to ensure the detainee’s safety. During SME and Agent interviews, it was also noted that agents assess detainees to determine if they are at a higher risk of sexual victimization or abusiveness by utilizing the agency’s PREA Risk Assessment Instrument, 3-15-22, which requires agents to consider, to the extent that the information is available, (1) any mental, physical, or developmental disabilities; (2) whether the detainee has an observed or reported serious physical/mental injury or illness, (3) the age of the detainee; (4) the physical build and appearance of the detainee; (4) whether the detainee has indicated that she is pregnant or nursing; (5) detainee’s own stated concerns about history his or her physical safety; (6) whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; (7) whether the detainee has self-identified as having previously experienced sexual victimization; (8) whether the detainee has previously been incarcerated or detained (this should include the nature of the detainee’s criminal or violent history, and/or gang affiliation, and whether the detainee has any convictions for sex offenses against an adult or child). It was noted that if they did become aware that a detainee was at risk, that individual would be placed in a single hold room to mitigate any identified danger to the detainee or to other detainees. An on-site inspection of the facility, as well as the SME’s willingness to utilize adjacent facilities, if necessary, indicates that the EPS has sufficient available space to accommodate such housing needs.

(e): The facility meets the standard provision. As noted by the SMEs and all agents interviewed, the confidential nature of risk assessments, or subsequent sexual abuse allegations, is discussed only on a need-to-know basis to promote the safety and security of the facility. As well, written records related to risk assessments are stored in the ■■■ (b) (7)(E) ■■■, which necessarily limits its availability to only authorized staff. ■■■

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

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

Notes:

(a)(b)(c): The facility meets the standard provisions. The CBP has developed policies to ensure all detainees taken into custody are provided an opportunity to report any allegations of sexual abuse. These policies and directives include: CBP Directive 2130-030; Commissioner's Memorandum with attached CBP Policy on Zero Tolerance of Sexual Abuse and Assault, dated March 11, 2015; the Memorandum for Privacy and Diversity Office Prevention, Detection, and Response to Sexual Abuse and Assault in CBP Holding Facilities Directive, dated February 2, 2018; and CBP TEDS. CBP has established a public website that includes the agency's policy regarding Zero Tolerance of Sexual Abuse and Assault. The website provides instructions on how to report sexual abuse and/or sexual assault. The agency policy also requires that key information regarding the CBP's Zero-Tolerance Policy is visible or continuously and readily available to detainees. During the on-site portion of the audit, informational posters providing a reporting phone number were observed throughout the facility, in both English and Spanish. The reporting phone number was a direct line to the DHS OIG. In speaking with the EPS SMEs and agents, it was noted that if a detainee wished to utilize the reporting hotline, that person would be escorted to a phone room. The room containing the phone for such calls was in a private setting. This phone is available for detainees to make reports of sexual abuse for themselves or on behalf of another person. The Auditor made a test call to the reporting hotline to confirm that both the phone worked and the number was valid. During the interviews, all agents acknowledged their responsibility to accept any verbal or written report of sexual abuse made to them by a detainee, or by another person on behalf of a detainee. They also acknowledged their willingness to allow a detainee alleging sexual abuse to remain anonymous upon request. Upon receipt of an allegation of sexual abuse, agents confirmed that they would immediately notify their supervisor of the complaint and subsequently document the incident as required by policy.

§115.154 – Third-party reporting.

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

Notes:

The facility meets the standard. CBP Directive 2130-030 directs staff that third parties can report sexual abuse and/or sexual assault on behalf of the detainee. Reports can also be made on behalf of the abused detainee by another detainee. Additionally, the agency has established a website (<https://www.cbp.gov/about/care-in-custody>) to allow for third parties to report sexual assault and/or sexual assault directly to the Office of Inspector General (OIG). During the on-site portion of the audit, informational posters, in both English and Spanish, that contained the reporting phone number to DHS OIG were observed throughout the facility. The Auditor tested the functionality of the reporting phone number. In speaking with the SMEs, contracted staff, and employees, all persons stated that they would investigate/address any allegations of sexual abuse to the greatest extent possible, regardless of how they became aware of them. Lastly, in speaking with the PSA Coordinator, agency transparency for public information was stressed.

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

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

Notes:

(a)(b): The facility meets the standard provisions. CBP Directive 2130-030 and CBP Policy on Zero Tolerance of Sexual Abuse and Assault mandates all staff to immediately report any knowledge, suspicion, or information of sexual abuse that occurred within the facility. Additionally, staff have an affirmative duty to report all knowledge, suspicion, or information regarding retaliation against detainees or staff for having reported an incident of sexual abuse. Staff also have an affirmative duty to report any negligence or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation. CBP Directive 3340-025F further directs staff to report significant incidents to the CBP WATCH, a unified hub that operates 24 hours a day and seven days a week to assure all significant incidents are reported immediately to all required leadership. CBP Directive 51735-013B, U.S. Customs and Border Protection Standards of Conduct, December 9, 2020, also informs staff that they have a duty to report any sexual assault and/or sexual abuse, or any form of retaliation against another staff member or detainee. CBP has provided training in Preventing and Addressing Sexual Abuse in CBP Holding Facilities, which addresses the responsibility of reporting sexual abuse and/or sexual assault, to include retaliation. A review of employee training records, as well as training curriculum records, reflects that all staff have received initial PREA training, as well as subsequent training where

appropriate, which includes acknowledgment of their affirmative duty responsibilities. When interviewed, all agents, contractors confirmed their obligation to immediately report any information they might have regarding allegations of sexual abuse. The agents and contractors all knew of at least one way in which to make a formal report, with most knowing other ways to make formal reports, to include reporting mechanisms outside their chain of command. Reports could be made by informing their direct supervisor, informing the facility's sexual abuse compliance manager, or by reporting it directly to OPR.

(c): The facility meets the standard provision. CBP Directive 2130-030 requires that except as necessary to report the incident, staff shall not reveal any information related to an incident of sexual abuse except as necessary to aid the detainee, to protect other detainees or staff, or to make security and management decisions as required under Subpart B of the DHS Standards. In speaking with the HQ OPR/SAAI SME, it was noted that the EPS had not received any allegations of sexual abuse within the audit period. Nonetheless, during SME and Agent interviews, the concern for confidentiality was stressed, with staff repeatedly indicating that information related to allegations of sexual abuse would only be shared as a function of their official capacities on a need-to-know basis. It was further observed that risk screening areas provided detainees some measure of privacy while talking to facility staff.

(d): The facility meets the standard provision. CBP Directive 2130-030 requires that staff report sexual abuse and/or assault allegations involving alleged victims under the age of 18, or those considered as vulnerable adults under State and local vulnerable persons statutes, to the designated State or local agency services under applicable mandatory reporting laws. Per the EPS SMEs, the local authority to whom CBP staff would report alleged victimization of persons under the age of 18 or of vulnerable adults is the El Paso Police Department/El Paso Sheriff's Office.

§115.162 – Agency protection duties.

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

Notes:

The facility meets the standard. CBP TEDS instructs agents if they have a reasonable belief that a detainee is at a substantial risk of imminent sexual abuse, immediate action must be taken to protect the detainee. In speaking with EPS SMEs and agents, they stated the detainee would be held separately from others to ensure the safety of the individual. As noted by a SME, during the audit period, the EPS did not find any evidence that any detainees assigned to the facility were at substantial risk of sexual abuse. As such, the EPS did not have any documentation for review. Likewise, no protective actions were required.

§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): The facility meets the standard provisions. CBP Directive 2130-030 requires that upon receipt of an allegation that a detainee was sexually abused while confined at another facility, facility staff are to notify the appropriate office of the agency or the administrator of the facility where the alleged sexual assault occurred. Interviews with EPS SMEs confirmed this notification must be made, and subsequently documented, as soon as possible. Additionally, these SMEs also stated that notifications to JIC, OPR, and local agencies (if not already notified) must also be made. It was also indicated that if EPS was notified by another agency that a sexual abuse and/or assault had occurred while the detainee was held at EPS, then staff must begin the investigation and notification process, to include the El Paso Police Department/El Paso Sheriff's Office, JIC, OIG, and OPR. During the 12-month audit period, the facility did not receive any allegations that detainees had been sexually abused while confined to another facility.

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

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

Notes:

(a)(b): The facility meets the standard provisions. CBP Directive 2130-030 provides detailed and concise information on the steps that EPS first responders should take upon learning of an allegation of sexual abuse and/or assault. Additionally, CBP provides a training course through Acadis (online training portal) which is required annually of all EPS staff. The course provides detailed information of the responsibilities of a first responder regarding all steps to be taken by first responders upon learning of a sexual assault. Both Directive 2130-030 and the training course educate EPS first responders to immediately separate the victim and abuser, preserve and protect the crime scene until evidence collection is possible, request the victim not take any actions that could destroy physical evidence, and ensure the abuser does not take any actions to destroy evidence. First responders who are not law enforcement are instructed to request the victim not take actions that could destroy evidence and immediately notify agents. During interviews with EPS SMEs and agents, it was noted that after the victim was isolated, they would need to help preserve DNA evidence. This would be done by asking the victim not to do anything that would destroy the evidence. For example, they should not perform actions such as brushing their teeth, washing their bodies, or using the restroom. Interviews with contractors, who routinely have contact with detainees, confirmed that notification of any allegations received would be made immediately to agents. The detainee victim would be isolated for protection and all efforts would be made to ensure the crime scene is preserved. During the audit period, the EPS did not receive any allegations that detainees had been sexually abused. As such, there is no relevant documentation for review.

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

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

Notes:

(a): The facility meets the standard provision. CBP Directive 2130-030 constitutes CBP's written for using a coordinated institutional plan and utilizing a multidisciplinary team approach to respond to sexual abuse and/or sexual assault. Directive 2130-030 coordinates actions amongst first responders, medical and mental health practitioners, investigators, and facility leadership in response to incidents of sexual abuse. This Directive, along with CBP TEDS, works to coordinate the agency, agency components, and facility efforts, so that victims of sexual abuse receive adequate support services to protect the health, welfare, security, and safety of any individual in CBP custody. As well, on August 15, 2022, CBP developed a job aid which detailed first responder duties, notifications for investigations, forensic medical examinations, and how to report any allegations of sexual abuse; namely, to the Office of the Commissioner - Reporting and Responding to Potential PREA Allegations.pdf - Divisions (sharepoint.com). Also, this job aid defined sexual assault of a detainee by another detainee, as well as sexual assault of a detainee by an employee, contractor, or volunteer. In speaking with EPS SMEs and the HQ OPR/SAAI SME, it was consistently expressed that the efforts of employees and contractors are carefully coordinated to achieve the best possible administrative outcome for any person alleging sexual abuse. The HQ OPR/SAAI SME also stated effective communication between all parties was vital to the agency.

(b)(c): The facility meets the standard provisions. Directive 2130-030 instructs staff that when sexual abuse victims are transferred either between DHS holding facilities, or from a DHS facility to a non-DHS facility, the sending facility should, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim declines services. Interviews with the local SMEs confirmed both verbal and written notifications would be made in accordance with this directive.

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

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

Notes:

The facility meets the standard. CBP Directive 2130-030 instructs CBP management of a requirement to consider whether any CBP employee alleged to have perpetrated sexual abuse 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. Contractors and volunteers suspected of perpetrating sexual abuse shall be prohibited from contact with detainees pending investigation. In speaking with the EPS SMEs, it was noted that, should an employee be accused of a sexual misconduct with a detainee a USBP supervisor will initiate a formal

investigation, remove him/her from contact with all detainees and place him/her on administrative duties. Disciplinary action, if any, would be based on the outcome of the investigation.

§115.167 – Agency protection against retaliation.

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

Notes:

The facility meets the standard. CBP Directive 2130-030; CBP TEDS; Memorandum for All CBP Employees CBP Policy on Zero Tolerance of Sexual Abuse and Assault, dated March 11, 2015; and Directive 51735-013B, Standards of Conduct, with an effective date of December 9, 2020; prohibit retaliation against any person, to include detainees, for having claimed or participated in an investigation regarding sexual abuse. In speaking with EPS SMEs and agents, it was reiterated that retaliation against a detainee for the detainee reporting, complaining about, or participating in an investigation about sexual abuse allegations is strictly forbidden.

§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)(c)(d): The facility meets the standard provisions. CBP Directive 2130-030 and Directive 51735-013B indicate that personnel may be subject to disciplinary or adverse action up to and including removable from their position and Federal service for substantiated allegations of sexual abuse, sexual assault, and/or violating CBP's sexual abuse policies. The Standards of Conduct provide notice to the employees that disciplinary action will occur, including up to removal, for substantiated allegations of sexual abuse and/or assault. This standard works to ensure agency staff understand the gravity and the criminal nature of engaging in the sexual abuse of detainees. In speaking with the HQ LER SME, it was noted that CBP has made the consequences of engaging in such behavior exceptionally clear. Specifically, during the onboarding process, new employees are given the Table of Penalties for Criminal Offenses to fully appreciate the consequences of violating agency policy. It was further noted that a formal investigation would be conducted on all staff alleged to have engaged, or attempted to engage, in sexual abuse of a detainee. If substantiated, the presumptive disciplinary sanction was removal from their position and from Federal service. In speaking with the SMEs, it was noted that any staff member suspected of violating the agency's zero-tolerance policy would be subject to disciplinary sanctions and referred to the OPR, JIC, and OIG for further action as deemed appropriate. If deemed appropriate, employees may be required to surrender their PIV cards or those cards could be

electronically disabled in order to prevent unauthorized access into the facility. Additionally, the HQ HRM/LER SME noted that the agency would report such disciplinary findings to any relevant licensing bodies and designated law enforcement officials.

§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): The facility meets the standard provisions. CBP Directive 2130-030 and CBP Policy on Zero Tolerance of Sexual Abuse and Assault states that CBP contractors and volunteers may be subject to disciplinary or adverse action up to and including removal from their position or volunteer capacity for substantiated allegations of sexual abuse, sexual assault, and/or violating CBP's sexual abuse policies. Interviews with the HQ OPR/SAAI SME, as well as the HQ USBP SME, indicate that pending an investigation of allegations related to sexual abuse of a detainee, all contractors and volunteers will be removed from all duties requiring detainee contact. Following the conclusion of the investigation, reasonable efforts will be made to report any contractor or volunteer found guilty of sexually abusing detainees to relevant licensing bodies and as appropriate, the findings would be referred to a law enforcement agency. The Auditor also interviewed EPS SMEs, who stated that the facility would enforce any direction provided to it by the OPR, JIC, or OIG regarding contractor and volunteer facility access. Contractor training files and training course content were reviewed and found to contain relevant information regarding consequential results of sexual abuse and/or sexual assault at EPS.

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

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

Notes:

(a)(b): The facility meets the standard provisions. CBP Directive 2130-030 requires that when an alleged incident of sexual abuse occurs, detainees should be given timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis. This directive further states that emergency medical treatment services shall be provided to the victim without cost and regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident. As noted by the EPS SMEs, all victims would receive timely and unimpeded access to emergency medical treatment. As noted by the SANE Nurse Lead at the University of Texas Medical Center, all victims receive, if medically necessary, emergency contraception and sexually transmitted infections prophylaxis. During the forensic collection process, victims are offered crisis intervention services.

§115.186(a) – Sexual abuse incident reviews.

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

Notes:

The facility meets the standard. Directive 2130-030 requires that a sexual abuse incident review will be conducted by OFO or USBP within 30 days of the conclusion of every investigation of sexual abuse and/or assault. According to the HQ PDO/PSA Coordinator, the allegations are examined by the Incident Review Committee (IRC), which is comprised of three HQ Program Managers and the PREA Field Coordinator. It was further stated that the purpose of a sexual abuse incident review is to understand and address factors that may have contributed to the allegations. Any recommendations made by the IRC would be implemented by the Chief. In speaking with the EPS SMEs, it was noted that the EPS has not had any such reviews during the auditing period.

§115.187 – Data collection.

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

Notes:

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

ADDITIONAL NOTES

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

None

AUDITOR CERTIFICATION:

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

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

Auditor's Signature

August 21, 2023

Date