

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

Interim       Final

Date of Report    May 13, 2019

### Auditor Information

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### Agency Information

Name of Agency: Nevada Department of Corrections		Governing Authority or Parent Agency (If Applicable): Nevada Department of Corrections	
Physical Address: 5500 Snyder Avenue, Bldg. 17		City, State, Zip: Carson City, NV 89701	
Mailing Address: P. O. Box 7011		City, State, Zip: Carson City, NV 89701	
Telephone: (775) 887-3285		Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
The Agency Is:	<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

**Agency mission:** The Nevada Department of Corrections will improve public safety by ensuring a safe and humane environment that incorporates proven rehabilitation initiatives that prepare individuals for successful reintegration into our communities.

**Agency Website with PREA Information:**  
DOC.NV.Gov

### Agency Chief Executive Officer

Name: James Dzurenda	Title: Director
Email: jedzurenda@doc.nv.gov	Telephone: (702) 486-9910

### Agency-Wide PREA Coordinator

Name: Pamela Del Porto	Title: Inspector General
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<b>Email:</b> pdelporto@doc.nv.gov	<b>Telephone:</b> (775) 887-3395
<b>PREA Coordinator Reports to:</b> Director	<b>Number of Compliance Managers who report to the PREA Coordinator:</b> 8

**Facility Information**

<b>Name of Facility:</b> Tonopah Conservation Camp			
<b>Physical Address:</b> 100 Conservation Road, Tonopah, NV 89049			
<b>Mailing Address (if different than above):</b> HC76, Box 8045, Tonopah, NV 89049			
<b>Telephone Number:</b> (775) 482-6700			
<b>The Facility 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>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	

**Facility Mission:** The Nevada Department of Corrections will improve public safety by ensuring a safe and humane environment that incorporates proven rehabilitation initiatives that prepare individuals for successful reintegration into our communities.

**Facility Website with PREA Information:** DOC.NV.Gov

**Warden/Superintendent**

<b>Name:</b> Brian Williams	<b>Title:</b> Warden
<b>Email:</b> bwilliams@doc.nv.gov	<b>Telephone:</b> (775)

**Facility PREA Compliance Manager**

<b>Name:</b> Tom Stubbs	<b>Title:</b> Correctional Lieutenant
<b>Email:</b> tstubbs@doc.nv.gov	<b>Telephone:</b> (775) 482-6700

**Facility Health Service Administrator**

<b>Name:</b> Scott Mattinson	<b>Title:</b> Director of Nursing
<b>Email:</b> smattinson@doc.nv.gov	<b>Telephone:</b> (702) 879-6741

**Facility Characteristics**

<b>Designated Facility Capacity:</b> 152	<b>Current Population of Facility:</b> 150
<b>Number of inmates admitted to facility during the past 12 months</b>	<b>279</b>

Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:		234
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		234
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		0
Age Range of Population:	Youthful Inmates Under 18: 0	Adults: 20 years to 50 years
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:		0
Average length of stay or time under supervision:		N/A
Facility security level/inmate custody levels:		Minimum
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:		5
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		0
<b>Physical Plant</b>		
Number of Buildings: 3		Number of Single Cell Housing Units: 0
Number of Multiple Occupancy Cell Housing Units:		0
Number of Open Bay/Dorm Housing Units:		1
Number of Segregation Cells (Administrative and Disciplinary):		0
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):		
7 cameras, monitor is in the Lieutenant's Office.		
<b>Medical</b>		
Type of Medical Facility:	High Desert State Prison Outpatient Clinic	
Forensic sexual assault medical exams are conducted at:	Rape Crisis Center, University Medical Center, Las Vegas, NV	
<b>Other</b>		
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		8
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		19

# Audit Findings

## Audit Narrative

Tonopah Conservation Camp (TCC) is located approximately 12 miles northeast of the historic mining town of Tonopah, Nevada. High Desert State Prison provides administrative support for TCC, and both are operated under the jurisdiction of the Nevada Department of Corrections (NDOC).

### PRE-AUDIT PHASE

The California Department of Corrections and Rehabilitation (CDCR) provided (via e-mail) the audit notice to the agency's Prison Rape Elimination Act (PREA) Coordinator with instructions to post copies in the housing units and other places deemed appropriate by facility staff. The audit notices were posted during the last few days of August, 2018. CDCR received the pre-audit questionnaire, audit process map, checklist of policies/procedures and other documents from the NDOC, in September 2018. 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.

Pre-audit section of the compliance tool: In September 2018, the PREA Compliance Manager (PCM) provided the completed pre-audit questionnaire (PAQ), including supporting documentation, to the audit team. The certified auditor started completing the compliance tool by transferring information from the PAQ and from supporting documentation to the pre-audit section of the compliance tool.

The audit team did not receive any letters from inmates at the facility prior to arrival at the institution. No letters were received upon return to the office after completion of the on-site review.

### ON-SITE PHASE

On Friday, October 12, 2018, the audit team arrived at TCC. The audit team consisted of 2 certified auditors which included me, retired Chief Deputy Administrator and previous PREA Coordinator for the CDCR; and Roger Benton, retired Captain for CDCR.

On October 12, 2018, the audit team met with the Warden, Associate Warden, the Agency PREA Program Officer, the PCM from HDSP, and the PCM/Correctional Lieutenant, assigned to the camp, for greetings, introductions and information sharing. The team was allowed to use two staff offices which served as the team's primary work location for audit preparation and organization. These offices also served as the locations where most interviews were conducted.

Upon arrival at TCC, the audit team requested and received the names of the facility employees and informed the PCM/Correctional Lieutenant that it was the team's plan to interview all staff who would be on-site during the two day 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 requested a list of inmates classified into any of the following categories:

- Disabled Inmates

- Limited English Proficient Inmates
- Transgender & Intersex Inmates
- Gay & Bisexual Inmates
- Inmates in Segregated Housing for Risk of Sexual Victimization
- Inmates who Reported Sexual Abuse
- 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 Identified as Gay, Bisexual, Transgender or Intersex, Disabled Inmates, Inmates in Segregated Housing for Risk of Sexual Victimization, or Inmates who Reported Sexual Abuse.

On-site Review: The two audit team members conducted a thorough site review of the facility. Areas toured inside the perimeter included the three wings of the housing unit, the kitchen and dining hall, laundry, canteen, education, recreation yard, gymnasium, and the visiting area. The buildings utilized by the Nevada Division of Forestry (NDF) were also toured.

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 inmate phones to determine the functionality of the facility's hotline for reporting sexual abuse or harassment. In inmate work areas, audit team members assessed the level of staff supervision and asked questions to determine whether inmates are in lead positions over other inmates. 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: The lead auditor conducted interviews of the management team, including the Warden and the PCM. 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 Director and PREA Coordinator were interviewed via the telephone.

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 contract staff.

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
- PCM-1
- Medical and Mental Health - 0
- Incident Review Team Member-1

- Staff who Performs Screening for Risk of Victimization and Abusiveness-1
- Intake Staff-1
- Office of Inspector General (facility and central office level investigations)-2
- Sexual Assault Nurse Examiner-1
- Human Resources-1
- Segregated Housing staff-0
- Person Responsible for Monitoring Retaliation-1
- Higher Level Supervisor-2
- NDF Contract Staff - 2
- First Responders-3

There was nine 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 TCC. 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 nine out of the 11 staff assigned at TCC were interviewed. The remaining staff was away from the facility at training, or on their days off. The management staff was interviewed a few days prior to our arrival at TCC, while we were auditing HDSP, the parent institution.

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. A total of 20 specialized staff interviews were conducted.

Random Staff Interviews: The audit team interviewed all staff who was on-site during the two days the audit team was on-site, including returning to the facility in the late evening to interview graveyard shift security staff. The interviews were conducted in private offices, in the main building of 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. A total of eight random staff interviews were conducted.

Random Inmate Interviews: The auditor determined that at least one inmate from each wing of the housing unit would be interviewed. One audit team member completed the random and specialized inmate interviews. Audit team members used the alphabetical roster of inmates to randomly select the inmates. Interviews were conducted in a private office in the main building of the facility. The audit team member introduced himself, 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 20 random interview protocols were completed.

PREA-Interest Inmate Interviews: One audit team member was assigned responsibility for interviewing specific categories of inmates identified for interviews based upon their relevance to specific PREA standards. These categories are:

- Limited English Proficient Inmates
- Inmates who Disclosed Sexual Victimization during Risk Screening

The inmate was called by security staff to report to the location where the interviews were being conducted. The auditor introduced himself, communicated the standard advisory statement and asked the line of questions in the respective interview protocols. The audit team member interviewed six inmates who was identified as being limited English proficient, and one inmate who disclosed sexual victimization during risk screening; a total of seven inmates were interviewed based upon PREA-interest categories. The number of interviews conducted was based on the number of inmates housed at TCC who met the criteria for the PREA-interest categories.

Document Reviews: The document review process was completed by the lead auditor. She reviewed all documents related to allegations of sexual harassment and retaliation monitoring documentation, records documenting the training 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. The auditor recorded the information obtained from the documentation review on the “PREA Audit – Adult Prisons & Jails – Documentation Review” templates and collected copies of documents, as necessary.

The facility had the PCM provide the investigative files for both of the PREA allegations received during the previous 12-month period. The breakdown is as follows:

Type of Allegation	Staff on Inmate	Inmate on Inmate
Sexual Abuse:	0	0
Sexual Harassment:	1	1
Total:	1	1

The investigative reports included the date of report, date of the allegation (if different than report date), name of the victim, name of the suspect (if known), and the disposition or status of the case. The auditor obtained the investigative files from the Agency PREA Program Officer. These reports were reviewed using a Documentation Review – Investigations form to record the following information relative to each investigative report:

- Date of Allegation
- Date of Investigation
- Staff or Inmate on Inmate
- Sexual Abuse, Sexual Misconduct, or Sexual Harassment?
- Disposition
- Is Disposition Justified?
- Investigating Officer
- Notification Given to Inmate?

- Retaliation Monitoring Completed
- Review by the SART Committee

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 Saturday, October 13, 2018, the audit team scheduled a close-out discussion with the Warden (via telephone) and camp staff. During this close-out discussion, the Warden, the PCM from HDSP, the Agency PREA Program Officer, and PCM/Correctional Lieutenant, were 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 members and took responsibility for completing the interim 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 Program Officer. The audit team leader documented all clarification questions, missing information, requests for additional documentation, etc. to follow-up with 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 compliance tool. The auditor used the audit section of the 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 identifies 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. The written interim report was provided to TCC on Tuesday, November 27, 2018.

Corrective Action Plan: A Corrective Action Plan (CAP) will be provided to the facility during the week of December 3, 2018.



## Facility Characteristics

The Tonopah Conservation Camp opened its doors in January 1991, as a female facility. It's located approximately 12 miles northeast of the historic mining town of Tonopah, Nevada. TCC was converted to an all-male facility in September 1991. TCC is currently a camp dedicated to fire suppression with guidance from Nevada Division of Forestry. Capacity at TCC is a maximum of 152 inmates. Programs: Vocational Training, Educational Opportunities, and Treatment Services. The majority of the inmates at TCC work for the Nevada Division of Forestry and are assigned to twelve-man fire crews. Inmates fight wildfires and do multiple community assignments throughout the area. Inmates at TCC can prepare for the General Education Development test or earn their High School Diploma.

Day to day operations at TCC is managed by a Correctional Lieutenant with administrative supervision and support provided by High Desert State Prison. TCC is staffed with:

- 1 Correctional Lieutenant
- 1 Correctional Sergeant
- 1 Senior Correctional Officer
- 9 Correctional Officers
- 1 Correctional Case Work Specialist I
- 1 Retail Storekeeper II

At the time of the on-site review, the facility had two vacant correctional officer positions and one vacant correctional sergeant position.

TCC has one housing unit, which has three wings which contain inmate living areas. Two wings have seven cubes which house eight inmates each and one wing has five cubes which house 8 inmates each. All housing is dormitory style housing. There is one bathroom in each wing. It contains two toilet stalls and three or four shower stalls. Each of the toilet and shower stalls has a door or curtain covering the front opening, to eliminate cross-gender viewing issues. The fourth wing of the facility houses the visiting area, dining hall, and kitchen. All meals are prepared by inmates assigned at TCC and supervised by NDOC security staff.

The facility has self-contained laundry, gymnasium, canteen, and education areas. There is no designated intake unit, inmates are received into the main building from the transportation vehicle and are placed in the dining hall, which accommodates the intake process for newly arriving inmates. There are six Inmate telephones, located outside and in front of the main building.

The main entrance to the facility must be unlocked by staff to allow admission to all staff and visitors, both inmate and professional. There is one staff area, in the rotunda area of the building, where all four wings come together. There are three staff offices. All doors are manually controlled by staff and the video monitoring output is displayed on the screen in the lieutenant's office.

Activities available to the inmate population include education, gymnasium, and an outdoor recreation yard. Visits occur in the visiting area.

## Summary of Audit Findings

The on-site portion of the audit went very well. Facility staff was very helpful and responsive to the needs of the auditors and any concerns that were expressed. The audit team thanks the Warden, the Agency PREA Program Officer, the PCM/Camp Lieutenant, and the entire staff for this because it simplified the process that needed to be completed.

Overall, it is evident that staff at TCC has been working toward compliance with the PREA standards. Because of this hard work, the number of items identified that will require corrective action are few.

Some of the positives observed by the audit team included:

- Cross gender viewing in the housing unit had already been addressed.
- The facility appears to be very well maintained.
- PREA posters and contact information was prominently posted in various locations around the facility.
- The facility seems to be adequately staffed. The camera system lends support to the supervision of the inmate population by custody staff.
- Supervisory staff is out in the living areas and other areas of the facility, making rounds and working with their staff to address issues. In the random staff interviews, it was apparent that the line staff is very comfortable making contact with their supervisors and working through the issues.
- Staff and inmates expressed a high level of confidence in the staff at the camp.
- All staff and inmates were able to describe the process they would use to make a report of a PREA incident.

**Number of Standards Exceeded:** 0

**Number of Standards Met:** 45

115.11	Zero Tolerance of sexual abuse and sexual harassment; PREA Coordinator
115.12	Contracting with other entities for the confinement of inmates
115.13	Supervision and monitoring
115.14	Youthful inmates
115.15	Limits to cross-gender viewing and searches
115.16	Inmates with disabilities and inmates who are limited English proficient
115.17	Hiring and promotion decisions
115.18	Upgrades to facilities and technologies
115.21	Evidence protocol and forensic medical examinations
115.22	Policies to ensure referrals of allegations for investigations
115.31	Employee Training
115.32	Volunteer and contractor training
115.33	Inmate Education
115.34	Specialized training: Investigations
115.35	Specialized training: Medical and mental health care
115.41	Screening for risk of victimization and abusiveness
115.42	Use of screening information
115.43	Protective Custody
115.51	Inmate Reporting

115.52	Exhaustion of administrative remedies
115.53	Inmate access to outside confidential support services
115.54	Third-party reporting
115.61	Staff and agency reporting duties
115.62	Agency protection duties
115.63	Reporting to other confinement facilities
115.64	Staff first responder duties
115.65	Coordinated Response
115.66	Preservation of ability to protect inmates from contact with abusers
115.67	Agency protection against retaliation
115.68	Post-allegation protective custody
115.71	Criminal and administrative agency investigations
115.72	Evidentiary standard for administrative investigations
115.73	Reporting to inmates
115.76	Disciplinary sanctions for staff
115.77	Corrective action for contractors and volunteers
115.78	Disciplinary sanctions for inmates
115.81	Medical and mental health screenings; history of sexual abuse
115.82	Access to emergency medical and mental health services
115.83	Ongoing medical and mental health care for sexual abuse victims and abusers
115.86	Sexual abuse incident reviews
115.87	Data collection
115.88	Data review for corrective action
115.89	Data storage, publication, and destruction
115.401	Frequency and scope of audits
115.403	Audit contents and findings

**Number of Standards Not Met:** 0

## PREVENTION PLANNING

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

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

#### 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 PCM? (N/A if agency operates only one facility.)  Yes  No  NA
- Does the PCM 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*)

Nevada Administrative Regulation (AR) 421, Custodial Sexual Misconduct, Inmate Sexual Offenses and PREA policy establishes that the agency has zero tolerance toward sexual misconduct and sexual harassment; 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 PREA Federal Standards. This AR serves as the agencies implementation plan for PREA.

Operational Procedure (OP) 421, Prison Rape Elimination Act, Section 421.01 reads: The Department of Corrections 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, sexually 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 also be subject to criminal prosecution. The Institution shall take a proactive approach regarding the prevention, detection, response and punishment of any type of sexual contact.

The mission statement for the agency is: The NDOC will improve public safety by ensuring a safe and humane environment that incorporates proven rehabilitation initiatives that prepare individuals for successful reintegration into our communities.

The auditor reviewed daily population reports for the past 12 months and a schematic of the facility. The auditor was provided with the agency and facility organizational charts; a list of staff assigned at TCC, broken down by classification and shift; and a list of inmates sorted by housing unit for selection of inmates for interviews.

The audit notice was posted in various locations around the facility, to include: in the dining hall, in the hallway leading to each living area, in the rotunda area, and on the doors leading out to the exercise yard.

The PREA Coordinator indicated she has dedicated staff to assist her in managing her PREA responsibilities. She indicated she has 7 PCMs who she and her staff interact with. Their level of interaction depends on the needs of each facility. She also works with them on statewide training issues. The Departmental organizational charts reflected the PREA Coordinator reports directly to the Director of Corrections.

The designated PCM for TCC stated he has sufficient time and authority to coordinate the facilities efforts to comply with PREA. The facility organizational chart provided shows the PCM reports to the Warden at High State Prison and to the PREA Coordinator, for PREA related issues.

**Corrective Action:** None was recommended for this standard.

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

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

#### 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 OR the response to 115.12(a)-1 is "NO".)  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*)

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 auditor was provided with an electronic copy of the contract. The language outlining the PREA requirements was included in the contract.

The contract administrator indicated she ensures that PREA requirements are included in all new contracts and renewals of existing contracts. She stated contract staff is required to sign acknowledgement forms as part of a new contract and submit those to the agency. She indicated she is not involved in monitoring the contract agency for compliance with the PREA standards. In discussing this with the PREA Coordinator, the auditor was informed that this contract has been in place for less than one year and that data collected from the contract agency will be included in the NDOC annual report or will be included in the contract agency report, if they participate in reporting. She further indicated the facility has been audited during this audit cycle and was found to be compliant with all PREA standards.

**Corrective Action:** None was recommended for this standard.

## Standard 115.13: Supervision and monitoring

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

### 115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and

determining the need for video monitoring?  Yes  No

- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No  NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring?  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*)

The facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring:

1. Generally accepted detention and correctional practices?  Yes  No
2. Any judicial findings of inadequacy?  Yes  No
3. Any findings of inadequacy from Federal investigative agencies?  Yes  No
4. Any findings of inadequacy from internal or external oversight bodies?  Yes  No
5. All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated)?  Yes  No
6. The composition of the inmate population?  Yes  No
7. The number and placement of supervisory staff?  Yes  No
8. Institution programs occurring on a particular shift?  Yes  No
9. Any applicable State or local laws, regulations, or standards?  Yes  No
10. The prevalence of substantiated and unsubstantiated incidents of sexual abuse?  Yes  No
11. Any other relevant factors?  Yes  No

All criteria identified in this standard are addressed in the staffing plan which was last updated on July 30, 2018. The staffing plan is also addressed in the following policy documents:



AR 400, General Safety and Security, Section 400.01, General Security Supervision Guidelines, states: 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);

AR 326, Posting of Shifts/Overtime, outlines the staffing requirements for each institution. It charges the Warden/Facility Manager with the responsibility to ensure there is sufficient staff on duty to safely operate the institution or facility.

OP 326, Section 326.01, Shift Supervisors Responsibility, states: 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.

Section 326.04, Shift Rosters, states: To efficiently utilize assigned staff, the shift supervisor must plan in advance the work week, schedule and take into account any changes in the workload such as, community service details and scheduled and unscheduled transportation.

- Shift supervisors must staff all mandatory positions.
- Shift rosters will be reviewed one day in advance.
  - Final review and adjustments to shift rosters will be completed by end of shift each day.

OP 312, Standard Responsibilities of All Officers, states: Due to minimum staffing being two officers on shift at a time, one officer will maintain standard operations of the camp while the other officer works on his assigned job. If, at any time, an officer needs to go to another area, or have an inmate with him he will notify the other officer either in person or via radio contact. At no time will an officer be alone with one inmate during the course of performing their job duties. An officer will always have at least two inmates or another staff member with him when performing his job duties with inmates.

The staffing plan says TCC does not have any type of video monitoring capability in the camp, except for a handheld device for incidents or emergencies. The auditor was provided with photographs of cameras and the locations where they are mounted. When the PCM was asked about this discrepancy, he stated that installation of seven cameras was only recently completed. The auditor will recommend the staffing plan be updated to reflect this change during the next revision.

On September 30, 2014, a report entitled "Assessment of Shift Relief Requirements and Correctional Staff Needs at all Facilities within the NDOC" was created by the Association of State Correctional Administrators. It established the base staffing for all NDOC facilities and institutions. A copy of this report was provided to the auditor.

The Warden stated that TCC has a staffing plan in place and that staffing levels are adequate to protect inmates against sexual abuse. This is assessed by reviewing staffing levels based on the dynamics of the current inmate population including custody levels, video monitoring capabilities, and all of the requirements identified within this standard. The facility does not have any judicial findings of inadequacy, findings of inadequacy from federal investigative agencies, or findings of inadequacy from internal or external oversight bodies. He requires that vacancy information be provided to him on a daily basis in an electronic "Warden's Folder". The Warden indicated that the facility documents all instances of non-compliance with the staffing plan by creating an Incident Report in NOTIS which includes an explanation of program modifications.

Through an interview with the PREA Coordinator, she indicated that she is consulted annually, regarding any assessments of, or adjustments to, the staffing plan for TCC.

The PCM indicated that in updating the staffing plan, all of the components listed in 115.13(a) were taken into consideration.

The auditor reviewed annual reports from 2015 and 2016.

Per a memorandum from the PCM, TCC has not had any deviations from the staffing plan during the 12-month audit time frame. Vacant posts are filled with staff redirects or overtime. This was confirmed through discussion with the Warden.

Two supervisors were interviewed. Both indicated they conduct unannounced rounds at least once per shift and document them on the shift log in NOTIS. The facility is very small, with only 2 or 3 staff on shift, and all the living areas are in one building, so notifying other staff isn't really an issue, as they all share the same work area.

The NOTIS system was checked, and notations were included there. The auditor was provided with a sample from NOTIS documenting unannounced rounds for the period 1/1/2018 through 8/20/2018. The auditor observed that there were consistent entries on all shifts and all days of the week. During the on-site portion of the audit, the auditor reviewed two weeks including the week which included July 1, 2018 and the week which included October 1, 2018.

**Corrective Action:** None was recommended for this standard.

## Standard 115.14: Youthful inmates

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

#### 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*)

Consistent with information reported, auditors observed no youthful inmates throughout the on-site visit. This standard for TCC is met because they do not house inmates under the age of 18.

**Corrective Action:** None was recommended for this standard.

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

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

#### 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 in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.)  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 here for facilities with less than 50 inmates before August 20, 2017.)  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?  Yes  No  NA

### 115.15 (d)

- Does the facility implement a policy and practice 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*)

AR 492, Inmate Body Cavity Searches for Contraband, 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.

OP 422, Search and Contraband, Section 422.03, Body Searches, states: Correctional personnel will not conduct unclothed body searches of an inmate of the opposite sex except in an emergency, i.e., riot, escape, etc. In such cases, the searches that were conducted by the opposite sex will be documented in NOTIS, to include name of staff and reason. At no time will staff conduct an unclothed body search of a Transgender or Intersex inmate for the sole purpose of determining the inmate's genital status. Any search or inspection of an inmate's body cavity, other than visual or metal detection inspections, will be conducted in a (private) medical setting under the direct supervision of authorized medical personnel.

OP 312, Section 312.02, Officer Responsibilities, states: Being that TCC 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. All announcements will be recorded in NOTIS. 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 emergency situations. Each time a female officer needs to enter the above mentioned rooms she is to announce herself before entering, the reason and announcement needs to be documented in NOTIS. Logs from 2017 and 2018 from NOTIS for female entering male housing unit were provided. Entries provide a description of the activities being performed by the female staff or female visitor.

The PAQ reported no incidents of cross-gender strip or body cavity searches in the last 12 months. Also provided with the PAQ was a NOTIS report which reflected documentation of opposite gender announcements being made during one week in May.

The training curricula for clothed body searches was provided and reviewed by the auditor. The curriculum provides details of how to perform a universal body search. It also addresses the expectation of being professional and respectful during these searches. Clothed body search training was completed by all security staff assigned to TCC during the 2017 calendar year. Newly hired staff received this training during their new employee orientation. All custody staff interviewed indicated they had received training on conducting cross-gender pat-down searches and searches of transgender and intersex inmates. Most indicated it was in 2018 while two indicated they had it as part of their PREA refresher training in 2017. The storekeeper indicated he had not been trained, but also is not required to conduct any type of searches of inmates.

TCC has not housed female inmates during the 12-month audit period, per a memorandum authored by the PCM. This was confirmed during the tour of the facility.

During the tour, the Lieutenant made the opposite gender announcement when the female auditor entered the living areas of each wing.

Through general interviews with staff, all reported that when the female staff arrives on grounds, an announcement is made over the intercom. In addition, when she enters the living area of the wings,

she announces her presence. They also document the announcements in NOTIS. In addition, all staff indicated that inmates are able to shower, use the toilet and change clothing without being viewed by staff of the opposite gender. All staff interviewed was aware of the policy that prohibits searching an inmate for the sole purpose of determining his/her gender. All custody staff interviewed indicated they had received training on conducting cross-gender pat-down searches and searches of transgender and intersex inmates.

The 20 random inmates interviewed indicated that female staff announces their presence over the intercom and again when they are coming down the wing into the living area. They also indicated they are never naked in full view of non-medical staff of the opposite gender when using the toilet, showering, or changing clothing. There were no inmates who identified as transgender or intersex housed at TCC during the on-site portion of the audit.

The audit team identified a bathroom in the NDF maintenance work area to be a possible blind-spot. The bathroom was in the corner of the shop, had a solid door and could be locked from the inside. The door is not controlled by staff. The PCM indicated they would remove the lock from the door as a temporary solution and would identify a permanent solution for that area. On October 19, 2018, the auditor was provided photographs showing the lock had been removed. She was informed that parts had been ordered to correct the situation and she would be notified when the modifications were complete.

**Corrective Action:** None was recommended for this standard.

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

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

### **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*)

AR 658, Hearing Impaired Inmates, describes the process to be utilized to provide assistance to inmates who are hearing impaired.

OP 421, Section 421.07, Inmate Education, was modified based on the findings of the auditor and now states (*italics reflects added text*): 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. *If an inmate with limited reading skills or is visually impaired, the Caseworker will explain (read) word for word, all documentation that was given to the inmate to insure the inmate understands all rights as described. The caseworker will also insure that the inmate is aware and understands all of the ways to report incidents that do not involve writing.*

- 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.

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. TCC will use the services provided by CTS language services to help with any language barriers.

TCC has contracted with Language Link to provide both spoken interpretation and written translation services. Information on how to access those services can be found in the staff offices. The Sign Language Communications and Corporate Translation Services contracts were provided to the auditor. Both were reviewed and were in effect at the time of the on-site portion of the audit. The PCM indicated there have been no PREA incidents during the review period which required the use of the translation services.

When speaking with the PCM about written materials used for effective communication about PREA with inmates with disabilities or limited reading skills, the auditor was told that because of the nature of a camp, they do not receive inmates with disabilities. The auditor identified that their policy did not address inmates with limited reading skills. The PCM indicated that if an inmate arrived at TCC and was identified as having limited reading skills, the caseworker would be charged with reviewing the materials with the inmate to ensure he understood the information. During the period of time the interim report was being written, OP 421 was updated to address this concern.



There was no intake scheduled during the days we were on-site. Written materials, in English and Spanish, were posted in various locations around the facility. Also the Inmate Rule Book, which is issued to the inmate upon arrival at TCC, was reviewed and was determined to provide the inmate population with PREA information.

Per a memo authored by the PCM, during this 12 month audit time frame, TCC has not had any blind, deaf, hard of hearing, or disabled inmates. This is due to TCC being a work camp. In addition, the memo indicated there were no instances where an inmate interpreter was used in a PREA related incident. The Warden approved this memorandum on November 1, 2018.

Through the interview with the agency head, he indicated the agency has a contract to provide interpreter services for those inmates with disabilities or who are limited English proficient. They do not utilize inmates to provide interpreter services. They have the PREA information available in braille. They also have had the script from the PREA video translated into different languages, which can be obtained by contacting the Agency PREA Program Officer.

The nine staff interviewed indicated they would utilize a staff member to act as an interpreter, if one was available, or would contact the language line to be able to get the information the inmate was trying to provide. All knew that the instructions to contact the language line were posted on the board in the office or in the caseworker's office. All staff interviewed indicated they would not utilize an inmate as an interpreter.

Six inmates were interviewed because English was not their first language. A staff interpreter was needed to complete the interview with one of the inmates. All others were able to successfully interact with the auditor. All indicated they are able understand the information provided to them and if they have any difficulty, they are able to go to staff with questions.

**Corrective action: None recommended for this standard.**

## Standard 115.17: Hiring and promotion decisions

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

### 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, or 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*)

AR 212, Contracts, AR 300, Recruitment and Hiring, and AR 308, Department Staff and Applicant Records, were reviewed.

Policy prohibits the hiring or promotion of anyone who may have contact with offenders, who has 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.

Policy states that a criminal background records check will be completed before hiring staff that may have contact with offenders and best efforts will be made 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 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.

OP 20, Inmate Assignment to NDF, states: All NDF Crew Supervisors who have contact with inmates will undergo a background check and receive instruction on PREA during pre-service training. This will be the responsibility of NDF command, the camp Lieutenant will insure that the new Crew Boss has all PREA criteria completed before the employee is around inmates.

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. This contract was last updated in 2017.

Three NDOC forms were provided with the PAQ. NDOC Form 1952 is used to answer the questions identified in standard 115.17(a) and (b) by contractors and volunteers. NDOC Form 1953 is the information sheet that is given to contractors or volunteers which outlines the PREA policy. NDOC Form 1957 is used by new applicants and promotions to answer the questions identified in standard 115.17(a) and (b).

Per the PAQ, in the past 12 months, the five staff hired at TCC had criminal background record checks completed. Files of all personnel assigned at TCC were reviewed by the audit team and it was verified that all files contained a completed background check. One of the files which should have had a prior institutional check did not contain the application, so the auditor was not able to determine if it was completed. The staff was not able to locate the application. All others that required it were completed.

Two examples of prior institutional employer contacts were provided with the PAQ. In addition, two examples of responses to other agencies inquiries were provided with the PAQ.

A list of contractor background checks was provided to the auditor. It was initiated in June 2015 and continues to be used today. Two examples of completed background checks were provided with PAQ. The auditor was unable to verify that the seven NDF staff assigned at TCC had completed background checks, as none were provided to the auditor.

The administrative staff member interviewed indicated the agency 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. She told the auditor that the facility performs criminal record background checks or considers pertinent civil or administrative adjudications for all newly hired employees who may have contact with inmates and all employees being considered for promotion. They also ensure criminal record background checks are completed for any contractor who may have contact with inmates. The auditor learned that background checks are run through NCIC via submission of fingerprints and fingerprints are also submitted to a state agency to determine if there are any state level issues. The HR staff indicated they are not involved with running subsequent background record checks, which is assigned to the Inspector General's Office. They stated the facility asks all applicants and employees who may have contact with inmates about previous misconduct (as described in 115.17(a) in written applications for hiring or promotion, and in interviews conducted as part of performance reviews of current employees. Standard form DOC 1957 is used to accomplish this task and a copy of a blank form was provided to the auditor with the PAQ. The auditor was told that their employees do not complete written self-evaluations. HR staff indicated that when a former employee applies for work at another institution, the facility provides information on substantiated allegations of sexual abuse or sexual harassment by use of a standard letter that is sent. This letter is

sent to agencies external to NDOC. If the individual previously worked within NDOC, an e-mail is sent to the PCM, where they previously worked to determine if there were any issues. All responses are retained in the recruitment file.

Per a memorandum authored by the PCM, TCC did not have any new hires or promotions that had material omissions or false information during the review period. This memorandum was approved by the Warden on November 1, 2018.

When reviewing files for current employees, it was noted that copies of initial background checks were retained in the employee file for all of the current staff. The five-year follow-up background checks would only be required for two staff and both were contained in the employee file.

**Corrective Action was recommended for this standard.** Background checks for NDF contractors were not available for review. To address this deficiency, the auditor will require that copies of the required background checks be provided for all NDF contractors currently assigned at TCC.

**Corrective Action taken by Facility:** An updated list of NDF staff which included the dates of their original background checks was provided to the auditor during December 2018. In addition, copies of 5-year background checks were provided for all who required one.

## Standard 115.18: Upgrades to facilities and technologies

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

#### 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*)

The agency head indicated, during his interview, that when designing, acquiring or planning substantial modifications to facilities, they check line of sight, identify the need for additional monitoring technology, review blueprints, talk with PREA staff for identification of path of travel and possible blind spots, and identify response protocols. He stated that many of the facilities are pretty old and they use monitoring technology to enhance the protection of inmates by reviewing where existing cameras are located, where there may be gaps in the surveillance, where deficiencies have been identified based on prior PREA allegations, and information shared by staff after facility tours.

Through discussions with the Warden, there have been no modifications or substantial expansions at TCC since the last PREA audit in 2016 and there are none planned in the near future. He indicated that with the installation of monitoring equipment they may need to request additional staff to monitor the footage being gathered.

Per a memorandum authored by the PCM, during this 12 month audit time frame, TCC has installed a 7 camera monitoring system. The cameras were placed where blind spots existed and officers could not see by sight. The monitor was placed in the Lieutenant's office. This memorandum was approved by the Warden on November 1, 2018.

During the tour, the auditors did not identify any areas where new construction had been completed. The Lieutenant indicated there have been no substantial expansions or modification since the last PREA audit. Video from the surveillance equipment was reviewed to ensure there were no issues with cross-gender viewing. All seven cameras provide surveillance for areas around the facility that would be otherwise difficult to monitor. Six of the cameras are mounted outside and one is mounted in the rotunda.

**Corrective Action:** None was recommended for this standard.

## RESPONSIVE PLANNING

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

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

#### 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?  Yes  No
- 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 entity 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 attempts to make a victim advocate from a rape crisis center available to victims per 115.21(d) above.]  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*)

Per AR 421, 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.

AR 457, Investigations, was provided to the audit team for review. It provides a detailed process for staff on the process to be utilized when a PREA investigation becomes necessary.

OP 422, Searches and Contraband, provides a step by step process to be utilized by staff when discovering a crime scene or evidence related to a crime has taken place at the facility.

OP 421 states: Transport the suspect to the HDSP infirmary after the victim has been transported and assessed by HDSP medical. The suspect shall not be placed or housed, even temporarily, in the same area as the victim and the inmates are to have no contact at any time, and are to be escorted to HDSP in separate vehicles. Victims must agree to have a sexual assault forensic exam prior to transporting for the exam. Should an inmate refuse to have the exam, the refusal must be documented on a



Release of Liability for Refusal of Medical Treatment Form (DOC Form 2523). Victims will only be transported for a sexual assault forensic exam if the assault occurred within the previous 72 hour time frame.

Medical OP 117 was reviewed to corroborate that all inmate victims of sexual abuse have access to forensic medical exams. It should be noted this OP is from HDSP and describes medical's role at HDSP in responding to allegations of sexual abuse.

According to the PAQ, in the past 12 months, there were no forensic medical exams conducted.

The current Rape Crisis Center Memorandum of Understanding and posters (English/Spanish) were provided with the PAQ. Posters notify inmates of availability of these services and how to access them. The responsibilities of the outside medical and mental health practitioners are delineated in the MOU and in the protocol used to conduct the exam. Posters were noted around the facility providing information for the inmate population, in both English and Spanish.

All staff interviewed indicated that sexual assault investigations would be completed by staff from the Inspector General's office. All custody staff were able to provide the auditor with a thorough response to how they would obtain usable evidence, if an inmate alleged sexual abuse. Their responses included separate the victim and suspect, remove all other people from the area and block it off so nothing in the area is contaminated, take the clothing from both the victim and suspect (placing each piece in individual paper bags and thoroughly labeling it), explain why the victim should not wash up and turn the water off to the holding cell where the suspect is to ensure he is not able to wash up, notify supervisors and the inspector general's office to determine if transportation for a SART examination is required.

The SANE/SAFE staff interviewed indicated they are responsible for conducting all forensic medical examination for TCC. She indicated they have staff available 24 hours a day, 7 days a week, so there is no time when they would not have someone available to respond. They have a good working relationship with the NDOC facilities and they do not bill inmates for the services they provide.

The PCM indicated that if an allegation of sexual abuse was received, the inmate would be transported to hospital, after notifying the Warden and IG. When he arrived at the hospital, HDSP staff would be there and custody of the inmate would be transferred to HDSP staff. The inmate would complete the forensic exam under the supervision of HDSP staff and the TCC staff would return to the facility. The facility has a MOU with a Rape Crisis Center (RCC) to provide victim advocacy services. Services being provided by the RCC meet qualifications described in 115.21, which is verified by NDOC HQ staff before the MOU is approved. Facility staff has no role in this process.

There were no allegations of sexual abuse received during this review period; therefore, no interviews were completed.

**Corrective Action:** None was recommended for this standard.

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

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

### 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 such publication 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*)

AR 421 and AR457 were provided as informational support for this standard.

OP 421, Section 421.12, Criminal and Administrative Investigations, states: NDOC Office of the Inspector General will investigate all allegations of staff on inmate sexual abuse, sexual harassment and inmate on inmate sexual abuse.

A log is maintained by the Inspector General's Office of all sexual abuse and sexual harassment allegations and the outcome of each. 2017 and 2018 logs were provided to the auditor. The number of allegations of sexual abuse and sexual harassment that were received at TCC during the 12-month audit review period was two. Both were referred to the Inspector General for investigation. One of the cases was inmate on inmate sexual harassment, which, at the conclusion of the investigation, was determined to be unsubstantiated. The second was an allegation of staff on inmate sexual harassment. The allegation was made in January 2018 and the investigation was completed during October 2018. The investigation was determined to be unsubstantiated. Neither inmate is currently assigned at TCC.

The agency head indicated that the agency ensures an administrative or criminal investigation is completed for all allegations of sexual abuse or sexual harassment, as outlined in AR 421. He indicated the Inspector General and PCMs monitor and track all allegations to ensure investigations are initiated and completed. Investigations are completed utilizing a uniformed investigation process, as outlined in Nevada Revised Statutes (NRS) 284 and 289. NRS 284 talks about investigations for classification and 289 addresses peace officer investigations. He further indicated all criminal investigations are referred to the Attorney General for prosecution.

During two investigative staff interviews, the auditor was told that agency policy requires that all allegations of sexual abuse or sexual harassment be referred for investigation to the Inspector General's office for both administrative and criminal investigations.

**Corrective Action:** None recommended for this standard.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

#### 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*)

AR 360, Correctional Employee/Officer Basic Pre-Service Training, 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 NRS and Nevada Administrative Code for Category III Peace Officers and the Department's Administrative Regulations and Directives. All staff are required to attend the Department's PST

OP 421, Section 421.05, Employee Training, states: All employees who have contact with inmates will receive instruction on PREA during pre-service training on:

- NDOC Zero tolerance policy for sexual abuse and sexual harassment
- How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.
- Inmates right to be free from sexual abuse and sexual harassment
- The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- The dynamics of sexual abuse and sexual harassment in confinement
- The common reactions of sexual abuse and sexual harassment victims
- How to detect and respond to signs of threatened and actual sexual abuse
- How to avoid inappropriate relationships with inmates
- How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates.
- How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities

All employees who have contact with inmates will receive refresher training on PREA every two years. In the years which an employee does not receive PREA refresher training, the employee shall receive refresher information on current PREA policies. Between trainings, TCC will provide employees with information about current policies regarding sexual abuse and harassment through e-mails. Training will be documented and confirmed by signature which will be maintained in the training files.

The auditor was provided with a copy of the Pre-Service Staff Training PREA (revised 01/2017) lesson plan. Through the review, the auditor determined all required components of PREA refresher training were included. A copy of the NDOC 1954 PREA Training Acknowledgement form was also provided with the 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 NDOC employee. 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 Tolerance policy could result in disciplinary action."

The eight random staff interviewed indicated they had completed PREA training in the last 12 months.

A review of the training records for 11 staff assigned to TCC confirmed the information provided by staff. All staff has completed PREA training within the past 12 months. Copies of training certificates and training acknowledgement forms were provided for all of the staff assigned at TCC.

**Corrective Action:** None was recommended for this standard.

## Standard 115.32: Volunteer and contractor training

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

### 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*)

AR 802, Community Volunteer Program, states that if circumstances suggest that a volunteer has been compromised into a personal relationship with an offender, or through any other situation or event, that volunteer will be excluded from the institution/facility pending an investigation into the situation. Additionally, if a volunteer is found to have been compromised, he/she will be permanently barred from participating as a volunteer for the Department in any capacity. The policy mandates all volunteers and contractors who have contact with offenders to be trained in their responsibilities under PREA.

AR 212 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.

There was one volunteer educator assigned at TCC at the time of the on-site visit. He was not at the facility during the visit and the auditor was told he is retiring at the end of October 2018.

There are seven NDF contract staff assigned at TCC. Two of these contract staff were interviewed and they indicated they had received PREA training in January/February 2018. This is usually their quiet time at the camp, and they try and get all of their training completed before fire season starts. Both indicated they have been notified of the zero tolerance policy and instructed how to report should they become aware of an incident of sexual abuse or sexual harassment. Both indicated it is their responsibility to be aware of the inmates who are under their supervision and observe for different behavior than what is usual.

Training acknowledgement forms and certificates for the seven NDF crew bosses were provided for the period 2017 and 2018.

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 (blank sample provided with PAQ) states 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 Nevada Department of Corrections. 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.

The auditor reviewed the joint NDF & NDOC lesson plan (updated 03/2016) and the NDOC Volunteer and Contractor PREA training (updated 03/2016). Both addressed the agencies zero tolerance policy and the expectation of immediate reporting should they receive a PREA allegation from an inmate or other source.

**Corrective Action:** None was recommended for this standard.

## **Standard 115.33: Inmate education**

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

### 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 such education?  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*)

AR 511-Inmate Orientation Program (updated 12/17/2012) states: The orientation process will ensure that inmates receive the following: (K) Information regarding PREA.

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.

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 from 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. TCC will use the services provided by CTS language services to help with any language barriers.

- 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.
- In limited circumstances, any use of inmate interpreters, inmate readers, or other types of inmate assistants must be justified and documented in NOTIS.

OP 421, Inmate Education, was updated upon notification of the deficiency and now states (*italics* reflects the new text):

1. During initial reception, all inmates transferring to TCC will receive information explaining the NDOC zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
2. 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.
3. 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. *If an inmate with limited reading skills or is visually impaired, the caseworker will explain (read) word for word all documentation that was given to the inmate to insure the inmate understands all rights as described. The caseworker will also insure that the inmate is aware and understands all of the ways to report incidents that do not involve writing.*
  - 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.
4. The Institution shall maintain documentation of inmate participation in these education sessions.
5. Information will be continuously and readily available and/or visible to inmates through posters, inmate handbooks, or other written formats.

NDOC Form 2096, I/M PREA Education (revised 04/14) form is used to accomplish the initial information sharing and comprehensive education component of the standards. The form indicates the inmate has been told how to report; however, the form only indicates they can report to any staff member verbally or in writing.

The auditor reviewed the Inmate Handbook and determined it provided information regarding the inmate's right to be free from sexual abuse and sexual harassment, as well as, retaliation for reporting such incidents. It also provided information about how to report an incident of sexual abuse or sexual harassment; however, it did not provide contact information that an inmate might use to make a report. The auditor shared this concern with the PCM and during the period of time the interim report was being written, the inmate handbook was updated to include the contact information.

There were 284 inmates admitted to TCC during the past 12 months. The facility reported that all of these inmates were provided PREA information at intake. There were 250 inmates admitted to TCC during the past 12 months, whose length of stay in the facility was for 30 days or more. The facility reported that all of these inmates received the comprehensive education. The auditor was not able to confirm this because the acknowledgement forms are not being retained in the inmate's file.

During the tour, the auditor noted that there was PREA information located in a variety of locations throughout the facility. These included in the halls by the caseworker's door, in the dining hall, in the rotunda area and in the gym. The posters give the inmate a lot of information about reporting including contact numbers and addresses. Pertinent information is also included in the PREA Education and Information Sheet provided during intake to inmates. Copies in English and Spanish were provided with the PAQ.

There are no inmates currently assigned at TCC who were there in August 2012, when the standards were implemented.

Through the interview with the caseworker, the auditor learned that when the inmates arrive at TCC, they are seated in the dining hall where the PREA policies (and many other policies) are explained to them verbally by the officers. They are provided the written information and asked to sign an acknowledgement form. They are shown the 15-minute PREA video, given the opportunity to ask questions, and then asked to sign the comprehensive education acknowledgement form. The policy is explained by the custody staff and the caseworker talks to them about PREA while he is completing the risk screening.

Of the 20 inmates interviewed, all indicated they watched a PREA video and were given written materials in the dining hall. They indicated staff made a presentation and reviewed the materials they had been provided. Then they were asked to sign a form indicating they had received the written materials, after the video was shown. The auditor was told by all inmates that they were informed about their right to not be sexually abused or harassed; how to report sexual abuse or sexual harassment; and their right to not be punished for reporting sexual abuse or sexual harassment on the day they arrived at TCC. One inmate indicated he couldn't remember when he received the information, but he did remember receiving it.

While reviewing the electronic record for ten inmates, the caseworker was not able to provide signed acknowledgement forms to the auditor, when requested. He stated he utilizes the signed form received from the inmate to make a case note about the date and time completed and then discards the document.

**Corrective Action was recommended for this standard.** Documentation of the inmates receiving the PREA information within 72 hours of arrival and comprehensive education within 30 days of arrival was not consistently available to review by the auditor. To address this discrepancy, the auditor will monitor retention of the acknowledgement forms for a period of at least 90 days, to ensure this standard is being consistently met.

**Corrective Action taken by the Facility:** During the period December 1, 2018 through February 26, 2019, the auditor received an intake report from the facility listing all inmates who arrived at TCC. The auditor was provided with signed acknowledgement forms which demonstrated the inmates received educational materials within 72 hours of arrival and comprehensive education within 30 days of arrival at TCC. All of the documentation received was completed by staff at TCC within the required timeframes.

## Standard 115.34: Specialized training: Investigations

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

### 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 have received 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*)

AR 421 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 trained to conduct both administrative and criminal investigations on sex abuse cases. It requires that the agency maintain documentation that investigators have completed the required specialized training in conducting sexual abuse investigations. It 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.

A link was provided to the current training curriculum, which was reviewed by the auditor. It was found to contain all of the required information. In addition, the auditor was provided with certificates of completion for all 19 investigators.

Through a memorandum dated March 17, 2017, authored by the PREA Program Officer, the auditor was informed the Inspector General 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.

The two investigators who were interviewed indicated that in addition to the PREA Pre-Service training provided by the Department, they have attended an on-line PREA Investigations training course sponsored by the National Institute of Corrections. Topics covered in the training include: how to interview, confidentiality, how to collect evidence, overview of the PREA standards and what should be covered in the written report, 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 or prosecution referral.

**Corrective Action:** None was recommended for this standard.

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

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

### 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?  Yes  No
- 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?  Yes  No
- 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?  Yes  No
- 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?  Yes  No

### 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.)  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?  Yes  No

### 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31?  Yes  No
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.32?  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*)

AR 421 mandates that all full and part-time medical and mental health care practitioners who work regularly in its facilities be trained in all 4 of the criteria as outlined in standard provision 115.35(a).

There are no medical or mental health staff assigned at TCC.

**Corrective Action:** None was recommended for this standard.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

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

#### 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 lesbian, gay, bisexual, transgender, intersex (LGBTI), 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, when 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, when 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, when 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 a: Incident of sexual abuse?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: 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*)

AR 421 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.

AR 573, Section 573.01, PREA Screening and Classification, reads:

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.

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 case note will be generated to document said action. A corresponding NOTIS alert will be entered on all known victims and all known predators. 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 case note 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 case note 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.

OP 421, Section 421.08, Inmate Screening, states:

1. All inmates will be assessed within 72 hours of arrival at TCC 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 TCC 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.

There were 251 inmates entering TCC whose length of stay was for 72 hours or more who were screened for risk of sexual victimization or risk of sexually abusing other inmates. According to the PAQ, all were screened within 72 hours. In the past 12 months, there have been 247 inmates entering TCC who were reassessed for their risk of sexual victimization or of being sexually abusive within 30 days of arrival.

There was no intake scheduled at TCC during the on-site portion of the audit; therefore, auditors were not able to observe the intake screening process. The auditor was provided with a copy of the risk screening tool. It contained all required information. The risk screening tool is completed and maintained in NOTIS.

The PREA Coordinator indicated during her interview that the agency created screening rules in NOTIS. These screening rules determine what classifications have access to what information.

The PCM indicated that the NDOC has identified positions that will need access to the information and have given those staff certain permissions that allow them to access the electronic data. At TCC it is the Lieutenant and the caseworker.

During the interview with the caseworker, he indicated he is responsible to complete the risk screening for all inmates who arrive at TCC, regardless of where they were previously housed and he completes the initial risk screening within 72 hours of arrival. The caseworker indicated the initial screening considers prior violence, size, age, prior victimization, LGBTI status, and any perception of being LGBTI. The caseworker usually sees the inmate the day he arrives or the following day. He calls them into his office individually and goes over the screening questions with them, recording their answers in NOTIS. He asks if they have anything to report and if they have any questions. Once this is finished, he moves onto other documents he is required to complete with them. He sees them to reassess their risk of sexual victimization or of being sexually abusive within the required 30 days. He is currently using a calendar to track when the reassessments must be completed after finding out the automated system in use was having problems and assessment notifications were being missed. The caseworker indicated he would reassess an inmate's risk level if he received a referral, request, or received additional information that might change the inmate's designation. He indicated he would not be the one who would complete the reassessment after an allegation of sexual abuse was made because typically the inmate would be transferred to a facility where medical and mental health could be provided. The caseworker stated inmates are not disciplined for refusing to respond to or for not giving complete information for any of the items identified in 115.41(d). The caseworker indicated that at TCC, the only people who have access to the PREA information in NOTIS are himself and the lieutenant, to make housing decisions.

Of the 20 random inmates interviewed, all remembered being asked the PREA questions. Their recollections were that this occurred on the day they arrived, with one inmate indicating it happened the next day. When asked about being asked the PREA questions again, the following were the responses: one inmate indicated it happened about a week later; four indicated it happened a couple of weeks later; two stated it was three weeks or so when they spoke with the caseworker about PREA again; 8 indicated it was about a month after arrival; one indicated he had only been at camp for 2 week and he hasn't seen the caseworker again; three remember speaking to the caseworker about PREA again, but couldn't remember when; and one stated he wasn't sure if he saw the caseworker again about PREA.

Per a memo authored by the PCM, on June 26, 2018, TCC's caseworker noticed that the 30-day PREA Assessment tracking tool failed to allocate the correct amount of assessments that were due. Based on this error, an institutional audit was started of all PREA entries from 02/01/18. This date was identified to be as far back as the errors occurred. During this audit another issue was noticed. That issue being that many 30-day assessments that were actually entered did not save into NOTIS as both an assessment and case note. Audit was completed on June 28, 2018 and the NDOC Management Information Systems Department and HDSP PREA Compliance Manager, along with staff from the Inspector General's Office were informed of the issues. Due to these issues, TCC will no longer be using the PREA Assessment Tracking Tool but instead will use an incoming transfer log which has proven reliable. To ensure NOTIS entries are saving, a second check will be made every time an entry is made, making sure these issues don't happen again. All issues that were found were fixed to insure complete compliance.

During the document review, the auditor noted that assessments were completed timely for all inmates who had arrived at TCC since July. The caseworker and PCM seem to be managing this workload in

an effective manner and the auditor believes their proactive identification of the problem demonstrates they are aware of the required time constraints and are working to comply with those.

There were no allegations of sexual abuse during this review period.

**Correction Action:** None was recommended for this standard.

## Standard 115.42: Use of screening information

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

#### 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?  Yes  No
- 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?  Yes  No
- 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?  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*)

AR 573, Section 573.01, PREA Screening and Classification, states:

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.

Section 573.02, Housing and Placement based on PREA Classification, states:

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. At no time will a known victim and a known aggressor be housed together in a 2 man cell.
3. A possible victim and a possible aggressor should not be housed together unless necessary.
4. Non-victims and non-aggressors may be housed with any other category, subject to individual case factors.

OP 511, Section 511.04, Inmate PREA Screening, reads:

2. Screening will be done by the Camp Lieutenant and Classification staff using the screening criteria established in PREA standard 115.41.
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 an 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

During the tour of the facility, the auditors noted that all shower facilities are individual showers with only one shower head in each. Each shower stall has a shower curtain which covers the open front of the shower stall. During the tour, the auditor did not identify any facilities, units or wings identified to exclusively house LGBTI inmates.

Per a memo authored by the PCM, during this 12 month audit time frame, TCC has not had any inmates during the screening process claim to be transgender or intersex. Being that TCC is a completely open institution, if a transgender or intersex inmate did not feel safe being housed at TCC, they would be transported to HDSP for more appropriate placement.

The PREA Coordinator indicated the agency is not subject to any consent decrees, legal settlements, or legal judgments requiring LGBTI inmates to be housed in dedicated facilities, units, or wings solely on the basis of their sexual orientation, genital status, or gender identity.

The PCM indicated the facility considers housing and program assignments for transgender and intersex inmates on a case by case basis including whether the placement will ensure the inmate's

health and safety and if the placement would present a management or security problem. He indicated that if they received a transgender or intersex inmate, they would discuss housing options with the inmate, and house based on the inmate's input. All inmates are seen by the caseworker twice per year. The bi-annual assessment would be completed as part of the normal casework review. The PCM stated that transgender and intersex inmates' view with respect to his or her own safety would be given serious consideration in placement and programming assignments. The PCM stated that transgender and intersex inmates would be able to shower separately at TCC because all showers are individual stalls. The PCM indicated TCC is not subject to any consent decrees, legal settlements, or legal judgements requiring it to establish dedicated facilities, units or wings for LGBTI inmates.

The caseworker indicated the information gathered from the risk screening is used to separate potential victims from potential aggressors. They do not house them in the same cube. He indicated they do not get very many inmates who score out as a potential victim or a potential aggressor, so it is generally not a problem to house an inmate, if one arrives. The caseworker indicated that transgender and intersex inmates would be reassessed once each six months; except they currently don't have any assigned at TCC. The caseworker stated that transgender and intersex inmates' views with respect to his or her own safety would be given serious consideration in placement and programming assignments. The caseworker indicated that transgender and intersex inmate would be able to shower separately because all shower stalls at TCC contain individual shower heads.

**Corrective Action:** None was recommended for this standard.

## Standard 115.43: Protective Custody

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

#### 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  No
- 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  No
- 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  No



- 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  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations?  Yes  No

#### 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  No
- Does such an assignment not ordinarily exceed a period of 30 days?  Yes  No

#### 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  No
- 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  No

#### 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  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*)

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.

The tour of the facility verified that there are no involuntary segregation cells at TCC. The auditor was informed that if an inmate requires placement in segregated housing, he is transferred to HDSP.

The Warden indicated that inmates who are at high risk of sexual victimization or who have alleged sexual abuse are housed in the least restrictive housing appropriate to their classification and needs. The Warden indicated that inmates may be placed in involuntary segregated housing only until other means of separation from likely abusers can be identified. He further indicated that at TCC, there is no segregated or celled housing. If an inmate is not safe to live in a dorm setting, he will be transferred to another facility where he can be safely housed.

The auditor reviewed inmate records and noted there were currently no inmates at TCC who were identified to be at high risk of sexual victimization.

**Corrective Action:** None was recommended for this standard.

## REPORTING

### Standard 115.51: Inmate reporting

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

### 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?  Yes  No  N/A
- 

### 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*)

AR 421 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. It 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. It requires that offenders detained solely for civil immigration purposes shall be provided 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.

OP 421, Section 421.04, Staff Duty to Report, states:

1. Any staff member who becomes aware of, or reasonably suspects that another staff member, contractor, or volunteer is involved in an unauthorized relationship with an inmate, is required to immediately report such knowledge or suspicion to their immediate supervisor, another supervisor, Warden, or Inspector General.
  - A. The standard of conduct for employees of the Nevada Department of Corrections (NDOC) is outlined in Administrative Regulation 339, Code of Ethics, Employee Conduct, and Prohibitions and Penalties. This regulation states in part:
    - i. Employees shall report, without reservation, any corrupt or unethical behavior which could affect either inmates, employees, or the integrity of the Department of Corrections.
2. The Institution shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.
  - A. Retaliation against inmates or staff who report such incidents is strictly prohibited. All reports of retaliation shall be documented in NOTIS and will be referred for review for investigation by the IG's Office.
  - B. Inmates will have periodic status checks in order to monitor any type of retaliation.
  - C. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measure to protect that individual against retaliation.
  - D. The PREA Compliance Manager will ensure all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation from other inmates or staff in accordance with PREA Standard 115.67.
  - E. Staff can report directly to the Inspector General and are not required to follow the chain of command for PREA.
    - o Office of the Inspector General, PREA Management Division PO Box 7011 Carson City Nevada 89702
    - o Staff can call 775.887.3152 Inspector General's Office, Carson City, Nevada
    - o Send email to [prea@doc.nv.gov](mailto:prea@doc.nv.gov)
    - o PREA Incident Report Form (Located on the NDOC website)
    - o Staff may report directly to immediate supervisor
3. Retaliation against inmates or staff who report such incidents is strictly prohibited. All reports of retaliation shall be documented in NOTIS and will be referred for review for investigation by the OIG.
  - A. Inmates will have periodic status checks in order to monitor any type of retaliation.

- B. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measure to protect that individual against retaliation.
  - C. The PREA Compliance Manager will monitor cases to ensure all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation from other inmates or staff in accordance with PREA Standard 115.67.
4. Reports shall be accepted verbally, in writing, anonymously and from third parties. Supervisors are required to promptly document any verbal reports they receive. Staff members will complete a staff report (DOC 028) or (DOC 019) in NOTIS.
  5. Supervisors and institutional investigators are NOT to confront the accused staff member, contractor, volunteer or alleged inmate suspect or victim. Supervisory responsibility is limited to collecting information and reporting the incident promptly.
    - A. Any staff witness must be issued an admonition of confidentiality prior to any questioning. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.
  6. Any staff member who receives a verbal or written report of a sexual assault or any attempt thereof, will immediately report the information as noted above. Reports can be received through anonymous correspondences (i.e. letters, Inmate Request Forms, etc.) and third party reporting and shall be provided the same attention as if the staff member received the information through more conventional means.
  7. Any incidents of sexual assault should be reported immediately. If the first responder is non-custody, he or she will follow steps A and B below. When custody staff learns that an incident of sexual abuse has occurred they must respond to the report and shall be required to:
    - Request the alleged victim not to take any action that would destroy evidence
    - Non-custody staff will notify custody staff immediately.
    - Separate the alleged victim and abuser
    - Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
    - If the abuse occurred within a time period that still allows for the collection of physical evidence, order alleged abuser to not to take any actions that could destroy physical evidence, including , as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
  8. When a supervisor receives information that a staff member, contractor, or volunteer may be involved in unauthorized sexual behaviors they are to immediately report the information to the Warden and to the Inspector General. An incident report (IR) must be generated in NOTIS and set at Institutional Administrators level or higher.
    - A. Supervisors are 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.
    - B. Supervisors shall take the following steps when they are notified of a sexual assault or any sexual misconduct as outlined in this procedure:
      - Retrieve a copy of Attachment A (DOC-2092), Attachment B (DOC-2093), or Attachment C (DOC-2094) (attached), whichever is appropriate. Complete, as necessary, based on facts provided at the time of the incident.
      - Notify Warden, Associate Wardens, and the Inspector General.
      - Fax the completed forms to the PREA Coordinator at 775-887-3167.

- C. The Warden or designee must refer all reported incidents of inmate-on-inmate sexual assaults, sexual activity and staff/contractor/volunteer-on-inmate sexual misconduct to the Inspector General's Office.
- D. Referrals will be submitted in the Incident Details screen (refer to IG tab in NOTIS).
- E. On a case by case basis, incidents referred to the IG involving voluntary sexual activity may be rejected and referred back to the institution to address through established institutional disciplinary measures.

Policy also 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 PREA Compliance Manager.

NDOC Form 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.

PREA FAQs in English and Spanish and the PREA Education and Information Sheet were provided with the PAQ. These documents contain a lot of good information and are provided to inmates during the intake process.

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

The PCM indicated that inmates are able to report to NMCD via an agreement with them to act as a third party entity not associated with the NDOC. Posters provide the contact information and the forms are available for inmate to take in the Rotunda. The auditor verified the forms are available for inmates to take in the rotunda area.

During the tour, the auditor noted that contact information for the NMCD is included on the posters which are affixed in various places around the facility. When the auditors tested the inmate telephones, they were able to select a menu option that did not require an inmate number and took them directly to the PREA hotline.

There were no verbal reports received at TCC during the audit period.

The auditor reviewed the scope of work developed between NDOC and NMCD to act as a third party to receive report/allegations from NDOC inmates. All required components are included. The auditor reviewed the PREA informational posters to verify the above referenced information was included. The auditor noted the information is not included in the Inmate Handbook and she is going to request, as a best practice, that the information be included during the next revision of the handbook.

Eight staff were interviewed utilizing the random staff protocol, they shared that inmates can privately report by filing a grievance, dialing zero on the inmate telephone, mailing a complaint, telling staff, telling family, writing a kite, or writing it on the NMCD form and mailing it. Many indicated that the various ways to report are outlined on the posters. The staff indicated there are multiple ways an inmate can report sexual abuse and sexual harassment which include sending information to the NMCD, having a third-party report on the inmate's behalf, dropping an anonymous kite in the box,

telling staff, or calling the PREA hotline. All indicated they would accept a report verbally from the inmate and act upon the information immediately. Some of the staff indicated they would request the inmate to document the report, after the inmate's safety concerns had been addressed.

A summary of the responses regarding reporting provided by 19 of inmates interviewed is: tell family, call the hotline, send a kite, tell staff, write to the address on the posters, or file a grievance. One inmate indicated he didn't know how to file a report and the auditor explained the various processes to him. When asked about making a report to someone outside the agency, only eight inmates indicated they could call their family or a friend, who could report on their behalf; the remainder indicated they knew they could make a report outside the agency but were unsure how to go about doing that. All but one of the inmates indicated they are able to make a report without giving their name. A few elaborated that they could use the phone which doesn't require a pin or put a note in the box in the rotunda. Of the 20 inmates interviewed, all indicated they can make a report of sexual abuse or sexual harassment verbally or in writing. Ten inmates indicated they could tell family, who could report on their behalf without giving the inmate's name. Six inmates indicated they could tell their family or a friend, who could report on their behalf; one indicated he could notify his family, friends or a trusted staff; and one indicated he doesn't have any family or friends, but would report to a staff member that he trusts.

The auditor was concerned that very few of the inmates interviewed were aware they could make a report to an agency outside the NDOC, even though it was clearly spelled out on their posters. To address this concern, the auditor spoke with the PCM and requested the information about contacting NMCD to make a report be included in the Inmate Handbook. During the time period that the interim report was being written, the Inmate Handbook was updated to include this contact information.

**Corrective Action:** None was recommended for this standard.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 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  NA

#### 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*)

The facility is not exempt from this standard and in compliance with this provision of the standard.

AR 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 Inspector General'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, states:

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 Inspector General'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.

OP 421, Section 421.04 states: Supervisors are 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.

The auditor reviewed the Inmate Handbook to determine that relevant information regarding appeals is provided; however, it does not explain that PREA grievances are different from regular grievances. This concern was discussed with the PCM and the Inmate Handbook was updated during the period of time the interim report was being written. The auditor is working with the PCM to make a few minor changes to the new text that has been included in the Inmate Handbook.

In the past 12 months, there have been zero grievances filed that alleged sexual abuse.

**Corrective Action:** None was required for this standard.

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

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

### **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?  Yes  No
- 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*)

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. It 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.

The PREA Manual indicates that 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 Inspector General, PREA Management Team 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.

Copies of advocacy posters were provided to the auditors in English and Spanish. During the audit, it was noted that these posters were displayed in several locations around the facility.

A copy of the RCC MOU was provided with the PAQ. It outlines the responsibilities of the NDOC and the RCC and the scope of work to be completed.

The Inmate Handbook does not provide information about emotional support services. The auditor is going to request, as a best practice, that it be updated to include information about these services.

Of the 20 inmates interviewed, all but one was aware that there are services available outside the facility. When asked about the kind of services available, five inmates were not sure, four inmates indicated the services are explained on the posters, two inmates indicated they provide support for the victim, one inmate stated they are victim advocate & emotional support services, three inmates indicated they provide emotional support, one inmate stated they provide support staff for the inmate to

speak with, one inmate indicated the services offered are explained in the handout they received, two inmates indicated they provide victim assistance, and one inmate indicated they provide emotional services. All inmates indicated mailing addresses for these services are available. 12 inmates were aware the services were provided through local, state or national victim advocacy or rape crisis organizations while eight were unsure. Two inmates were aware that Immigrant Services were available and 18 were unsure about this. All but one inmate was aware the calls to these services could be made toll free. The inmates collectively indicated that they would be able to speak with people from these services anytime except during count, anytime the yard is open, and anytime they have free time. 18 inmates indicated that they believe what they say to these service providers remains private, while one inmate does not believe it will remain private and one inmate was not sure. The auditor explained how the victim services worked to the inmate. When asked if there were any circumstances when these people can repeat what was shared with them, 17 of the inmates indicated they can share the information if he tells them it is OK or if he indicates he is going to harm himself or someone else; two inmates were not sure if the service provider can repeat the information; and one inmate indicated they can only share the information if he gives them permission to share.

The auditor was concerned about the lack of understanding on the part of the inmate population about the emotional support services available to the inmate population and the process they would use to access the services. This concern was discussed with the PCM and the Inmate Handbook was updated during the period of time the interim report was being written. The auditor is working with the PCM to make a few minor changes to the new text that has been included in the Inmate Handbook.

**Corrective Action:** None was recommended for this standard.

## Standard 115.54: Third-party reporting

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

#### 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*)

AR 421 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 Inspector General 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 Inspector General'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 at 775-887-3152

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

Per a memo authored by the PCM, during the 12-month audit period, TCC has not received any third party allegations of sexual assault or misconduct. The Warden approved this memorandum on November 1, 2018. The auditor reviewed the NDOC incident tracking log and verified that neither of the two complaints received were made via a third party.

**Corrective Action:** None was recommended for this standard.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

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

#### 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 person's 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*)

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

AR 740, Inmate Grievance Procedures, states: 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.

OP 421, Section 421.01, Zero Tolerance, states: 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 421.04, Staff Duty to Report, states:

1. Any staff member who becomes aware of, or reasonably suspects that another staff member, contractor, or volunteer is involved in an unauthorized relationship with an inmate, is required to immediately report such knowledge or suspicion to their immediate supervisor, another supervisor, Warden, or Inspector General.
  - A. The standard of conduct for employees of the Nevada Department of Correction (NDOC) is outlined in Administrative Regulation 339, Code of Ethics, Employee Conduct, and Prohibitions and Penalties. This regulation states in part:
    - i. Employees shall report, without reservation, any corrupt or unethical behavior which could affect either inmates, employees, or the integrity of the Department of Corrections.
3. Retaliation against inmates or staff who report such incidents is strictly prohibited. All reports of retaliation shall be documented in NOTIS and will be referred for review for investigation by the OIG.
  - A. Inmates will have periodic status checks in order to monitor any type of retaliation.
  - B. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measure to protect that individual against retaliation.
  - C. The PREA Compliance Manager will monitor cases to ensure all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation from other inmates or staff in accordance with PREA Standard 115.67.
5. Supervisors and institutional investigators are NOT to confront the accused staff member, contractor, volunteer or alleged inmate suspect or victim. Supervisory responsibility is limited to collecting information and reporting the incident promptly.
  - A. Any staff witness must be issued an admonition of confidentiality prior to any questioning. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

OP 20, Inmate Assignments to NDF, states: This will insure that all NDF staff are aware of their duty to report any and all PREA allegation they may receive as outlined in OP 421 and AR 421.

OP 312, Standard Responsibilities for all Officers, contains language that mirrors that found in AR 421, above.

During this review period, there were no PREA allegations received from a third party or anonymous source. The agency tracks the source of the report on the tracking log that is maintained by the Inspector General's Office.



Through the interview with the Warden, he stated they do not house inmates who are under the age of 18 or who are identified as vulnerable adults at TCC. He indicated that all PREA allegations are reported to the Inspector General's Office, who designates an investigator.

The PREA Coordinator indicated they do not house inmates under the age of 18 or who are identified as vulnerable adults at TCC.

There are no medical or mental health staff assigned at TCC; therefore, the medical/mental health staff interview protocol was not used.

Of the 8 random staff interviewed, all 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. The auditor was told that the victim would be moved to a safe location and if the aggressor was known, he would be placed in a holding cell. Staff would interview the alleged victim. They would create an incident report, notify the supervisor for further direction/guidance, and notify the Inspector General.

Per memo authored by the PCM, all assault or rape victims would be transported to HDSP for proper care and housing. TCC does not have mental or medical health providers on site.

**Corrective Action:** None was recommended for this standard.

## Standard 115.62: Agency protection duties

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

#### 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*)

AR 421 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. It also states, those grievances alleging staff on inmate

or inmate on inmate sexual abuse or sexual harassment are forwarded immediately to the PCM and the Associate Warden.

Per the PAQ, in the past 12 months, there has been zero times the agency or facility determined that an inmate was subject to substantial risk of imminent sexual abuse.

The Agency Head indicated that if he becomes aware that an inmate was subject to a substantial risk of imminent sexual abuse, he would contact the facility and direct that immediate action be taken to ensure the inmate's safety. This might include review of the information reported, interview with the inmate, separation from other inmates, and review by medical and/or mental health staff.

The Warden indicated that the shift supervisor would meet with the inmate to identify the problem. Based on what they learned they would consider if the inmate needed to be reclassified and if his current housing was appropriate.

The eight staff interviewed, collectively explained, they would bring the inmate into a private office to find out what the problem was. They would discuss with the shift supervisor or call the Lieutenant to find out what the next steps should be. They all indicated they would respond immediately upon learning of the threat.

**Corrective Action:** None was recommended for this standard.

## Standard 115.63: Reporting to other confinement facilities

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

#### 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*)

The PREA Manual 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 PCM, who will, in turn, notify the Warden. The Warden must make contact with the other agency within 72 hours of the report.

AR 421, Section 421.11, Reporting to Other Confinement Facilities, states:

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.

AR 457, Investigations, Section 457.02 Reporting states:

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.

According to the PAQ, in the past 12 months, the facility has received zero allegations that an inmate was abused while confined at another facility.

The auditor was provided with a log entitled "115.63 2018 NDOC Report to Outside Agencies (includes NDOC facility to facility)". There were no entries in the log. When asked for a copy for the calendar year of 2017, the auditor was told they were not maintaining a log in 2017.

The Agency Head indicated that if another agency refers allegations of sexual harassment that occurred within an NDOC institution, the designated point of contact may be the Warden of the identified facility or the PREA Coordinator for the agency. He indicated that when NDOC receives such an allegation, it is immediately forwarded to the Warden at the identified facility, if he/she is not already aware, and the PREA protocol process is initiated. He also indicated that all referrals from other agencies are noted in NOTIS.

The Warden indicated that if his facility receives an allegation from another facility or agency, they would report it immediately to the IG and an investigator would be assigned. There were no examples for TCC.

Per a memorandum authored by the PCM, during the 12-month review period, TCC did not receive any allegations which required reporting to another confinement facility. The Warden approved this memorandum on November 1, 2018.

**Corrective Action:** None was recommended for this standard.

## Standard 115.64: Staff first responder duties

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

#### 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*)

AR 421 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 Confidential 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.

OP 421, Section 421.09, Coordinated Response, was modified based on the auditors concerns and now states (*italics identifies the added text*):

1. Any incidents of sexual assault shall be reported immediately. However, if the incident is reported within the first 72 hours of occurrence the following procedure applies:
  - A. Notify supervisor
    - a. Supervisor will retrieve a copy of Form A(DOC-2092, Form B (DOC-2093) or Form C (DOC-2094). Complete as necessary based on facts provided at the time of the incident
    - b. Notify Warden, Associate Wardens and Inspector General
    - c. Scan/Email the completed forms to [prea@doc.nv.gov](mailto:prea@doc.nv.gov) or fax the completed forms to PREA Coordinator at (775)687-6117.
    - d. Forms must also be scanned/uploaded as attachment to the IR

- e. During nights and weekends shift command at HDSP will be notified.
  - B. Ensure the victim is safe and kept separated from the aggressor. Victim and suspect will not have any contact with one another either visually or audibly.
  - C. Escort the victim to the TCC administration office. *Explain to the victim the importance of collecting evidence and request that he not take any actions that may destroy evidence, including brushing teeth, using the toilet, drinking or eating, washing up, or taking a shower.*
  - D. Collect clothing involved with incident and provide a new set of state blue clothing to the victim inmate. Ensure that each item of clothing is bagged separately in brown paper bags and logged into evidence.
    - a. Evidence is always placed in paper bags, never plastic
    - b. Each clothing item is placed in a separate bag that is labeled, double folded at the top and sealed all around the folded edge with evidence tape
  - E. Temporarily place the suspect in the TCC holding cell pending transfer to HDSP. Upon arrival to the Holding cell immediately collect the suspect's clothing prior to leaving the inmate unattended. To preserve evidence and prevent evidence from being destroyed, ensure there is no access to a wash basin or toilet.
  - F. Ensure that the suspect does not wash, brush their teeth, urinate, defecate, drink, or eat as this can compromise evidence.
  - G. Transport the suspect to the HDSP infirmary after the victim has been Transported and assessed by HDSP medical. The suspect shall not be placed or housed, even temporarily, in the same area as the victim and the inmates are to have no contact at any time, and are to be escorted to HDSP in separate vehicles.
  - H. Victims must agree to have a sexual assault forensic exam prior to transporting for the exam. Should an inmate refuse to have the exam, the refusal must be documented on a Release of Liability for Refusal of Medical Treatment Form (DOC 2523-attached).
  - I. Victims will only be transported for a sexual assault forensic exam if the assault occurred within the previous 72 hour time frame.
  - J. 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.
  - K. All evidence will be handled in accordance with AR 457 and OP 422. All evidence gathered will be kept in the TCC evidence locker and will not follow the inmate or inmates to HDSP, unless otherwise directed by the IG or Warden. The evidence will be Transported separately at a later date as dictated by the Camp Lieutenant.
  - L. When entering the inmate(s) into the NOTIS Incident Details screen, under the Offender Involvement tab, "No Action" shall be entered in disposition and "pending investigation" needs to be entered into the comment portion. Referral for investigation will be submitted by a Warden or Associate Warden.
2. PREA Incidents Reported after 72 hour timeframe will be handled as follows:
- A. Ensure the victim is safe and kept separated from the aggressor.
  - B. Notify supervisor and HDSP.
  - C. Escort the victim to the TCC administration office to await transport to HDSP Medical.
  - D. Collect evidence (if any) and log into evidence with the appropriate chain of evidence form. All evidence (if any) will be kept in the TCC evidence locker and will not follow the inmate or inmates to HDSP, unless otherwise directed by the IG or Warden.
  - E. Place the suspect in the TCC holding cell to await transport to HDSP pending investigation. At no time will the victim and aggressor/suspected aggressor be transported to HDSP in the same vehicle.
  - F. Include all written reports related to the sexual assault, fully documenting known details of the incident as soon as possible. Subjective information (i.e. Opinions, assumptions, or guesses)

must not be included. Document who, what, when, where, and only what you personally observed and what was told directly to you.

Per the PAQ, in the past 12 months, there were no sexual abuse allegations made at TCC.

Documentation from both PREA allegations was reviewed by the auditor.

Three first responders were interviewed and described, in detail, the steps that would be taken when they were the first responder to a sexual assault allegation. They indicated they would separate the victim and suspect. They would control the area to try and preserve evidence. They would notify the camp commander or sergeant. They would also collect the clothing from both inmates to preserve evidence. The supervisor would guide them about transporting the victim/suspect to outside facility for forensic medical examination. Upon conclusion of the forensic exam, the inmates would be taken to a different facility, which could provide follow-up medical care and mental health services, which are not available at the camp.

The eight random staff interviewed shared a thorough understanding of the process they would follow if they were the first responder to an allegation of sexual abuse. In summary, they indicated they would separate the victim and suspect. They would control the area to preserve evidence. They would notify the shift supervisor. They would also collect the clothing from both inmates to preserve evidence. The supervisor would guide them about transporting the victim/suspect to outside facility for forensic medical examination. Upon conclusion of the forensic exam, the inmates would be taken to a different facility, which could provide follow-up medical care and mental health services, which are not available at the camp.

The auditor determined the OP needs to be updated to provide direction to non-custody staff about their responsibilities, should they be the first responder to an incident of sexual abuse. In addition, the policy needs to differentiate between the victim and suspect, related to preservation of evidence. For example, the staff should request that the alleged victim not take any actions that could destroy physical evidence while the staff should ensure the alleged abuser does not take any actions that could destroy evidence. These concerns were shared with the PCM and, during the period while the interim report was being written, the OP was updated to address these concerns.

**Corrective Action: None was recommended for this standard.**

## **Standard 115.65: Coordinated response**

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

### **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*)

OP 421 contains the institutional response plan for TCC. It contains detailed information about the responsibilities of each classification of responder. Medical Directive 117, Sexual Assaults, addressed the response for Medical/Mental Health Staff at HDSP for sexual assault allegations.

The Warden indicated there are multiple operational procedures used by the facilities which define the process to be followed and coordinate actions among staff first responders, investigators and facility leadership.

**Corrective Action:** None was recommended for this standard.

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

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

### **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*)



The agency has not entered into or renewed any collective bargaining agreements since the last PREA audit, as there is no collective bargaining with the NDOC.

During the interview with the Secretary, he indicated the NDOC does not have collective bargaining with their staff.

**Corrective Action:** None was recommended for this standard.

## Standard 115.67: Agency protection against retaliation

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

#### 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*)

AR 421 states that staff shall monitor and protect all inmates and staff who report sexual abuse or cooperate with any investigation, from retaliation by both inmates and/or staff. Policy further states the monitoring shall be conducted and documented by a designated Lieutenant. A weekly check of NOTIS, where all new PREA Incident's will be added, will be conducted. 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.

OP 421, Section 421.04, Staff Duty to Report, states: The Institution shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.

- Retaliation against inmates or staff who report such incidents is strictly prohibited. All reports of retaliation shall be documented in NOTIS and will be referred for review for investigation by the IG's Office.
- Inmates will have periodic status checks in order to monitor any type of retaliation.
- If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measure to protect that individual against retaliation.
- The PCM will ensure all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation from other inmates or staff in accordance with PREA Standard 115.67.

OP 720, Holding Cells, states: A holding cell may be used to temporarily hold an inmate for any reason until suitable housing can be found. If an inmate is being held in the holding cell for his safety due to PREA related assault to await transportation to HDSP, at no time will the aggressor or accused aggressor be in the same room or other holding cell next to the victim. At no time will the holding cell be used for punishment for a PREA victim, the holding cell is only a safe place for the inmate to be while waiting for transportation.

The auditor was provided with a memorandum authored by the PCM which states that there have been no cases during the 12-month monitoring period which required retaliation monitoring. The Warden approved this memorandum on November 1, 2018. The incident log, maintained by the IG's office, was reviewed and the auditor verified there were no allegations during the review period which would have required monitoring

The Agency Head indicated that through the admonishments at the beginning of the investigation, all individuals are warned about retaliation and told about the penalty, if they participate in any form of retaliation. The PCM at each facility is responsible to monitor retaliation for victims, reporters, and witnesses, as appropriate for a minimum of 90-days. He stated that if an individual who cooperates with an investigation expresses a fear of retaliation, the reasons for those fears will be documented and an investigation will be initiated by the Inspector General, if warranted. He indicated that if a staff member is found to be retaliating, it is a dismissible offense. If it rises to the level of criminal, it will be referred to the Attorney General for prosecution.

The Warden indicated he sets clear expectations about retaliation against inmates or staff who report PREA allegations. He would ensure the individual who reported retaliation was assigned to live or work in an area away from the other person who was involved.

The PCM is charged with monitoring retaliation at TCC. He indicated he monitors the staff and inmate's activities. He has it easier at a Camp because he is also the one who must approve all bed

moves, job changes and disciplinary actions. He stated he would check-in with the individual periodically, look at their housing and job assignment, and assign them to a bed closer to his office. If it was a staff, he would make sure they knew they could come to him with any issues. The PCM indicated that in monitoring for retaliation, he would look for changes to the inmate/staff's normal routines. Is he always alone, are other avoiding him, is there name calling going on. He would also watch for write-ups, as this is a classic way to retaliate against an inmate. He indicated he monitors for at least 90 days and longer if needed. If he sees anything out of the ordinary, he will continue until he is satisfied the issue has been resolved. He further indicated there is no cap on the length of time he can continue to monitor a situation.

TCC does not have a segregated housing unit; therefore, there were no inmate in segregated housing based on an identified risk of sexual victimization or who has alleged to have suffered sexual abuse.

When the auditor reviewed documentation of any protective measures taken, she was told that there have been none for TCC; however, an inmate was received who was being monitored by another NDOC facility. The caseworker is completing the monitoring and documenting in case notes. The auditor reviewed the case notes to verify the monitoring is occurring and entries are being made.

**Corrective Action:** None was required for this standard.

## Standard 115.68: Post-allegation protective custody

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

#### 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*)

AR 573, PREA Screening and Classification, Section 573.03, Segregation of Inmates under PREA states:

- 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.

Per the PAQ, there have been no inmates at TCC retained in involuntary segregated housing during this review period, as TCC does not have any segregated housing.

Per a memo authored by the PCM, all assault or rape victims would be transported to HDSP for proper care and housing. TCC has not had any such incidents. This memorandum was approved by the Warden on November 1, 2018.

During the interview with the Warden, he stated there is no segregated housing at TCC, if an inmate requires this type of housing; he would be transferred to another facility.

During the tour of the facility, the auditors verified there were no segregated housing cells at TCC.

**Corrective Action:** None was recommended 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*)

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 457, Investigations, Investigative reports, training records and certificates, and the investigative training curriculum were reviewed by the audit team.

AR 457, Section 457.01, Inspector General, states:

1. The Inspector General (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.

Per the Agency PREA Program Officer, Investigative files for PREA allegations are maintained in Central Office indefinitely. They currently do not destroy any investigative files.

The auditor reviewed the investigative files for both PREA allegations which were made during the 12-month review period. Investigations were initiated for both cases; however, one of the investigations was not completed thoroughly or objectively. A summary of the PREA allegations is as follows:

Sexual Harassment – 1 case, offender on offender, unfounded  
Sexual Harassment – 1 case, staff on offender, unsubstantiated

The investigation of sexual harassment against staff was not thoroughly or objectively completed. The investigator did not interview anyone other than the alleged victim, even though the inmate specifically identified at least 3 staff who was involved. The auditor has checked with the IG to see if there was followed-up based on the investigators recommendation. The auditor learned that the investigation was re-evaluated by an investigative supervisor and determined to require further investigative actions. After a more thorough review, the allegation was determined to be unsubstantiated.

The Warden indicated that all investigations are conducted by NDOC staff. There is typically no involvement by outside law enforcement agencies for PREA allegations.

The PREA Coordinator stated the Inspector General's Office is responsible to conduct the investigation for all PREA allegations.

The PCM indicated that typically there is no outside law enforcement agencies involved in the process.

Two investigators were interviewed. One is assigned to HDSP and the other is a supervisor in the Inspector General's Office. Both investigators that were interviewed indicated that the investigation into a sexual assault allegation is initiated the same day that the inquiry is completed and referred. They indicated that third party and anonymous investigations are handled in the same manner as any other investigation. The investigators indicated that in addition to the PREA Pre-Service training provided by



the Department, they have attended an on-line PREA Investigations training course sponsored by the National Institute of Corrections. Topics covered in the training include: how to interview, Garrity, Miranda, confidentiality, how to collect evidence, overview of the PREA standards and what should be covered in the written report. Both investigators stated that an incident report is initiated by the facility, when an allegation is received. The Warden at the facility makes the referral to the Inspector General via a memorandum. Preliminary information is gathered and included with the referral. The investigation is evaluated and assigned to an Investigator at the Inspector General's office or referred back to the facility, to have institution staff complete the investigation. The assigned investigator will check for video, identify staff involved, interview inmates and staff to try to establish if there are any witnesses, and review evidence gathered from the crime scene. The investigator writes a report, making recommendations and forwards the report to his supervisor. Evidence they would be responsible for gathering might include DNA evidence from the forensic exam, video, sign-in sheets, housing unit logs, correspondence, phone calls and mail. The investigator would consult with the Attorney General's office before conducting a compelled interview. Both investigators indicated that credibility of an alleged victim, suspect or witness is based on a totality of the information gathered and on a case-by-case basis. The investigators stated they would completely investigate an administrative case, similar to a criminal case. They would write a report spelling out what happened based on the evidence that has been gathered and make a recommendation. They also stated that their report would include: statements of all interviewed, description of any video, copies of all reports received from staff, housing history of the involved inmates, and any other pertinent information. When conducting a criminal investigation, they complete a written report which includes all of the same items they include in an administrative investigation. They ensure they address who, what, where, when, why (if known), witnesses, and evidence. Both investigators indicated that they refer any substantiated case of sexual abuse and they continue all investigations until completed, regardless of the employment status of the staff member who has been accused or incarceration status of the accused inmate. The NDOC does not have outside agencies conduct PREA investigations on their behalf.

**Corrective Action was recommended for this standard.** The investigations were not completed promptly, thoroughly and objectively. The investigator did not consistently interview the alleged victim, suspected perpetrators and witnesses or document in the written reports a description of the physical evidence and testimonial evidence or the reasoning behind credibility assessments and investigative facts and findings. To address this deficiency, the auditor will request that the investigator be provided additional training related to PREA investigations. In addition, the auditor will work with the agency to develop a checklist for use during PREA investigations. Lastly, the auditor will review all PREA investigations initiated during the corrective action period.

**Corrective Action taken by the Agency:** There were no new PREA allegations made during the corrective action period; therefore, there were no additional investigations to review.

All investigators completed advanced investigator training sponsored through NIC during March/April 2019. In addition, the agency is sending three staff from the Office of the Inspector General to training on conducting PREA investigations in confinement settings. The agency plans to utilize the information received from this training to develop training curriculum for their investigative staff. They anticipate having their new training curriculum completed in September 2019.

The agency has developed and implemented a checklist for use by investigators when completing PREA investigations.

## Standard 115.72: Evidentiary standard for administrative investigations

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

### 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*)

AR 421 and the PREA Manual states: The agency shall impose no standard higher than a preponderance of the evidence in determining if a case(s) is substantiated or not substantiated.

Investigative Staff indicated the standard of evidence used by the NDOC in PREA investigations is a preponderance of evidence.

**Corrective Action:** None was recommended for this standard.

## Standard 115.73: Reporting to inmates

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

### 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*)

AR 457, Investigations, and Investigative reports were reviewed by the audit team. The policy 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 PREA Compliance Manager shall inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. Policy 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. It further 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, Section 457.02, Reporting, states:

1. All Warden/Division Heads, Deputy Directors, and/or Director are responsible to insure compliance with established Inspector General 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.

Per the PAQ, there were zero criminal and/or administrative investigations of alleged inmate sexual abuse that were completed by the facility in the past 12 months. This information was verified by reviewing the PREA incident tracking log.

The Warden indicated that the caseworker is tasked with meeting with the inmate and providing him the notification of the outcome of the investigation. The caseworker then makes a notation in NOTIS.

The investigators indicated that policy requires that inmates who make allegations of sexual abuse be informed of the outcome of the investigation.

**Corrective Action:** None was recommended for this standard.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 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*)

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.

OP 421, Section 421.13, Disciplinary Sanctions for Staff, states:

1. Staff members who engage in sexual misconduct may be referred for prosecution under NRS 212.187 and are subject to internal disciplinary measures up to and including termination as defined in AR 339.
2. Staff members who engage in romantic relationships with an inmate are subject to internal disciplinary measures up to and including termination as defined in AR 339. These actions include, but are not limited to:
  - Unauthorized, intentional touching, fondling or caressing of an inmate's person, directly or indirectly, related to a romantic relationship.
  - Written telephonic or electronic correspondence referencing the intent to engage or have engaged in this type of activity may warrant investigation and possible discipline or termination.
3. Staff members who know of or are aware of another staff member(s) engaging in sexual misconduct or harassment, who fail to report the information, are subject to internal disciplinary measures up to and including termination as defined in AR 339.
4. Staff who fail to report or covers up such conduct may also be criminally charged under NRS: Chapter 195 – Parties to Crimes, should they have knowledge of a staff member engaging in sexual misconduct with an inmate, and said staff member(s) fails to report or covers up such conduct are in violation of NRS 212.187 and said staff member(s) fails to report or covers up such conduct.
5. All terminations for violations of Institutional 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.

Per the PAQ, in the past 12 months, there was no staff that violated the sexual harassment or sexual abuse policies. There has been no staff from TCC disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies and there have been no reports made to law enforcement or licensing bodies..

Per a memorandum, dated November 1, 2018, authored by the PCM and approved by the Warden, there were no substantiated allegations against TCC staff during this review period.

**Corrective Action:** None was recommended for this standard.

## **Standard 115.77: Corrective action for contractors and volunteers**

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

### **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*)

AR 421 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.

OP 421, Section 421.14, Corrective Action for Contractors and Volunteers, states:

1. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
2. Any contractor or volunteer who is suspected of engaging in sexual abuse shall be reported to the Warden, Associate Warden and or Supervisor promptly. The appropriate Warden will take measures to ensure the contractor or volunteer is denied access to the institution until the investigation is completed.
3. The institution/facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates.

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.

The auditor was provided with a document entitled: "AA Negotiated Terms of a Contract", which states: 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, Office of the

Inspector General will contact the contractor, or the immediate supervisor of the contracted individual, regarding the allegation.

Per the PAQ, there have been no contractors or volunteers reported to law enforcement agencies and relevant licensing bodies for engaging in sexual abuse of inmates, during the past 12 months.

Per memo authored by the PCM, during this 12 month audit time frame, TCC has not had any cases of sexual assault requiring any corrective action on contractors or volunteers. This was verified by reviewing the IG's PREA Incident Tracking log.

The Warden indicated that when agency sexual abuse or sexual harassment policies are violated by a contractor or volunteer, he would prohibit the contractor or volunteer from coming inside the secure perimeter until the investigation was completed.

**Corrective Action:** None was recommended for this standard.

## Standard 115.78: Disciplinary sanctions for inmates

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

### 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)

- 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*)

AR 707, Inmate Disciplinary Procedure, 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. It 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. It states all sexual activity between offenders is prohibited and offenders may be disciplined for such activity.

OP 421, Section 421.15, Disciplinary Sanctions for Inmates, states:

1. Inmate on inmate voluntary sexual conduct is not covered under PREA but is to be considered a violation as per NRS 212.187, NRS 200.366 and AR 707 and will be handled accordingly.

2. Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.
3. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his behavior when determining what type of sanction, if any, should be imposed.
4. The agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
5. 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.
6. Sexual contact between inmates is strictly prohibited and is a violation of the Code of Penal Discipline (MJ-31), NRS 212.187 and NRS 200.366.

Per the PAQ, no inmate disciplinary reports were written as a result of PREA allegations. The number of administrative findings of inmate-on-inmate sexual abuse that have occurred at TCC within the past 12 months is zero. The number of criminal findings of guilt for inmate-on-inmate sexual abuse that occurred at TCC during the review period is zero.

The Warden stated there is an AR which addresses inmate discipline. That is the policy that would be followed in determining the sanctions to be imposed. He also indicated that mental disabilities and mental illness are considered in determining appropriate sanctions.

Per memo authored by the PCM, TCC has not had any cases of sexual assault requiring any disciplinary sanctions of inmates. This was verified by reviewing the IG's PREA allegation tracking log.

**Corrective Action:** None was recommended for this standard.

## MEDICAL AND MENTAL CARE

### Standard 115.81: Medical and mental health screenings; history of sexual abuse

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

#### 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  N/A

#### 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*)

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.

NDOC Medical Division INP#200, PREA, states: The inmate will be asked if in his past, he has ever sexually abused another individual. If the inmate answers yes, staff will ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

Per the PAQ, there was one inmates who reported being sexually victimized during risk screening and no inmates who reported being sexually abusive in the past.

All medical and mental health evaluations would be performed at another facility, as there is no medical or mental health staff assigned at TCC.

Per a memo authored by the PCM, the auditor was informed: During screening as outlined in this standard and in 115.41 and 115.42, all inmates, if it is deemed that they need long term treatment by a health professional, would be transferred to HDSP to receive help as needed. If an inmate requests mental health care at any time, TCC through medical runs, phone calls, and/or video conference would insure that the inmate could talk to a medical professional while staying at TCC without need of a transfer.

The inmate indicated that he reported during risk screening. He stated it occurred at another NDOC facility. He stated that MH staff call him once a month to see how he's doing and if he is having any medical or mental health issues.

The caseworker indicated that if the risk screening indicates a mental health referral is required, he asks the inmate if he would like to talk to a MH person. If they say yes, he calls HDSP to make arrangements for the inmate to speak with a clinician on the telephone. It usually occurs that day or the following day, depending on availability of the MH staff. He documents the referral on the original IR.

There are no logs to review at TCC. All medical and mental health processes are completed at HDSP. Inmates are transported to HDSP if they require any medical or mental health services.

**Corrective Action:** None was recommended for this standard.

## Standard 115.82: Access to emergency medical and mental health services

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

### 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*)

OP 421, Section 421.09, Coordinated Response, states: Transport the suspect to the HDSP infirmary after the victim has been transported and assessed by HDSP medical. The suspect shall not be placed or housed, even temporarily, in the same area as the victim and the inmates are to have no contact at any time, and are to be escorted to HDSP in separate vehicles. Victims must agree to have a sexual assault forensic exam prior to transporting for the exam. Should an inmate refuse to have the exam, the refusal must be documented on a Release of Liability for Refusal of Medical Treatment Form (DOC

2523). Victims will only be transported for a sexual assault forensic exam if the assault occurred within the previous 72 hour time frame.

There are no medical and mental health staff assigned at TCC; therefore, the medical and mental health interview protocols were not utilized.

Per a memorandum dated February 15, 2018, signed by the acting PREA Coordinator, 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 practitioner's 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 is utilized in Northern Nevada and Sierra Health Organization is utilized for Southern Nevada. All hospitals NDOC uses will take emergency inmate patients.

During the tour, the auditors verified there is no medical or mental health staff assigned at TCC. If the inmate required medical or mental health treatment as a result of making a sexual assault allegation, he would be transported to HDSP for medical or mental health care.

The three staff indicated that if they were first to arrive on the scene of a sexual abuse, they would separate the victim and aggressor, control the scene to ensure evidence wasn't destroyed, ask the victim to not wash up, change clothes or eat anything so evidence will not be lost, place the suspect in a holding cell and ensure he takes no actions that would destroy evidence, collect clothing from each involved inmate and bag individually in paper bags, notify the supervisor and the IG. They also indicated they would contact HDSP to find out about medical evaluation.

**Corrective Action:** None recommended for this standard.

## **Standard 115.83: Ongoing medical and mental health care for sexual abuse victims and abusers**

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

### **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.)  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.)  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*)

A policy was not provided because medical and mental health care is not provided at TCC. Inmates would be referred to medical and mental health services at HDSP, when necessary.

No observations were made during the tour due to this function being done in conjunction with another facility. Also, there was no risk screening conducted during the on-site portion of the audit because there was no intake scheduled during those days.

**Corrective Action:** None was required for this standard.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 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 PCM?  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*)

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. It 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.

OP 421, Section 421.17, Prison Rape Elimination Review Team, states:

1. The facility shall conduct a sexual abuse incident review within 30 days of the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded.
  - The review team shall consist of the Warden, Associate Warden, PREA Compliance Manager, Psychologist III, Director of Nursing and Lieutenant
2. The review team shall consider the following:
  - Does the allegation or investigation require a change of policy or practice to better prevent, detect, or respond to sexual abuse;
  - Consider whether the 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;
  - Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable the abuse.
  - Assess the adequacy of staffing levels in that area during different shifts;
  - Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.; and
  - Prepare a report of its findings, including but not necessarily limited to determinations made and any recommendations for improvement.
  - Report shall be forwarded to the Warden and PREA Compliance Manager.

- Facilities shall make every effort to follow recommendations for improvement, or shall document its reason for non-compliance.

3. The Institution shall collect accurate and uniform data.

As reported in the PAQ, in the past 12 months, there were no criminal or administrative investigations of alleged sexual abuse completed at TCC that were substantiated or unsubstantiated. There were only two allegations made, both were Sexual Harassment allegations.

Per memo authored by the PCM, TCC has not had any cases of sexual abuse requiring an incident review. This was verified by reviewing the IG's PREA tracking log.

The facility conducts Sexual Abuse Incident Review committees, as needed. They are chaired by the Camp Lieutenant and AW at HDSP. The Warden indicated the review committee considers all of the factors of the case, pertinent policies, staffing, electronic monitoring technology, and any other factors that arise. He indicated they consider whether the incident was motivated by race; ethnicity; gender identity; LGBTI identification; gang affiliation; or was motivated by other group dynamics at the facility; they examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; they assess the adequacy of staffing levels in that area during different shifts; and they assess whether monitoring technology should be modified.

The PCM indicated that SAIR committees would be conducted via teleconference with HDSP, as it is the prison that has oversight of the camp. He stated during his time as the Camp Manager, he has not had a case which required a SAIR. If a SAIR committee recommended action, he is responsible for his budget and he would be able to make physical plant changes. The PCM is charged with monitoring retaliation at TCC. He indicated he monitors the staff and inmate's activities. He has it easier at a Camp because he is also the one who must approve all bed moves, job changes and disciplinary actions. He stated he would check-in with the individual periodically, look at their housing and job assignment, and assign them to a bed closer to his office. If it was a staff, he would make sure they knew they could come to him with any issues. The PCM indicated that in monitoring for retaliation, he would look for changes to the inmate/staff's normal routines. Is he always alone, are other avoiding him, is there name calling going on. He would also watch for write-ups, as this is a classic way to retaliate against an inmate.

**Corrective Action:** None was required for this standard.

## Standard 115.87: Data collection

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

### 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*)

AR 421, the NDOC PREA Manual, and the Survey of Sexual Violence documents were reviewed by the audit team. 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-II (SSV-II) 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 Department of Justice. 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.

Data for 2016 was reviewed, as 2017 data has not been published at the time of this report.

The inmates who are in private facilities were moved there in October 2017; therefore, the data that has been reported through 2016 did not reflect any inmates being housed in private facilities.

**Corrective Action:** None was recommended for this standard.

## Standard 115.88: Data review for corrective action

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

#### 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*)

The auditor reviewed the annual reports and determined there was no corrective action identified for TCC.

The agency head indicated they use incident based sexual abuse data to assess and improve sexual abuse prevention policies and training by reviewing the information at both the local and statewide levels. They look at the data annually and compare with previous data to identify possible trends. He stated he reviews and signs the annual report before forwarding it to the Chief of Staff, in the Governor's Office. The annual report is posted on the agency website once the review is completed.

The PREA Coordinator indicated the agency reviews data collected and aggregated pursuant to standard 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention policies. Data is retained within the Inspector General's Office, where access is controlled by locking the file cabinets where it is stored and password protecting the electronic information. The agency takes corrective action to address physical structure and staffing deficiencies, when identified. The agency prepares an annual report, which is signed by the Director and posted on the NDOC website. She indicated that inmate and/or staff names and any personal identifying information are typically redacted from the annual report. She further indicated they indicate the types of material which has been redacted.

The PCM indicated he provides his data to HDSP and is not involved in the process after that.

**Corrective Action:** None was recommended for this standard.

## Standard 115.89: Data storage, publication, and destruction

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

#### 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*)

AR 421 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. It requires the department to remove all personal identifiers from aggregated sexual abuse data before making said data publicly available.

The PREA Coordinator indicated data is retained within the Inspector General's Office, where access is controlled by locking the file cabinets where it is stored and password protecting the electronic information.

A review of the website demonstrates aggregated sexual abuse data from facilities under its control to the public is posted, as required. Information displayed on the agency website, contains no personal identifiers.

No federal, state or local law was provided by the agency to indicate there was a law in place to require a data maintenance procedure which would supersede standard provision 115.89(d).

**Corrective Action:** None was recommended for this standard.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

#### 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*)

During the prior three-year audit period, the agency ensured that each facility was audited at least once. This is the third year of the current audit cycle and the agency ensured that at least one-third of each facility type was audited during the first and second year of the current audit cycle.

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 inmates. Inmates 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

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

#### 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 within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. 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 has 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*)

### Instructions for Overall Compliance Determination Narrative

The agency has published on its agency website all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years preceding this agency 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*

**Auditor Signature**

May 13, 2019

**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.