

## Prison Rape Elimination Act (PREA) Audit Report Adult Prisons & Jails

Interim       Final

**Date of Interim Audit Report:** Click or tap here to enter text.       N/A

If no Interim Audit Report, select N/A

**Date of Final Audit Report:**      Monday, November 23, 2020

### Auditor Information

<b>Name:</b> Nancy L. Hardy	<b>Email:</b> Nancy.Hardy@cdcr.ca.gov
<b>Company Name:</b> California Department of Corrections and Rehabilitation	
<b>Mailing Address:</b> P. O. Box 942883	<b>City, State, Zip:</b> Sacramento, CA 94283
<b>Telephone:</b> (916) 324-0791	<b>Date of Facility Visit:</b> October 8 & 9, 2020

### Agency Information

<b>Name of Agency:</b> Nevada Department of Corrections			
<b>Governing Authority or Parent Agency (If Applicable):</b> N/A			
<b>Physical Address:</b> 550 Snyder Ave., Building 17		<b>City, State, Zip:</b> Carson City, NV 89701	
<b>Mailing Address:</b> Same as above		<b>City, State, Zip:</b> Same as above	
<b>The Agency Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Agency Website with PREA Information:</b> <a href="http://doc.nv.gov">http://doc.nv.gov</a>			

### Agency Chief Executive Officer

<b>Name:</b> Charles Daniels, Director	
<b>Email:</b> cadaniels@doc.nv.gov	<b>Telephone:</b> (725) 216-6010

### Agency-Wide PREA Coordinator

<b>Name:</b> Deborah Striplin, Agency PREA Coordinator	
<b>Email:</b> dstriplin@doc.nv.gov	<b>Telephone:</b> (775) 977-5512
<b>PREA Coordinator Reports to:</b> Inspector General	<b>Number of Compliance Managers who report to the PREA Coordinator:</b> None

## Facility Information

**Name of Facility:** Humboldt Conservation Camp

**Physical Address:** 8105 Conservation Road

**City, State, Zip:** Winnemucca, NV 89445

**Mailing Address (if different from above):**  
P. O. Box 1069

**City, State, Zip:** Winnemucca, NV 89446

**The Facility Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Facility Type:**

Prison

Jail

**Facility Website with PREA Information:** No facility specific website – See agency website

**Has the facility been accredited within the past 3 years?**  Yes  No

**If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):**

ACA

NCCHC

CALEA

Other (please name or describe: [Click or tap here to enter text.](#))

N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**

### Warden/Jail Administrator/Sheriff/Director

**Name:** Tim Garrett, Acting Warden

**Email:** tgarrett@doc.nv.gov

**Telephone:** (775) 273-4200

### Facility PREA Compliance Manager

**Name:** Kara LeGrand, Correctional Casework Specialist III

**Email:** klegrand@doc.nv.gov

**Telephone:** (775) 273-4202

### Facility Health Service Administrator N/A

**Name:** [Click or tap here to enter text.](#)

**Email:** [Click or tap here to enter text.](#)

**Telephone:** [Click or tap here to enter text.](#)

### Facility Characteristics

**Designated Facility Capacity:**

150

**Current Population of Facility:**

99 as of 10/9/2020

Average daily population for the past 12 months:	109	
Has the facility been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males	
Age range of population:	20-61 years	
Average length of stay or time under supervision:	6.34 months	
Facility security levels/inmate custody levels:	Minimum Custody Levels	
Number of inmates admitted to facility during the past 12 months:	198	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	194	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	136	
Does the facility hold youthful inmates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Number of staff currently employed by the facility who may have contact with inmates:	12	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	2	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	7	
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	10	

Number of volunteers who have contact with inmates, currently authorized to enter the facility:	0
<b>Physical Plant</b>	
<p>Number of buildings:</p> <p>Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	17
<p>Number of inmate housing units:</p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	1
Number of single cell housing units:	0
Number of multiple occupancy cell housing units:	1
Number of open bay/dorm housing units:	0
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	0
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Medical and Mental Health Services and Forensic Medical Exams</b>	
Are medical services provided on-site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Are mental health services provided on-site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> )
<b>Investigations</b>	
<b>Criminal Investigations</b>	
Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	19
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input checked="" type="checkbox"/> N/A
<b>Administrative Investigations</b>	
Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	20
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input checked="" type="checkbox"/> N/A

# Audit Findings

## Audit Narrative (including Audit Methodology)

### PRE-AUDIT PHASE

The California Department of Corrections and Rehabilitation (CDCR) provided (via e-mail) the audit notice to the Prison Rape Elimination Act (PREA) Compliance Manager with instructions to post copies in the housing units and other places deemed appropriate by facility staff. Notices were to be posted in areas accessible to both inmates and staff. This was verified during the on-site portion of the audit, during the facility tour. The audit notices were posted on or before August 13, 2020 at the facility. On October 13, 2020, photographs were taken to demonstrate compliance with posting requirements. CDCR received the pre-audit questionnaire, audit process map, checklist of policies/procedures and other documents from the Nevada Department of Corrections (NDOC), in August 2020.

Pre-audit section of the compliance tool: In August 2020, the PREA Compliance Manager (PCM) provided the completed pre-audit questionnaire (PAQ), including supporting documentation, to the lead auditor. The auditor started completing the audit compliance tool by transferring information from the PAQ and from supporting documentation to the pre-audit section of the audit compliance tool.

The lead auditor received no letters from inmates at the facility prior to arrival at the institution and no additional letters were received upon return to the office after completion of the on-site review.

### ON-SITE PHASE

On Thursday, October 9, 2020, the audit team arrived at Humboldt Conservation Camp (HCC). The audit team consisted of two certified auditors which included me, retired Chief Deputy Administrator and previous PREA Coordinator for the CDCR; and John Katavich, retired Warden from CDCR.

On October 9, 2020, the audit team met with the acting Warden, Camp Lieutenant, and the PCM for greetings, introductions and information sharing. The team was allowed to use a small conference room, in the administration building, which served as the team's primary work location for audit preparation and organization. Interviews were conducted in various locations around the facility.

Upon arrival at HCC, the audit team informed the PCM that it was the team's plan to interview all 12 of the assigned staff during the visit. Also on this date, the audit team received a roster of all inmates at the facility with identification numbers and assigned bed numbers, sorted by housing wing. The auditor also received a list of inmates classified into any of the following categories:

- Disabled Inmates (no names on the list)
- Limited English Proficient Inmates (no names on the list)
- Transgender & Intersex Inmates (no names on the list)
- Gay & Bisexual Inmates (no names on the list)
- Inmates in Segregated Housing for Risk of Sexual Victimization (no names on the list)
- Inmates who Reported Sexual Abuse (no names on the list)
- Inmates who Disclosed Sexual Victimization during Risk Screening

The auditor explained that these rosters were required for the audit team to select random inmates for interviews. At the time of the audit, the facility did not house any Inmates who were disabled, limited English proficient, transgender or intersex, gay or bisexual, in segregated housing, or who reported sexual abuse.

Site Review: The two audit team members conducted a thorough site review of the facility. The audit team was provided a map of the facility with a list of all buildings and areas that offenders have access to. The acting Warden, PCM, and Camp Lieutenant escorted the auditors during the tour. The team toured the entire facility, including the housing unit, culinary, laundry room, maintenance and Nevada Division of Forestry (NDF) shops, education, recreation yard, gym, and visiting. As the tour moved through the facility, the auditor would make a notation on the map indicating the areas that had been visited. Additionally, staffing levels were observed to insure that there was adequate security coverage and offender supervision was appropriate.

During the tour, audit team members asked impromptu questions of staff and inmates, noted the placement and coverage of surveillance cameras, inspected surveillance monitors, inspected bathrooms and showers to identify potential cross gender viewing concerns, etc. The audit team members tested one of the six inmate phones to determine the functionality of the facility's hotline for reporting sexual abuse or harassment and the inmate's access to emotional support services. Audit team members also noted the placement of PREA information posters, advocacy informational posters, and noted the placement of the PREA audit notice provided to the facility.

PREA Management Interviews: This audit was in conjunction with an audit at Lovelock Corrections Center (LCC), the "parent facility", and interviews of the management team were completed while at the "parent facility" by a certified PREA auditor on the audit team. The auditors worked with staff to schedule a time for each of these interviews; and the interviews were conducted in the staff member's office using the applicable interview protocols and responses were recorded by hand. The Agency Head was interviewed on October 1, 2020 via the telephone. The PREA Coordinator was interviewed while the team was conducting the audit at LCC.

Specialized Staff Interviews: The audit team members performed the required interviews in various locations. In some cases, it was necessary to conduct the interview via telephone because the person to be interviewed was at a distant location; examples of these were the sexual assault nurse examiner and the retail storekeeper, who was on her days off while we were on-site.

The audit team identified specialized staff to be interviewed. Interviews included the following:

- Agency Head-1
- PREA Coordinator-1
- Agency Contract Administrator-1
- Warden-1
- PREA Compliance Manager-1
- Medical and Mental Health - 0
- Incident Review Team Member- 1
- Staff who Performs Screening for Risk of Victimization and Abusiveness- 2
- Intake Staff-2
- Investigators-1
- Sexual Assault Nurse Examiner-1

- Human Resources-1
- Segregated Housing staff-0
- Person Responsible for Monitoring Retaliation-1
- Higher Level Supervisor-2
- Contractors- 5
- Volunteers-0
- First Responders-4

There were 12 staff positions filled during the on-site portion of the audit. The caseworker position was vacant, but there was a staff from LCC temporarily assigned to the position, and she was interviewed. The specialized staff interview protocols were used, for staff who met the specialized criteria. A total of 25 specialized staff interviews were completed.

There were 11 security staff positions filled during the on-site portion of the audit. There was an additional two non-security staff members assigned to work at HCC. The specialized staff interview protocols were used, in addition to the random staff interview protocols, for all staff who met more than one of the specialized criteria. A total of 12 out of the 13 staff assigned at HCC were interviewed. The remaining staff was away from the facility at a fire. The management staff was interviewed a few days prior to our arrival at HCC, while the team was auditing LCC.

Where the circumstances dictate, the interviewer would ask to review documentation, logs, computerized tracking, or other materials necessary to make a determination of compliance with the standard. During these interviews, the audit team members based the line of questioning on the standard interview protocols and recorded responses by hand.

Random Staff Interviews: The audit team interviewed 12 random staff during the two days the audit team was on-site. The interviews were conducted in private offices, in various locations around the facility. The auditor introduced themselves, communicated the advisory statements to the staff, proceeded to ask the questions from the interview protocols for random staff and recorded the answers by hand. Clarifications were requested when needed to ensure the responses were clear enough to make a determination of compliance with applicable standards.

Random Inmate Interviews: The auditor determined that at least two inmates from each wing of the only housing unit would be interviewed. Both audit team members participated in the random offender interviews. Audit team members used the alphabetical roster of inmates to randomly select the inmates. Interviews were conducted in a private office at the facility. The audit team members introduced themselves, communicated the standard advisory statements to the inmate before proceeding with the standard line of questions from the random inmate interview protocols and recorded the inmate's answers by hand using the designated form. Clarification was requested, as needed to ensure the inmate's responses were clear. A total of 18 random interview protocols were completed.

PREA-Interest Inmate Interviews: The lead auditor interviewed the only inmate who met one of the specific categories of offenders identified for interviews based upon their relevance to specific PREA standards. These categories are:

- Inmates with Physical Disabilities-0
- Inmates who are Blind, Deaf, or Hard of Hearing-0
- Limited English Proficient Inmates-0



- Inmates with Cognitive Disabilities-0
- Inmates who Identify as Gay or Bisexual-0
- Inmates who Identify as Transgender or Intersex-0
- Inmates who Reported Sexual Abuse-0
- Inmates who Disclosed Sexual Victimization during Risk Screening-1

The offender was called by security staff to report to the location where the interviews were being conducted. The auditor introduced themselves, communicated the standard advisory statement and asked the line of questions in the respective interview protocols. A total of one specialized offender interviews was conducted.

Document Reviews: The document review process was shared by the lead auditor and the support staff. They reviewed a sample of documents related to records documenting the education of the inmate population, records maintained through the inmate intake process, staff training records, contractor employment and training records, and records reflecting background checks are being completed. There were no PREA allegations made during the review period, so there were no records for sexual abuse, staff sexual misconduct, and sexual harassment, and retaliation monitoring documentation to review. The information obtained from the documentation review was recorded on the “PREA Audit – Adult Prisons & Jails – Documentation Review” templates and copies of documents were requested, as necessary.

The overall breakdown of allegations is as follows:

Type of Incident	Number of Allegations	Number Substantiated	Number Unsubstantiated	Number Unfounded	Number Pending
Inmate on Inmate Sexual Harassment	0	0	0	0	0
Inmate on Inmate Sexual Abuse	0	0	0	0	0
Staff Sexual Misconduct (SSM)	0	0	0	0	0
Staff Sexual Harassment (SSH)	0	0	0	0	0
<b>Total PREA Investigations:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

There were no investigative reports to review. In looking at historical information on allegations and the related investigations, it was noted the last PREA allegation made at HCC occurred in 2017. It was a staff sexual misconduct allegation, which was investigated and found to be unsubstantiated.

Throughout the on-site review, the team had discussion about what was being observed, reviewed and discrepancies that were being identified. Team members sought clarification, when discrepancies were identified to ensure that we were not missing pertinent information. On Friday, October 9, 2020, the audit team scheduled a close-out discussion with the acting Warden, Agency PREA Coordinator, PCM and the Camp Lieutenant. During this close-out discussion, the group was provided with an overview of the positive things noted by the auditors and what had been identified as areas of concern.

## POST-AUDIT PHASE

Following the on-site portion of the audit, the lead auditor gathered written information and feedback from the team member and took responsibility for completing the report.

The auditor and PCM agreed that any documents not received during the pre-audit phase or on-site review would be requested via email and provided by the PCM or the agency PREA Coordinator. The audit team leader documented all clarification questions, missing information, requests for additional documentation, etc. to follow-up with the agency PREA Coordinator and the PCM and sent the requests on a flow basis. Requested information was returned to the auditor on a flow basis.

Audit Section of the Compliance Tool: The auditor reviewed on-site document review notes, staff and inmate interview notes and on-site tour notes and began the process of completing the audit section of the audit compliance tool. The auditor used the audit section of the audit compliance tool as a guide to determine which question(s) in which interview guide(s), which on-site document review notes and/or which facility tour site review notes should be reviewed in order to make a determination of compliance for each standard. After checking appropriate “yes” or “no” boxes on the compliance tool for each applicable subsection of each standard, the auditors completed the “overall determination” section at the end of the standard indicating whether or not the facility’s policies and procedures exceeds, meets or does not meet standard.

Interim Audit Report: Following completion of the compliance tool, the auditor started completing the interim report. The interim report identified which policies and other documentation were reviewed, which staff and/or inmate interviews were conducted and what observations were made during the on-site review of the facility in order to make a determination of compliance for each standard provision. The auditor then provided an explanation of how evidence listed was used to draw a final conclusion of whether the facility’s policies and procedures exceed, meet, or do not meet the standard. This process let the auditor to determine that all standards had been met prior to completion of the interim report; therefore, no interim report was issued.

The written final report was provided to HCC on Tuesday, November 24, 2020.

## Facility Characteristics

HCC is located at 8105 Conservation Road, Winnemucca, Nevada. HCC officially opened in 1986 and consisted of 22 trailers that were brought down from the Alaska pipeline project. HCC is an Nevada Division of Forestry (NDF) fire camp and can have as many as eight, 12-man offender crews fighting fires at any given time. When it is not fire season, the offender crews spend their days doing project work such as, highway clean-up for the Nevada Department of Transportation or working in the local community.

The fire camp is designated as minimum security facility, which houses Level 1 offenders. There are three housing wings in the only housing unit. A wing is general population with 27, double occupancy cells for a maximum capacity of 54 offenders. B wing is general population with 18, double occupancy cells and one, four-man dorm, for a maximum capacity of 40 offenders. C wing is general population with 28, double occupancy cells for a maximum capacity of 56 offenders. Each housing wing contains bathroom facilities, showers, two telephones and storage areas.

The main entrance to the facility allows for the screening of every person who enters the facility. All staff, visitors and their property are searched by on-duty staff.

There is a Rotunda Control Booth which all staff and visitors must pass through to enter or exit the facility.

HCC offers activities to all offenders. These activities include voluntary education, recreational library, religious services, an outdoor recreation yard and indoor gymnasium.

HCC was designed to house 150 inmates. At the time of the on-site visit, it housed 99 offenders in the following classification levels:

- There are 99 General Population offenders, inside the fence line
- There are 0 offenders currently in Administrative/Disciplinary Segregation
- There are 0 General Population offenders, housed outside the fence line.
- There are 0 Protective Segregation offenders.
- There are 0 Youthful Offenders.
- There are 51 vacant beds.

## Summary of Audit Findings

### Standards Exceeded

**Number of Standards Exceeded:** Zero

**List of Standards Exceeded:** [Click or tap here to enter text.](#)

### Standards Met

**Number of Standards Met:** 43

### Standards Not Met

**Number of Standards Not Met:** Zero

**List of Standards Not Met:** [Click or tap here to enter text.](#)

The on-site portion of the audit was review of all areas of the institution. Facility staff were very helpful and responsive to the questions and concerns expressed during this portion of the audit. Facility staff were attentive to the needs of the auditors and were extremely hospitable. The audit team thanks the Warden, PCM, and the entire staff at HCC.

Overall, it is evident that HCC's staff have been working towards compliance with the PREA standards. Some of the positives observed by the audit team included:

- The PCM and Camp Lieutenant appears to be committed to ensuring inmate and staff safety and the prevention, detection, and responding to sexual assault and sexual harassment of inmates.
- Any supporting documentation that was requested by the audit team was received without delay.
- PREA posters were in place in all housing units, and common areas.
- Supervisory and management staff have a clear understanding of the policy.
- Supervisory and management staff ensured the audit team had access to staff and inmates for interviewing.
- The facility was clean and well maintained.
- Communication between the staff and inmates appeared open and professional.
- The inmates expressed confidence in the staffs desire to follow policy and procedure with regards to PREA.

The following corrections were made, after the site visit and prior to the issuance of the interim report. This allowed HCC to demonstrate substantial compliance with all PREA standards and eliminate the need for a corrective action period.

#### **115.15 Limits to Cross Gender Viewing and Searches**

HCC did not have a policy which addressed expectations of female staff announcing their presence. A new Operational Procedure 312, was received on November 13, 2020, that contained the required information. In addition, several blind spots and potential cross gender viewing issues were identified and addressed prior to the issuance of the interim report.

#### **115.17 Hiring and Promotion Decisions**

Proof of background checks being completed and completion of the form which addresses prior behavior were not readily available in all of the employee's files. The auditor received copies of all requested materials, prior to issuance of the interim report.

#### **115.21 Evidence Protocol and Forensic Medical Examinations**

The Operational Procedures at LCC/HCC did not address how staff are to transport the alleged suspect to the forensic exam in a way that would preserve any physical evidence on the suspect's body. A revised OP was received on October 26, 2020, that contained the required information.

## PREVENTION PLANNING

### Standard 115.11: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

#### 115.11 (a)

- Does the agency have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment?  Yes  No
- Does the written policy outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment?  Yes  No

#### 115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator?  Yes  No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy?  Yes  No
- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities?  Yes  No

#### 115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.)  Yes  No  NA
- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.)  Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

**Does Not Meet Standard** (*Requires Corrective Action*)

## **Overall Compliance Determination Narrative**

The mission statement for the NDOC is as follows:

It is the mission of the NDOC to protect society by maintaining offenders in safe and humane conditions while preparing them for successful reentry back into the community. We operate as one team, proud of our reputation as leaders in corrections. Our staff will utilize innovative programming that will focus on education, mental health, substance abuse treatment, and vocational training as the cornerstone to an offender's rehabilitation.

The policy outlining Zero Tolerance and the PREA implementation plan are located in Administrative Regulation (AR) 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and Prison Rape Elimination Act Policy, which was last updated on January 14, 2016. This policy outlines the agency's zero tolerance and includes sanctions for those who violate the zero tolerance policy. The policy further outlines implementation of the agency's approach to prevent, detect, and respond to sexual abuse and sexual harassment. The 11-page policy provides definitions of prohibited behaviors and a description of agency strategy and response to reduce and prevent sexual abuse and harassment of offenders. In many cases, the policy mirrors the language contained in the Federal PREA Standards.

In section 421.02, PREA Coordinator, the policy states:

1. It is the responsibility of the PREA Coordinator to develop, implement, and oversee the Department's compliance with all PREA standards.
2. The PREA Coordinator or designee will collect accurate, uniform data for every allegation of sexual abuse at institutions/facilities.

In section 421.03, PREA Compliance Managers, the policy states:

1. The Warden at each institution is responsible to designate a PCM with sufficient time and authority to coordinate the institution/facilities' compliance with the PREA standards. The PCM will report directly to the Institutional Warden.
2. The PCM will facilitate the development of the confidential institution/facility PREA operational policies.
3. The Warden and PCM will oversee adherence to each specific PREA related rules, regulations and practices at the institution/facility and document accordingly any need for adjustment and the implementation of adjusted policy, rule and practice.

HCC Operational Procedure (OP) 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, Section 421.01 reads: HCC has a Zero Tolerance policy for any form of sexual misconduct to include staff, contractor or volunteer on inmate or inmate on inmate sexual harassment, sexual assault, sexual abusive contact and consensual sex. Any staff member/contractor/volunteer who engages in, fails to report, or knowingly condones sexual harassment or sexual contact with or between inmates shall be subject to disciplinary action and may be subject to criminal prosecution. HCC will take a proactive approach regarding the prevention, detection, response and punishment of any type of sexual contact.

In section 421.03, PREA Coordinator, it states:

1. It is the responsibility of the PREA Coordinator to develop, implement, and oversee the Department's compliance with all PREA standards.
2. PREA Coordinator will collect accurate, uniform data for every allegation of sexual abuse at all institutions/facilities.

In section 421.04, PREA Compliance Managers, it states:

1. LCC's CCSIII has been designated as the institutions PCM.
2. The PREA Coordinator and the institutional/facility PCM will facilitate the development of confidential PREA policies.
3. Staff will ensure that the PCM and Associate Wardens are notified immediately on all allegations of Sexual Abuse/Harassment.

A copy of the HCC Visitor Notification Document was provided to the auditor and it states: The Department of Corrections has a Zero Tolerance policy for any form of sexual misconduct to include staff/contractor/volunteer on inmate or inmate on inmate sexual harassment, sexual assault, sexual abusive contact and consensual sex. Any staff member/contractor/volunteer who engages in, fails to report, or knowingly condones sexual harassment or sexual contact with or between inmates shall be subject to disciplinary action and may be subject to criminal prosecution. The Department shall take a proactive approach regarding the prevention, detection, response and punishment of any type of sexual contact. The auditor was told that this document is sent to the visitor when they are approved to visit.

During the interview with the PREA Coordinator, she reported that she has adequate time to develop, implement and oversee the agency's efforts to comply with the PREA standards in all of its facilities. She reported she does not directly supervise any PCM; however, she has frequent interaction with all of them via e-mail and telephone calls. She conducts internal PREA audits to assess continued compliance with the PREA standards.

The PCM reported, during her interview, that she has enough time to manage her PREA related responsibilities.

HCC posted the Audit Notice on August 7, 2020. The PCM provided photographs of posted locations, which included in A wing, B wing, C wing, and the rotunda area. During the on-site portion of the audit, the auditor verified that the Audit Notice was posted in the areas identified in the photographs.

There was no corrective action identified for this standard.

## **Standard 115.12: Contracting with other entities for the confinement of inmates**

### **115.12 (a)**

- If this agency is public and it contracts for the confinement of its inmates with private agencies or other entities including other government agencies, has the agency included the entity's obligation to comply with the PREA standards in any new contract or contract renewal signed on or after August 20, 2012? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates.)  Yes  No  NA

### **115.12 (b)**

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates.)  Yes  No  NA

## Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Overall Compliance Determination Narrative

Since the last PREA audit, the NDOC has renewed one contract with a private entity. The NDOC entered into a contract with CoreCivic, Inc. to house 200 NDOC inmates at the Saguaro Correctional Center, Eloy, Arizona. Contract CETS #19161 RFO#3472 is a 2-year contract, effective October 11, 2017 through June 30, 2019. The Agency provided an electronic copy of the contract to the auditor for review. The language outlining the PREA requirements, including contract monitoring, was included in the contract. In addition, the agency provided a copy of the contract amendment, which extends the above contract until June 30, 2021. In this contract amendment, the number of inmates to be housed via the contract was reduced to 100.

On September 24, 2020 at approximately 1330 hours, the Contract Administrator for the NDOC was interviewed via the telephone. The Contract Administrator currently works at the Casa Grande Transitional Housing site, based out of Las Vegas, and has been in the Contract Administrator position since July 2020. During the interview, he stated that: 1) all contracts, that deal with the confinement of inmates are reviewed by NDOC's PREA staff, out of the Inspector General's (IG) office. All contracts are reviewed for the required PREA related policy and procedure, to include monitoring, oversight and tracking of the contractor PREA data. Further, he stated that the Offender Management Division is responsible for monitoring PREA compliance of the CoreCivic Contract facility and upon completion, is forwarded to his office; 2) He and his staff review all updated and recent data, as well as, go on-site to review and ensure on-going compliance at least once a month; and 3) he receives updated data on a regular basis from the contractor, downloads it and maintains a copy of every annual report that is published, per the Standard, each year.

There was no corrective action identified for this standard.

## Standard 115.13: Supervision and monitoring

### 115.13 (a)

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices?  Yes  No



- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated)?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the inmate population?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The number and placement of supervisory staff?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The institution programs occurring on a particular shift?  Yes  No  NA
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any applicable State or local laws, regulations, or standards?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors?  Yes  No

#### 115.13 (b)

- In circumstances where the staffing plan is not complied with, does the facility document and justify all deviations from the plan? (N/A if no deviations from staffing plan.)  Yes  No  NA

#### 115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section?  Yes  No

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The facility's deployment of video monitoring systems and other monitoring technologies?  Yes  No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan?  Yes  No

### 115.13 (d)

- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment?  Yes  No
- Is this policy and practice implemented for night shifts as well as day shifts?  Yes  No
- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The agency requires each facility it operates to develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against abuse. The staffing plan was predicated on the total bed capacity at HCC of 150 inmates and the average daily number of inmates since the last PREA audit is 115 inmates. The agency provided the auditor with a copy of the Staffing Plan, dated 2018 (Updated 3/13/20) with the PAQ. All criteria identified in this substandard are addressed in the staffing plan.

AR 326, Posting of Shifts/Overtime, states:

Section 326.04, Annual Staffing Review

- I. At least once every year the institutions and facilities in collaboration with the PREA Coordinator, review the staffing plan to see whether adjustments are needed in the following areas:
  - A. The staffing plan.
  - B. The deployment of monitoring technology.
  - C. The allocation of Agency/Institution or Facility resources to commit to the staffing plan to ensure PREA compliance.
2. The Staffing Review will be submitted to the Deputy Director of Operations who will provide a copy to the PREA Coordinator for review. This Staffing Review will be submitted for all Institutions and Facilities in the manner described in AR 301, "Shift Bidding", Section 301 .01.

AR 400, General Safety and Security, states:

Section 400.01, General Security Supervision Guidelines

D. Supervisory staff will tour the entire facility at least once each shift every day, including weekends and holidays, including but not limited to PREA mandated unannounced rounds as designated by the PREA Manager (Warden);

HCC OP 326, Posting of Shifts/Overtime, states:

Section 326.01, Staffing

HCC has developed this staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating the staffing levels and determining the need for video monitoring, the HCC takes into consideration: Generally accepted detention and correctional practices, judicial findings of inadequacy, any findings of inadequacy from Federal investigative agencies, any findings of inadequacy from internal or external oversight bodies, all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated), composition of the inmate population, number and placement of supervisory staff, programs occurring on a particular shift, applicable State or local laws, regulations, or standards, prevalence of substantiated and unsubstantiated incidents of sexual abuse; and any other relevant factors. Section 326.01 goes on to state: The shift supervisors will conduct and document un-announced rounds to identify and deter staff sexual abuse and sexual harassment in accordance with PREA Standards 115.13 Supervision and Monitoring.

At least once a year, in consultation with the PREA coordinator, required by § 115.11, HCC shall assess, determine, and document whether adjustments are needed to: the staffing plan, deployment of video monitoring systems and other monitoring technologies, and resources the facility has available to commit to ensure adherence to the staffing plan.

During the interview with the acting Warden, the auditor was told that the staffing plan is updated annually. It is maintained in a written form that is sent to the PREA Coordinator for review before being finalized. He indicated that all of the factors identified in this standard are considered during the annual review and update process. He monitors compliance with the staffing plan by reviewing daily movement reports and insures the camp is maintaining minimum staffing levels. The acting Warden indicated that the facility documents all instances of non-compliance with the staffing plan and that the documentation will include an explanation for compliance. He certified via memorandum that HCC did not have any instances during the review period of falling below the minimum staffing levels.

The PREA Coordinator indicated she is consulted regarding the staffing plans for each institution at least annually.

The PCM reported that in assessing adequate staffing levels and the need for video monitoring, they consider past internal practice, and guidance from the National Institute of Corrections and the American Correctional Association. She indicated they also consider the physical plant of the facility, the composition of the inmate population, the number of supervisory staff, programs occurring at the facility, state or local laws, regulations or standards, and substantiated and unsubstantiated incidents of sexual abuse. She indicated there are no judicial findings of inadequacy, finding of inadequacy from federal investigative agencies, or findings of inadequacy from internal or external oversight bodies.

The Lieutenant and the Sergeant assigned at HCC, during their interviews, indicated that they conduct unannounced rounds and document those rounds utilizing Nevada Offender Tracking Information System (NOTIS). They went on to say that because of the design of the one housing unit and the fact that their offices are in the building, they move around in the housing unit many times per day. They also

shared that many days of the week, they and one other staff are the only two custody staff present at the facility.

Total bed capacity at HCC is 150. On the first day of the on-site portion of the audit, the count was 99 inmates. Of those 99, 20 were away on a fire.

There is one housing unit at the facility and all the NDOC staff, including supervisors, are assigned in that building. Rounds are conducted multiple times per day, in the due course of business. These rounds get documented in NOTIS. There is no log book utilized. During the tour of the facility, the auditor reviewed the video monitors to observe the camera feeds. It was noted that the cameras pointing down the housing wings were not operational during our visit, and it was reported they had not been functioning for more than 1 month.

Per discussion with several inmates, the sergeant and lieutenant are available to speak with them and are responsive to their concerns.

Staffing Plan dated 2018 (Updated 3/13/20) was provided with the PAQ. All criteria identified in the standard are addressed in the staffing plan. On 9/29/20, the auditor received the Staffing Plan dated 2019 (updated in August 2020). All criteria identified in this standard are addressed in the staffing plan.

The staffing plan states HCC has some video surveillance monitoring, which assists staff in the supervision of the institution and that each time the staffing plan is not complied with, the facility documents and justifies the deviation from the staffing plan. The acting Warden reports that HCC has complied with the staffing plan during the entire audit period (July 2019 through July 2020) and maintained minimum staffing levels as required for the current inmate population.

The auditor conducted an analysis of the annual reviews completed by the NDOC. The most recent report was completed in March 2020 and a copy of the document was provided with the PAQ. The report generated from the annual review addresses all required factors.

There was no corrective action identified for this standard.

## Standard 115.14: Youthful inmates

### 115.14 (a)

- Does the facility place all youthful inmates in housing units that separate them from sight, sound, and physical contact with any adult inmates through use of a shared dayroom or other common space, shower area, or sleeping quarters? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA

### 115.14 (b)

- In areas outside of housing units does the agency maintain sight and sound separation between youthful inmates and adult inmates? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA
- In areas outside of housing units does the agency provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA

### 115.14 (c)

- Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision? (N/A if facility does not have youthful inmates [inmates <18 years old].)  
 Yes  No  NA
- Does the agency, while complying with this provision, allow youthful inmates daily large-muscle exercise and legally required special education services, except in exigent circumstances? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA
- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].)  
 Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

HCC does not house youthful offenders; therefore, the facility is in compliance with this standard.

## Standard 115.15: Limits to cross-gender viewing and searches

### 115.15 (a)

- Does the facility always refrain from conducting any cross-gender strip or cross-gender visual body cavity searches, except in exigent circumstances or by medical practitioners?  
 Yes  No

### 115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates, except in exigent circumstances? (N/A if the facility does not have female inmates.)  
 Yes  No  NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A if the facility does not have female inmates.)  Yes  No  NA

### 115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No
- Does the facility document all cross-gender pat-down searches of female inmates? (N/A if the facility does not have female inmates.)  Yes  No  NA

#### 115.15 (d)

- Does the facility have policies that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the facility have procedures that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit?  Yes  No

#### 115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status?  Yes  No
- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner?  Yes  No

#### 115.15 (f)

- Does the facility/agency train security staff in how to conduct cross-gender pat down searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs?  Yes  No
- Does the facility/agency train security staff in how to conduct searches of transgender and intersex inmates in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs?  Yes  No

#### Auditor Overall Compliance Determination

**Exceeds Standard** (*Substantially exceeds requirement of standards*)

**Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

**Does Not Meet Standard** (*Requires Corrective Action*)

### **Overall Compliance Determination Narrative**

The policy outlining Cross Gender Viewing is found in AR 492, Inmate Body Cavity Searches for Contraband. The policy states: Any search of an inmate's body cavity will be in a manner consistent with compliance to PREA and any applicable standards. Any physical intrusion into an inmate's body cavity must be performed by a physician or other mid-level practitioner not employed by the NDOC.

AR 422 – Search and Seizure Standards, states:

Section 422.01, General Guidelines

4. Searches are not to be conducted for arbitrary, capricious, oppressive, unreasonable reasons or harassment.

Section 422.04, Searches of Offenders

1. Pat down, frisk, strip and visual body cavity searches of inmates and their property will be conducted by staff trained in conducting searches.

4. Intrusive body cavity searches will be conducted in private and only be performed by a licensed medical professional acting within the scope of his or her license, or one of the following health services personnel: physician, dentist, physician's assistant, registered nurse, or licensed practical nurse. Dentists may only perform intrusive searches of the oral cavity.

HCC OP 422, Search and Contraband, states:

Section 422.01, Methods

1. All searches will be conducted:

A. By staff trained in search techniques and procedures to include cross-gender, transgender and intersex pat-down searches.

Section 422.04, Searches of Offenders

3. Staff shall conduct universal pat down searches, and searches of transgender and intersex inmates in accordance with PREA guidelines, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. The following criteria will be used for conducting searches in accordance with PREA Standard 115.15- Cross-gender viewing and searches:

A. The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

B. As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 inmates, the facility shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. Facilities shall not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.

C. The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates.

D. The facility will enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Shower curtains are provided throughout the institution to reduce exposure. Staff of the opposite gender are required to announce their presence each and every time when entering a housing wing.

E. The facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

F. The agency shall train security staff in how to conduct universal pat down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

4. When conducting pat searches of male inmates who have started gender reassignment and have breasts, the "blade of the hand" or "flashlight technique" are the approved methods for accomplishing this task.

This standard requires an interview with non-medical staff who have been involved in cross gender strip or visual searches. Per a memo dated 10/10/20, authored by the acting Warden, HCC did not conduct any cross-gender strip searches, cross-gender visual body cavity searches, and/or cross-gender pat searches or house any female inmates during the 12-month audit period of July 2019 through July 2020.

During the audit, the auditor noted that the camp did not have a policy in place, which outlined expectations of female staff when entering the housing units and/or bathroom and shower facilities. This was remedied with the implementation of Operational Procedure 312, Standard Responsibilities of all officers. In section 312.02, Officer Responsibilities, it states:

B. Staff of the opposite gender are required to have their presence announced when entering an inmate housing unit.

1. As HCC is a male institution, all female staff will announce themselves over the intercom when they arrive on grounds. Female staff will also announce their presence at least once down each wing when they start their shift, and again if they leave the main camp building for any reason.

2. Female Officers will only enter the inmate bathrooms and shower rooms for count (this is due to the fact that these facilities are off limits during count) and in emergency situations. Each time a female Officer needs to enter inmate bathrooms and shower rooms, they will announce themselves before entering, the reason and announcement needs to be documented in NOTIS.

3. Opposite/cross gender announcements will be recorded in NOTIS through an entry in the Shift Log (PREA-Female Staff Entering Male Housing Unit).

All 12 random staff interviewed indicated that female staff are announced over the PA system when they come into the housing unit. All staff indicated that inmates are able to change clothing, use the toilet and take a shower without being viewed by female staff. Of the 12 random staff interviewed, 11 indicated they are aware that the agency has a policy in place that prohibits the searching of a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. One staff was not aware of the policy, but indicated it would not be done at the camp and one indicated they didn't know about the policy but stated they think that would be an inappropriate type of search. Of the 12 staff interviewed, 2 are non-custody and are not required to conduct pat-down searches. The remaining 10 staff indicated they had completed the pat-search training at various times in 2019 or early 2020. This was verified by reviewing staff training records. Several staff indicated the 2020 training was scheduled to be completed the last week of October 2020. It was delayed due to COVID.

A total of 19 inmates were interviewed during the on-site portion of the audit. All indicated that female staff are announced over the loud speaker when they are entering the housing unit. The inmates stated that they are able to change clothes, use the toilet, and take a shower without being viewed by female staff.

It should be noted, the interview protocols require an interview with transgender or intersex inmates for this standard. At the time of the on-site visit, there were no inmates who identify as transgender or intersex housed at the camp.



The Agency provided the auditor with a copy of the Defensive Tactics training lesson plan and search video which are used in staff training. The pat-down search procedures are addressed in Defensive Tactics training. Training curricula provides details of how to provide a universal body search. The lesson plan addresses the requirement to be professional and respectful. In addition, rosters from Defensive Tactics training in 2019 were provided for all sworn staff at HCC.

The auditor was provided with a copy of the clothed body search procedure. Per a memo dated August 24, 2020, authored by the Associate Warden, HCC provides training to Correctional Officers on the NDOC "Universal Pat Search" during yearly Defensive Tactics Trainings. As Defensive Tactics Training involves physical contact, due to COVID-19, HCC's 2020 Defensive Tactics Training has been delayed. During the on-site portion of the audit, the auditor was informed the 2020 Defensive Tactics Training is scheduled to be completed the last week of October 2020.

The auditor was provided with a DOC 1955, Training Acknowledgment Form – Agency Universal Compliant Searches, blank form. It states: I understand my rights and responsibilities as an employee of the DOC. I understand the DOC has a “Zero Tolerance” policy regarding staff on inmate sexual abuse and harassment, I also understand Zero tolerance includes inmate on inmate sexual abuse and harassment.

During the tour of the facility, the following blind spots were identified:

**NDF:**

Tool Connex & Sign Shed – both need to be secured. On October 22, 2020, the auditor received photo confirmation that a chain and lock had been placed on the door of both structures.

**Culinary:**

The back door into the food prep area was not secured. On October 26, 2020, the auditor received photo confirmation that a padlock had been placed on the back door going into the culinary area.

**Laundry:**

The inmate had the key into the laundry area and staff did not. This was remedied by taking the key away from the inmate. It has been placed on staff's key ring.

**Education:**

The staff office in the education area does not have any windows and the door locks from the inside. The auditor expressed concerns about not being able to see inside of the office to verify staff and inmate safety. On October 26, 2020, the auditor received photo confirmation that a window had been installed into the door going into the education office.

**Holding Cell:**

The view into the holding cell looks directly at the toilet. Need to obscure view of the toilet. Staff frosted the lower portion of the window while the audit team was on-site.

The auditor was provided with copies of logs from 7/1/19 through 12/31/19 from NOTIS for female entering male housing unit. Entries provide a description of the activities being performed by the female staff or female visitor. It appears the announcements are made on a fairly routine/daily basis at beginning of shift and/or when female staff visit the camp to perform required tasks.

There was no corrective action identified for this standard.

## Standard 115.16: Inmates with disabilities and inmates who are limited English proficient

### 115.16 (a)

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have speech disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other (if "other," please explain in overall determination notes)?  Yes  No
- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing?  Yes  No
- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have limited reading skills?  Yes  No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision?  Yes  No

#### 115.16 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient?  Yes  No
- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary?  Yes  No

#### 115.16 (c)

- Does the agency always refrain from relying on inmate interpreters, inmate readers, or other types of inmate assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy outlining Equal Opportunity for Disabled or Limited English Proficient (LEP) Inmates is found in AR 658, Reasonable Accommodation for Inmates with Disabilities. The policy describes the process to be utilized to provide assistance to inmates with physical or mental disabilities.

Section 658.02, Policy Objective, states:

1. It is the policy of NDOC to establish procedures that will provide an accommodation or allow inmates to request an accommodation for a qualified disability that affects a major life activity and to ensure that:

A. Every inmate, including those with a qualified disability, shall be housed in a manner that provides for his/her safety and security; Reasonable accommodations are made only if the accommodations pose no direct threat to the individual requesting the accommodation, or to others, or cause an undue hardship on facility security and orderly operations;

B. Reasonable accommodations shall be made to the physical structure of housing for an inmate with a qualified disability to accommodate for the physical limitations of the disabled inmate and facilitate the inmate's inclusion in facility life;

C. The Facility ADA Coordinator may authorize housing unit furnishings within the cell/dorm to be rearranged to best accommodate an inmate with a qualified disability and shall identify specific criteria for bottom bunk priority. A visually or mobility impaired inmate shall be given bottom bunk status;

- D. Reasonable accommodations shall be made to facility assignment assignments, programs, activities, and services to permit participation by a qualified inmate with a disability;
- E. No qualified individual with a disability shall, solely by reason of such disability, be excluded from participation in or be denied the benefits of assignments, programs, activities, or services offered by the NDOC.

Section 658.07, Access to Auxiliary Visual, Hearing Aids and Services, states:

For those inmates identified with a visual impairment or hearing impairment, the ADA Coordinator, with the assistance of the medical staff, will ensure that visually-impaired and hearing-impaired inmates are provided access to auxiliary aids and services when required for effective communication in accessing and participating in department programs, services and activities.

- I. Such programs, services and activities include but are not limited to the following:
  - A. Intake assessments and classification;
  - B. Institutional orientation;
  - C. Medical and mental health services;
  - D. Substance abuse and other treatment programs;
  - E. Inmate work and education programs;
  - F. Program, housing, classification, release and other status reviews;
  - G. Disciplinary hearings, grievances, discrimination complaint, and other administrative processes for review of decisions and actions by department staff affecting inmates; and
  - H. PREA reporting and/or follow-up with any PREA concerns

AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:

Section 421.07, Inmate Education

3. All inmates will be afforded education in formats accessible to everyone, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:

Section 421.07, Inmate Education

The Institution shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.

- A. NDOC prohibits the use of inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under § 115.64, or the investigation of the inmate's allegations.
- B. In limited circumstances, any use of inmate interpreters, inmate readers, or other types of inmate assistants must be justified and documented in NOTIS.

HCC OP 504, Processing of Inmates Received at HCC Reception, states:

Section 504.02, Inmate Classification

D. A PREA Assessment will be completed on each inmate at intake or within 72 hours of arrival. A case note (PREA Intake Assessment) will be generated to document said assessment.

- 1. Inmates are not required but are encouraged to participate in the PREA questionnaire and cannot be disciplined for not taking part.
- 2. During this process privacy and confidentiality must be maintained.
- 3. Only staff interpreters can be used to assist in completing the PREA assessments. If staff interpreters are not available, staff will be authorized to use the CTS Language Link found on the Stewart shared drive under PREA implementation.

HCC OP 511, Inmate Orientation Procedures, states:

The Institution shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. HCC will use the services provided by CTS language services to help with any language barriers.

The Director, during his interview, indicated that inmates are provided information in a format that they can understand. These include braille, use of interpreter services, and printed materials are available in English and Spanish. Staff are charged with assessing the level of understanding, in some cases this might require assistance from mental health staff.

Of the 12 random staff interviewed, all but two of the staff indicated they would see if a staff member, on-site, could provide the interpreter services. If not, they would utilize the language line. One indicated she is bilingual and could provide the translation. Eight staff indicated they would only use an inmate interpreter in an emergency situation or a life or death situation and four indicated they would never use an inmate interpreter for allegations related to sexual abuse or sexual harassment. Nine staff stated that there have been no situations that they are aware of where an inmate interpreter was utilized to make a PREA allegation. Three staff stated they were not sure.

The interview protocol for this standard requires an interview with inmates who are disabled or who are limited English proficient. At the time of the audit, there were no inmates housed at HCC who did not speak English or who had physical or cognitive disabilities. Because of the nature of the work required of camp inmates (working on fire lines away from the facility), there are limited situations when inmates with disabilities or who are limited English proficient would be able to successfully function at the camp.

During the tour of the camp, the audit team noted PREA information posted in English and Spanish in many locations around the facility. These included the housing unit wings, the dining hall, the education building, the gym and in the NDF buildings.

The Agency provided the auditor with a copy of a contract with American Sign Language Communication LLC, effective February 12, 2019 through January 15, 2021. Upon review of the contract, the auditor noted that it addresses inspection and auditing of records for compliance with contract. In addition, the Agency provided the auditor with a copy of a contract with Corporate Translation Services (CTS) Language Link (Telephone Based Interpreter Services), effective June 9, 2015 to June 30, 2019. An amendment was provided that extends the contract through June 30, 2023.

The agency provided copies of written materials used for effective communication about PREA with inmates who have disabilities or limited reading skills. Posters on advocacy and reporting were provided in English and Spanish. HCC does not have any specialized materials used to ensure effective communications. Per a memo authored by the Warden, dated September 14, 2020, if a HCC inmate had limited reading skills, was visually impaired, could not understand written or spoken English or Spanish (PREA Videos and pamphlets are all available in English and Spanish), or experienced some other type of disability, accommodations would be made for that inmate on a case-by-case basis. For example, if a visually impaired inmate was able to read in braille, the comprehensive PREA information would be presented through the braille PREA Pamphlet. If an inmate was visually impaired and/or had limited reading skills, the PREA information would be read to the inmate. If a visually impaired inmate, or inmate with limited reading skills, was not able to communicate effectively through spoken English, the CTS Language Link service would be utilized by HCC staff for purposes of communicating with the inmate in the inmate's primary language.

Staff training curriculum was provided which addressed effective communication on slides 29 and 30 of the power point presentation.

The auditor was provided with a copy of the HCC Intake PREA Acknowledgement Form – this form is used to provide the inmate, during intake, information related to PREA and have the inmate sign that he watched a 3-minute video on PREA within 72 hours of arrival. The auditor was provided with “Inmate Education and Information Sheet” which provides detail about the zero tolerance policy and their right to be free from sexual abuse or harassment. It provides reporting information including outside of the agency and contact for advocacy services. It is written in simple English and also is available in Spanish. At the time the inmate receives this form, they are also given a pamphlet which provides additional information that they retain in their property.

Per a memo authored by the acting Warden, during this 12 month audit time frame, HCC has not had any blind, deaf, hard of hearing, or disabled inmates. This is due to HCC being a work camp.

Per a memo authored by the acting Warden, dated September 14, 2020, during the twelve (12) month audit period, from July 2019 through July 2020, there were no PREA related incidents which required the use of an interpreter and no inmate interpreters utilized to make a PREA report at HCC.

The auditor was also provided with a copy of the instructions used to access the language line. These instructions were posted in the officer’s station, in the lieutenant’s office, and in the caseworker’s office.

There was no corrective action identified for this standard.

## Standard 115.17: Hiring and promotion decisions

### 115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)?  Yes  No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?  Yes  No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above?  Yes  No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)?  Yes  No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?  Yes  No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above?  Yes  No

#### 115.17 (b)

- Does the agency consider any incidents of sexual harassment in determining whether to hire or promote anyone who may have contact with inmates?  Yes  No
- Does the agency consider any incidents of sexual harassment in determining whether to enlist the services of any contractor who may have contact with inmates?  Yes  No

#### 115.17 (c)

- Before hiring new employees, who may have contact with inmates, does the agency perform a criminal background records check?  Yes  No
- Before hiring new employees who may have contact with inmates, does the agency, consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse?  Yes  No

#### 115.17 (d)

- Does the agency perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates?  Yes  No

#### 115.17 (e)

- Does the agency either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees?  Yes  No

#### 115.17 (f)

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions?  Yes  No
- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees?  Yes  No
- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct?  Yes  No

#### 115.17 (g)

- Does the agency consider material omissions regarding such misconduct, or the provision of materially false information, grounds for termination?  Yes  No

## 115.17 (h)

- Does the agency provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work? (N/A if providing information on substantiated allegations of sexual abuse or sexual harassment involving a former employee is prohibited by law.)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining Hiring and Promotions is located in AR 212, Contracts, AR 300, Recruitment and Hiring, and AR 308, Department Staff and Applicant Records. Policy prohibits the hiring or promotion of anyone who may have contact with offenders, who have engaged in the three criteria outlined in standard provision 115.17(a). It also mandates the agency to consider any incidents of sexual harassment in determining whether to hire or promote anyone that may have contact with offenders.

These policies state that a criminal background records check will be completed before hiring staff that may have contact with offenders and the agency will make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. The policy requires a criminal background records check be performed before enlisting the services of any contractor who may have contact with offenders. It requires that all applicants and employees who may have contact with offenders be asked directly about previous sexual misconduct in written applications or interviews for hiring or promotions and in interviews or written self-evaluations conducted as part of reviews of current employees. Further, it imposes upon employees a continuing affirmative duty to disclose any such previous misconduct. It mandates that material omissions regarding sexual misconduct, or the provision of materially false information, shall be grounds for termination and requires the agency to provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

AR 308, Section 308.08, Recruitment Files, specifically states that confidential information contained in the recruitment files are governed by Nevada Administrative Code (NAC) 284.718 and 284.726. Section 308.09 Specificity Files, states that documents contained in the specificity file are confidential and shall only be shared with the Office of the Attorney General and will not be copied and/or distributed to any other party.

AR 126, Interagency Cooperation in the Responsibilities Section, states:

Appointing authorities are responsible to coordinate planning and consultation with community related groups in order to enhance the operations of the Department. Any outside contractor, vendor, employee or volunteer associated or working in conjunction with a community group who have direct contact or



control of inmates are responsible to be notified of and acknowledge the NDOC PREA zero tolerance policy and may require a background check and training as appropriate.

The human resources staff member that was interviewed stated:

- 1) the facility considers prior incidents of sexual harassment when determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates;
- 2) the agency performs criminal record background checks and considers pertinent civil or administrative adjudications for all newly hired employees who may have contact with inmates and all employees being considered for promotion;
- 3) human resources is not responsible for completing criminal record background checks for contractors that is done by the purchasing team;
- 4) the IG's Office is responsible to complete and maintain a log of the five-year background checks for staff and contractors;
- 5) the agency asks all applicants and employees about the requirements of 115.17(a) in written applications for hiring or promotion and in interviews or written self-evaluations conducted as part of performance reviews of current employees;
- 6) the agency imposes a continuing duty to disclose any such previous misconduct; and
- 7) human resources staff provide information on substantiated allegations of sexual abuse and sexual harassment upon receiving a request from an institutional employer with whom a former employee has applied to work.

The auditor was provided with a list of all staff assigned at HCC with the PAQ. It contains 13 positions. 12 are currently filled and one is vacant. It references 2 staff who were hired or reinstated within the past 12 months. During the file review, the auditor noted that 11 of the 12 files contained the required criminal record background check completed prior to the individual beginning employment. It was also noted that 11 of the 12 staff had answered the questions regarding past conduct prior to their initial hire date. One employee was hired before the questions were being asked, so there was no form completed prior to his initial hire date. This employee was promoted in 2016 and the questions should have been asked at that time, the agency was unable to demonstrate that he had completed the required form as part of the promotional process. However, in 2017, the agency completed an assessment of compliance with completion of this form for all staff and at that time, the employee signed the form that addressed past conduct.

The auditor was provided with several forms. These included:

- 1) NDOC Form 1952, PREA Contractor and Volunteer Questionnaire. It is used to ask the questions regarding past conduct to contractors and volunteers.
- 2) NDOC 1953, PREA Zero Tolerance Policy. This information sheet which outlines the PREA policy is given to contractors or volunteers.
- 3) NDOC 1957, Agency Applicants & Current Employee Questionnaire. This is the document used by new applicants and promotions to ask the questions regarding past conduct.

Per a memo dated November 8, 2017, from the PREA Coordinator, the following information was provided to the auditor: Cooperative Agreement Statewide Conservation Camp Program between the State of Nevada Department of Conservation and Natural Resources and the NDOC, meets compliance with this standard. NDF requires new hire staff to complete the following forms prior to contact and before taking temporary custody of inmates. Contract is valid for 4 years and was renewed September 12, 2017

All NDF staff/new hires are required to complete a Security Background Check Application DOC 560, Security Regulation Acknowledgement form (DOC 047), PREA Contractor and Volunteer Questionnaire form (DOC 052) and DOC agency PREA Zero Tolerance Policy form (DOC 503) background checks are completed for all NDF candidates during the new hire process and in compliance with contract. Contract is valid for 4 years and was renewed September 12, 2017

The auditor was provided with a checklist (DOC 1049) used for ensuring all required documents are retained with the hiring packets.

The auditor was also provided with the SS-0063, Background Clearance Application Procedure for contractors. In this document, it states:

3. PREA- A vendor/contractors background check is always DENIED if the vendor/contractor has any type of sexual conviction.

a. NDOC has a zero tolerance policy on any type of sexual misconduct to include staff/contractor/or volunteer on inmate or inmate on inmate sexual harassment, sexual assault, sexually abusive contact and consensual sex in a prison setting. The Department takes a proactive approach regarding prevention, detection, response and punishment for any type of sexual contact.

The contract between NDOC and the Department of Conservation and Natural Resources was provided. It requires all new hires to complete a background check and complete all required training before taking temporary responsibility of any inmates. Contract is in effect until 2021.

The auditor was provided with a blank Consent for Release of Criminal History Records (Job Applicants and Contractors).

In the past 12 months, the number of contracts for services where criminal background record checks were conducted on all staff covered in the contract who might have contact with inmates was 10.

The agency contract for hiring NDF individuals and the Contractor Background Checklist were provided to the auditor. The Contractor Background Checklist was initiated in June 2015 and continues to be used today. 2 examples of background checks were provided with PAQ.

On page 7 of the approved NDOC PREA Manual, it states:

11. HR and IG shall perform a criminal background records check of all current employees every three years, beginning the first year of each PREA audit cycle.

13. All applicable agency divisions shall perform a criminal background records check of all current contractors every year, unless the contractor is a State of Nevada employee. State of Nevada employees who contract with background clearances are updated once each 3 years, consistent with the audit cycle. They are completed monthly for all staff who were hiring during that month. Within the first year of the audit cycle, all employees' background clearances should be updated.

The PREA standards state: The agency shall ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self- evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. Standard form DOC 1957 is used to accomplish this task. A copy of blank form was provided to the auditor with the PAQ.

The auditor was provided with a sample of the letter that is sent to other agencies by the IG to verify previous employment.

There was no corrective action identified for this standard.

## **Standard 115.18: Upgrades to facilities and technologies**

### **115.18 (a)**

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.)  
 Yes    No    NA

### 115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)  
 Yes    No    NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The Director, during his interview, indicated they consider information received through incident reports and information gathered from the Sexual Abuse Incident Review Committee in determining the need for new or expanding existing monitoring equipment. They evaluate areas for potential blind spots and areas that will be isolated to try to create specific ways to include electronic monitoring and insure direct observation by staff. The Director regularly reviews Incident Review packages and uses the information from those incident reviews as well as identified blind spots and isolated areas to assist in identifying camera placement when electronic monitoring systems are being added or updated.

The acting Warden indicated there have been no expansions to HCC since the last audit and that all available information is considered when installing or updating a video monitoring systems. This would include identified blind spots and areas which have been identified as remote or isolated.

During the tour, the auditor noted 15 cameras installed around the facility. At least 3 were not functioning at the time of the tour. According to staff, these cameras have been in place for a while. They are located on each housing wing (3), at the front gate (1), meal/prep area (2), dining/visiting room (2), education room (1), pointed at the weight area (1), pointed at the horse shoe pit (1), pointed at the front parking lot (1), end of c-wing pointed to the yard area (2), pointed at the blind spot behind the culinary (1). The view from the cameras was checked by the audit team. There are no cameras, which point into the restrooms or the 2-man rooms where the inmates change clothing.

Per a memo authored by the acting Warden, during this 12-month audit timeframe, HCC has not expanded or modified the existing facility and has not added any new video surveillance equipment.

There was no corrective action identified for this standard.

## RESPONSIVE PLANNING

### Standard 115.21: Evidence protocol and forensic medical examinations

#### 115.21 (a)

- If the agency is responsible for investigating allegations of sexual abuse, does the agency follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  
 Yes  No  NA

#### 115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA

#### 115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate?  Yes  No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible?  Yes  No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)?  Yes  No
- Has the agency documented its efforts to provide SAFEs or SANEs?  Yes  No

#### 115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center?  Yes  No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? (N/A if the agency *always* makes a victim advocate from a rape crisis center available to victims.)  Yes  No  NA
- Has the agency documented its efforts to secure services from rape crisis centers?  Yes  No

#### 115.21 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews?  Yes  No
- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals?  Yes  No

#### 115.21 (f)

- If the agency itself is not responsible for investigating allegations of sexual abuse, has the agency requested that the investigating agency follow the requirements of paragraphs (a) through (e) of this section? (N/A if the agency/facility is responsible for conducting criminal AND administrative sexual abuse investigations.)  Yes  No  NA

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? (N/A if agency *always* makes a victim advocate from a rape crisis center available to victims.)  Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy regarding investigations is found in AR 457, Investigations, which requires the IG to assign and conduct investigations related to PREA, criminal activity by or on behalf of inmates, other incidents, and staff misconduct accusations.

#### Section 457.02, Reporting

3. The IG or designee shall be immediately notified of PREA related or serious incidents involving suspected criminal activity by inmates, staff, or outside parties; or serious violations of Department policy.
5. The IG will determine the need for an investigation; the type/methodology of the investigation; the staff responsible for the investigation; and the priority of the investigation.

#### Section 457.04, Evidence

1. The Deputy Directors, in cooperation with the IG shall develop an OP for all institutions and facilities for the preservation of evidence.
2. The OP will include procedures for:
  - A. marking evidence;
  - B. storing evidence;
  - C. documenting evidence with logs;
  - D. securing;
  - E. transferring evidence;
  - F. disposal of evidence.
3. Each institution and facility will establish a secure and restricted access location for the maintenance of evidence.
4. Evidence should be handled so ns to preserve trace and fingerprint evidence.
5. The chain of evidence should be kept to as few persons as possible.

AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA, states: The agency is responsible to conduct both administrative and criminal sexual abuse investigations for incidents of offender on offender and staff sexual misconduct. Policy provides uniform evidence protocol for sexual abuse. The facility ensures that offenders who allege the incident occurred within the last 72 hours are offered a forensic medical examination and if accepted, transported promptly to ensure evidence is not lost.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA, states:

#### Section 421.20, Evidence – Chain of Evidence

1. The Completed Sexual Assault Kit will be left with the SANE nursing staff, to be retrieved later by the IG's Office.
  - A. All the other clothing will be bagged and tagged individually as dictated by OP 458, Evidence Storage and Disposal.

The agency provided the auditor with copies of the uniform evidence protocols, which are currently used for their forensic medical examinations. They include:

- 1) the Recommendations for Administrators of Prisons, Jails, and CCF for Adapting the US DOJ's "A National Protocol for Sexual Assault Medical forensic Examinations, Adults/Adolescents (August 2013).
- 2) April 2013, a National Protocol for Sexual Assault Medical Forensic Examination, Adult/Adolescents.

The Shift Supervisor Sexual Assault /Abuse Checklist provides staff with guidance on transporting an inmate that is in need of a forensic exam. The procedure explains the evidence collection process, prior to the exam, the timeframes for conducting the exam and guidance on transporting the inmate victim and suspect to the SAFE/SANE nurse for the forensic exam.

The PCM indicated that a victim advocate would be made available to a victim of sexual abuse, if requested, to accompany the inmate to the forensic examination and any law enforcement interviews. The facility utilizes victim advocates from the local rape crisis center to provide these services. The PCM indicates that she would ensure that the services provided by the rape crisis center meet the qualifications described in standard 115.21(d) by utilizing the Victim Advocate from the RCC with whom they have a contract.

Of the 12 staff interviewed, two do not have any responsibility for evidence collection or crime scene preservation. The 10 remaining custody staff generally indicated they would separate the victim/suspect; preserve the area where the incident occurred by not letting people go in or out, notify their supervisor, and bag all evidence in paper bags. Ten of the staff interviewed stated that the IG's Office is responsible to complete the investigation and that they would typically be the staff who would collect the evidence. One staff indicated an investigator from LCC would be assigned to complete the investigation and one staff member indicated the sergeant or lieutenant at the camp would conduct the investigation.

On September 25, 2020 at approximately 1615 hours, the Sexual Assault Nurse Examiner that is responsible to conduct forensic medical exams for inmates from LCC, HCC and Carlin Conservation Camp within the NDOC was interviewed, utilizing the telephone. During the interview, she stated there are three nurses and herself, that respond for all forensic examinations in Northern Nevada and Eastern California. She further indicated that she is available 24 hours a day / seven days a week. If an issue arises, the emergency room physician at the local hospital is trained and will perform the exam.

The interview protocol required inmates who reported sexual abuse be interviewed under this standard. At the time of the on-site portion of the audit, there were no inmates housed at HCC who reported sexual abuse.

Per a memorandum authored by the acting Warden, HCC has not housed any female offenders or offenders under the age of 18 within the past 12 months.

The auditor did not receive any documentation to corroborate that all inmate victims of sexual abuse have access to forensic medical examinations. This was because there were no incidents of sexual abuse during the review period; therefore, there were no forensic exams conducted. The agency has a MOU in place to facilitate these types of exams, should they become necessary. Policy addresses the issue of inmates having access to forensic medical examinations.

The auditor was provided with the Confidential PREA Manual. In the Responsive Planning section, it states:

Evidence protocol and forensic medical examinations: 115.21

1. All victims of sexual abuse shall be offered access to forensic medical examinations, performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANESs) where possible.

a. The forensic medical examinations will be done off site, without expense to the inmate victim, depending upon the location of the institution or facility where the inmate is housed.

b. If a SAFE or SANE cannot be made available, the examination can be performed by other qualified medical practitioner only after contacting the Warden and the PREA Management Team.

1. All forensic medical examinations that are done by someone other than a SANE or SAFE shall be documented within NOTIS.

2. Specific procedures for investigation of sexual abuse and sexual harassment of an inmate by staff or another inmate are referenced in this manual.

a. The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault

Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011.

Transporting Victims for a Sexual Assault forensic Exam: 115.21

1. Victims must agree to have a sexual assault forensic exam prior to transporting for the exam. Should an inmate refuse to have the exam, we must document the refusal on a Release of Liability for Refusal of Medical Treatment Form (DOC 2523) form.

a. Forensic examination will be offered at no cost to the victim.

Per memo authored by the Warden, dated September 14, 2020, during this 12 month audit time frame, HCC has not had any cases of sexual assault requiring an examination by SAFE or SANE examiner.

As seen in HCC OP 421 if the situation does arise the staff are required to call LCC medical department and determine appropriate course of action and possible transport to designated SANE examination hospital. Ensure the inmate victim is offered a victim advocate through the Rape Crisis Center or LCC's medical/mental health department. In addition, procedure requires: Ensure the inmate victim is offered and transported to LCC's medical/mental health department if requested. Ensure the inmate victim is offered a victim advocate through the Rape Crisis Center or LCC's medical/mental health department.

The current RCC MOU and posters (English/Spanish) were provided with PAQ. Posters notify inmates of availability of these services and how to access them.

There was no corrective action identified for this standard.

## Standard 115.22: Policies to ensure referrals of allegations for investigations

### 115.22 (a)

- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual abuse?  Yes  No
- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual harassment?  Yes  No

### 115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior?  Yes  No
- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means?  Yes  No
- Does the agency document all such referrals?  Yes  No

### 115.22 (c)



- If a separate entity is responsible for conducting criminal investigations, does the policy describe the responsibilities of both the agency and the investigating entity? (N/A if the agency/facility is responsible for criminal investigations. See 115.21(a).)  Yes  No  NA

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining Investigations of Allegations of Sexual Abuse and Sexual Harassment is found in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA, and AR 457, Investigations.

AR 457 states: The IG is responsible for conducting or assigning investigations related to PREA, criminal activity by or on behalf of inmates, other incidents, and staff misconduct accusations.

Section 457.02, Reporting, states:

2. All incidents shall be reported to the IG per the requirements of AR 332.
3. The IG or designee shall be immediately notified of PREA related or serious incidents involving suspected criminal activity by inmates, staff, or outside parties; or serious violations of Department policy.
4. The IG or designee, and designated Equal Employment Opportunity (EEO) official shall be immediately notified of serious incidents involving sexual harassment.
5. The IG will determine the need for an investigation; the type/methodology of the investigation; the staff responsible for the investigation; and the priority of the investigation.

AR 421 states: The IG shall ensure that investigative and other staff members assigned to investigate any allegation related to PREA has received training in conducting such investigations in confinement settings. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The Department shall maintain documentation that agency investigative staff have completed the required specialized training in conducting PREA related investigations.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA, states:

Section 421.01, Zero Tolerance

HCC has a zero tolerance policy for any form of sexual misconduct to include staff/contractor/volunteer on inmate or inmate on inmate sexual harassment, sexual assault, sexual abusive contact and consensual sex. Any staff member/contractor/volunteer who engages in, fails to report, or knowingly

condones sexual harassment or sexual contact with or between inmates shall be subject to disciplinary action and may be subject to criminal prosecution. HCC will take a proactive approach regarding the prevention, detection, response and punishment of any type of sexual contact.

2. HCC shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

3. HCC prohibits retaliation against any person because of his/her involvement in the reporting or investigation of a complaint.

NDOC PREA Manual states:

Specialized training: Investigations

Only investigative staff assigned to the IG's office will conduct investigations into allegations or reports of sexual abuse or suspected sexual abuse of an inmate by a staff member.

The Director indicated that the PREA Coordinator maintains an allegation tracking log. She communicates status with the IG and supervisory staff within the IG's office. She is also responsible to close out cases, upon approval of the IG. The Director described the investigatory process to include allegations being referred to the Office of the Inspector General (OIG). One of the supervisors within the OIG will assign the investigation. The investigation will be thoroughly completed and a report will be written to document the actions taken by the investigator and the evidence collected. The report is reviewed by the IG for final approval and closure. The IG makes the director aware of all serious allegations and the Director reviews those investigations.

The investigator interviewed indicated that policy requires all allegations of sexual abuse or sexual harassment be referred for investigation to the OIG.

A PREA tracking log is maintained by the IG of all PREA allegations and the outcome of each. The auditor was provided with a copy of this log prior to the on-site portion of the audit. HCC did not have any allegation during the review period. The most recent allegation for HCC occurred in 2017.

There was no corrective action identified for this standard.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

#### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures?  Yes  No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment  Yes  No

- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement?  Yes  No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?  Yes  No

#### 115.31 (b)

- Is such training tailored to the gender of the inmates at the employee's facility?  Yes  No
- Have employees received additional training if reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa?  Yes  No

#### 115.31 (c)

- Have all current employees who may have contact with inmates received such training?  Yes  No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures?  Yes  No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies?  Yes  No

#### 115.31 (d)

- Does the agency document, through employee signature or electronic verification, that employees understand the training they have received?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining Training Policies and Procedures is found in AR 360, Correctional Employee/Officer Basic Pre-Service Training, which states: The Department provides a Correctional Employee/Officer Basic Pre-Service Training (PST) program, which includes a minimum of 80 hours for non-custody and a minimum of 160 hours for custody staff. The PST course curriculum, at a minimum, will comply with Chapter 289 of the Nevada Revised Statutes (NRS) and NAC for Category III Peace Officers and the Department's Administrative Regulations and Directives. All staff are required to attend the Department's PST

AR 421 states:

1. All employees who have contact with inmates will receive instruction on the requirements and responsibilities of PREA in pre-service training.
  - A. All employees who may have contact with inmates will receive refresher training on the requirements and responsibilities of PREA every two (2) years.
  - B. In years which an employee does not receive PREA refresher training the employee, shall receive refresher information on current PREA policies.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA, states:  
Section 421.06, Employee Training

1. All employees who may have contact with inmates will receive instruction on PREA in pre-service training. The training will include the following:
  - A. Zero Tolerance Policy;
  - B. How to report, detect, prevent and respond to such allegations;
  - C. Inmate's right to be free from sexual abuse/harassment;
  - D. Inmate's right to be free from retaliation from reporting incidents;
  - E. The dynamics of sexual abuse and harassment in confinement;
  - F. The common reactions of sexual abuse and harassment victims;
  - G. How to detect and respond to signs of threatened and actual abuse;
  - H. How to avoid inappropriate relationships with inmates;
  - I. How to communicate effectively and professionally with the LGBTI or gender nonconforming inmates; and
  - J. How to comply with relevant laws related to mandatory reporting.

The auditor was provided with a copy of the PST PREA (revised 01/2020) for review. The lesson plan contained all required components. Also, 2019 IST – online PST for staff was provided.

PREA Training certificates were provided for the 2019 on-line training course. Each staff member must review the materials provided in the lesson plan and then complete a quiz. They must pass with 100% to receive the certificate.

A NDOC 1954 PREA Training Acknowledgement form was provided with PAQ. The form outlines the training that was given and at the bottom of the form, before the employee signature, it states: "I

understand my rights and responsibilities as an employee NDOC. I understand NDOC has a “Zero Tolerance” policy regarding staff on inmate sexual abuse and harassment, inmate on inmate sexual abuse and harassment and failure to report. I also understand failure to abide by the zero tTolerance policy could result in disciplinary action.” Because 2019 training was provided on-line, the quiz was put in place to ensure staff understanding of the materials.

All of the 12 random staff interviewed indicated they had completed PREA refresher on-line training during the 2020 calendar year.

There was no corrective action identified for this standard.

## Standard 115.32: Volunteer and contractor training

### 115.32 (a)

- Has the agency ensured that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency’s sexual abuse and sexual harassment prevention, detection, and response policies and procedures?  Yes  No

### 115.32 (b)

- Have all volunteers and contractors who have contact with inmates been notified of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates)?  Yes  No

### 115.32 (c)

- Does the agency maintain documentation confirming that volunteers and contractors understand the training they have received?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy on Volunteer and Contractor Training is found in AR 802, Community Volunteer Program, which states:

D. An approved volunteer must complete the Department's initial Volunteer Training before entry to any institution/facility.

- (1) According to PREA standard 115.32 all volunteers that have contact with inmates will receive training on PREA and NOOC Zero Tolerance policy.
- (2) Documentation confirming volunteers understand the NDOC PREA policy and training will be maintained.
- E. Refresher Volunteer Training is required every three years. Failure to attend will result in the revocation of volunteer status.
9. All volunteers enter the Department at their own risk and must acknowledge in writing that by the act of volunteering, the volunteer assumes the risks inherent in any prison environment and understands the policy that the Department does not negotiate with hostage-takers in the event of an incident.
- C. A volunteer must agree, as an adjunct employee, to abide, by all NDOC policies, rules, regulations and procedures.
- H. A volunteer may not engage in sexual abuse or harassment with an inmate, to include romantic relationships.

#### Section 802.02, Dual Status Forbidden

2. If circumstances suggest that a volunteer has been compromised into a personal relationship with an inmate, or through any other situation or event, that volunteer will be excluded from the institution/facility pending an investigation into the situation.
3. A volunteer who is found to have been compromised will be permanently barred from participating as a volunteer for the Department in any capacity.
- A. PREA related incidents will be reported to the JG and investigated.

AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:  
Section 421.06, Contractor and Volunteer Training

1. The Department shall ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the Department's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. All volunteers and contractors who have contact with inmates will receive training on their responsibilities under the department's zero tolerance policy and procedures.

The PREA Manual states:

1. All volunteers and contractors for the Department who have contact with inmates will be trained on their responsibilities and reporting requirements on sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

Five NDF employees were interviewed as contract staff. All indicated they had completed PREA training within the prior twelve months. All of the contractors interviewed indicated that they have received information on the agency's zero tolerance policy and have been instructed on how to report. All indicated that if they were made aware of an allegation, they would notify their supervisor immediately.

No medical staff, other contractors, or volunteers are currently assigned at HCC.

The NDF lesson plan (updated 03/2016) was provided to the auditor. It outlines the expectations of the Department related to the zero tolerance policy on sexual abuse and sexual harassment and informs NDF staff how to make a report.

The NDF contract was provided. It became effective on 9/12/17 and will remain in effect for 5 years. It addresses all required training and clearance requirements for NDF staff to take temporary custody of offenders. Training Acknowledgement forms were provided for six (out of the 10 total) of the NDF staff assigned at HCC.

AR 212, Contracts, states:

The level and type of training provided to contractors shall be based on the services they provide and the level of contact they have with inmates. All contractors who have contact with inmates shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

NDOC 1953, PREA Zero Tolerance Policy Form is used to provide information to contractors and volunteers about zero tolerance and their duty to report. They certify, by signing the form that they have read and understand the information contained on the form.

NDOC 051, Volunteer Training/Orientation Acknowledgement Form, above the signature of the volunteer, he/she certifies:

I attended the Volunteer Training and was given the opportunity to ask questions and discuss the subject matter taught. I am aware of my responsibilities as a Volunteer, Educational staff member, or contractor and understand that failure to follow NDOC Policies and Procedures can result in removal from the Volunteer Program and/or Gatehouse List.

I understand the training given on the above subject of PREA and have a good understanding of this topic within the guidelines of the NDOC. I understand the NDOC has a "Zero Tolerance" Policy regarding volunteers/staff/contractors on inmate sexual abuse and harassment as well as inmate on inmate sexual abuse and harassment.

There was no corrective action identified for this standard.

## Standard 115.33: Inmate education

### 115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No
- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment?  Yes  No

### 115.33 (b)

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment?  Yes  No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents?  Yes  No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents?  Yes  No

### 115.33 (c)

- Have all inmates received the comprehensive education referenced in 115.33(b)?  Yes  No
- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility?  Yes  No

#### 115.33 (d)

- Does the agency provide inmate education in formats accessible to all inmates including those who are limited English proficient?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who are deaf?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who are visually impaired?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who are otherwise disabled?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills?  Yes  No

#### 115.33 (e)

- Does the agency maintain documentation of inmate participation in these education sessions?  Yes  No

#### 115.33 (f)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy that addresses inmate education is found in AR 511, Inmate Orientation Program. It states: The orientation process will ensure that inmates receive the following:



(K) Information regarding PREA.

AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:  
Section 421.07, Inmate Education

1. During initial intake orientation all inmates will receive information explaining the Department's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
2. Within thirty (30) days of intake, the Department shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding Departmental policies and procedures for responding to such incidents.
3. All inmates will be afforded education in formats accessible to everyone, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.
4. Documentation of inmate participation in these education sessions will be contained within the NOTIS case management module.
5. In addition to providing such education, key information will be continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

AR 658, Hearing Impaired Inmates, states:

The ADA coordinator will ensure that deaf and hearing-impaired inmates are provided access to auxiliary aids and services when required for effective communication in accessing and participating in departmental programs, services, and activities. Such programs, services and activities include, but are not limited to: (H) PREA reporting and/or follow-up with any PREA concerns.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA, states:  
Section 421.08, Inmate Education

1. During initial intake and orientation HCC will ensure all inmates receive information explaining the Department's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment during the intake process.
2. Within thirty (30) days of intake, HCC will provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding Departmental policies and procedures for responding to such incidents.
3. HCC will provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.
4. HCC will document inmate participation in these education sessions using the NOTIS Reporting system.
5. In addition to providing such education, HCC will ensure that key information is continuously and readily available or visible to inmates through posters, flyers, video, or other written formats.
6. The Institution shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.
  - a. NDOC prohibits the use of inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under § 115.64, or the investigation of the inmate's allegations.
  - b. In limited circumstances, any use of inmate interpreters, inmate readers, or other types of inmate assistants must be justified and documented in NOTIS.
7. The Institution shall maintain documentation of inmate participation in these education sessions.

Information will be continuously and readily available and/or visible to inmates through posters, inmate handbooks, or other written formats.

HCC OP 504, Processing of Inmates Received at HCC Reception, states:

Section 504.02, Inmate Classification

PREA Requirements

A. All inmates will be required to watch a 3-minute video within 72 hours of intake on PREA and reporting. Alternative formats will be accessible to all inmates including those who are:

1. Limited English proficient (Video and flyers in Spanish)
2. Deaf – Comprehensive Pamphlets
3. Visually impaired – Comprehensive Braille Pamphlet
4. Otherwise disabled – Case by case basis with staff assistance
5. Limited in their reading skills – Case by case basis with staff assistance

B. Inmates will be required to sign and acknowledge understanding of the PREA video using HCC Form 3707, which will be forwarded by the classification committee at intake to the inmate's assigned caseworker.

C. Inmates will receive a PREA education flyer on how to report incidents of sexual abuse/harassment upon arrival.

OP 511, Inmate Orientation Procedures, states:

Within 30 days of intake, the Institution shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free retaliation for reporting such incidents.

The Institution shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. HCC will use the services provided by CTS language services to help with any language barriers.

o NDOC prohibits the use of inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under § 115.64, or the investigation of the inmate's allegations.

The facility reported that in the past 12 months, there have been 194 inmates who received comprehensive education within 30 days of intake.

The two staff who are responsible to complete the intake process at HCC were interviewed. Both indicated that upon an inmate's arrival at HCC, they are shown a 3-minute PREA video and given a pamphlet which describes how to report incidents of sexual abuse or sexual harassment. The inmate signs the HCC form 3707 certifying he saw the 3-minute video and understood it's content. This initial information is typically provided on the day the inmate arrives. The inmate is shown a 15-minute PREA video and provided an opportunity to ask any questions that he might have to the Lieutenant or the caseworker. This is typically completed within a week of arrival. The caseworker also indicated the inmate may request copies of the ARs and Operational Procedures for the camp through her. In addition, both indicated there are posters placed in prominent location around the facility, which contain information about reporting.

The auditor was provided with a blank copy of the HCC form 3707, HCC Intake PREA Assessment Form, with the PAQ. The HCC 3707 provides basic information to the offender and has him certify that he watched a 3-minute PREA video and received a PREA pamphlet within 72 hours of arrival. This form is available in English and Spanish. The brochure provides answers to some basic questions and provides reporting information and the contact information for access to emotional support.

All of the 19 inmates interviewed indicated they watched a brief video and were given written paperwork during the intake process. Five of the 19 inmates also indicated that staff talked to them about PREA after they saw the video. All of the inmates interviewed indicated the information they received during intake included their right to be free from sexual abuse or sexual harassment, how to report sexual abuse or sexual harassment, and the right to not be punished for reporting sexual abuse or sexual harassment. Sixteen of the inmates indicated their intake processing and the PREA information happened on the day they arrived at HCC. One inmate indicated it happened on his second day at HCC, one inmate indicated it was about a week after he arrived, and one inmate indicated he didn't recall when it happened.

Informational posters, located in various spots around the facility, give the inmate a lot of information about reporting including contact numbers and addresses. These posters are in English and Spanish.

During the tour of the facility, the auditor noted the facility has PREA posters and posters regarding emotional support services available to the inmates. The auditor noted these posters in almost every building at the facility. There were a few locations where the posters had been removed; and staff replaced them prior to the exit briefing being completed. They opted to laminate the posters before putting them up, this might help with the posters being taken down to be used for scrap paper by the inmates.

The auditor reviewed the files of 21 inmates currently assigned at HCC. Of those 21 inmates, all received initial PREA information within 72 hours of arrival and the comprehensive education between 4 and 22 days of arrival. This is documented by having the inmate sign the Form 3707 when they are given the initial pamphlet upon arrival and when they meet with the Lieutenant or Caseworker after seeing the 15-minute video.

There was no corrective action identified for this standard.

## Standard 115.34: Specialized training: Investigations

### 115.34 (a)

- In addition to the general training provided to all employees pursuant to §115.31, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators receive training in conducting such investigations in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

### 115.34 (b)

- Does this specialized training include techniques for interviewing sexual abuse victims? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA
- Does this specialized training include proper use of Miranda and Garrity warnings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

- Does this specialized training include sexual abuse evidence collection in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA
  
- Does this specialized training include the criteria and evidence required to substantiate a case for administrative action or prosecution referral? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

### 115.34 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

### 115.34 (d)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining agency training is found in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, mandates that in addition to the general training provided to all employees, the facility shall ensure that, to the extent the agency itself conducts sexual abuse investigations; its investigators have received training in conducting such investigations in a confinement setting. This agency is responsible for conducting both administrative and criminal investigations on sex abuse cases. Policy requires that the agency maintain documentation that investigators have completed the required specialized training in conducting sexual abuse investigations.

AR 421 also requires specialized training to include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecutor referral.

The approved PREA Manual states:

1. All staff of the Department that conduct investigations related to PREA sexual abuse and/or sexual harassment of inmates by other inmates are required to receive and successfully complete training focused on sexual abuse or sexual harassment in the confinement setting. The training will include:
  - a. Techniques for interviewing sexual abuse victims;

- b. Proper use of Miranda and Garrity warnings;
  - c. Sexual abuse evidence collection in confinement settings; 7 and
  - d. Criteria and the evidence required to substantiate a case for administrative, penal code of discipline or prosecution referral.
2. An on line course specifically developed for specialized training for investigations of sexual abuse and sexual harassment in confinement is available on the PREA Resource Center web site under Training and Technical Assistance. A certificate of completion is available once the participant successfully completes the examination at the end of the block of instruction.
  3. The PMT and EDD will maintain documentation that staff who conduct PREA investigations have completed the required training related to the confinement setting.
  4. Only investigative staff assigned to the I G's office will conduct investigations into allegations or reports of sexual abuse or suspected sexual abuse of an inmate by a staff member.

One investigator from the IG's Office was interviewed. He indicated that he completed the specialized training in 2014 through computer based training at the National Institute of Corrections. Topics included: techniques for interviewing sexual abuse victims; proper use of Miranda and Garrity warnings; sexual abuse evidence collection in confinement settings; and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. He also indicated he completes the refresher training for investigators annually through the NDOC.

The auditor was provided with a link to the training information and a copy of the power point presentation. Two courses were provided. NIC Advanced Specialized Training and NIC Investigator Training. Upon review of the power point presentation, it was noted that all required components are addressed in the training materials.

The auditor received training records of investigative staff. There are 20 staff who have received the specialized training for investigators. The Lt. is the only staff member assigned at HCC who has completed the investigator training. All others are assigned to the IG's office. Certificates were provided for all IG and HCC investigators.

The auditor was provided with a copy of a memorandum, dated March 17, 2017, from PREA Program Officer which indicates the IG has 19 category I/II criminal investigator positions who are sworn Peace Officers. All investigators may be assigned PREA criminal or internal affairs investigations. All investigators have completed specialized training. Training Curriculum, entitled "PREA Investigating Sexual Abuse in a Confinement Setting", was reviewed by the PREA Resource Center to ensure compliance with the standards.

There was no corrective action required for this standard.

## Standard 115.35: Specialized training: Medical and mental health care

### 115.35 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of

sexual abuse? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA

#### 115.35 (b)

- If medical staff employed by the agency conduct forensic examinations, do such medical staff receive appropriate training to conduct such examinations? (N/A if agency medical staff at the facility do not conduct forensic exams or the agency does not employ medical staff.)  Yes  No  NA

#### 115.35 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA

#### 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners employed by the agency.)  Yes  No  NA
- Do medical and mental health care practitioners contracted by or volunteering for the agency also receive training mandated for contractors and volunteers by §115.32? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.)  Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Overall Compliance Determination Narrative

AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:  
Section 421.05, Staff Duty to Report Misconduct

1. Any employee, contractor, or volunteer who has any knowledge, suspicion, information or becomes aware of any alleged act of sexual abuse or sexual harassment by another employee, contractor, or volunteer is required to immediately report the knowledge, suspicion, or information to his or her immediate supervisor.

A. In the event that the allegations of misconduct concern the employee, contractor or volunteer's immediate supervisor, the report should be made up the chain of command. The report of the alleged act of misconduct will not be referred to a employee, contractor, or volunteer who is the subject of the accusation.

The auditor was provided with screen-prints from PREA on-line training for medical and mental health staff, which is provided by the National Institute of Corrections.

Per a memorandum, dated August 10, 2020, by the Acting Warden, HCC does not have medical or mental health practitioners assigned to work at HCC. Generally, inmates housed at HCC receive medical and mental health care at either LCC or an outside medical provider (e.g. local hospital).

In circumstances that medical and/or mental health care is provided on site (e.g. exit blood draws, tuberculosis testing, COVID-19 testing), such care is provided by employees of LCC/NDOC.

There was no corrective action identified for this standard.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

### Standard 115.41: Screening for risk of victimization and abusiveness

#### 115.41 (a)

- Are all inmates assessed during an intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates?  Yes  No
- Are all inmates assessed upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates?  Yes  No

#### 115.41 (b)

- Do intake screenings ordinarily take place within 72 hours of arrival at the facility?  
 Yes  No

#### 115.41 (c)

- Are all PREA screening assessments conducted using an objective screening instrument?  
 Yes  No

#### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)



- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, as known to the agency, prior acts of sexual abuse?  Yes  No
- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, as known to the agency, prior convictions for violent offenses?  Yes  No
- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, as known to the agency, history of prior institutional violence or sexual abuse?  Yes  No

#### 115.41 (f)

- Within a set time period not more than 30 days from the inmate's arrival at the facility, does the facility reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening?  Yes  No

#### 115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a referral?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a request?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to an incident of sexual abuse?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness?  Yes  No

#### 115.41 (h)

- Is it the case that inmates are not ever disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section?  Yes  No

#### 115.41 (i)

- Has the agency implemented appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

**Does Not Meet Standard** (*Requires Corrective Action*)

### **Overall Compliance Determination Narrative**

The policy outlining the screening procedures is found in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, which states:

All inmates shall be assessed for their risk of being sexually abused by or abusive toward other inmates during an intake screening and upon transfer to another institution/facility. The PREA risk screening assessment tool is confidential.

OP 573-PREA Screening and Classification, states:

A) initial screening should take place as soon as possible, but shall be completed within 72-hours of arrival at an institution or facility. Whenever possible, and consistent with the safety and security needs of the institution or facility, inmates are not to be housed together in two-person cells prior to PREA screening. A casenote (PREA-Intake Assessment) will be generated to document said action. A corresponding NOTIS alert will be entered on all known victims (PREA-High risk of sexual victimization) and all known predators (PREA-High risk of sexual abusiveness).

B) Within a set time period, not to exceed 30 days from the inmate's arrival at the facility, a Correctional Caseworker will reassess the inmate's risk of victimization or potential for abusiveness toward other inmates based upon any additional relevant information which may have been received since the initial screening.

C) Transgender/Intersex inmates will be reassessed at each 6-month regular review and a casenote (PREA-Special Referral Assessment) will be entered to document said action.

D) Inmates will be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of being sexually victimized or being sexually abusive. A casenote (PREA-Special Referral Assessment) will be generated reflecting this assessment.

If during a PREA Risk Assessment it is learned that an inmate has been found guilty of a MJ19 – Sexual Assault and/or is a known inmate-on-inmate abuser, the PREA Compliance Manager or Associate Warden must be notified immediately. If this is the first instance where an inmate's guilty MJ19 and/or known inmate-on-inmate abuse is being reported, the PREA Compliance Manager will refer the inmate to mental health within 60 days for purposes of obtaining a mental health evaluation and treatment when deemed appropriate by mental health practitioners.

AR 573, PREA Screening and Classification, states:

Section 573.01, PREA Screening and Classification

1. All inmates shall be assessed for their risk of being sexually abused by other inmates or sexually abusive toward other inmates in accordance with Federal PREA standards.

A. Initial screening should take place as soon as possible, but shall be completed within 72 hours of arrival at an institution or facility, excluding holidays. Whenever possible, and consistent with the safety and security needs of the institution or facility, inmates are not to be housed together in two-man cells prior to PREA screening.

B. Within 30 days from the inmate's arrival at the facility, a Correctional Caseworker will reassess the inmate's risk of victimization or potential for abusiveness toward other inmates based upon any additional, relevant information which may have been received since the initial screening.

C. Inmates will be reassessed at each 6 month regular review.

D. Inmates will be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of being sexually victimized or being sexually abusive.

2. The PREA Risk Assessment will be used for all screenings and assessments and will include the following factors:

- Possible Victim Factors:
  - Whether the inmate has a mental, physical or developmental disability.
  - The age of the inmate.
  - The physical build of the inmate.
  - Whether the inmate has previously been incarcerated.
  - Whether the inmate's criminal history is exclusively nonviolent.
  - Whether the inmate has prior convictions for sex offenses.
  - Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.
  - Whether the inmate has previously experienced sexual victimization.
  - The inmate's own perception of vulnerability.
  - A transgender and/or intersex inmate's own views with respect to his/her safety shall be given serious consideration.
- Possible Aggressor Factors:
  - History of institutional violent behavior.
  - Any history of sexual abuse.
  - History of convictions for violent offenses.
  - History of correctional facility sexual abuse, which may include violations contained in AR 707 that are of a sexual nature.

Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked during assessments.

Confidentiality and Documents:

- Only medical, mental health and classification staff will have access to PREA documentation, unless a security incident dictates custody staff may need the information for safety and security of involved inmates or staff.
- Classification may share PREA information on case-by-case, need to know, basis to ensure safety and security of the institution and inmates.
- All PREA Risk Assessments will be completed by classification and stored in NOTIS upon completion. PREA Risk Assessments are considered confidential and may not be viewed by inmates.

AR 573, PREA Screening and Classification, outlines all of the factors for potential victims and potential aggressors. The factors are detailed on page 2 of the policy.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, reads:

Section 421.08, Inmate Screening

1. All inmates will be assessed within 72 hours of arrival at HCC and upon transfer to another institution/facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.
2. Screening will be done by the Camp Lieutenant and Classification staff using the screening criteria established in PREA standard 115.41.
3. Inmates will be reassessed within thirty days of their arrival at HCC to ensure no changes to their victimization assessment.
4. Inmates may NOT be disciplined for refusing to answer, or for not disclosing complete information in response to the victimization screening assessment.
5. An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

6. Information disclosed during victimization screening is for the purpose of appropriate classification, housing, programming assignments. Staff is to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.

7. Inmates at high risk for sexual victimization shall NOT be placed in involuntary segregated housing unless an assessment of all available alternatives has been made and there are no available alternative means of separation from likely abusers. Such an assignment shall be temporary until and alternative means of separation can be arranged and should not ordinarily exceed a period of thirty (30) days. The due process case note documenting this status should include:

A. The basis for the facility's concern for the inmate's safety

B. The reason why no alternative means of separation can be arranged

C. Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If such access is restricted, the following must be documented in the due process case note:

o The opportunities that have been limited

o The duration of the limitation

o The reasons for such limitations

D. Inmates placed in involuntary segregated housing shall be reviewed every thirty (30) days to determine if the need for separation continues to exist.

HCC OP 511, Inmate Orientation Procedures, states:

Section 511.04, Inmate PREA Screening

Information disclosed during victimization screening is for the purpose of appropriate classification, housing, programming assignments. Staff is to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.

Two staff were interviewed who are responsible to complete the PREA Risk Screening process with inmates. Both staff indicated they are responsible for screening all newly arriving inmate for their risk of sexual victimization or abusiveness. They stated the inmates are typically screened on the day they arrive at the camp. Both staff reported the risk screening tool considers age, physical build, mental and physical disability, sexual orientation, prior victimization, prior incarceration, and vulnerability of the inmate. They stated the inmate is shown the 15-minute PREA video and then taken into the staff's office. The door is closed and the employee brings the screening form up on the computer and asks the inmate the questions. The form is completed while the inmate is sitting there. They also have the inmate sign the acknowledgement form that he saw the video while he is meeting with them. Both staff interviewed indicated the reassessment is usually completed within 10 days of the inmate's arrival at HCC. It must be completed before he is given a work assignment. They stated the inmate's risk level would be reassessed if they received a referral, request, incident of sexual abuse, or receipt of additional information that could impact an inmate's risk of sexual victimization or abusiveness. Both indicated that an inmate would not be disciplined in any way for refusing to respond to or for not completely disclosing information related to mental, physical, or developmental disability; status as LGBTI; previous sexual victimization; or his perception of vulnerability. Both of the staff indicated access to the information from the risk screening is limited to the caseworker and supervisory staff at the camp.

The PREA Coordinator, during her interview, indicated the agency has identified classifications of staff who have access to the information from the risk screening. The classifications who have access include classification staff, supervisory staff at the level of Lieutenant and above, and the staff in the IG's Office.

During the interview with the PCM, she stated that casework staff and administrators have access to the risk screening information in NOTIS.

Of the 19 inmates interviewed, 16 stated they were asked the PREA questions on the day they arrived at HCC. One inmate indicated it happened the week after he arrived, one indicated he remembered

being asked the questions, but couldn't recall when it was done, and one inmate stated he wasn't sure if it happened when he arrived at HCC. Thirteen indicated they had a follow-up meeting about PREA with either the caseworker or lieutenant. Three indicated they did not recall or weren't sure and three indicated they did not have a follow-up meeting about PREA. Of the 13 who remembered the follow-up meeting, the timeframe in which the meeting was conducted varied. The responses ranged from it being completed within a couple of days after arrival up to around a month after arrival.

The auditor reviewed the inmate files of those who indicated they didn't recall the reassessment and noted the following: the inmate who arrived in 2017 had been reassessed five days after arrival; the inmate who arrived in 2018 had been reassessed 8 days after arrival; and the 4 inmates who arrived in 2020 had been reassessed between 7 days and 15 days after arrival.

During the tour of the facility, the auditor was informed that intake at the camp has been significantly limited due to COVID-19 concerns. Within NDOC, as a whole, inmate movement has been curtailed in an effort to control and manage the spread of the virus. There were no inmates scheduled to arrive at HCC during the time of the on-site portion of the audit.

The auditor was provided with the NDOC form 2097, PREA Risk Assessment (paper version), and noted that all components required per the standard were included in the assessment.

The auditor asked about reassessment due to new information being received or sexual abuse or harassment allegations being made, and was told there were no reassessments for risk of sexual victimization or abusiveness completed because no new information had been received and there were no allegations made during the audit period.

There was no corrective action identified for this standard.

## Standard 115.42: Use of screening information

### 115.42 (a)

- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Housing Assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Bed assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Work Assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Education Assignments?  Yes  No

- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments?  Yes  No

#### 115.42 (b)

- Does the agency make individualized determinations about how to ensure the safety of each inmate?  Yes  No

#### 115.42 (c)

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider, on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or female facility on the basis of anatomy alone, that agency is not in compliance with this standard)?  Yes  No
- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems?  Yes  No

#### 115.42 (d)

- Are placement and programming assignments for each transgender or intersex inmate reassessed at least twice each year to review any threats to safety experienced by the inmate?  Yes  No

#### 115.42 (e)

- Are each transgender or intersex inmate's own views with respect to his or her own safety given serious consideration when making facility and housing placement decisions and programming assignments?  Yes  No

#### 115.42 (f)

- Are transgender and intersex inmates given the opportunity to shower separately from other inmates?  Yes  No

#### 115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  Yes  No  NA
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay,

bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  Yes  No  NA

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy associated with use of screening information is found in AR 573, PREA Screening and Classification, which states:

PREA Designations

(1) The results of the NDOC approved PREA Risk Assessment will determine the PREA designations and will be considered in classification and placement decisions.

Section 573.02, Institutional Placement based on Gender Identity, states:

1. In deciding whether to assign a transgender or intersex inmate to a facility/institution for male or female inmates, and in making other housing and programming assignments, the agency shall consider, on a case-by-case basis, whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security risks. Reference should also be made to Administrative Regulation 494. The following factors will be taken into account for housing and programming:

a. A transgender or intersex's own views with respect to his or her own safety;

b. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates; and

c. Lesbian, gay, bisexual, transgender, or intersex inmates will not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status.

2. A classification review committee consisting of a certified medical/mental health practitioner, IG's Office, PREA management team member, and a designated staff member from Offender Management will determine appropriate institutional placement of a transgender or intersex inmate based on the review.

a. The classification review committee will conduct an individual assessment based upon their specific area of expertise, knowledge, and control.

- b. All documentation, information, and recommendations of the review committee are confidential and will be maintained in a secure location.

#### Section 573.03, Housing and Placement based on PREA Classification

1. Staff shall use information from the risk assessment to make informed housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Staff shall make individualized determinations about how to ensure the safety of each inmate.

AR 573 also states:

1. In deciding whether to assign a transgender or intersex inmate to a facility/institution for male or female inmates, and in making other housing and programming assignments, the agency shall consider, on a case-by-case basis, whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security risks. Reference should also be made to Administrative Regulation 494. The following factors will be taken into account for housing and programming:

- a. A transgender or intersex's own views with respect to his or her own safety;
- b. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates; and
- c. Lesbian, gay, bisexual, transgender, or intersex inmates will not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status.

2. A classification review committee consisting of a certified medical/mental health practitioner, IGI's Office, PREA management team member, and a designated staff member from Offender Management will determine appropriate institutional placement of a transgender or intersex inmate based on the review.

- a. The classification review committee will conduct an individual assessment based upon their specific area of expertise, knowledge, and control.
- b. All documentation, information, and recommendations of the review committee are confidential and will be maintained in a secure location.
3. Transgender/Intersex inmates will be reassessed every six (6) months for placement and programming needs.

AR 494, Transgender and Intersex Inmates, was approved in February 2020. It outlines the agency expectation on addressing the needs of transgender and intersex inmates.

HCC OP 504, Processing of Inmates Received at HCC Reception, states:

F. Staff will use the information from the PREA Risk Assessment screening and house those inmates scoring as high risk of being sexually victimized in an area separate from those scoring at a high risk to be sexually abusive.

HCC OP 573, PREA Screening and Classification, states:

#### Section 573.02, Housing and Placement Based on PREA Classification

1. Staff shall use information from the risk assessment to make informed housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Staff shall make individualized determinations about how to ensure the safety of each inmate.

2. Prior to initiating a bed move, the caseworker must check PREA Alerts for victimization and/or abusiveness.

A. At no time will a known victim and a known aggressor be housed together in a 2 man cell.

B. A possible victim and a possible aggressor should not be housed together unless necessary.

C. Non-victims and non-aggressors may be housed with any other category, subject to individual case factors.



3. All program, education and work assignments shall be monitored and supervised by custody or free staff at all times to ensure safety and security of all inmates.

The PREA Coordinator indicated, during her interview, that HCC is not under any consent decree, legal settlement or legal judgement, which dictates housing of inmates who identify as lesbian, gay, bisexual, transgender or intersex.

The PCM indicated the risk screening tool is completed and the information is utilized along with other case factors to identify appropriate housing for the inmate. The facility considers several case factors in identifying appropriate housing for the inmate. This would include the inmate's health and safety and if placement would potentially create management or security concerns. The PCM indicated that placement and programming assignments are reassessed every six months for transgender and intersex inmates and that their views with respect to their own safety are given serious consideration in placement and programming assignments. All showers at HCC are individual shower stalls with a curtain over the front. If the transgender inmate were still uncomfortable, accommodations would be made for the inmate to shower at a different time. The PCM reported that the facility does not house gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of their status. They are not under a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

The two staff who complete the risk screening process stated that all showers at HCC are individual shower stalls with a curtain over the front. Staff indicated that accommodation would be made if the transgender inmate stated they were uncomfortable using one of the showers while other inmates were showering. Both staff indicated that if there were transgender or intersex inmates at the camp, their housing and program would be reassessed twice per year and any safety concerns they expressed would be given serious consideration. The information from the risk screening is considered when identifying appropriate housing. They try to house inmates of similar age and build in the two-person rooms. They do not house potential victims with potential aggressors.

The interview protocol required that a transgender or intersex inmate be interviewed. There were no inmates assigned at HCC during the on-site visit who identified as transgender or intersex; therefore, no interviews were completed.

During the tour of the housing unit, the auditor noted that the showers are individual shower stalls with shower curtains over the front of each one. The auditor did not identify any facilities, units or wings assigned to specifically house gay, bisexual, transgender or intersex inmates.

There was no corrective action identified for this standard.

## Standard 115.43: Protective Custody

### 115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers?  Yes  No

- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment?  
 Yes  No

#### 115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible?  Yes  N/A
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible?  Yes  N/A
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible?  Yes  N/A
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible?  Yes  NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the opportunities that have been limited? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.)  Yes  No  NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the duration of the limitation? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.)  Yes  No  NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the reasons for such limitations? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.)  Yes  No  NA

#### 115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged?  
 Yes  N/A
- Does such an assignment not ordinarily exceed a period of 30 days?  Yes  N/A

#### 115.43 (d)

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document the basis for the facility's concern for the inmate's safety?  Yes  N/A
- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document the reason why no alternative means of separation can be arranged?  Yes  N/A

#### 115.43 (e)

- In the case of each inmate who is placed in involuntary segregation because he/she is at high risk of sexual victimization, does the facility afford a review to determine whether there is a continuing need for separation from the general population EVERY 30 DAYS?  Yes  N/A

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy that addresses protective custody is AR 573, PREA Screening and Classification, which states:

Section 573.03, Segregation of Inmates Under PREA

1. Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made and it has been determined that there are no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing no more than 24 hours while completing the assessment. This assessment will determine if an immediate institutional bed move will alleviate the issue. If not, the inmate will be given a Notice for Placement in Administrative Segregation and will be seen by the Caseworker within 72 hours to determine the appropriate placement of the inmate. This review will include a reassessment using the PREA Risk Assessment instrument.
2. Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document:
  - A. The opportunities that have been limited;
  - B. The duration of the limitation; and
  - C. The reasons for such limitations.
3. The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.
4. If an involuntary segregated housing assignment is made, the facility shall clearly document:
  - A. The basis for the facility's concern for the inmate's safety; and
  - B. The reason why no alternative means of separation can be arranged.
5. Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:

1. HCC shall employ protection measures for both victims and abusers, such as monitoring housing changes, transfers, job assignments, program assignments, negative work reviews, and custody status. HCC will also ensure separatees offender non-associations are entered into the NOTIS tracking system.
  - A. Any use of Segregated Housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of standard 115.43

HCC OP 573, PREA Screening and Classification, states:

Section 573.03, Segregation of Inmates Under PREA.

1. Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made and it has been determined that there are no available alternative means of separation from likely abusers.

A. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing no more than 24 hours.

(1) During weekends or holidays the PREA Compliance Manager or Associate Warden must be notified to make appropriate arrangements.

B. If the inmate voluntarily requests segregated housing, the inmate will be seen by classification within 72 hours of segregation.

2. Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document:

A. The opportunities that have been limited;

B. The duration of the limitation; and

C. The reasons for such limitations.

While interviewing the acting Warden, he indicated that agency policy prohibits placing inmates who have been identified as high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been completed, and there is no alternative housing options to separate the potential victim from a likely abuser. He stated that inmates who are placed in involuntary segregated housing will be kept there for the shortest amount of time possible. He further stated that placing an inmate who is high risk of sexual victimization or a victim of sexual abuse in involuntary segregated housing is not authorized at his facility.

The interview protocol required the auditor to interview staff who supervise inmates in segregated housing and Inmates in segregated housing (for risk of sexual victimization/who allege to have suffered sexual abuse); however, there were no staff who supervise segregated housing and no inmates in segregated housing, so these interview protocols were not utilized.

The auditor reviewed the housing roster for the facility along with the inmate tracking log and determined there were no inmates who had been identified to be at high risk of sexual victimization, currently housed at HCC.

During the tour, the auditor noted there is no segregated housing at HCC. If an inmate requires this type of housing, he is transported to LCC or another institution based on the circumstances.

Per a memorandum authored by the acting Warden, HCC does not house inmates in segregation. As such, HCC housed zero inmates in involuntary segregated housing during the twelve (12) month audit period of July 2019 through July 2020.

There was no corrective action identified for this standard.

## REPORTING

### Standard 115.51: Inmate reporting

#### 115.51 (a)

- Does the agency provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment?  Yes  No
- Does the agency provide multiple internal ways for inmates to privately report retaliation by other inmates or staff for reporting sexual abuse and sexual harassment?  Yes  No
- Does the agency provide multiple internal ways for inmates to privately report staff neglect or violation of responsibilities that may have contributed to such incidents?  Yes  No

#### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the inmate to remain anonymous upon request?  Yes  No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes)  Yes  No  NA

#### 115.51 (c)

- Does staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties?  Yes  No
- Does staff promptly document any verbal reports of sexual abuse and sexual harassment?  Yes  No

#### 115.51 (d)

- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of inmates?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy outlining inmate reporting can be found in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA. Policy requires the facility to provide multiple internal ways for offenders to privately report sexual abuse/harassment, retaliation by other offenders or staff for reporting sexual abuse/harassment, and staff neglect or violations of responsibilities that may have contributed to such incidents.

Policy further mandates the facility to provide at least one way for offenders to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward offender reports of sexual abuse/harassment to agency officials, allowing the offender to remain anonymous upon request.

The standard requires that offenders detained solely for civil immigration purposes be provided with information on how to contact relevant consular officials and relevant officials at the department of homeland security. Through discussion with the PREA Coordinator, NDOC does not house offenders detained solely for civil immigration reasons.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:  
Section 421.10, Reporting

1. HCC will accept reports from any and all sources to include but not limited to: inmates, visitors, inmate family members, associates, and other community members. These individuals can privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

A. Such reporting can include, but not limited to:

1. Verbal complaints to any Departmental employee;

2. Written complaints, which may be made through the following processes:

a. Inmate grievances

1. Grievances alleging staff on inmate sexual misconduct or inmate on inmate sexual abuse will be forwarded immediately to the PREA Compliance Manager and the Associate Wardens followed by a confidential report completed in NOTIS.

2. A copy of the grievance will be forwarded to the PREA Coordinator and Office of the Inspector General for review and investigation.

b. Inmate kites, written notes or letters to staff or administrators, and letters directed to the PREA Coordinator or any member of the Inspector General's Office.

3. NDOC Family Services Office by phone or email at [info@doc.nv.gov](mailto:info@doc.nv.gov).

4. Writing the Nevada Attorney General's Office.

The policy outlining staff reporting procedures requires staff to accept reports made verbally, in writing, anonymously, and from 3<sup>rd</sup> parties and to promptly document any verbal reports. Policy mandates the facility to provide a method for staff to privately report sexual abuse and sexual harassment of offenders. This is accomplished through the chain of command or by contacting the LCC's PCM. Staff are notified of the methods for reporting allegations of sexual abuse or sexual harassment in the staff PREA training.

Examples of brochures and pamphlets were provided to the auditor in English and Spanish.

NDOC 2096-2, PREA Comprehensive Education Information sheet was provided with the PAQ. The form states the following: An inmate may report incidents of sexual assault/abuse/harassment to any employee by informing a staff member in any manner available to him, verbally or in writing. All of the following should be reported: Inmate-on-inmate sexual assault, inmate-on-inmate sexual harassment, inmate-on-inmate sexual abuse, staff-on-inmate sexual assault, staff-on-inmate sexual harassment, and staff-on-inmate sexual abuse. This document is provided to the inmate during the intake process at HCC.

PREA FAQs in English and Spanish were provided with the PAQ. It contains a lot of good information. This document is provided to inmates during the intake process.

The auditor reviewed the agreement with New Mexico Corrections Department, who acts as the outside entity responsible for taking reports. All mandates of the standards are addressed in the agreement and it is in effect until June, 2021. The form that the inmates may use to submit information to NMCD was also provided with the PAQ.

All of the 12 random staff interviewed were able to provide multiple ways that inmates can privately report incidents of sexual abuse or sexual harassment. Some of the ways include: writing a kite and putting it in the box by the officer's station, calling the hotline, telling staff, tell a family member or friend, or write to the New Mexico Corrections Department. They stated they would accept a verbal report from any source and they would document the information that was given to them immediately. All 12 staff were able to provide at least one way that they could privately report allegations of sexual abuse or sexual harassment of inmates. These included: speaking with a supervisor behind a closed door, writing a note and putting it in the grievance box, calling the hotline, or reporting via a third party.

The PCM indicated that inmates are able to contact New Mexico Corrections Department to report abuse or harassment. They can also make a report to Just Detention International. Inmates who are making a report are able to remain anonymous. They can submit a kite, report anonymously to NMCD or anonymously call the IG.

When asked about the ways that inmates can report incidents of sexual abuse or sexual harassment, a summary of the inmate's responses included: 16 indicated they would report it to the sergeant or lieutenant at the camp or to staff, 15 could call the hotline, two could send the written form to New Mexico, and one could write a kite. Several indicated there was no one outside of NDOC that they could report to and the remainder indicated that their family would report on their behalf. When asked if they could make a report without leaving their name, 18 inmates indicated that they could and two were unsure. The auditor took the time to explain how they could utilize the PREA hotline from the inmate telephones and make a report without leaving their name. Of the 19 inmates interviewed, all indicated they could make a report verbally or in writing. Several provided examples of how they would make a report in writing, which included dropping a kite, filing a grievance, and writing to New Mexico. When asked if someone else could make the report for them, 17 said yes, and a few elaborated they could tell family or a friend. Two inmates indicated they were not sure.

During the tour of the facility, the auditor observed posters in many locations around the facility. These posters provide several different methods for reporting. Inmates are also informed about the ways to report during orientation at each new facility, to which they arrive. When they use the inmate pay phone, the recording at the beginning tells them they can report on the PREA hotline, to the IG, by dialing a specific sequence of numbers. Inmates are made aware through the posters and pamphlets that they can report outside of the NDOC to the New Mexico Corrections Department. There is a form and self-addressed, stamped envelope utilized for this reporting. Inmates can get the forms/envelopes from the officer's station, from the caseworker, the sergeant, or the lieutenant. The inmates are not required to use the form, it is provided for ease of use and has the mailing address right on it.

On Friday, October 9, while conducting a tour of the camp, one of the auditors tested the inmate telephones to ensure the report was received by the IG's Office. On Monday, October 12, the auditor received an e-mail confirming that the test call had been received. The e-mail indicated the call was made from HCC, Wing A, Telephone A1 on 10/9/20 at 9:17 am.

The Agency does not detain offenders strictly for civil immigration purposes.

There was no corrective action identified for this standard.

## Standard 115.52: Exhaustion of administrative remedies

### 115.52 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse.  Yes  No

### 115.52 (b)

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)  Yes  No  NA
- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an



inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- Are those third parties also permitted to file such requests on behalf of inmates? (If a third-party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.)  
 Yes  No  NA

#### 115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (g)

- If the agency disciplines an inmate for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the inmate filed the grievance in bad faith? (N/A if agency is exempt from this standard.)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining inmate grievances of sexual abuse is located in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, and 740, Inmate Grievance Process.

Section 740.03, Grievance Issues, states:

1. Inmates may use the Inmate Grievance Procedure to resolve addressable inmate claims including, but not limited to, personal property, property damage, disciplinary appeals, personal injuries, and any other tort claim or civil rights claim relating to conditions of institutional life.
2. All allegations of inmate abuse by Department staff, employees, agents or independent contractors, shall be immediately reported to the AWs, the Warden and the IG's Office, in accordance with investigator guidelines via the NOTIS reporting system.
  - A. Any third party reporting of sexual abuse against an inmate will be referred to the Warden or designee for entry into the NOTIS reporting system.
  - B. The alleged victim will be interviewed to ascertain if he/she agrees to pursue administrative remedies, which will be documented within the NOTIS system.
  - C. Any portion of a grievance that does not indicate an allegation of sexual abuse will have to meet the criteria listed in this section of the AR.
3. Only inmate claims arising out of, or relating to, issues within the authority and control of the Department may be submitted for review and resolution. Non-grievable issues include:
  - A. State and federal court decisions.
  - B. State, federal and local laws and regulations.
  - C. Parole Board actions and/or decisions.
4. Claims for which the inmate lacks standing will not be accepted, included, but not limited to:
  - A. Filing a grievance on behalf of another inmate unless the inmate is so physically or emotionally handicapped as to be incapable of filing a grievance, and with the other inmate's approval, or in the case(s) of any third party reporting of Sexual Abuse.
  - B. The inmate filing the grievance was not a direct participant in the matter being grieved, except a third party allegation of sexual abuse.

Section 740.10, Emergency Grievance Procedure,

1. An Emergency Grievance (Form DOC-1564) received by any staff member shall be immediately delivered to the shift supervisor no later than is reasonable and necessary to prevent serious injury or a breach of security.
2. Any emergency grievance alleging that an inmate is subject to substantial risk of imminent sexual abuse shall be immediately forwarded to the highest ranking staff member on duty so that corrective action may be taken immediately.

- A. The inmate shall receive a response to the emergency grievance within 48 hours, with a final facility decision about whether the inmate is in substantial risk of imminent sexual abuse within 5 calendar days.
- B. The initial response, final decision and the action taken in response to the emergency grievance will be documented. Action taken can include, but not be limited to:
  - (1) Refer the information to the IG's Office;
  - (2) Afford the inmate appropriate medical, mental health care; and
  - (3) Address any safety considerations.
2. The shift supervisor may confer with the on duty medical staff, Warden or Associate Warden and, if necessary, the DDs, to determine whether the grievance constitutes an emergency.
3. The highest-ranking staff member on duty, with the aid of an authorized Department official, shall immediately take any corrective measures necessary to prevent a substantial risk of injury or breach of security.
4. The Department official receiving the Emergency Grievance should respond to the filing inmate no later than is necessary to prevent serious injury or a breach of security.
5. In the event the inmate requests further review of a claim not deemed an emergency, the inmate may file a grievance appeal commencing at the Informal Level.
6. A copy of the emergency grievance will be forwarded to the Grievance Coordinator for entry into OITS/NOTIS for processing and tracking purposes.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, requires supervisors to ensure that all reported incidents of inmate-on-inmate sexual assaults or staff, contractor, or volunteer on inmate sexual assault or harassment is reported in NOTIS regardless of where the allegation comes from including other inmates, inmate family, and anonymous notes/correspondence.

HCC OP 740, Inmate Grievance Process, states:

Section 740.04 PREA GRIEVANCES

1. All allegations of sexual abuse will be referred to the IG's office for investigation via the first level grievance.
2. Allegations of staff misconduct will also be referred if deemed appropriate by the Warden.
3. When an issue goes directly to the first level, the inmate shall file an informal grievance form for tracking purposes only. Inmates are not required to use the informal grievance process (or to otherwise attempt to resolve with staff) to report an alleged incident of sexual abuse.
4. At any time an inmate may file an Emergency Grievance for issues involving substantial risk of imminent sexual abuse. All PREA Emergency Grievances alleging substantial risk of imminent sexual abuse shall be forwarded to the highest ranking staff member on duty so that corrective action may be taken immediately.
5. A decision will be made immediately or within one (1) hour of receipt of the PREA Emergency Grievance. The person responding to the Emergency Grievance shall speak with the inmate and document any corrective action that was made or taken using the NOTIS reporting system. All actions should afford inmates access to medical/mental health services.
6. All PREA Emergency Grievances will be referred to the Associate Warden or PREA Compliance Manager for follow up within 2 days of receipt of the Emergency Grievance.
  - A. The Associate Warden or PREA Compliance Manager will ensure that the incident has been referred for investigation and that the inmate has been afforded appropriate medical, mental health and safety considerations.
7. An inmate may not be disciplined for filing a grievance related to alleged sexual abuse unless the Department has demonstrated that the inmate filed the grievance in bad faith.

A copy of the grievance log was provided that covered the period July 31, 2019 through July 31, 2020.

The PCM reports that the inmate would receive information regarding the Inmate Grievance Procedure (AR 740) during initial Departmental Intake, which occurs at an Institution prior to transfer to HCC. Once housed at HCC, AR 740/OP 740 are available to the Inmate upon request through the law library.

During the tour, the auditor noted the grievance box is a slot in the wall of the caseworker's office. It is to the left of the caseworker door when entering. The PCM shared that inmates put their grievances in that slot and the box is checked daily Monday through Friday (state holidays are an exception) by the caseworker or lieutenant. The caseworker is responsible for logging and entering grievances. In the absence of the caseworker, HCC has been forwarding grievances to LCC for logging and entering. If either were to note that a PREA related grievance had been received, they would scan it to the PCM and then it would be forwarded to the PREA Coordinator.

The interview protocol required the auditor to interview an inmate who reported sexual abuse. At the time of the on-site visit, there were no inmates housed at HCC who had reported sexual abuse; therefore, no interviews were conducted utilizing this protocol.

The facility reported through the PAQ that in the past 12 months there have been no grievance filed that alleged sexual abuse and no emergency grievances alleging substantial risk of imminent sexual abuse. The auditor requested and was provided with the HCC grievance log for the period beginning July 31, 2019 to current. She reviewed the log to confirm that no grievances were filed to make a PREA allegation.

Per a memo authored by the acting Warden, dated September 14, 2020, during the 12-month audit period, from July 31, 2019 through July 31, 2020, no inmates at HCC were disciplined for filing a grievance related to alleged sexual abuse.

There was no corrective action identified for this standard.

## Standard 115.53: Inmate access to outside confidential support services

### 115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? (N/A if the facility *never* has persons detained solely for civil immigration purposes.)  Yes  No  NA
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible?  Yes  No

### 115.53 (b)

- Does the facility inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws?  Yes  No

### 115.53 (c)

- Does the agency maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse?  Yes  No
- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining inmate access to outside confidential support services is in the PREA Manual and AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA. AR 421 mandates each facility to provide offender access to outside victim advocates for emotional support services related to sexual abuse by providing offenders mailing addresses and telephone numbers, including toll-free hotline numbers where available, or local, state, or national victim advocacy or rape crisis organizations, and for persons detained solely for civil immigration purposes, immigrant services agencies.

Policy mandates each facility to inform offenders prior to giving them access, of the extent to which such communications will be confidential or monitored and to the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. This is completed in committee meetings.

Policy further requires the facility to maintain or attempt to enter into an MOU or other agreements with community service providers that are able to provide offenders with confidential emotional support services related to sexual abuse. The facility maintains copies of agreements and provided copies to the auditor for review.

PREA Manual states:

Inmate access to outside confidential support services: 1) The Department provides inmates (via MOU) information for emotional support services on sexual abuse and how to access outside victim advocates through use of posters, flyers and handouts that includes the mailing address and telephone numbers of available, local, State or national victim advocacy and/or rape crisis organizations. a) The communication between inmates and the outside victim advocacy or rape crisis organization is confidential and only available on a need to know basis by IG PMT staff. b) Information about the level of confidentiality of the communication between inmates and the outside advocacy or rape crisis center will be provided to the inmates prior to accessing by the inmate.

Of the 19 inmates interviewed, 15 indicated they were aware there were emotional support services available outside of the facility. Four inmates were unaware that these types of services were available to them. Of the 15 who knew about the services, eight stated they were counseling type services and eight indicated they were unsure what would happen if they called the number on the posters. Fifteen of

the inmates indicated mailing addresses and telephone numbers for the outside support services are available to them and the call would be toll free. One inmate was unsure. Ten of the inmates indicated they could call the number anytime they have access to the telephones, and six indicated they were not sure. When the 15 inmates who knew about the emotional support services were asked about the information they shared with the victim advocate remaining private/confidential, 12 inmates stated that the information would remain private, and three were unsure.

The interview protocol required the auditor to interview an inmate who reported sexual abuse for this standard. At the time of the on-site visit, there were no inmates housed at HCC who had reported sexual abuse; therefore, no interviews were conducted utilizing this protocol.

During the tour, the auditor noted that the emotional support posters were available in many of the buildings, but were not posted by the telephones in the three wings of the housing unit. This was pointed out to the PCM and camp lieutenant. Prior to the exit briefing, the emotional support posters were laminated and placed by all of the phones in the housing unit.

The auditor was provided with copies of written materials prepared for inmates pertinent to reporting sexual abuse and access to emotional support services. These materials included posters and brochures which addressed reporting and access to emotional support services. Both documents were available in English and Spanish.

The agency recently finalized an updated agreement with the Rape Crisis Center. A copy of the MOU was provided to the auditor on September 14, 2020.

On September 28, 2020, another auditor on the team called the Las Vegas Rape Crisis Center. The auditor asked the person taking the call, if she could explain the process of the Rape Crisis Center staff, if an inmate were to call. He was told if an inmate calls, they take a report and document what was said by the inmate, then explain that the information would be acted upon. She also explained that she gives the documentation to their PREA Coordinator and he was transferred to speak with the PREA Coordinator.

The PREA Coordinator explained that when an inmate calls the Rape Crisis Center, she is immediately notified. When she receives the documentation from the call taker, she notifies the PREA staff, at the facility where the inmate lives, and shares the content of the report. She also explained that if a Victim Advocate is needed to go to a hospital or other site, she would respond to any area in Southern Nevada and assist the inmate with emotional support, crisis intervention, and any needed follow-up or referrals. She went on to explain that, due to the distance, there is a different Crisis Center that deals with on-site Victim Advocacy in Northern Nevada.

The auditor asked if the Rape Crisis Center of Las Vegas has received any calls from inmates at HCC in the past 12-months. The PREA Coordinator at the Rape Crisis Center stated that call logs were reviewed and found that no calls were received from inmates housed at HCC in 2020.

There was no corrective action required for this standard.

## **Standard 115.54: Third-party reporting**

### **115.54 (a)**

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment?  Yes  No
- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy on third-party reporting is located in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, and states:

Staff will accept reports from any and all sources to include but not limited to: inmates, visitors, inmate family members, associates, and other community members. These individuals can privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

Such reporting can include, but not limited to:

- Verbal complaints to any Departmental employee
- Written complaints, which may be made through the following processes:
  - Inmate grievances
- Grievances alleging staff on inmate sexual misconduct or inmate on inmate sexual abuse will be forwarded immediately to the PREA compliance manager and/or AW followed by a confidential report completed in NOTIS.
- A copy of the grievance will be forwarded to the PREA coordinator and Office of the IG for review and investigation.
- Inmate kites, written notes or letters to staff or administrators, and letter directed to the PREA coordinator or any member of the IG's Office.
  - NDOC Family Services Office by phone or email at [info@doc.nv.gov](mailto:info@doc.nv.gov)
  - Writing the Nevada Attorney General's Office
  - Calling the internal PREA Hotline telephone number

Written documentation received by custody staff will be forwarded to the PREA compliance manager for retention after the allegation has been handled appropriately.

The agency publicly distributes information on how to report inmate sexual abuse or sexual harassment on behalf of inmates via the Agency website. The auditor verified the information is available at <http://doc.nv.gov>. The Agency provided screen prints of the NDOC website where it provides information for the public on how to report. In addition, the auditor was provided with the rules for visiting at HCC. In this document, it outlines what a person should do if they are made aware of a sexual assault or sexual harassment allegation.

Per a memo authored by the acting Warden, dated September 14, 2020, during the 12-month audit period, from July 2019 through July 2020, no third-party reports of sexual abuse or misconduct were received at HCC. This was confirmed by reviewing the IG's incident tracking log.

There was no corrective action identified for this standard.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

#### 115.61 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation?  Yes  No

#### 115.61 (b)

- Apart from reporting to designated supervisors or officials, does staff always refrain from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions?  Yes  No

#### 115.61 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section?  Yes  No
- Are medical and mental health practitioners required to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services?  Yes  No

#### 115.61 (d)

- If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws?  Yes  No

#### 115.61 (e)



- Does the facility report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policies outlining staff reporting responsibilities are found in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, and AR 332, Employee Reporting Responsibilities.

AR 421 mandates all staff to immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse/harassment that occurred in a facility, whether or not it is a part of the agency. This includes any retaliation against any offender or staff who reported such an incident and any staff neglect or violation of responsibilities which may have contributed to an incident or retaliation. Policy prohibits staff from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, other security, and management decisions.

Policy also requires medical and mental health practitioners to report sexual abuse pursuant to standard provision 115.61(a), and to inform offenders of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services, unless precluded by federal, state, or local law.

Policy mandates each facility to report all allegations of sexual abuse/harassment, including 3rd party and anonymous reports, to the facility's designated investigators.

AR 332 states:

#### Section 332.01, Reporting Responsibilities

1. Employees will make timely notifications to their supervisors, using the appropriate chain of command, concerning incidents, activities or events of immediate interest or concern within the jurisdiction of, or which impacts the Department and for which the employee has knowledge. Such incidents, activities or events include but are not limited to:

N. PREA related occurrences or allegations of such;

#### Section 332.02, Report Preparation

1. Employees will formally document in written form using approved formats, incidents, activities, or events which take place within the jurisdiction of, or which impact the Department using the NOTIS Incidents and Offenses in Custody, Incident Detail data entry function.

2. Creation of the Preliminary Incident Detail Report in NOTIS will cause the Incident Detail Report (IR) number to be generated.

A. Institution/Facility administrators will designate staff members who are authorized to initiate the Preliminary Incident Detail Report and generate an IR number.

B. Only one IR number should be generated per incident, activity or event.

C. All involved staff members, inmates, and other person information should be included in the appropriate sections of the Incident Detail report.

- D. All sections of the Incident Detail Report screen should be completed, including all Incident Questions, and when relevant, all Use of Force questions, Staff and Offender Incident Detail questions.
- E. The Incident Detail narrative should consist of a brief summary of the incident, activity or event.
- 3. Each involved staff member should complete a Staff Report (DOC 028) using the NOTIS Staff Reports function for each incident, activity or event involving them, or for which they have relevant information.
  - A. The DOC Form 028 should be associated with the related Incident Detail Report IR number.
  - B. Individual DOC Forms 028 should articulate in detail, information known to the employee concerning the relevant incident.
  - C. If the NOTIS system is unavailable, employees should notify their supervisor and complete a hand written report, using the appropriate report format, and submit that to a supervisor for later input into NOTIS.
  - D. Hand written reports should be used infrequently and only in unusual circumstances and must be entered into NOTIS as soon as NOTIS becomes available.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:  
Section 421.01, Zero Tolerance

Any staff member/contractor/volunteer who engages in, fails to report, or knowingly condones sexual harassment or sexual contact with or between inmates shall be subject to disciplinary action and may also be subject to criminal prosecution.

Section 421.05, Duty to Report Misconduct

- 1. Any employee, contractor, or volunteer who has any knowledge, suspicion, information, or becomes aware of any alleged act of sexual abuse or sexual harassment by another employee, contractor, or volunteer is required to immediately report the knowledge, suspicion, or information to his or her immediate supervisor.
  - A. In the event that the allegations of misconduct concern the employee's immediate supervisor, the employee should report this information up the chain of command. The report of the alleged act of misconduct will not be referred to a staff member who is the subject of the accusation.
  - B. Staff shall not reveal any information related to a sexual abuse report to anyone other than their immediate supervisor. All reports of sexual abuse to include inmates, staff, contractors or volunteers are to be kept confidential.
  - C. The shift supervisor is responsible for entering all allegations of Sexual Abuse/Harassment including third party and anonymous reports into the NOTIS reporting system. All reports shall then immediately be forwarded to the PREA Compliance Manager and the Associate Wardens.
  - D. All staff shall immediately report any other employee's neglect or violation of responsibilities that may have contributed to an incident of sexual abuse, sexual harassment or retaliation.

The acting Warden indicated, during his interview, that if he receives a report of sexual abuse from an inmate under the age of 18 or a person considered a vulnerable adult, he will ensure the Incident Report is completed in NOTIS and will direct staff to notify the proper outside agency. For example, Child Protective Services for a minor. The acting Warden indicated that all allegations of sexual abuse and sexual harassment, including those from a third party and anonymous sources, are reported directly to the IG. The IG is responsible for assigning an investigator.

The PREA Coordinator reported that it is the responsibility of the PCM at each facility to make a report from an inmate under the age of 18 or a person considered a vulnerable adult. The report would be made to Child Protective Services for the minor and the Department of Health and Human Services for the vulnerable adult. The PREA Coordinator would normally receive a copy of the NOTIS entry. Staff are directed to make a casenote in the inmate's file to document what happened. She stated that there are very few occurrences of sexual abuse against minors or vulnerable adults reported within NDOC.

All of the 12 random staff interviewed indicated they are required to report any knowledge, suspicion, or information regarding sexual abuse or sexual harassment that occurred in a facility; retaliation against inmates or staff who reported an incident; and sexual abuse or retaliation that may be attributed to staff neglect or violation of responsibilities. They indicated that if they become aware of such information, they are required to report it to their immediate supervisor and shift command; several indicated that in addition to making the verbal notification, they would create an incident report in NOTIS. Eleven of the staff interviewed indicated they would not share the information they had received with anyone other than their supervisor, shift command and the investigator. One staff member indicated that they would not share the information with any other inmates.

The interview protocols required the auditor to interview medical and mental health staff for this standard. There are no medical or mental health staff assigned at HCC; therefore, this interview protocol was not utilized.

Per a memorandum authored by the acting Warden, HCC does not house inmates who are under the age of 18 and have not had any inmates who would be classified as vulnerable adults during the audit period. HCC is a fire camp and does not offer medical or mental health services on-site for inmates.

There is no corrective action identified for this standard.

## Standard 115.62: Agency protection duties

### 115.62 (a)

- When the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the inmate?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

The policy outlining agency protection responsibilities is in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA. It requires that any employee, contractor, or volunteer who has any knowledge, suspicion, information, or becomes aware of any alleged act of sexual abuse or sexual harassment by another employee, contractor, volunteer or offender, is required to immediately report the knowledge, suspicion, information to his or her immediate supervisor.

AR 421 also states that grievances alleging staff on inmate or inmate on inmate sexual abuse or sexual harassment be forwarded immediately to the PCM and the Associate Warden.

AR 740, Inmate Grievance Process, states:

## Section 740.07, Emergency Grievance Procedure

1. An emergency shall be considered life threatening for the inmate or a Safety and Security risk for the institution.
2. An Emergency Grievance (Form DOC-1564) received by any staff member shall be immediately delivered to the nearest supervisor no later than is reasonable and necessary to prevent serious injury or a breach of security. The Emergency Grievance shall be reviewed within 24-hours of receipt and documented in NOTIS.
3. Any emergency grievance alleging that an inmate is subject to substantial risk of imminent sexual abuse shall be immediately forwarded to the highest ranking staff member on duty so that corrective action may be taken immediately which may include moving the inmate to administrative segregation for protective custody.
  - A. The inmate shall receive a response to the emergency grievance within 24-hours, with a final facility decision about whether the inmate is in substantial risk of imminent sexual abuse within two (2) regular calendar days.
  - B. The response, final decision and the action taken in response to the emergency grievance will be documented. Action taken can include, but is not limited to:
    - (1) Refer the information to the IG's Office;
    - (2) Afford the inmate appropriate medical, mental health care; and
    - (3) Address any safety considerations.
4. The shift supervisor may confer with the on duty medical staff, Warden or Associate Warden, to determine whether the grievance constitutes an emergency.
5. The highest-ranking staff member on duty, with the aid of an authorized Department official, shall immediately take any corrective measures necessary to prevent a substantial risk of injury or breach of security.

When the Director was asked about how he would handle a notification that an inmate was at imminent risk of sexual abuse, he stated that policy requires staff to take all necessary actions to protect the inmate. They would interview the inmate to determine the situation. The outcome of the interview will dictate the action to be taken. This might include moving the potential victim or moving the potential aggressor.

When the acting Warden was asked about how he would handle a notification that an inmate was at imminent risk of sexual abuse, he indicated that an investigation would be initiated which would include interviewing the potential victim to identify what had happened.

The 12 random staff were asked how they would respond if they were notified that an inmate was at imminent risk of sexual abuse. The responses from staff were as follows: 1) separate the inmate, notify the supervisor to report it; 2) isolate the inmate and have him moved to safe housing, generate an incident report; 3) separate the inmate from the population, talk to him to find out what is going on and rehouse him if necessary; 4) take the inmate to a more secure location and call shift command; 5) notify the supervisor; 6) protect the victim at all costs, place him in a holding cell and have a staff member provide watch; 7) notify the supervisor, log it in NOTIS and complete a report; 8) let supervisor know, make a bed move to keep him close and interview the inmate; 9) place the inmate in the holding cell and notify shift command; 10) talk to the inmate and take action based on what you hear, notify the lieutenant and make sure the inmate is kept in a safe place; 11) make sure the inmate is safe; and 12) get him away from the suspect to a safe place. All staff indicated they would take the action immediately.

The facility reports, through the PAQ, that in the past 12 months, there have been no occurrences where the agency or facility determined that an inmate was subject to a substantial risk of imminent sexual abuse.

Per a memo authored by the acting Warden, dated September 14, 2020, that during the 12-month audit period, from July 2019 through July 2020, there were no instances at HCC where staff determined that an inmate was subject to a substantial risk of imminent sexual abuse.

There was no corrective action identified for this standard.

## Standard 115.63: Reporting to other confinement facilities

### 115.63 (a)

- Upon receiving an allegation that an inmate was sexually abused while confined at another facility, does the head of the facility that received the allegation notify the head of the facility or appropriate office of the agency where the alleged abuse occurred?  Yes  No

### 115.63 (b)

- Is such notification provided as soon as possible, but no later than 72 hours after receiving the allegation?  Yes  No

### 115.63 (c)

- Does the agency document that it has provided such notification?  Yes  No

### 115.63 (d)

- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining responsibilities for reporting to other confinement facilities is found in the PREA Manual. It states “when a report by an inmate is made that he/she was previously sexually abused while confined at another facility, that information must immediately be provided to the institutional PREA Compliance Manager, who will, in turn, notify the Warden. The Warden must make contact with the other agency within 72 hours of the report”.

AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA, states:  
Section 421.11, Reporting to Other Confinement Facilities

1. All facilities will have policy and procedure in place that upon receipt of an allegation that an inmate was sexually abused while confined at another institution/facility, detention center, jail, or juvenile

detention facility, the shift supervisors of the institution/facility that received the allegation shall notify the PREA Management team immediately and initiate an incident report.

A. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

B. The PREA coordinator shall document that they have received such notification and in turn notified the institution/facility, detention center, jail or juvenile detention facility agency administrator.

2. The PREA coordinator will notify the institution/facility, detention center, jail or juvenile detention facility in which the inmate alleged the incident occurred.

3. The PREA coordinator will ensure the allegation is investigated in accordance with this standard by the other institution/facility, detention center, jail or juvenile detention facility.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:

Section 421.12, Reporting to Other Confinement Facilities

1. If an inmate reports during his PREA assessment that he was sexually abused while confined at another institution/ facility, the PCM or Associate Warden must be notified immediately.

A. The PREA Compliance Manager/Associate Warden will provide notification to the Warden as soon as possible, but no later than 72 hours after receiving the allegation, and will initiate a report using the NOTIS reporting system.

B. Any report made by a youthful inmate who states that they have been a victim of Sexual Abuse will be immediately reported to the shift supervisor and PREA Compliance Manager (PCM) of the institution/facility wherein the youthful inmate is housed.

1. The PCM will immediately document and report to Child Protective Services the report made by the youthful inmate, via the DOC 2099.

2. The PCM will generate an IR in NOTIS and report the incident number to the Warden and IG PREA Management Team, via e-mail.

3. The Warden is responsible to report any abuse that occurred at another institution/ facility.

2. The Warden shall document that they have received such notification.

3. The Warden will notify the institution/facility in which the inmate alleged the incident occurred and the PREA Coordinator.

HCC OP 504, Processing of Inmates Received at HCC Reception, states:

I. If an inmate reports that he was sexually abused while confined at another institution/facility, the PREA Compliance Manager or Associate Warden must be notified immediately.

1. The PREA Compliance Manager/Associate Warden will provide notification to the PREA Coordinator as soon as possible, but no later than 72 hours after receiving the allegation, and will initiate an incident report.

The facility reports, through the PAQ, that in the past 12 months, there have been no allegations received that an inmate was abused while confined at another facility and that there have been no allegations made at another facility, that the inmate was abuse while confined at HCC.

The Director indicated that when he receives an allegation from another agency, the designated point of contact is via the Warden of the facility to one of the Associate Wardens. When the facility receives the allegation, staff will complete an incident history search. If the incident does not exist, a new incident report will be generated in NOTIS and forwarded to the IG's Office. He said that they do not receive notifications from other agencies very often.

The acting Warden indicated that when he receives an allegation from another facility, he creates an Incident Report in NOTIS and forwards it to the IG to determine if an investigation is warranted.

Per a memo received from the acting Warden, during the 12-month audit period, from July 2019 through July 2020, HCC has not received any allegations that an inmate was sexually abused while confined at

another facility. In the event that the facility did receive an allegation, the Warden would notify the Warden or appropriate office of the facility where the alleged sexual abuse occurred. This notification would be provided as soon as possible, but no later than 72 hours after receiving the allegation. He also informed the auditor that HCC did not receive any allegations, which were reported to other confinement facilities.

This was confirmed by reviewing the PREA Allegation Tracking Log, which is maintained by the IG's Office.

While the lead auditor was conducting an interview with a random inmate, he reported a prior sexual victimization incident that occurred in the county jail about 2 years prior. The auditor got the inmate's permission to share the information with the PCM, so a formal notification could be made about the allegation. The auditor prepared a written report outlining the information she had been told. The PCM interviewed the inmate and got further details and notified the acting Warden of the allegation. The same day as the information was received, a memorandum was sent via e-mail to the Watch Commander of the county jail. The auditor was provided with a copy of the notification. The PCM did not receive confirmation that the e-mail had been received, so on October 12, a letter was drafted, signed by the acting Warden, and mailed to the watch commander of the county jail.

There was no corrective action identified for this standard.

## Standard 115.64: Staff first responder duties

### 115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?  
 Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence?  Yes  No

### 115.64 (b)

- If the first staff responder is not a security staff member, is the responder required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff?  Yes  No

## Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Overall Compliance Determination Narrative

The policy outlining first responder duties is located in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA, which states that staff will respond to the scene of the incident to assist with security concerns, Medical/Mental Health needs of the offenders, contacting supervisors, securing the scene, making sure no evidence is destroyed and the escorting of offenders, if needed.

The PREA Manual states:

Sexual Assault Procedures for incidents reported within 72 hours of occurrence:

1. When custody staff is made aware that a sexual assault or any attempt thereof has occurred, the following steps shall be taken:
  - A. Ensure the victim is safe and kept separated from the aggressor.
  - B. Notify supervisor.
  - C. Begin crime scene identification and protection measures until released by investigating body.
  - D. Escort the victim to the nearest department medical unit, collect clothing and provide an orange jumpsuit to the inmate. Ensure each clothing item is bagged separately in brown paper bags and booked into evidence.
  - E. Temporarily place the suspect in a cell and immediately collect suspect's clothing prior to being left alone, we do not want evidence destroyed, whether or not there is a wash basin. After clothing is collected, issue, an orange jumpsuit to the suspect. Ensure each clothing item is bagged separately in brown paper bags and booked into evidence.
  - F. Escort suspect to infirmary after victim has been assessed. The suspect should not be placed/housed, even temporarily, in the same area as the victim and they will have no contact at any time.
  - G. Collect any other evidence and book it with the appropriate chain of evidence form.
  - H. Include all written reports related to the sexual assault. Fully document known details of the incident as soon as possible. Opinions, assumptions or guesses should NOT be included. Document who, what, when, where and only what you see and what you are told.

Transporting Victims for a Sexual Assault Forensic Exam:

1. Victims must agree to have a sexual assault forensic exam prior to transporting for the exam. Should an inmate refuse to have the exam, we must document the refusal on a Release of Liability for Refusal of Medical Treatment Form (DOC 2523) form.
2. Victims will only be transported for a sexual assault forensic exam if the assault occurred within the 72hr time frame.
3. Victims will need to change into an orange jumpsuit prior to transport and clothing will be placed in evidence bags per evidence collection procedures.
4. An extra clean jumpsuit must be taken with the officers in the event the jumpsuit the inmate is wearing is collected by the Sexual Assault Nurse Examiner for evidence.
5. Escorting officers are not to discuss what occurred before, during or after the exam, with the exception of making a statement to the criminal investigator.



HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:  
Section 421.18, All Sexual Assaults Reported to have occurred within the Last 72 Hours  
(Inmate on Inmate) or (Staff/ Volunteer/ Contractor on Inmate)

1. § 115.64 Staff first responder duties

2. Before interviewing any alleged victim or abuser insure a staff interpreter is used, if available. If a staff interpreter is not available, the CTS Language Bank will be utilized. This information is located on the Stewart Shared Drive under PREA Implementation. AT NO TIME, is an inmate interpreter to be used in any alleged PREA report.

3. Upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to:

A. Separate the alleged victim and abuser

B. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence

C. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and/or

D. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

E. If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff

F. Escort the inmate victim to Shift Command.

Section 421.19, All Sexual Assaults Reported to have occurred more than 72 Hours  
(Inmate on Inmate) or (Staff/ Volunteer/ Contractor on Inmate)

1. § 115.64 Staff first responder duties

2. Upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to:

A. Separate the alleged victim and abuser

B. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence

C. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and/or

D. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

E. If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff

F. Escort the inmate victim to the Medical Department

The four staff who may act as a first responder, who were interviewed, stated they would protect the victim, preserve the crime scene, protect evidence, notify medical at LCC, and notify the shift commander.

Of the 12 staff interviewed, they generally indicated they would separate the victim/suspect; preserve the area where the incident occurred by not letting people go in or out, notify their supervisor/shift command, and bag all evidence in paper bags. They would request the victim not brush teeth or use the bathroom

and make arrangement to be seen by medical, if appropriate. All staff interviewed indicated the information they knew should be kept confidential and not shared with anyone other than their supervisor/shift command and the investigator.

The interview protocol required the auditor to interview an inmate who reported sexual abuse. At the time of the on-site portion of the audit, there were no inmates who had reported sexual abuse housed at HCC; therefore, this interview protocol was not utilized.

As reported on the PAQ, there were no allegations within the 12-month audit period. No new allegations were made during the period since the information was provided to the auditor and the audit team's arrival at the facility. In looking back, the most recent allegation was a sexual harassment allegation against staff in 2017. It was investigated and determined to be unsubstantiated.

The auditor was provided with forms 2092 (Sexual Abuse Preliminary Investigative Guide), 2093 (Shift Supervisor Sexual Assault/Abuse Checklist – 96 hours), and 2094 (Shift Supervisor Sexual Assault/Abuse Checklist – 72 hours). These are standardized forms utilized to ensure all facets of response and investigation are completed in a standardized manner.

There was no corrective action identified for this standard.

## Standard 115.65: Coordinated response

### 115.65 (a)

- Has the facility developed a written institutional plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership taken in response to an incident of sexual abuse?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy outlining coordinated response is in HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA. It provides a detailed response plan for all staff to follow to ensure the safety of the victim, control of the aggressor (if known), preservation of the crime scene and any potential evidence, chain of custody, provision of medical and mental health services, access to a forensic examination (if appropriate), notifications, and safe housing.

Medical Directive 117, Sexual Assaults, addressed the response for Medical/Mental Health Staff at LCC for sexual assault allegations.

The acting Warden, during his interview, indicated the facility has a plan to coordinate actions among staff first responders, medical & mental health staff, investigators, and facility leadership. It contains a checklist for staff to use.

Per a memo authored by the acting Warden, dated September 14, 2020, during the 12-month audit period, from July 2019 through July 2020, HCC had no reports of sexual abuse requiring a coordinated response.

There was no corrective action identified for this standard.

## Standard 115.66: Preservation of ability to protect inmates from contact with abusers

### 115.66 (a)

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency's behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted?  Yes  N/A

### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

There is no collective bargaining within the NDOC, per a memo authored by the PREA Coordinator.

During the interview with the Director, he confirmed that there is currently no collective bargaining within the NDOC.

There was no corrective action identified for this standard.

## Standard 115.67: Agency protection against retaliation

### 115.67 (a)

- Has the agency established a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff?  Yes  No
- Has the agency designated which staff members or departments are charged with monitoring retaliation?  Yes  No

#### 115.67 (b)

- Does the agency employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services, for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations?  Yes  No

#### 115.67 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff?  Yes  No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff?  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?  Yes  No

#### 115.67 (d)

- In the case of inmates, does such monitoring also include periodic status checks?  Yes  No

#### 115.67 (e)

- If any other individual who cooperates with an investigation expresses a fear of retaliation, does the agency take appropriate measures to protect that individual against retaliation?  Yes  No

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy outlining protection of inmates against retaliation is located in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA. It states that staff shall monitor, track and protect all inmates and staff who report sexual abuse or cooperate with any investigation, from retaliation by both inmates and/or staff. Policy future states the monitoring shall be conducted and documented by a designated Lieutenant. A weekly update check of the NOTIS where all new PREA Incident's will be added to the log. Twice monthly, the Lieutenant will email the PCM that the retaliation checks have been completed and an entry will be entered on the tracking log for each inmate who has been tracked for protection purposes. All inmates and staff will be monitored for a minimum of 90 days. Reason for continuance of more than 90 days, termination to an unfounded investigation or transfers to another institution, will all be documented. In the case of transfer, the other institution will continue the process.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:  
Section 421.01, Zero Tolerance

1. HCC has a zero tolerance policy for any form of sexual misconduct to include staff/contractor/or volunteer on inmate or inmate on inmate sexual harassment, sexual assault, sexual abusive contact and consensual sex. Any staff member/contractor/volunteer who engages in, fails to report, or knowingly condones sexual harassment or sexual contact with or between inmates shall be subject to disciplinary

action and may be subject to criminal prosecution. LCC will take a proactive approach regarding the prevention, detection, response and punishment of any type of sexual contact.

2. HCC shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

3. HCC prohibits retaliation against any person because of his/her involvement in the reporting or investigation of a complaint.

#### Section 421.23, Protection Against Retaliation

1. HCC shall monitor and track all inmates and staff who report sexual abuse, or cooperate with any investigation, from retaliation by both inmates and/or staff.

A. The monitoring shall be conducted and documented by a designated Lieutenant.

B. A weekly check of all NOTIS entries will be done by the designated Lieutenant. All IR's in regards to PREA issues will be added to the tracking log on a weekly basis.

C. Twice monthly, the Lieutenant will e-mail the PREA Compliance Manager that the retaliation checks have been completed and an entry will be entered on the tracking log for each inmate who has been tracked for protection purposes. Staff monitoring will be annotated on the tracking log.

2. HCC shall employ protection measures for both victims and abusers, such as monitoring housing changes, transfers, job assignments, program assignments, negative work reviews, and custody status. HCC will also ensure separatees offender non-associations are entered into the NOTIS tracking system.

A. Any use of Segregated Housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of standard 115.43

3. HCC will track all inmate and staff allegations of sexual abuse using LCC form AD 3704. All inmates and staff will be monitored for a minimum of 90 days. The designated Lieutenant ensures periodic status checks are completed a minimum of once per month to ensure acts of retaliation have not occurred.

A. The above monitoring also includes protections for third party reporters.

a. If any institutional or facility staff members learns of or receives information that a person who cooperated with an investigation, other than an inmate or staff reporter, has expressed a fear of retaliation, the IG's Office will be immediately notified.

B. HCC shall continue to monitor beyond the 90 day time frame if the initial monitoring indicates a continuing need.

C. HCC shall terminate any monitoring if the agency determines the allegation is unfounded.

D. The PCM is required to notify the receiving institution, if an inmate has been transferred during his 90 day tracking period.

The auditor was provided with the retaliation monitoring log. It shows one case, outside of the audit timeframe, in which monitoring was done. During the 90-days, the inmate was interviewed three times and did not have any issues to report.

The Director reported that the PCM and facility supervisors are tasked with monitoring for a minimum of 90 days. They are instructed to interact with the person being monitored and look for disciplinary reports, housing changes and/or program changes, if the person being monitored is an inmate. If the person being monitored is staff, they look for negative performance reports or job redirects. He expects the monitoring be included on the IG's allegation tracking log. The Director shared that when an individual cooperates with an investigation and then expresses a fear of retaliation that the person may be moved until the retaliation investigation is completed. They also consider other actions that may be needed to ensure the retaliation stops and ensure the activities are included on the tracker.

The acting Warden indicated that retaliation monitoring is assigned to the night shift Lieutenant at LCC. He is responsible to update the retaliation tracker, interview the victim, review correspondence, monitor disciplinary action, monitor bed moves, and monitor job changes. He stated that when he suspects retaliation, he reviews the information available and considers moving the potential aggressor, whether it is a staff member or another inmate and refers the case for investigation to the IG.

The Lieutenant charged with retaliation monitoring indicated he conducts an interview with each inmate or staff being monitored. He refers to existing case notes and makes new notes, as necessary. He monitors disciplinary infractions, housing changes and job changes for inmates. He indicated that he will separate staff from the inmate and in most cases, will not move the victim. He begins monitoring upon the allegation being made for a minimum of 90 days. The monitoring can be extended if retaliation is suspected, until the issue is resolved.

The interview protocols require the auditor to interview an inmate in segregated housing (for risk of sexual victimization/who allege to have suffered sexual abuse) and an inmate who reported a sexual abuse. At the time of the on-site portion of the audit, there were no inmates who met either of these criteria housed at HCC; therefore, no interviews were completed.

Because there were no allegations of sexual abuse made during the review period, there was no retaliation monitoring documentation to be reviewed.

The auditor was provided with the monitoring log. It shows one case, outside of the audit timeframe, in which monitoring was done. During the 90-days, the inmate was interviewed three times and did not have any issues to report.

There was no corrective action identified for this standard.

## Standard 115.68: Post-allegation protective custody

### 115.68 (a)

- Is any and all use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse subject to the requirements of § 115.43?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining post-allegation protective custody is found in AR 573, PREA Screening and Classification

Section 573.03, Segregation of Inmates under PREA, states:

1. Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made and it has been determined that there are no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing no more than 24 hours while completing the assessment. This assessment will determine if an immediate institutional bed move will alleviate the issue. If not, the inmate will be given a Notice for Placement in Administrative Segregation and will be seen by the Caseworker within 72 hours to determine the

appropriate placement of the inmate. This review will include a reassessment using the PREA Risk Assessment instrument.

2. Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document:

- A. The opportunities that have been limited;
- B. The duration of the limitation; and
- C. The reasons for such limitations.

3. The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.

4. If an involuntary segregated housing assignment is made, the facility shall clearly document:

- A. The basis for the facility's concern for the inmate's safety; and
- B. The reason why no alternative means of separation can be arranged.

5. Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:  
Section 421.23, Protection Against Retaliation

A. Any use of Segregated Housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of standard 115.43

The facility reports, via the PAQ, that there were no inmates who allege to have suffered sexual abuse who were held in involuntary segregated housing in the past 12 months for one to 24 hours awaiting completion of assessment. In addition, there were no inmates who allege to have suffered sexual abuse who were assigned to involuntary segregated housing for longer than 30 days while awaiting alternative placement.

The acting Warden reported there is no segregated housing at HCC, if an inmate requires this type of housing; he would be transferred to another facility.

The interview protocols require the auditor to interview staff who supervise inmates in segregated housing and inmates in Segregated Housing (for risk of sexual victimization/who allege to have suffered sexual abuse). At the time of the on-site audit, there is no segregated housing at HCC; therefore, these interview protocols were not completed.

During the tour, the auditor noted there is no segregated housing at HCC. They have one holding cell where the inmate would be placed pending transport to LCC, which is approximately 45 minutes away.

Per a memo authored by the acting Warden, HCC does not house inmates in segregation. As such, HCC housed zero (0) inmates in segregated housing during the 12-month audit period of July 2019 through July 2020.

There was no corrective action identified for this standard.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations



## All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.71 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).]  Yes  No  NA
- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).]  Yes  No  NA

### 115.71 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.34?  Yes  No

### 115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data?  Yes  No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses?  
 Yes  No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator?  Yes  No

### 115.71 (d)

- When the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution?  Yes  No

### 115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff?  Yes  No
- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding?  Yes  No

### 115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse?  Yes  No

- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings?  Yes  No

#### 115.71 (g)

- Are criminal investigations documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible?  Yes  No

#### 115.71 (h)

- Are all substantiated allegations of conduct that appears to be criminal referred for prosecution?  Yes  No

#### 115.71 (i)

- Does the agency retain all written reports referenced in 115.71(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years?  Yes  No

#### 115.71 (j)

- Does the agency ensure that the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation?  Yes  No

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy outlining criminal and administrative agency investigations is located in AR 457, Investigations. PREA allegations tracking log, training records and certificates, and Investigative training curriculum, were all reviewed by the audit team.

AR 457, Section 457.01, Inspector General, states:

1. The IG of the Department is authorized to investigate any matter arising from the Department or any person employed, incarcerated or present in an institution or facility.
2. The IG is an independent authority and may independently report on any matter to the Governor or other member of the Board of Prison Commissioners.
3. The IG shall review all institutional Operational Procedures (OP) dealing with investigations, including but not limited to the following: PREA, crime scenes, evidence collection, handling and preservation and suspect identification. Investigation related OPs are confidential.
4. The IG will assemble and maintain a manual containing all institutional OPs related to investigations.

NRS 212.188 Sexual abuse of prison or unauthorized custodial conduct by employee of or contractor or volunteer for prison: penalties. (2) Unless a greater penalty is provided pursuant to any other applicable provision of law, an employee of or a contractor or volunteer for a prison who commits:

(a) Sexual abuse of a prison is guilty of a category D felony and shall be punished as provided in NRS 193.130. (b) Unauthorized custodial conduct by engaging in any of the acts described in paragraph (b) of subsection 3 is guilty of a gross misdemeanor. (c) Unauthorized custodial conduct by attempting to engage in any of the acts described in paragraph (b) of subsection 3 is guilty of a misdemeanor.

3. As used in this section: (b) "Unauthorized custodial conduct":

(2) Does not include acts of an employee of or a contractor or volunteer for the prison in which the prisoner is confined that are performed to carry out the official duties of such an employee, contractor, or volunteer.

AR 330, Employee Resignation and Reinstatement/Rehire, Section 330.01, Resignations, states:

3. A resignation during an ongoing internal investigation shall be noted in NOTIS and the investigation may be closed, depending on the investigation.

A. A resignations during a Prison Rape Elimination Act (PREA) investigation will not result in a closed case. Any such investigation will remain active until closed by the IG's (IG) office as mandated by PREA standards.

The approved PREA manual states: The IG's Office has primary jurisdiction for review and assignment of investigations related to staff member, contractor or volunteers who are accused of engaging in inmate sexual abuse.

Specialized training: Investigations: Standard 115.34

1. All staff of the Department that conduct investigations related to PREA sexual abuse and/or sexual harassment of inmates by other inmates are required to receive and successfully complete training focused on sexual abuse or sexual harassment in the confinement setting. The training will include;

- a. Techniques for interviewing sexual abuse victims;
- b. Proper use of Miranda and Garrity warnings;
- c. Sexual abuse evidence collection in confinement settings; 7 and
- d. Criteria and the evidence required to substantiate a case for administrative, penal code of discipline or prosecution referral.

2. An on line course specifically developed for specialized training for investigations of sexual abuse and sexual harassment in confinement is available on the PREA Resource Center web site under Training--and Technical Assistance. A certificate of completion is available once the participant successfully completes the examination at the end of the block of instruction.

3. The PMT and EDD will maintain documentation that staff who conduct PREA investigations have completed the required training related to the confinement setting.

4. Only investigative staff assigned to the I G's office will conduct investigations into allegations or reports of sexual abuse or suspected sexual abuse of an inmate by a staff member.

It also states: All completed investigations and their applicable reports, documentation and written information will be retained by the IG PMT division of the Department as long as the alleged abuser is employed by the agency plus five (5) years. Departure of the alleged abuser from the Department or victim from control of the Department shall not be a basis for termination of the investigation.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:

Section 421.13, Criminal and Administrative Investigations

1. NDOC Office of the IG will investigate all allegations of staff on inmate sexual abuse, sexual harassment and inmate on inmate sexual abuse.
2. The departure of the alleged abuser or victim from the employment of the Department or control of the institution/facility shall not provide a basis for terminating an investigation.
3. All substantiated criminal cases shall be referred to the applicable prosecutorial authority for review of prosecution.
4. The investigator(s) assigned to investigate allegations of staff on inmate sexual abuse, sexual harassment and inmate on inmate sexual abuse will participate in the mandatory training.

The auditor was provided with a copy of the NDOC Crime Scene Preservation and Investigation Manual. This document contains the following instructions for staff:

- Prior to commencing any major investigation or upon discovery that a crime has been committed, either by staff or inmates, the appropriate IG designee or investigator is to be immediately notified. Further, it is the responsibility of the Warden/designee to then follow-up the verbal notification as soon as possible by submitting a "Request for Investigation" into NOTIS to the IG's Office.
- During the separation of inmates from the crime scene, the inmates will be visually examined for traces of evidence, i.e., blood splatters, hair and fiber transfers, injuries, etc. Under no circumstances will inmates be permitted to re-enter the crime scene area as they then could account for any trace of evidence deposited at the scene. Any inmate who shows traces of evidence shall immediately be placed in a secure area and kept under visual observation by staff. Photographs of the inmate showing visual signs of evidence will be taken as soon as possible.
- Each piece of evidence is to be placed separately in an evidence bag. Large items, which do not have blood or other fluid stains, may be placed in plastic trash liner bags, sealed with evidence tape and an evidence bag attached indicating pertinent information. Narcotics or substances suspected of being narcotics will be placed in clear plastic evidence bags. Each type of pill, capsule or substance will be placed in a separate clear plastic evidence bag.

An investigator from the IG's Office was interviewed. He indicated that investigations are initiated immediately upon receipt of an allegation. Third party and anonymous allegations, when received, are treated the same as any other investigation. The investigator stated that he completed the specialized investigator training in 2014 through computer based training at the National Institute of Corrections. He also indicated annually he completes the refresher training for investigators through the NDOC. The investigator reported that once an incident is reported, the facility staff gather data/evidence, secure the crime scene, and make the report to the IG's Office. The investigation could be assigned that day.

The investigator described the investigation process as follows: look at the type of case it is; research the victim and suspect's history, evaluate witness credibility; request video, phone call information; identify potential witnesses; interview victim, witnesses and then the suspect; write the report. He indicated he might be responsible to collect direct evidence such as DNA evidence, blood, body fluids, sign-in sheets, clothing, bedding, etc. The investigator indicated that when he discovers evidence that a prosecutable crime may have taken place, he consults with the Attorney General's Office prior to conducting compelled interviews. The investigator indicated that the credibility of all involved persons is based on their history. Such as giving false information or a history of sexual abuse. Staff and inmate

credibility is the same at the beginning of the investigation. The investigator indicated that to determine if staffs actions or failure to act contributed to the sexual abuse, he looks at post orders, training and operational procedures. He documents all of the steps he takes in the written report. He also addresses staff member's statements, recordings, interviews, training documents, operational procedures and AR's. In addition to the above information, he includes crime scene information, video, DNA, list of all evidence used, and interview summaries. The investigator reported that the investigation is completed regardless of the alleged abuser or victim remaining at the facility and that all cases that are substantiated are referred for prosecution.

The interview protocols required the auditor to interview an inmate who reported sexual abuse. At the time of the on-site portion of the audit, there were no inmates housed at HCC who reported sexual abuse; therefore, this interview protocol was not completed.

The auditor reviewed training records for all investigators, to ensure the mandated training courses had been completed. All were in compliance.

Per the Confidential PREA Manual: All completed investigations and their applicable reports, documentation and written information will be retained by the IG PMT division of the Department as long as the alleged abuser is employed by the agency plus five (5) years. Departure of the alleged abuser from the Department or victim from control of the Department shall not be a basis for termination of the investigation.

The auditor was unable to review a sample of criminal or administrative investigation reports or cases involving substantiated allegations to ensure that they were referred for prosecution because there were no allegations of sexual abuse or sexual harassment made during the audit review period.

The PREA Coordinator provided a copy of the PREA incident tracking log that is maintained by the IG's office. There were no allegations recorded for the review period. In reviewing the annual reports, it was noted that the most recent allegation at HCC occurred in 2017.

There was no corrective action identified for this standard.

## Standard 115.72: Evidentiary standard for administrative investigations

### 115.72 (a)

- Is it true that the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Overall Compliance Determination Narrative

The policy outlining evidentiary standards for administrative investigations is found in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA, and the approved PREA Manual. These documents require the agency to impose no standard higher than a preponderance of the evidence in determining if a case(s) is substantiated or not substantiated.

The investigator, during his interview, stated that the standard of evidence used to substantiate allegations of sexual abuse or sexual harassment is preponderance of the evidence.

Documentation of administrative findings for proper standard of proof was not available to review because there were no allegations of sexual abuse or sexual harassment made during the review period.

There was no corrective action identified for this standard.

## Standard 115.73: Reporting to inmates

### 115.73 (a)

- Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, does the agency inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded?  Yes  No

### 115.73 (b)

- If the agency did not conduct the investigation into an inmate's allegation of sexual abuse in an agency facility, does the agency request the relevant information from the investigative agency in order to inform the inmate? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.)  Yes  No  NA

### 115.73 (c)

- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The staff member is no longer posted within the inmate's unit?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The staff member is no longer employed at the facility?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility?  Yes  No

- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility?  Yes  No

#### 115.73 (d)

- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility?  
 Yes  No
- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility?  
 Yes  No

#### 115.73 (e)

- Does the agency document all such notifications or attempted notifications?  Yes  No

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The documents outlining inmate notifications are: Office of the IG's Administrative Investigations Guide, and AR 457, Investigations.

The investigations guide requires that following an investigation into an offender's allegation that he or she suffered sexual abuse or sexual harassment by another offender or staff in a department facility, the PCM shall inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. It also requires that following an offender's allegation that a staff member has committed sexual abuse against the offender, unless the agency has determined that the allegation is unfounded, the agency informs the offender of the four bullets in this provision.

Policy mandates that following an offender's allegation that he has been sexually abused by another offender in another agency facility, the agency subsequently informs the alleged victim whenever the agency learns the alleged abuser has been indicted on a charge related to sexual abuse within the facility

or convicted on a charge related to sexual abuse within the facility. All notifications or attempted notifications shall be documented.

AR 457, Investigations, states:

Section 457.02, Reporting

1. All Warden/Division Heads, Deputy Directors, and/or Director are responsible to insure compliance with established IG and Human Resources guidelines and procedures in conjunction with Administrative Reporting, any type of Investigations, Misconduct and Performance Adjudication and subsequent Imposing of Corrective/Disciplinary Action when applicable.
  2. All incidents shall be reported to the IG per the requirements of AR 332.
  3. The IG or designee shall be immediately notified of PREA related or serious incidents involving suspected criminal activity by inmates, staff, or outside parties; or serious violations of Department policy.
  4. The IG or designee, and designated Equal Employment Opportunity (EEO) official shall be immediately notified of serious incidents involving sexual harassment.
  5. The IG will determine the need for an investigation; the type/methodology of the investigation; the staff responsible for the investigation; and the priority of the investigation.
  6. The IG may request the assistance of outside agencies in the completion of investigations.
  7. The Department will provide notice pursuant to NRS 289.060 to any peace officer, if they are being questioned or interrogated during an investigation of misconduct or violation of departmental policy.
  8. Non-Peace Officers suspected of misconduct or violations of policy will be given notice pursuant to NRS 284.387 prior to being interviewed on the allegations.
  9. Correctional staff do not have to be given notice that they are under investigation until they are to be interviewed.
  10. The employee must be notified of any disciplinary action within 90 days of receiving notice of allegations pursuant to NRS 284.387 1 (a).
  11. The IG may refer cases to the applicable prosecutorial authority for review for prosecution.
- A. Inmate cases may also be referred to the Attorney General pursuant to AR 708.

It further states: Per PREA standard 115.73, following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

AR 421 requires that following an inmate's allegation that a staff member has committed sexual abuse against the inmate, and the allegation was shown to be substantiated or unsubstantiated, the inmate will be notified:

- The staff member is no longer posted within the inmate's unit;
- The staff member is no longer employed at the facility;
- The staff member has been indicted on a charge related to sexual abuse within the Department;

or

- The Department learns that the staff member has been convicted on a charge related to sexual abuse within the Department.

It also states that following an inmate's allegation that he or she has been sexually abused by another inmate, the Department shall subsequently inform the alleged victim whenever;

- The alleged abuser has been indicted on a charge related to sexual abuse within the Department;

or

- The alleged abuser has been convicted of a charge related to sexual abuse within the Department.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:

Section 421.13, Criminal and Administrative Investigations

5. Following an investigation into an inmate's allegation that he or she suffered sexual abuse within an agency facility, the agency shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. HCC Casework staff when notified will:



a. Personally notify the inmate of the outcome. Document the findings in NOTIS and include: Date, Time, Individuals Present, IR number and outcome of the investigation.

The facility reports that there were no criminal or administrative investigations of alleged inmate sexual abuse completed by the agency/facility in the past 12 months. This was verified by reviewing the IG's Allegations Tracking log for 2019 and 2020, which was provided, upon request of the auditor.

The acting Warden, during his interview, indicated the assigned caseworker is the staff member who is charged with notifying the inmate of the outcome of the investigation. The notification is documented in NOTIS.

The investigator indicated that agency policy requires that the inmate be notified of the outcome of an investigation into sexual abuse.

The interview protocols require the auditor to interview an inmate who reported sexual abuse. At the time of the on-site portion of the audit, there were no inmates housed at HCC who had reported sexual abuse; therefore, this interview protocol was not completed.

DOC Form 2095 – Inmate Notification of Investigation Outcome was provided to the auditor with the PAQ. This document is used to formally notify the inmate of the outcome of the investigation.

The auditor was provided with a screen print from the notification portion of NOTIS.

There was no corrective action identified for this standard.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

#### 115.76 (a)

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies?  Yes  No

#### 115.76 (b)

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse?  Yes  No

#### 115.76 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories?  Yes  No

#### 115.76 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies?  Yes  No

**Auditor Overall Compliance Determination**

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

**Overall Compliance Determination Narrative**

The policy outlining staff disciplinary sanctions is found in AR 339, Employee Code of Conduct. AR 339 states that staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies and that termination shall be the presumptive disciplinary sanction for staff who has engaged in sexual abuse. The policy does not differentiate between lesser and more significant levels of staff misconduct and states that staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states: Section 421.14, Disciplinary Sanctions for Staff

1. HCC staff shall be subject to disciplinary sanctions up to and including termination for violating Departmental sexual abuse or sexual harassment policies.
2. All terminations for violations of Departmental sexual abuse or sexual harassment policies, or resignations by staff that would have been terminated if not for their resignation, shall be reported to law enforcement agencies and to any relevant licensing bodies, by the IG’s office.

The auditor was provided with a copy of the NDOC – Prohibitions and Penalties document. The first page of the document explains: As required by NAC 284.742, the following guide identifies activities that are prohibited as inconsistent, incompatible or in conflict with an employee’s duties and identifies a range of penalties for various violations. This guide is intended as a supplement to the Nevada Rules for State Personnel Administration and does not constitute coverage of all possible violations that could conceivably occur. It is intended to clarify existing rules and regulations and to assist supervisors in taking appropriate corrective discipline action. The penalties identified for the various infractions are merely guidelines and may be applied to a greater or lesser degree than indicated depending on the circumstances and the seriousness of the offense(s). The extent of progressive discipline imposed will be at the Appointing Authority’s discretion. It specifically addresses penalties for Sexual Misconduct with or Sexual Abuse or Harassment of Inmates.

The facility reports that in the past 12 months, there have been no staff from the facility who have violated agency sexual abuse or sexual harassment policies; therefore, there were no staff from the facility who have been terminated (or resigned prior to termination) for violating agency sexual abuse and sexual

harassment policies or who were disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies.

Because there were no allegations made during the review period, the auditor did not review records of disciplinary sanctions taken against staff for violations of the agency sexual abuse or sexual harassment policies.

There was no corrective action identified for this standard.

## Standard 115.77: Corrective action for contractors and volunteers

### 115.77 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies?  Yes  No

### 115.77 (b)

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining contractor/volunteer notification requirements is found in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA. The policy mandates any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with offenders and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. It further mandates the agency shall not enlist the services of any of those volunteers, interns, or contractors, who may have contact with offenders.

The facility reports that in the past 12 months, there have been no contractors or volunteers reported to law enforcement agencies or relevant licensing bodies for engaging in sexual abuse of inmates.

The acting Warden reported that in the case of any violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, he would initiate a gate stop, refer the allegation for investigation, and notify the appropriate licensing agency and the contract agency.

The auditor was informed via a memorandum, authored by the NDOC Director, dated August 16, 2018, that when NDOC becomes aware of an allegation of sexual abuse involving a NDF employee, the NDOC IG or designated supervisor will initiate an investigation, They will contact the NDF camp program manager regarding the allegation advising that the accused NDF employee will be temporarily denied access to inmate crews and facilities while the investigation is on-going. In any investigation for sexual abuse where the conclusion of the investigation results in a substantiated finding or in all cases where a NDF Crew Supervisor resigns during an investigation for sexual abuse, a permanent Gate Stop order at all NDOC facilities will be initiated.

The facility reports no cases against a contractor or volunteer. This was verified by reviewing the IG's PREA Incident Tracking log.

Section AA in the Negotiated Terms of the Contract, it states that if a PREA allegation of sexual abuse or sexual harassment is filed by an inmate against a contracted employee, contractor or vendor, including their employees and subcontractors, the NDOC, OIG will contact the contractor, or the immediate supervisor of the contracted individual, regarding the allegation. Based on the severity of the allegation, NDOC will have the authority to deny access of any contract employee, contractor or vendor, including their employees and subcontractors, from entering any correctional facility or institution.

There was no corrective action identified for this standard.

## Standard 115.78: Disciplinary sanctions for inmates

### 115.78 (a)

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process?  Yes  No

### 115.78 (b)

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories?  Yes  No

### 115.78 (c)

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior?  Yes  No

### 115.78 (d)

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming and other benefits?  Yes  No

#### 115.78 (e)

- Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact?  Yes  No

#### 115.78 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation?  Yes  No

#### 115.78 (g)

- If the agency prohibits all sexual activity between inmates, does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining inmate disciplinary sanctions is found in AR 707, Inmate Disciplinary Procedure. Policy states offenders will be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender on offender sexual abuse or following a criminal finding of guilt for offender on offender sexual abuse.

The policy mandates that sanctions against offenders are to be commensurate with the nature and circumstances of the abuse committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders with similar histories. Should the facility offer therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending offender to participate in such interventions as a condition of access to programming or other benefits. Participation in this type of counseling is not made a condition of access to programming or other benefits.

Policy states that the agency may discipline an offender for sexual contact with staff only upon a finding that the staff member did not consent to such contact and that a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely

reporting an incident or lying even if an investigation does not establish evidence sufficient to substantiate the allegation.

Policy states all sexual activity between offenders is prohibited and offenders may be disciplined for such activity.

HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, states:  
Section 421.16, Disciplinary Sanctions for Inmates

1. If the institution refers a request for investigation to the Office of the IG. Charges shall not be generated until the investigation has been completed.
2. Inmates shall be subject to disciplinary sanctions pursuant to Administrative Regulation 707, Inmate Disciplinary Process, following a finding that the inmate engaged in inmate-on-inmate sexual abuse, sexual harassment or consensual sexual activity. Inmates shall be subject to administrative disciplinary sanctions.
  - A. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.
  - B. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
3. HCC may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
4. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

The facility reports that in the past 12 months, there were no administrative or criminal findings of guilt of inmate-on-inmate sexual abuse that occurred at the facility. As reported by HCC, they have had no cases of sexual assault requiring any disciplinary sanctions of inmates. This was verified by reviewing the IG's PREA allegation tracking log.

The acting Warden indicated that the actions against an inmate once a criminal or administrative finding of guilt have been received are proportionate to the nature and circumstances of the abuse that was committed. He shared that the mental health of the inmate is also considered in determining appropriate sanctions.

The interview protocols require the auditor to interview medical and mental health staff assigned at HCC. At the time of the on-site portion of the audit, there were no medical or mental health staff positions assigned at HCC; therefore, this interview protocol was not used.

There was no corrective action identified for this standard.

## MEDICAL AND MENTAL CARE

### Standard 115.81: Medical and mental health screenings; history of sexual abuse

#### 115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)  
 Yes  No  NA

#### 115.81 (b)

- If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)  Yes  No  NA

#### 115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law?  
 Yes  No

#### 115.81 (e)

- Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policies outlining medical/mental health treatment are located in AR 643, Mental Health Services, and Medical Directive 316.

AR 643 states that all mental health services will be provided by qualified mental health providers. It further indicates that all inmates with mental illness, intellectual disabilities, developmental disabilities, a

history of mental health treatment or intervention, or with current symptoms, should be identified, evaluated, and have information entered into the medical record and NOTIS. Arriving inmates who appear to be in need of any other mental health intervention will be referred to an institutional psychiatrist, psychologist or psychiatric nurse for appropriate housing placement and clinical follow-up. Inmates referred for non-emergency mental health care will be evaluated within 14 days after the date of referral. All incoming offenders should be evaluated by a mental health professional at intake units as part of the initial classification process. All newly arrived inmates should be evaluated by MH staff for, but not limited to, the following: suicide potential, symptoms of mental illness; level of intellectual functioning; level of aggression; potential for escape; deviant sexual behavior; and history of sexual abuse (aggressor and/or victim). Inmates may be referred to a mental health professional for further evaluation and treatment when indicated. Inmates referred for non-emergency evaluations must be seen by the appropriate provider within 14 days of referral. Inmates with a history of sexual abuse must be referred in a timely manner for mental health counseling and custody must be notified within 72 hours.

Policy mandates Medical and Mental Health staff obtain consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18. Offenders are made aware of this process and staff uses the NDOC Consent-Release of Medical Information form used to obtain the required consent.

Medical Directive 316 states: Standard instruments for use in the initial evaluation are DOC 2670 Self Report, DOC 2615 Mental Health Assessment-Initial Classification and/or Psychiatric Shipley Institute of Living Scale, and DOC 2667 Mental health Classification and Restrictions. Recommendations from the evaluation will be provided to the initial classification committee within 14 days of the inmate's arrival. Recommendations related to level of aggression, escape potential, and deviant sexual behavior might also be made when well supported by evaluation coupled with historical data. Form DOC 2667, Mental Health Classification and Restrictions will be filled out by Psychologist at the conclusion of evaluation. Classification forms will be entered into NOTIS and the hard copy will be placed in the medical chart.

HCC OP 504, Processing of Inmates Received at HCC Reception, states:

G. If the PREA Risk Assessment screening indicates that an inmate has experienced prior sexual victimization and/or has previously perpetrated sexual abuse, whether it occurred in an institutional or jail setting or in the community, staff shall ensure the inmate is offered follow-up medical and/or a mental health meeting within 14 days of the intake screening.

1. Inmate will complete a medical/mental health kite at intake if requesting a follow-up medical and/or mental health meeting. Once a request is made the completed medical/mental health kite will be scanned and forwarded to LCC's mental health department for scheduling of a follow-up appointment.

2. A case note will be generated to document whether or not the inmate accepted or declined the medical/mental health follow-up.

3. Inmates who accept treatment will be transported to LCC within 14 days and will be seen by classification/mental health to review housing options while receiving treatment; however, inmates will remain minimum custody during this time.

H. If during a PREA Risk Assessment it is learned that an inmate has been found guilty of a MJ19 and/or is a known inmate-on-inmate abuser, the fact that the inmate has been found guilty of a MJ19 and/or is a known inmate-on-inmate abuser should be immediately reported to the PREA Compliance Manager or Associate Warden.

1. If this is the first instance where the inmate's guilty MJ19 and/or known inmate-on-inmate abuse is being reported, within 60 days of learning of such abuse history the PREA Compliance Manager will refer the inmate to mental health for purposes of obtaining a mental health evaluation and treatment when deemed appropriate by mental health practitioners.

I. If an inmate reports that he was sexually abused while confined at another institution/facility, the PREA Compliance Manager or Associate Warden must be notified immediately.



1. The PREA Compliance Manager/Associate Warden will provide notification to the PREA Coordinator as soon as possible, but no later than 72 hours after receiving the allegation, and will initiate an incident report.

The two staff who are responsible for risk screening were interviewed, and both indicated that a mental health referral is offered to the inmate, based on his responses during completion of the risk screening. If he accepts the referral, they send an e-mail to the mental health professional at LCC immediately and the inmate is scheduled to be transported to LCC for the appointment. This typically occurs within 14 days.

There was one inmate who disclosed prior sexual victimization during risk screening. He was interviewed utilizing the required protocol and stated that when he reported prior sexual victimization, not in a correctional setting, he was asked if he wanted to talk to a mental health professional. He further indicated that he accepted the referral and the next time the transportation team went to LCC, he was taken for his appointment. He returned to HCC the same day. His recollection was that the appointment was the week after he arrived at HCC.

To complete the review of medical/mental health secondary materials, a blank copy of a DOC Form 2615, Mental Health Assessment Initial Classification and/or Psychiatric Referral was provided with the PAQ. This document would be completed at LCC because medical and mental health services are not available at HCC.

The facility reports that no HCC inmate has accepted medical and/or mental health follow up meetings during the twelve (12) month audit period July 2019 through July 2020.

The auditor was provided with a copy of the risk assessment tracking tool for the period August 1, 2019 through August 11, 2020. One inmate was offered a referral to mental health and he was seen at LCC by a mental health staff member.

During the on-site portion of the audit, the auditor reviewed the initial risk screening documents and follow-up risk screening documents for 21 inmates assigned at HCC. All were completed within the required timeframes.

The facility reports that in the past 12 months, there were no inmates who had previously perpetrated sexual abuse, as indicated during the screening; therefore, no inmates were offered a follow-up meeting with a mental health practitioner.

Per a memorandum from the acting Warden, HCC does not have medical or mental health practitioners assigned to work at the facility. As such, in the event that an inmate were to accept a medical and/or mental health follow-up meeting, arrangements would be made to transport the inmate to LCC for the requested follow-up meeting within 14 days of the initial reception screening.

There was no corrective action required for this standard.

## **Standard 115.82: Access to emergency medical and mental health services**

### **115.82 (a)**

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by

medical and mental health practitioners according to their professional judgment?

Yes  No

#### 115.82 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.62?  Yes  No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

#### 115.82 (c)

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate?  Yes  No

#### 115.82 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy outlining medical/mental health treatment for sexual abuse is found in HCC OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA, which states: Call LCC medical department and determine appropriate course of action and possible transport to designated SANE examination hospital. Ensure the inmate victim is offered a victim advocate through the Rape Crisis Center or LCC's medical/mental health department.

The auditor was provided with a copy of a memo authored by the PREA Coordinator in 2018, which states that NDOC provides timely, unimpeded access to emergency medical treatment for inmate victims of sexual abuse. The nature and scope are determined by medical practitioners, should the inmate require more extensive treatment for trauma for anything beyond NDOC medical practitioners scope of practice inmates will be transported to a hospital that can provide the emergent care needed.

NDOC does not have a direct contract with any hospital and utilizes entities within their PPO networks. Hometown Health (HTH) is utilized in Northern Nevada and Sierra Health Organization (SHO) is utilized in Southern Nevada.

All hospitals NDOC uses will take emergency inmate patients.

The four staff who were interviewed as potential first responders, stated they would protect the victim, preserve the crime scene, secure the abuser (if known), protect evidence, and notify the shift commander of the situation. After the notification, they would complete tasks assigned to them by the shift commander.

The interview protocol requires the auditor to interview medical and mental health staff assigned at HCC and inmates who reported a sexual abuse. At the time of the on-site portion of the audit, there were no medical or mental health staff positions assigned at HCC and no inmates who reported a sexual abuse; therefore, these interview protocols were not used.

During the on-site portion of the audit, the auditor noted that there are no medical or mental health services offered at HCC. Inmates who experienced sexual abuse would be transported to LCC for emergency medical treatment or would be transported to the outside facility who would conduct the forensic medical exam. Mental health treatment would be offered at LCC upon return from the forensic exam.

The auditor requested documentation demonstrating immediate notification of the appropriate medical and mental health practitioners; however, since there were no instances of sexual abuse reported during this review period; there were no notifications made.

There was no corrective action identified for this standard.

## **Standard 115.83: Ongoing medical and mental health care for sexual abuse victims and abusers**

### **115.83 (a)**

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?  Yes  No

### **115.83 (b)**

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody?  Yes  No

### **115.83 (c)**

- Does the facility provide such victims with medical and mental health services consistent with the community level of care?  Yes  No

### **115.83 (d)**

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if "all-male" facility. *Note: in "all-male" facilities, there may be inmates who identify*

as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.)  Yes  No  NA

#### 115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No  NA

#### 115.83 (f)

- Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate?  Yes  No

#### 115.83 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

#### 115.83 (h)

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)  Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy outlining on-going medical/mental health treatment for victims and abusers is located in Medical Directive 117, Sexual Assaults, which states:

1. Upon receipt of information that an inmate has been sexually assaulted, medical personnel shall do a preliminary interview to document the extent of injuries and determine if referral to an outside medical facility for examination, treatment, or gathering of evidence is indicated. The preliminary interview should include a mental health assessment by a mental health professional which includes a careful assessment of the inmate's potential for self-harm.

2. If it is determined referral to an outside medical facility is indicated, transportation should be arranged and the outside medical facility notified of the need for further examination and treatment.
3. Upon return from the outside medical facility, medical personnel are to review the results of the evaluation by the hospital and continue medical treatment as recommended. This includes specific attention to the prevention and treatment of sexually transmitted diseases.
4. Follow-up mental health evaluation should be arranged for crisis intervention and long-term follow-up if indicated.
5. All activities relating to evaluation and treatment should be appropriately documented in the medical record.

The interview protocols require the auditor to interview medical and mental health staff assigned at HCC and inmates who reported a sexual abuse. At the time of the on-site portion of the audit, there were no medical or mental health staff positions assigned at HCC and no inmates who reported a sexual abuse; therefore, these interview protocols were not used.

Per a memorandum authored by the acting Warden, dated August 10, 2020, HCC does not have medical or mental health practitioners assigned to work at the facility. As such, in the event that an inmate were to require a medical and/or mental health evaluation, medical and/or mental health treatment, and/or medical and/or mental health follow up care, arrangements would be made to either have the inmate transported to LCC for the scheduled services or have the inmate transferred to another NDOC institution or facility in the event that such services could not be provided through transportation to LCC.

There were no allegations of sexual abuse made during the review period; therefore, no offers for tests for sexually transmitted infections were made.

No corrective action was required for this standard.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

#### 115.86 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded?  Yes  No

#### 115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation?  Yes  No

#### 115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners?  Yes  No

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

#### 115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy outlining sexual abuse incident reviews is found in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offenses, and PREA, and OP 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA.

AR 421 states the each facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated unless the allegation has been determined to be unfounded. The PCM will track and notify the review team upon learning of the completion of any sexual abuse/harassment investigation.

Policy further states that the review team shall document their findings on the Committee Review for Sexual Abuse form and shall consider whether the allegation or investigation indicates a need to change

policy or practice to better prevent, detect, or respond to sexual abuse; shall consider whether the incident or investigation was motivated by race, ethnicity, gender identity, or perceived sexual preference; to examine the area the incident allegedly occurred; adequacy of staffing levels; and the use of monitoring technology. Afterwards, a report will be documented stating if any changes were to be implemented.

HCC OP 421 states:

Section 421.22, Sexual Abuse Incident Reviews

1. The HCC shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. The PCM will track and notify the review team upon learning of the completion of any sexual abuse/harassment investigation.
2. Such review shall ordinarily occur within 30 days of the conclusion of the investigation and will be documented using the Committee Review for Sexual Abuse Investigation form located in NOTIS (under the Incident I.R Number).
3. As designated by the Warden the review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners. HCC's review team should include CCSIII/PREA Compliance Manager and Associate Warden. All others will be chosen based on institutional need preferably CCS II, Lieutenant and medical and/or mental health care practitioners as needed.
4. The review team shall document their findings on the Committee Review for Sexual Abuse Investigation form. The review team shall:
  - A. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
  - B. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
  - C. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
  - D. Assess the adequacy of staffing levels in that area during different shifts;
  - E. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff;
  - F. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs a-e of this section, and any recommendations for improvement and submit such report to the facility head and PREA Compliance Coordinator;
  - G. The Review Team shall implement the recommendations for improvement, or shall document its reasons for not doing so.
  - H. The PREA Compliance Manager shall notify medical/mental health of all known inmate on inmate abusers within 60 days of learning of such abuse history.

The acting Warden reports that the facility has a sexual abuse incident review committee at LCC and if an incident occurs at HCC, the Camp Lieutenant is involved with the committee via the telephone. The committee includes the PCM, Associate Warden – Programs, Mental Health clinician, supervisors and an investigator. The acting Warden indicated that the PREA incident review team: (1) considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (2) considers whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (3) visits the area of the facility where the incident allegedly occurred; (4) assesses the adequacy of staffing levels in that area during different shifts; (5) assesses whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (6) prepares a report of its findings and any recommendations for improvement. He also stated that they would make modifications to policy and procedures based on the identified contributing factors.

The PCM, during her interview, stated that the facility conducts sexual abuse incident reviews and prepares a report of its findings. Members of the committee include herself, the administrative lieutenant, the Warden, the investigator, and a representative from Medical and Mental Health. The PCM chairs the committee. In the reports that she prepares, she makes recommendations to the Warden for approval. Once approved, she follows up to ensure they are implemented.

One member of the incident review team was interviewed, while at LCC. They indicated that when the incident occurs at the camp, the committee will consist of the PCM, Camp Lieutenant, the investigator and other staff, as needed. This meeting might be held telephonically due to the distance to the camp from the prison. The PCM reported that the team considers whether the incident or allegations were motivated by race, ethnicity, gender identity or gang affiliation or was motivated or otherwise caused by other group dynamics at the facility. They also examine the area where the incident occurred, assess the adequacy of staffing levels and try to determine whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The facility reports that in the past 12 months there have been no criminal or administrative investigations of alleged sexual abuse completed at the facility. Because there were no allegations in the past 12 months, no incident review packages were completed. This was verified by reviewing the IG's PREA tracking log.

Per a memo authored by the acting Warden, dated August 14, 2020, during the twelve (12) month audit period, from July 2019 through July 2020, HCC has not received any allegations that an inmate was sexually abused while confined at HCC. In the event that the facility did receive such an allegation, a Sexual Abuse Incident Review (SAIR) would be completed following the conclusion of the investigation unless the allegation was determined to be unfounded.

There was no corrective action identified for this standard.

## Standard 115.87: Data collection

### 115.87 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions?  Yes  No

### 115.87 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually?  Yes  No

### 115.87 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice?  Yes  No

### 115.87 (d)



- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?  
 Yes  No

#### 115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.)  Yes  No  NA

#### 115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.)  
 Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The policy outlining sexual abuse data collection is found in AR 421, Custodial Sexual Misconduct, Inmate Sexual Offences and PREA, the NDOC PREA Manual, dated April 4, 2016, and the Survey of Sexual Violence.

Policy mandates the agency to collect accurate, uniform data for every allegation of sexual abuse at facilities using a standardized instrument and set of definitions. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Victimization conducted by the Department of Justice. All data is aggregated annually and displayed on the agencies website. The policy requires the facility to maintain, review, and collect data for all allegations.

NDOC utilizes the SSV-II to collect and report data to the federal DOJ. The process utilized to collect the data is outlined in the PREA Manual – Data Collection section. A copy was provided to the auditor with the PAQ.

The PREA Coordinator reported that NDOC has a contract with CoreCivic, Inc. to house 100 NDOC inmates at the Saguaro Correctional Center, Eloy, Arizona. Any PREA allegations reported by inmates housed in Saguaro will be included in CoreCivic data collection and reporting requirements. This was confirmed via a memo from CoreCivic. Per the PREA Coordinator, CoreCivic has not filed a report for 2019. The auditor was provided with a copy of the 2018 report. The report was reviewed and covered all required topics.

There was no corrective action identified for this standard.

## Standard 115.88: Data review for corrective action

### 115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole?  Yes  No

### 115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse?  Yes  No

### 115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means?  Yes  No

### 115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

Information regarding data review for corrective action is found in the approved PREA Manual. It states:  
4. The data collected and aggregated shall be reviewed by the Director, or designee, Deputy Director of Operations, and the IG PREA Coordinator in order to assess and improve, if necessary, the effectiveness

of its sexual abuse prevention, detection, and response policies, practices, and training. The review will include:

- a. Identifying problem areas;
- b. Taking corrective action on an ongoing basis; and
- c. Preparing an annual report of its findings and corrective actions for each institution, facility 5.

The annual report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the Department's progress in addressing sexual abuse.

6. The Department's report shall be reviewed and approved by the Director and will be made readily available to the public on the Department's website.

a. Specific material may be redacted from the reports when the publication would present a clear and specific threat to the safety and security of a facility. However, there must be an indication of the nature of the material redacted.

The confidential Data Collection PREA Manual was also provided. It provided staff with specific instructions on how to collect and maintain the data to be used in the annual report.

The Director reported that the PCM at each facility is tasked with reviewing the incident review tracking sheet to determine if there is corrective action or changes needed. Annual reports are reviewed by the Wardens, executive staff, and central office staff. Corrective action identified through the incident review committee should improve staff and inmate safety by addressing blind spots, enhancing training, and updating policies if needed. The Director reports that the annual report is prepared by the Agency PREA Coordinator. He reviews the information and approves the report before it is posted on the website.

The PREA Coordinator stated she collects/maintains all PREA related data and coordinates all national reporting. To date, there has been no corrective actions identified for HCC. Once the annual report has been approved by the Director, it is posted on the agency's website. The PREA Coordinator indicated that the Annual Report does not contain any personal identifying information, so there is nothing that needs to be redacted and no need to note what has been redacted.

The PCM indicated that the PREA Coordinator is notified of all allegations. She is responsible to address any on-going issues that are identified for corrective action.

The auditor reviewed annual reports of findings from data reviews/corrective actions. The review included the 2018 annual report and found that HCC had only had one allegation in the last 3 years. It was in 2017 and was a staff on inmate allegation which was unsubstantiated. On 9/29/20, the auditor received the 2019 annual report. It was reviewed to ensure compliance with standards.

There was no corrective action identified for this standard.

## **Standard 115.89: Data storage, publication, and destruction**

### **115.89 (a)**

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?  
 Yes  No

### **115.89 (b)**

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means?  Yes  No

#### 115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available?  Yes  No

#### 115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Overall Compliance Determination Narrative

The policy outlining PREA data storage is located in AR 421. Policy requires the agency to ensure that data collected pursuant to standard 115.87 are securely retained and to make all aggregated sexual abuse data from facilities under its direct control readily available to the public at least annually through its public website. The policy requires the department to remove all personal identifiers from aggregated sexual abuse data before making said data publicly available.

The approved PREA Manual states:

7. All data collected related to incidents that are alleged to be sexual abuse will be securely retained but made readily available to the public through the website annually.
  - a. Before being made publicly available, all personal identifiers will be removed.
8. The sexual abuse data collected will be maintained for a minimum of 10 years after the date of the initial collection.
9. Each institution will designate a PCM, who will coordinate the institution's efforts for compliance with the PREA standards. The PCM for each institution will also coordinate efforts for any satellite facility designated for the institution.
  - a. The PCM for each institution and the satellite facility(s) shall make readily available and visible to staff, contractors, volunteers, visitors and inmates, the Department's zero tolerance policy and related reporting information in the form of posters, flyers and entrance authorization forms wherein signatures are required indicating an understanding of the policy.
  - b. The PCM for each institution and the satellite facility(s), under the direction of the Warden/designee shall develop, annually review and implement policies and practices in support of the Department's zero tolerance policy, reporting practices, incident responses, screenings, training and inmate education.

The PREA Coordinator stated that she is responsible to collect/maintain all PREA related data. She coordinates all national reporting. To date, there has been no corrective actions identified for HCC.

There was no corrective action identified for this standard.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

#### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*)  Yes  No

#### 115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*)  Yes  No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.)  Yes  No  NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.)  Yes  No  NA

#### 115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility?  Yes  No

#### 115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)?  Yes  No

#### 115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees?  Yes  No

#### 115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

During the prior three-year audit period, the agency ensured that each facility was audited at least once. This is the first year of the current audit cycle and the agency has scheduled audits for at least one-third of its facilities.

The auditor had access to and the ability to observe, all areas of the audited facility. The auditor was permitted to request and receive copies of any relevant documents (including electronically stored information). The auditor was permitted to conduct private interviews with offenders. Offenders were permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

### Standard 115.403: Audit contents and findings

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports. The review period is for prior audits completed during the past three years PRECEDING THIS AUDIT. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Overall Compliance Determination Narrative

The agency has published, on the agency website, all Final Audit Reports within 90 days of issuance by the auditor. The review period is for prior audits completed during the past three years preceding this facility audit.

# AUDITOR CERTIFICATION

I certify that:

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

## Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.<sup>1</sup> Auditors are not permitted to submit audit reports that have been scanned.<sup>2</sup> See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Nancy L. Hardy

November 23, 2020

**Auditor Signature**

**Date**

<sup>1</sup> See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.