

**PREA AUDIT REPORT     Interim    Final  
ADULT PRISONS & JAILS**

**Date of report: May 20, 2017**

<b>Auditor Information</b>			
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<b>Date of facility visit:</b> November 16-18, 2016			
<b>Facility Information</b>			
<b>Facility name:</b> James H. Byrd Jr. Unit			
<b>Facility physical address:</b> 21 FM 247    Huntsville, Ohio 77320			
<b>Facility mailing address:</b> <i>(if different from above)</i>			
<b>Facility telephone number:</b> 936-295-5768			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Steven Miller, Warden			
<b>Number of staff assigned to the facility in the last 12 months:</b> 405: (282 facility staff and 123 regional staff)			
<b>Designed facility capacity:</b> 1,368			
<b>Current population of facility:</b> 1,150			
<b>Facility security levels/inmate custody levels:</b> G1, G2, Transient			
<b>Age range of the population:</b> 16-80			
<b>Name of PREA Compliance Manager:</b> Belinda Pedroza		<b>Title:</b> Unit Safe Prisons PREA Manager	
<b>Email address:</b> Belinda.Pedroza@tdcj.texas.gov		<b>Telephone number:</b> 936-295-5768 ext. 4271	
<b>Agency Information</b>			
<b>Name of agency:</b> Texas Department of Criminal Justice			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> State of Texas			
<b>Physical address:</b> 861-B I-45    North Huntsville, Texas 77320			
<b>Mailing address:</b> <i>(if different from above)</i> P.O. Box 99    Huntsville, Texas 77342			
<b>Telephone number:</b> 936-295-6371			
<b>Agency Chief Executive Officer</b>			
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<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Lori Davis		<b>Title:</b> Director, Correctional Institutions Division	
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## AUDIT FINDINGS

### NARRATIVE

The PREA audit of the James H. Byrd Jr. Unit was conducted on November 16-18, 2016 by Auditor Barbara King. A month prior to the audit, the auditor received the PREA Pre-Audit Questionnaire and documents on a thumb drive provided by the agency. The auditor communicated with the agency and facility requesting further documentation for clarification and review. The auditor also reviewed the Texas Department of Criminal Justice (TDCJ) and State of Texas PREA Ombudsman Office websites prior to the audit. A tentative schedule was set with the Warden for the audit timeframe.

Before the start of the audit, the auditor met with the Warden, Assistant Warden, Major, and the facility's Safe Prisons /PREA Manager. A detailed schedule for the audit was discussed. The facility provided the requested information to be used for the random selection of offenders and staff to be interviewed (random and specific category) including an alpha listing of all offenders housed at the facility, lists of staff by duty position and shifts, lists of offenders for specific categories to be interviewed, list of staff who perform risk assessments, and a list of volunteers on site during the audit. Additional information in the packet included the daily population reports.

Key facility staff during the audit included Warden, Assistant Warden, Major, Safe Prisons/PREA Manager, Administrative Captain, and Regional Staff.

The PREA audit began with a facility tour with key staff of the housing units. The program areas, maintenance, laundry, food service, medical and other service areas were toured by the auditor on a separate day. During the tour, the auditor made visual observations of the program areas and housing units including bathrooms, officers post site lines, and camera locations. The auditors spoke to random staff and offenders regarding PREA education and facility practices. Review of the housing unit log books was conducted to verify immediate/ higher level staff rounds.

During the tour, the auditor identified sight line concerns in regards to the toilets in the housing cells, sight line of the shower in housing unit run B, blind spot in the kitchen pan room, blind spot in welding area in the maintenance department, and an operation concern within the kitchen's dry storage area that has blind spots with limited staff supervision. The facility took immediate action and addressed the concerns. Mirrors were installed in the welding area and the kitchen pan area. The shower barrier in housing run B was extended in height to eliminate the visual sight line and offer privacy for showering. An operational procedure was changed for the kitchen dry storage that eliminated multiple offenders from working in the area unless there was direct staff supervision. During a second walk through of the kitchen, another blind spot concern was raised for the dishwashing area. The Warden indicated a mirror would be installed to eliminate the blind spot. The facility installed the mirror in the dishwashing area and provided a photo documenting the mirror location and installation.

All required facility staff and offender interviews were conducted on-site during the three (3) day audit. Thirty-three (33) formal offender interviews were conducted and ninety-four (94) offenders were informally interviewed during the facility tours, (11% of the 1,150 offender population). The random interviewees were selected by the auditor from the housing rosters and designated lists of offenders provided by the facility. Random offender interviews from different housing units (21), Disabled and limited English speaking ability (3), Youthful (2), LGBTI (3), Who Reported Sexual Abuse (2;) and Who Disclosed Sexual Victimization (2) were interviewed. Offenders were selected randomly from each housing unit and from the lists provided for the specialized interviews.

A total of fifty-three (53) staff was formally interviewed and additional thirty-nine (39) informal staff interviews were also conducted during the facility tours (32.6% of 282 staff). The actual facility staff is 282 although the Pre-Audit Questionnaire indicates 405. The difference is the fifty (50) staff of the Outside Sales Warehouse and Central Region Offender Transportation and the seventy-three (73) regional staff assigned to the Huntsville Memorial Hospital that are carried on the facility's staffing, however they are not located within the facility's operations. Staff was randomly selected from each of the three shift rosters and different departments within the facility (15). Additionally, specialized staff were interviewed including the Warden (1), PREA Manager (1), Intermediate-Higher Level Staff (5), Medical and Mental Health (3), Human Resources (1), Volunteers/Contractors (5), Investigator (2), Program Staff –Youthful Offender (1), Line Staff Supervision-Youthful Offender (1), Staff Who Perform Screening (2), Staff Who Supervise Segregated Housing (1), Incident Review Team (3), Staff Who Monitor Retaliation (2), First Responders (4), and Intake staff (2), PREA Coordinator (1), Contract Administrator (1), Safe Prisons/PREA Program Manager (1), and Agency Head Designee (1).

There were twenty (20) allegations during the audit period: twelve (12) allegations occurred at the facility, one (1) allegation reported by another facility, and seven (7) allegations that occurred at another facility and reported at the Byrd Unit. Of the

three (3) staff on offender allegations; there were two (2) alleged staff on offender sexual abuse, and one (1) alleged staff on offender sexual misconduct. The administrative findings of these allegations were one (1) unsubstantiated and two (2) unfounded. Of the staff on offender allegations, OIG did not open any cases. Of the seventeen (17) offender on offender allegations; there were eleven (11) offender on offender sexual abuse and six (6) offender on offender sexual misconduct. The administrative findings of the eleven (11) offender on offender sexual abuse allegations were ten (10) unsubstantiated and one (1) substantiated. The administrative findings of the six (6) offender on offender sexual misconduct allegations were five (5) unsubstantiated and one (1) substantiated. Of the offender on offender allegations, OIG opened seven (7) cases: one (1) is still active and six (6) were closed with no charges. The open case is still open pending the sexual assault kit DNA results. A review of thirteen (13) administrative investigations was conducted. The actual OIG investigations files were not available for review.

An exit meeting was conducted by the auditor at the completion of the on-site audit. While the auditor could not give the facility a final finding, the auditor did provide a preliminary status of their findings and request for further documentation needed to demonstrate compliance on three standards. The three standards 115.13, 115.33, and 115.41 could not be cleared at the end of the on-site audit process. The standard, 115.41, addressing the risk assessment process was an agency compliance matter. Standard 115.33, offender education was an agency and facility compliance matter. And standard 115.13, the visual blind spot identified in the kitchen dishwashing area is a facility compliance matter. The auditor shared with the Warden and the facility's administration feedback from the offender population; the offenders stated during their interviews that there has been a positive change within the agency with the establishment of the safe prisons program. Staff shared the positive impact the Safe Prisons Office has had on the facility and the availability and responsiveness of the Safe Prisons/PREA Manager especially for training. The auditor thanked Texas Department of Criminal Justice, Warden Miller, the Byrd Unit staff for their hard work and commitment to the Prison Rape Elimination Act.

The facility was contacted after the on-site audit to discuss the compliance requirements for the outstanding standards and the action plans required. The auditor also contacted the agency during the writing of the report to clarify certain information for the report. The agency was responsive in providing information. Standard 115.13 was cleared after the on-site audit by providing photos of documentation of a mirror installed. Standards 115.33 and 115.41 required corrective action plans from the agency/facility.

Within the 180 day correction period, compliance with standard 115.33 was achieved by the agency and facility by providing education to all offenders during intake to the facility. Educational is provided through the informational postings provided in the housing units and the intake area that outline the zero tolerance for sexual abuse and sexual harassment; indentifying the assistant warden, warden, and safe prisons manager as the staff to contact regarding a PREA allegation; and also provides the PREA Ombudsman and OIG contact information for reporting an incident. The Sexual Abuse Awareness pamphlet contained within the offender orientation handbook, are now made available to all offenders upon arrival to the unit. And the facility installed four (4) 36" flat screen televisions in the intake/receiving department that play the Safe Prisons/PREA Video on a "loop." All offenders are screened during the intake process and during this process the offender is notified verbally that the agency has a zero tolerance policy concerning all forms of sexual abuse and sexual harassment, including consensual contact of offenders. They are also informed to read the Safe Prisons/PREA material contained in the offender handbook and posting in the unit and if they have any questions or concerns to contact the Safe Prisons/PREA Manager at the facility. The agency provided photos, completed offender assessment screening forms, and a video clip showing the Safe Prisons/PREA Video playing on one of the new televisions in the intake area to the auditor for documentation of compliance with the standard.

Within the 180 day correction period, compliance with the standard 115.41 was achieved by the agency and facility by completing an offender assessment screening on all offenders received at the facility including the transient offenders. The Operational Procedure states " All intra-system transfers (unit to unit) that arrive at the Byrd Unit to complete their intake processing, medical appointments, or any other reason besides newly received shall have an Offender Assessment Screening, Attachment E-1 completed within 72 hours of arrival. This Safe Prisons/PREA Offender Assessment Screening will be completed by the receiving department staff upon the offender's arrival." Facility staff reviews the offender information within the agency database from the initial screening to determine if there are any PREA classifications or flags prior to the intake. Upon receiving at the facility, the trained staff utilize the Offender Assessment Screening to ask the offender: age; height; weight; prior to incarceration have you ever experienced sexual victimization as a child or adult; since your last unit of assignment have you experienced sexual victimization by staff or offender; do you feel at risk from sexual assault, sexual harassment, or other victimization by staff or offender; do you wish to identify yourself as lesbian, gay, bisexual, or heterosexual; and do you wish it identify yourself as transgender or intersex. There are follow-up questions and referral made based on affirmative answers to certain questions. Any affirmative answers to questions must be reported to a supervisor and the Safe Prisons/PREA Coordinator. The forms are usually completed on the day of arrival at the facility. The operational procedure requires the screening should occur within 72 hours of arrival. The agency has provided completed offender assessment screening forms for documentation for transient offenders. The submitted documentation and operational

procedure now conforms to the PREA standard.

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

The Mission of the Texas Department of Criminal Justice (TDCJ) and the James H. Byrd Jr. Unit is to “provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime.”

The James H. Byrd Jr. Unit is a Texas Department of Criminal Justice (TDCJ) prison that has the rated capacity to house 1,368 male offenders. The facility is a maximum custody facility and houses all custody levels of offenders (G1-G5). The Byrd Unit serves as the Reception and Diagnostic facility for male offenders entering and returning to the Correctional Institution Division (CID) of the TDCJ. It also operates as a holding facility for those offenders in transit status on their way to and from medical appointments elsewhere in the TDCJ. The custody levels of the general population offenders housed includes G1, G2, and transient offenders. The offender population was 1,150 on the first day of the audit. The average daily population for the audit period was 1,153 offenders.

The Byrd Unit is located within the city limits of Huntsville, Texas approximately one mile north of the downtown area and is one of five Texas Department of Criminal Justice (TDCJ) facilities located within the city. It is situated on a 93 acre tract of land that was once a prison dairy farm operated by another facility in the area. The Unit was built by offender labor with outside contractors overseeing the project and opened in September of 1964 with a capacity of 783 beds. It was then expanded in 1987 to include three additional housing unit runs which created the new capacity of 1,368.

The physical plant consists of a single two story brick structure surrounded by two fences and four surveillance towers, the back gate and several small storage buildings outside of the fence. The facility design style is the traditional telephone-pole design, using a long corridor with cell housing unit runs and support services extending along and from the main corridor. There are five two story housing unit runs with each housing unit run generally containing twenty-four (24) cells with two (2) beds in each. There are a total of 606 double occupancy cells and sixty-three (63) single occupancy cells, although the single occupancy cells each contain two (2) beds. There is also a two-tier dormitory that has sixty-one (61) beds in the upper tier and eighty (80) beds in the lower tier. An outside recreation yard is located at the end of the building. The unit provides secure spaces for administration, visiting, food service, education, offender housing, medical, commissary, maintenance, laundry, central control, and religious services. What offender movement is required through the facility is monitored by roving correctional officers and by control desks located in the main hallway and at the housing unit runs.

The Byrd Unit designates forty-eight (48) beds for special housing purposes. These beds are located in housing unit C runs 13 and 14; with twenty-four (24) cells on each of the housing runs. There are used for offenders with immediate security concerns, Security Threat Group affiliations, assaultive behavior and protective investigation. The transient housing cells are utilized when an offender needs safe housing or when a sexual abuse investigation is initiated. Offenders are placed in transient housing for 72 hours pending investigation; it may be extended for another 72 hours if needed for completion of the investigation. An Offender Protective Investigation (OPI) is started immediately upon the offender being placed in transient housing located in special housing run. The alleged abuser would be housed in special housing during the investigation. Staff assigned to this housing unit wear body alarms and thrust vests.

Housing Unit run B contains fifteen (15) cells and is designated for Youthful Offenders. The Byrd Unit also has three (3) housing unit rows, about 132 beds, designated for housing of medical transient offenders or those who are in transient status on their way to or from a medical appointment. These offenders are typically held there for less than 48 hours.

All newly arrived offenders are considered to be on “transient” status and stay at the facility for up to forty (40) days or until processing is complete. Death row offenders when received from the county are immediately processed and sent to their unit of assignment within twenty-four (24) hours. All other maximum custody offenders and offenders sentenced to ten (10) years or longer are received at the unit directly from the counties are completely processed and classified before transferring to their assigned Unit. This facility also receives and processes offenders from the counties who are sentenced to Substance Abuse Treatment Programs within the TDCJ. The Unit also receives youthful offenders for processing. The youthful offenders are processed and transferred to their assigned unit within ten (10) days. The unit maintains a work force of offenders that are permanent assigned to the facility. There are 229 permanent assigned offenders. These offenders are housed at the facility to perform offender job assignments throughout the facility and perform the day to day work tasks of maintenance, food service, laundry, and other various jobs for the operational need of the unit.

The Unit's operational challenge is the number of offenders the Unit is transferring in and out on a daily basis. The unit receives and transfers an average of 750 offenders per week. During the on-site audit process, the facility's daily population changed by 25% on Wednesday, 38% on Thursday, and 27% on Friday with transfers in and out of the facility. In 2014, the facility received a total of 47,374 offenders. In 2015, it received 47,601 offenders. In the first ten (10) months of 2016, 38,972 offenders were received at the facility. The majority of the offenders were housed for less than forty (40) days and then transferred to their "Unit of Assignment" or to their medical appointments. In the months of August, September, and October 2016, a total of 12,013 offenders were received of which 7,727 (64.3%) were held in transit to be moved to or from a medical appointment, 3,493 (29.1%) were received from the regional intake facilities to receive the final step of their intake processing classification and then sent to their "Assigned Facility", 514 (4.3%) were received from counties (4 Death Row, 215 Initial Processing, 295 for Substance Abuse Treatment Programs) for their initial intake processing and 279 (2.3%) were received as Parole Violators.

There currently are twenty-four (24) digital cameras (13 interior and 11 exterior) in place which are monitored through the Warden's, Major's and the transportation office. Nine (9) of the interior cameras are located in the intake/receiving department. There have been no expansions or modifications to the facility or video monitoring system.

The Unit Complex is managed by a Senior Warden and one Assistant Warden.

## **SUMMARY OF AUDIT FINDINGS**

On November 16-18, 2016 a site visit was completed at the James H. Byrd Unit. The interim report was provided on January 2, 2017. The interim results of the James H. Byrd Unit PREA audit are listed below:

Number of standards exceeded: 4

Number of standards met: 35

Number of standards not met: 2 (115.33 and 115.41)

Number of standards not applicable: 2

On May 18, 2017 the facility achieved full compliance with all applicable standards. The final report was provided on May 21, 2017. The final results of the James H. Byrd Unit PREA audit are listed below:

Number of standards exceeded: 4

Number of standards met: 37

Number of standards not met: 0

Number of standards not applicable: 2

**Standard 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator**

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

The Texas Department of Criminal Justice (TDCJ) has a written policy Executive Directive 03.03 Safe Prisons/PREA Program and the Safe Prisons/PREA Plan, mandating zero tolerance towards all forms of sexual abuse and sexual harassment. The agency also established a Safe Prisons/PREA Plan in August 2014 that outlines the agency’s approach to preventing, detecting, and responding to sexual abuse and harassment. The plan is a forty page document that outlines the agency’s zero tolerance and the implementation of the safe prisons plan through the following sections: administration and designated staff; offender management and services; offender screening and assessment; reporting allegations; investigations; training and education; data collection; and administrative considerations. The Safe Prisons/PREA Program policy and Safe Prisons/PREA Plan is also supplemented by other agency policies, Executive Directives, Security Memorandums, and post orders. Through observation of bulletin boards, posters, educational handouts and materials, review of offender and staff handbooks, and interviews with staff and offenders it was apparent that TDCJ and the Byrd Unit is committed to zero tolerance of sexual abuse and sexual harassment. Each staff member also carries an informational card that outlines the first responder requirements.

Ms. Lori Davis is the Director of Correctional Institution Division (CID) and is the agency’s PREA Coordinator. She has direct access to the Executive Director and has the authority to manage the agency’s Safe Prisons/PREA Program. The Safe Prisons/PREA Program is managed through six (6) regional Safe Prisons/PREA managers and ninety-one (91) institution Safe Prisons/PREA managers. Monthly meeting, memos, and policy reviews are provided for direction through the office. Further training and guidance is provided as needed. Agency updates and changes are forwarded from this office to the units. The Regional Safe Prisons Manager was present during part of the audit. As the Regional Safe Prisons Manager, she works with the facility’s PREA Compliance Manager at the facility.

Each facility within the agency is to identify a facility compliance manager that will ensure that effective practices and procedures are in place at the facility to ensure compliance with standards. This position reports directly to the Warden. The facility has designated a correctional officer as the PREA Compliance Manager and this position also oversees the Safe Prisons Office for the facility. The Safe Prisons Office responsibilities include PREA policy compliance, investigations, and the audit process. The Safe Prisons/PREA Manager starts the offender education upon arrival at the facility. She provides PREA educational information and explains the Safe Prisons Office’s responsibilities and availability to the offenders. The Safe Prisons/PREA Manager is required to makes rounds in the housing areas to ensure the office services are available to the offender population. The permanent assigned offenders were able to identify the Safe Prisons/PREA Manager by name during the interview process. The Safe Prisons/PREA Manager stated during the interview process that she felt she did have enough time to perform the PREA duties for the facility. The long-term offenders stated during their interviews that there has been a positive change within the agency since the development of the Safe Prisons Operations. Staff and offenders both shared the positive impact the Safe Prisons Office has had on the facility and the availability and responsiveness of the Safe Prisons/PREA Manager.

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

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

Texas Department of Criminal Justice (TDCJ) has renewed fifteen (15) contracts for the confinement of offenders. The contract language states, “The Contractor shall comply with the Prison Rape Elimination Act (PREA) Standards for Adult Prisons and Jails and report any offender sexual abuse or sexual harassment to the TDCJ-PFCMOD in accordance with Department Policy.” All of the contracted secure facilities have undergone PREA audits. PREA Audits have been completed on PREA Audit Report

all the facilities under contract for the confinement of offenders. Fourteen have completed reports and one facility is on a monitoring period. This facility will be reviewed for final compliance. The contract facilities are required by contract to provide a copy of the final report to the agency. The final reports have been posted to the agency's website, <http://www.tdcj.texas.gov/divisions/arm/armrevstanprea.html> with the exception of the one facility pending the final report.

The contracts include language that states the department designated contract monitor will monitor the facility to ensure the contractor is compliant with the PREA standards for Adult Prisons and Jails. The contract monitor is on-site at the facility. The monitor oversees all the operational practices, contract practices including PREA compliance, and the day to day operations of the facility. Any concern that would be determined imminent risk would have immediate actions taken for correction. All other concerns would be identified for correction and monitoring would occur until corrected. The PREA Compliance is accomplished and documented through a monitoring checklist that will be completed every six months. A copy of the contract language and checklist was provided previously by the Safe Prisons/PREA Program Manager and Manager II of Review and Standards.

### **Standard 115.13 Supervision and monitoring**

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

The Byrd Unit has developed a staffing plan that is based on the eleven criteria of the standard to include generally accepted detention and correctional practices; any judicial finding of inadequacy; and findings of inadequacy from Federal investigative agencies; any findings of inadequacy from internal and external oversight bodies; all components of the facilities physical plant (including "blind spots" or areas where staff or offenders may be isolated); the composition of offender population; the number and placement of supervisory staff; institutional programs occurring on a particular shift; any applicable State, or local laws, regulations, or standards; the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and any other relevant factors. This process is outlined in Administrative Directive 11.52 Security Staffing, the Safe Prisons/PREA Plan, and Security Operations Procedure Manual 07.02. Based on the review of the staffing plan and interview with the Warden, the staffing plan was developed by the leadership of the Byrd's Unit with input from the PREA Manager and unit staff, regional staff, TDCJ Correctional Institution Division (CID) Security Systems Office and in coordination with the PREA Coordinator. The Warden indicated in his interview that the staffing plan is reviewed at least once a year. Copies of the staffing plan are maintained by human resources, regional office, agency headquarters, and the Warden's Office.

The facility makes its best efforts to comply with the plan. When deviations occur, the position deviated is documented on the staff turnout shift roster with the employee's name, post reassignment, and the reason for the deviation. Administrative Directive Security Staffing 11.52 outlines the requirement of the daily review of the facility's turnout reports. The Warden is also notified of the deviation. The Warden indicated during his interview that he reviews the deviation reports daily. The Assistant Warden, Major, and Administrative Captain reviews the staffing rosters and deviation reports daily for the priority one and priority two plan compliance. They are also reviewed daily by the Human Resources Office to ensure compliance with the staff priority one plan. If a deviation is expected to be long term, a Position Deviation Form must be submitted to the Security Systems Office for review and action. The most common reasons for deviations listed in the pre-audit questionnaire were off constant direct observation, medical transfers, hospital security, and staff shortage

The Security Operations Procedure Manual Section Annual Security Staffing Review 8.06 and Administrative Directive Security Staffing 11.52 outlines that the CID Security Operations Office conducts an annual staffing review. The 2016 staffing plan review occurred on February 17, 2016. As a result of the meeting and review of the security staff allocations along with statistics presented by the PREA Coordinator, it was determined that no changes were necessary to the staffing plan or shift turnout rosters; additional or enhanced video surveillance equipment beyond that which is currently being installed, was not required; and the unit is utilizing all resources available (e.g. overtime, recruiting efforts) to ensure the adequate security staff is available to meet the requirements of the staffing plan.

Intermediate and higher level staff conduct unannounced rounds. The rounds are documented on the shift turnout reports and in the housing unit logbooks. Through reviews of housing area logs and interviews with staff and offenders, it was confirmed that unannounced rounds are done randomly throughout the facility. The supervision staff indicated during the interviews that unannounced rounds are accomplished by staggering the round times on a daily basis, conducting rounds in

different areas on different days, and using different routes and not a routine pattern. The agency's policy Safe Prisons/PREA Plan and post orders prohibits staff from alerting other staff members that supervisory staff rounds are occurring. This is also addressed during turnout as a refresher. Supervisors also indicated in the interviews that if a staff member was alerting other staff, discipline action would be started on the employee.

A blind spot was identified in the kitchen dishwashing area on the last day of the audit limiting the supervision and monitoring of the area. After discussion with the Warden, it was recommended a mirror be installed that allows the staff to monitor the area and eliminates the blind spot. The Warden indicated a mirror would be installed. The facility has installed the mirror in the dishwashing area and provided photos documenting the mirror location and installation.

### **Standard 115.14 Youthful inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)
- Non-Applicable Standard

The Byrd Unit houses youthful offenders during the initial intake processing. The youthful offenders are housed in Housing Unit B that contains fifteen (15) cells and a shower on the housing run. The youthful offender housing provides sight, sound, and physical separation from adult offenders. Once the youthful offender assessments are conducted, the youthful offenders are immediately transferred to the TDCJ Clements Unit as their unit of assignment within ten calendar days of intake. In the past year, the facility has housed one hundred thirty-two (132) youthful offenders ages of 16-17. At the time of the audit, the facility received three youthful offenders. While at the Byrd Unit, youthful offenders are under constant supervision (escorted) when there is sound and sight contact with adult offenders. The two (2) youthful offenders interviewed indicated they are always separated from adult offenders and under the direct supervision of officers. The staff interviewed indicated that youthful offenders are under constant supervision of staff and are escorted by staff during any movement. Staff expanded to include that if possible the services or programs would be provided to the youthful offenders without adult offenders in the area. If the program is combined with adult offenders, the youthful offenders are always under direct supervision of a staff member and are separated from adults by the best method available to staff in that facility location.

The Safe Prisons/PREA Plan covers the standard of separating youthful offenders from adult offenders and ensuring youthful offenders have access to services. The facility accomplishes the separation in the program and service areas by having the youthful offenders seated at the back of the area with all adult offenders seated in front facing ahead and always under direct supervision of staff. Meals are served to the youthful offenders in their cells. When a youthful offender needs to be escorted through the facility, adult offenders are to face the wall as the youthful offender passes. The housing unit run has a separate shower area for the youthful offenders. During the initial tour, the auditor indicated the shower barrier still allowed visual sight lines into the shower. The shower barrier in housing run B was extended the height to eliminate the possibility of cross-gender viewing and offer privacy for showering.

Although the Pre-Audit Questionnaire indicated that the youthful offenders are housed in the same housing unit as adults and have been placed in isolation in order to separate them from adult offenders, this has not occurred. The facility houses the youthful offenders on a separate housing unit run (housing unit B), which is dedicated to the youthful offenders. Adult offenders are not housed on this housing unit run and the housing unit is not an isolation housing unit.

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

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

Through the review of Administrative Directive 3.22 Offender Searches and the Safe Prisons/PREA Plan, governing offender searches and cross gender searches, it confirms the policies and procedures address the standard. Interviews with staff and offenders plus observation of actual searches conducted during the audit, the Byrd Unit Unit does not conduct cross gender strip searches. The policy does allow cross gender strip searches only in extraordinary circumstances and when approved by the Warden. When a cross gender strip search occurs, it will be documented on the Cross-Gender Search Log, SPPOM 02.05 Attachment D. All body cavity searches are completed only by medically trained professionals. The policy also prohibits staff from frisking transgender and intersex offenders for the purpose of determining genitalia status. Interviews with staff confirmed these practices, as well as the review of the training lesson plans reinforcing these policies in the annual training, Lesson Plan Contraband and Shakedown. Cross-gender searches occurred in five incidents over the period of February to July 2016. The five incidents were use of force incidents which female staff participated due to the lack of male staff. All incidents were documented with a total of eight (8) females involved in cross-gender searches; four (4) separate female staff involved in four (4) individual incidents and four (4) female staff involved in one (1) incident. The facility has not conducted any cross gender visual body cavity searches of offenders.

The Safe Prisons/PREA Plan and facility's practice allows all offenders the opportunity to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing them. This was confirmed by interviews with offenders and staff. The auditor noted during the audit tour that the toilets in the housing cells did not allow the offenders use without the possibility of being viewed by female staff, if female staff is assigned to the housing unit post. The housing cells are 9' by 5' with a toilet, sink, and bunked beds. The cell is open to the housing unit run by bars, not a wall. Female staff on the post while doing rounds may observe an offender on the toilet. Due to the floor plan of the cell and the square footage, a barrier for the toilet is not feasible for the cell. During the offender interviews, offenders indicated they received a sense of privacy for performing bodily functions. They indicated the officer announces prior to walking the housing run giving the offender time to complete or time to cover up. They also stated if a staff member is conducting count or making rounds, the staff offer privacy by only glancing in the area to ensure the count and security of the offender. The female staff interviewed indicated they announce the round, wait one to two minutes before making the round to give the offender time to cover up or complete their function. After discussion with the PREA Resource Center and the feedback from the staff and offenders, the auditor determined that offenders receive privacy from staff viewing as allowed by the facility design and is viewed as incidental viewing during routine cell checks.

The Safe Prisons/PREA Plan and officer's post orders require that staff of the opposite gender announce their presence when entering offender housing areas; this was observed during the audit. Female staff "knock and announce," they knock on the door/wall when entering the area and loudly announce female on the run or female on the floor. The facility also has notices posted on the doors entering the housing areas stating, "You are now entering a cross gender viewing area in a male housing location. The opposite gender should announce their presence upon entry." Staff are also provided training on unannounced rounds to help assure compliance with the standard that limits cross gender viewing. During the random offender interviews, the offenders stated that female staff announce when entering the housing areas by announcing "female on the run." Staff also indicated that announcements are made upon entering the housing runs.

The policy, AD 3.22 Offender Searches, also prohibits staff from frisking transgender and intersex offenders for the purpose of determining genitalia status. All body cavity searches are completed only by medically trained professionals. During interviews with staff, they were aware of the policy and indicated only medical could conduct such search. No searches have occurred in the audit period

All staff received training in conducting pat down searches, cross gender pat down searches, searches of transgender and intersex offenders in a professional and respectful manner. Other than annual training, this training is also part of the initial pre-service training and during daily turnout briefing. This is supported by policy AD 3.22 Offender Searches. Interviews with staff confirmed these practices, as well as the review of the training lesson plans reinforcing these policies in the annual training, Lesson Plan Contraband and Shakedown. When staff were randomly asked how a transgender pat down search would be completed, they indicated by using the back or blade of their hand.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

The agency's policies 115.16 Intake Procedures, Administrative Directive 4.25 Language Assistance Services to Offenders Identified as Monolingual Spanish, 6.25 Qualified Interpreter Services, 115.61 Offenders with Special Needs, and the Safe Prisons/PREA Plan has established procedures to provide disabled offenders equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. The policies and directives address interpreter services, American Sign Language services, and offenders with special needs.

The Byrd Unit employs qualified interpreters who are designated staff who have demonstrated a satisfactory level of competency in both Spanish and English languages through a Language Assessments Scale Spanish oral proficiency test. The facility has nine (9) certified qualified interpreters on various shifts and positions within the facility. The agency maintains a list of staff who speak other languages than English and Spanish by Region and facility including the name of the staff member and the language spoken. There are seventy-one (71) staff members in Region 1 who speak other languages than English and Spanish. PREA handouts and the offender handbook are available both in English and Spanish. The PREA posters are posted in English and Spanish throughout the facility. During the audit, three (3) interviews were conducted with limited English offenders with the assistance of a staff interpreter. Those offenders, as well as other offenders with hearing disabilities and limited English proficiently interviewed during the facility tour, all indicated they have received the PREA information and knew how to report if needed.

The agency policy, 115.16 Administrative Directive 4.25 Language Assistance, prohibits the use of offender interpreters or other types of offender assistants except in limited circumstances where there may be delay in obtaining an effective interpreter. There were no instances where an offender interpreter was utilized. If an offender interpreter was used in a limited circumstance it would be documented. The utilization of a staff interpreter must be documented. The facility's certified qualified interpreters are available on various shifts and would assist. During the staff interviews, staff were aware of the policy and indicated that an offender interpreter would not be used, only qualified staff interpreters from the certified list would be used.

#### **Standard 115.17 Hiring and promotion decisions**

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

Through a review of policies and executive directives, PD71 Selection Systems Procedure, PD73 Selection Criteria for Correctional Officer Applicants, PD75 Applicants with Pending Criminal Charges or Prior Criminal Convictions, PD27 Employment Status Pending Resolution of Criminal Charges or Protective Order, and the Safe Prisons/PREA Plan, it was determined that the agency has established a system of conducting criminal background checks for new employees and contractors who have contact with offenders to ensure they do not hire or promote anyone who engaged in sexual abuse in a prison or other confinement setting; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, coercion, or if the victim did not consent or was unable to consent to refuse; or had civilly or administratively adjudicated to have engaged in sexual activity in the community facilitated by force, coercion, or if the victim did not consent. The application forms, Employment Application Supplement and Employment Supplement for Agency Applicants, require the employee to answer questions of: have not engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution and have not been civilly or administratively adjudicated or 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 refuse. These forms are utilized for new hires and promotions. There were sixty-seven (67) criminal background checks completed during this audit timeframe for new hires and one for contract of services.

The background check process is conducted electronically by entering the employee information into the Criminal Justice Information System (CJIS). A State Identification Number (SID) is created by the employee/ contractor fingerprint and information. The system checks daily to ensure all SIDs are entered in the system. This system provides warrant checks every six months on employees and contractors generated the month of their birth date and six months after their birth date. The system also provides an automatic electronic notification to the agency when any criminal charges are brought against an

employee or contractor. The monthly reports are saved for one month for viewing and six months for recall. The process of warrant checks twice a year and daily monitoring exceeds the standard requiring background checks at least every five years.

Employees and contractors annually complete the Employee Acknowledgement Form that affirms they understand their obligations to disclose current and past sexual abuse and misconduct. The employee must also confirm the statements of: have not engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution and have not been civilly or administratively adjudicated or 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 refuse. This requirement is also stated and available to employees in the Safe Prisons/PREA Plan.

The policy PD 73 Selection Criteria for CO Applicants states an applicant who provides false or inaccurate information or documentation in the application process shall be disqualified from consideration for any TDCJ position for a minimum period of one year from the date of the applicant's PERS 283, State of Texas Application for Employment. A current employee who provides false or inaccurate information or documentation may be subject to disciplinary action in accordance with PD-22, General Rules of Conduct and Disciplinary Action Guidelines for Employees.

The agency only provides copies of confidential documents contained in an active or former employee's file when a release of information is provided. The release of information authorization must be signed and dated by the active or former employee within sixty (60) calendar days prior to the request. The request will be handled by the Employee Service Section – Records Human Resources Division. This is outlined in policy PD56 Request and Release of Employment Information or Documents.

Personnel files were reviewed with the Human Resource Manager. The background process is conducted and maintained by the Human Resources Division in Huntsville. Also through interviews with the Human Resource Manager and Warden, it was determined that the agency's policy and PREA requirements were being followed in regards to hiring, promotional decisions, and background checks.

**Standard 115.18 Upgrades to facilities and technologies**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)
- Non-Applicable

The Byrd Unit has not made any substantial expansions or modifications of the existing facility or updates of video monitoring surveillance system. There currently are twenty-four (24), thirteen (13) interior and eleven (11) exterior digital cameras in place which are monitored through the Warden's, Major's and the transportation office. Nine of the interior cameras are located in the intake/receiving department. There have been no expansions or modifications to the facility or video monitoring system. Recordings can be retained for the length of time provided by each of the internal memory of each server. The Warden indicated in the interview that additional cameras have been requested to enhance the video surveillance for the kitchen, recreation, housing areas, and high traffic areas in the facility. During interviews with the Warden and Major, they indicated that the cameras in the intake/receiving area had been readjusted to ensure privacy is provided to the offender population and to eliminate any cross gender viewing.

The Security Operations Procedures Manual 7.02 Deletion, New Installation or Relocation of Video Surveillance Equipment and 01.14 Operating and Monitoring Video Surveillance Systems directs the Surveillance systems Coordinator to collaborate with the facility's Warden and Safe Prisons/PREA compliance Manager prior to the deleting, installing, or relocating video surveillance equipment.

## Standard 115.21 Evidence protocol and forensic medical examinations

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

Texas Department of Criminal Justice is responsible for administrative investigations and the Office of the Inspector General (OIG) conducts all criminal investigations. Both investigations start immediately following an allegation. The policy and procedures, 16.03 Evidence Handling, G57.1 Sexual Assault/Sexual Abuse, OIG 04.05 Offender Sexual Assault Investigations, SPPOM 5.01 Sexual Abuse Response and Investigation, and the Safe Prisons/PREA Operations Manual outline evidence protocols for administrative proceeding and criminal prosecutions; and requirements for forensic exams through the use of the Sexual Abuse Checklist operating memorandum. The protocols were reviewed and found to be in line with the DOJ's National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents 2<sup>nd</sup> Edition. Interviews were conducted with the Byrd Unit's Safe Prisons/PREA Manager who conducts the offender on offender administrative investigations and the OIG Investigator. The interviews confirmed the practices for PREA investigations and both investigators were knowledgeable of the investigation process, the uniformed evidence protocol, and the use of the Sexual Abuse Checklist.

The agency's policy G 57.1 Sexual Assault / Sexual Abuse states: "If requested by TDCJ Office of Inspector General (OIG) and if the offender/victim consents to a sexual assault examination, then the collection of evidence must follow local criminal justice guidelines. If it is determined that the assault took place more than 96 hours prior to the examination, use of the sexual assault evidence collection kit should be jointly discussed between the health care staff assigned to perform the sexual assault examination and the OIG investigator. However, the final decision as to whether or not to conduct the sexual assault exam rests with the OIG investigator. If a sexual assault kit is required, then the physical examination and collection of evidence are accomplished by a qualified medical practitioner (provider, Sexual Assault Nurse Examiner, or Sexual Assault Forensic Examiner) exactly according to instructions provided in the standard rape kit. (Available through the medical warehouse.) In the event a "qualified medical practitioner" is not available at the facility where the offender is assigned, the offender will be taken to the nearest Hospital Emergency Department that has medical staff qualified to perform forensic medical exams. Regardless of the location of the exam, the kit with collected evidence must be claimed by a TDCJ Office of the Inspector General investigator for processing." State law, Senate Bill 1191 Emergency Services for Survivors of Sexual Abuse, requires that emergency room staff have specialized training to complete a forensic exam, but does not require that the SANE or SAFE training. When it is possible trained SANE or SAFE staff will be utilized. The interview conducted with Investigators confirmed the practices for sexual abuse investigations and was very knowledgeable of the Sexual Abuse Response Plan steps.

All victims of sexual assault who require a forensic exam will be taken to the nearest hospital emergency department for completion of the exam and emergency medical healthcare with no cost to the offender. There was one (1) alleged victim of sexual assault who required a forensic exam. The alleged victim was taken to the nearest hospital emergency department for completion of the forensic exams. The exam was conducted at the hospital by a qualified SANE staff member.

The agency and facility has attempted to obtain an agreement for a community victim advocate from a rape crisis center. However at this time, an agreement has not been established. The agency continues to solicit community rape crisis organizations across the state which are willing to establish a partnership with the agency. The effort to obtain an agreement is documented in various letters to rape crisis center agencies with the last solicitation letters dated August 2015 (previous ones dated January 2014). The Agency's Safe Prisons/PREA Program Manager is overseeing this process. The facility does provide a list of Rape Advocacy Centers in the Law Library and available through the Safe Prisons Office.

Policy 2.02 Offender Victim Representative (OVR) Training requires each facility to have at least two offender victim representatives from the following job qualifications: mental health practitioner, sociologist, chaplain, social worker, and case manager. The OVR must be available to provide emotional support services and counseling on and off the facility as needed. The Byrd Unit has six (6) designated staff as offender victim representatives (OVR): the chaplain and five (5) sociologists. The offender victim representatives are trained as victim advocates who can provide victim support to staff or offenders who have been sexually abused. Anytime an offender is the victim of a sexual assault, and if OIG requests a forensic examination, an Offender Victim Representative must be offered to the offender, to be present during the examination. They are also available to respond when requested by the victim to provide services. It will be documented whether the offender refused the offender victim representative or accepted the representative with the representative's name provided.

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

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

The agency policies, AD 2.15 Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents, AD 16.20 Reporting Incidents/Crimes to OIG, SPPOM 5.01 Sexual Abuse Response and Investigation, Board Policy 01.07 Inspector General Policy Statement, PD29 Sexual Misconduct with Offenders, SPPOM 5.05 Completing the Offender Protection Investigation, and the Safe Prisons/PREA Plan directs that all allegations of sexual abuse and sexual harassment be referred for investigation. The facility completes the administrative investigation and OIG completes the criminal investigation. The agency's policy describes the responsibilities of the agency and OIG. The allegations are investigated and reported with findings. Documentation of the administrative investigations is maintained in the Safe Prisons Office. Documentation of the OIG investigation is maintained in their central office and outcomes are shared with the agency and facility administration. Interviews were conducted with the Byrd Unit's Safe Prisons/PREA Manager who conducts the offender on offender administrative investigations and the OIG Investigator. Both investigators demonstrated the knowledge of facility's investigation responsibilities and the responsibilities of the OIG Investigator. The roles and responsibilities of each agency was clearly defined and understood. The agency's policy is available on the agency's website.

There were twenty (20) allegations during the audit period: twelve (12) allegations occurred at the facility, one (1) allegation reported by another facility, and seven (7) allegations that occurred at another facility and reported at the Byrd Unit. Of the three (3) staff on offender allegations; there were two (2) alleged staff on offender sexual abuse, and one (1) alleged staff on offender sexual misconduct. The administrative findings of these allegations were one (1) unsubstantiated and two (2) unfounded. Of the staff on offender allegations, OIG did not open any cases. Of the seventeen (17) offender on offender allegations; there were eleven (11) offender on offender sexual abuse and six (6) offender on offender sexual misconduct. The administrative findings of the eleven (11) offender on offender sexual abuse allegations were ten (10) unsubstantiated and one (1) substantiated. The administrative findings of the six (6) offender on offender sexual misconduct allegations were five (5) unsubstantiated and one (1) substantiated. Of the offender on offender allegations, OIG opened seven (7) cases: one (1) is still active and six (6) were closed with no charges. The open case is still open pending the sexual assault kit DNA results. A review of thirteen (13) administrative investigations was conducted. The actual OIG investigations files were not available for review.

### **Standard 115.31 Employee training**

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

TDCJ has been training staff on sexual abuse and sexual harassment prior to the PREA requirement. The agency's policies, PD97 Training and Staff Development, PD29 Sexual Misconduct with Offenders, 6.01 Unit Safe Prisons PREA Program Awareness Training, and the Training Curriculum Safe Prisons/PREA Program address all the PREA requirements and outline the training requirements. Training records, staff interviews, and training curriculum review indicated the training included the zero tolerance policy; the agency policy and procedures for prevention; reporting and response to a sexual assault or sexual harassment incident, and the dynamics of sexual abuse and harassment in a confinement setting; 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 offenders; how to communicate effectively and professionally with offenders; and how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. The training also includes a video with Safe Prisons/PREA staff and agency leadership staff discussing the PREA information and requirements.

The initial training occurs at pre-service through the training curriculum Safe Prisons/PREA Program. Each staff member is attends pre-service prior to being assigned to the unit. The training is also provided annually through the annual in-service training for all staff. Each employee is required to attend in-service each fiscal year and generally scheduled for the same month each year. If an employee cannot attend in-service at the scheduled time, they are rescheduled in the first available class upon return to work. Additional training occurs during staff turnout briefing with different topics daily/weekly based on PREA updates and general information refreshers. The facility's Safe Prisons/PREA Manager also provides monthly training with a different topic selected for each month for staff. Staff during interviews acknowledged the numerous methods they received training. The Pre-Audit Questionnaire indicated that only 332 of the 405 staff had completed training. After interviews with the Safe Prisons/PREA Manager, the Warden, and the Human Resources Manager, it was determined all the facility staff have received training. The difference is the fifty (50) staff of the Outside Sales Warehouse and Central Region Offender Transportation and the seventy-three (73) regional staff assigned to the Huntsville Memorial Hospital that are carried on the facility's staffing nor are they located within the facility's operations. Although, the regional staff do not work within the facility's operations, they have completed the required training through the annual in-service conducted through TDCJ. The facility does not maintain the training records for the regional staff. The training records were checked for ten (10) facility staff; all had completed the pre-service training and annual in-service.

TDCJ policy, AD 12.20 In-Service Training Program requires staff to complete the training annually as a refresher instead of the every two years as required by the standard; this exceeds the requirement. New employees receive the training as part of the pre-service training within sixty days of employment. Training is documented through the signature of the employee on the Employee Acknowledgement Form. Gender specific information is provided through the lesson plan Gender Specific Training- Safe Prisons Initiative. Staff complete the gender specific training at pre-service, annual in-service, and when a staff member is transferred from one facility to another. All training is maintained in the Department's Training Database for each employee. Documentation of training is directed through department policies ED12.10 TDCJ Training Database and PD97 Training and Staff Development.

Interviews of random staff and general questions asked during the tour clearly indicate each staff member is very knowledgeable on how to perform their responsibilities in detention, reporting, and responding to sexual abuse and sexual harassment. The wide knowledge of Safe Prisons/PREA policies and procedures by staff confirm the continuous training that occurs through staff turnout and monthly training. A pocket informational card is provided to each employee that outlines the agency's zero tolerance policy, who to report any violation to, the role of the Safe Prisons Program/Office, steps to take if a sexual assault occurs, sexual abuse/assault red flags, sexual abuse definition, and summary of the Prison Rape Elimination Act.

### **Standard 115.32 Volunteer and contractor training**

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

All contractors and volunteers who have contact with offenders in the TDCJ and the Byrd Unit receive PREA training prior to assuming their responsibilities. The agency has 24,514 volunteers and 22 contractors agency-wide. The volunteers and contractors must complete the required training prior to being approved for services. Approved volunteers and contractors are not limited to specific facilities; they are approved to serve at all TDCJ facilities to include secured facilities and parole. The agency's policies, AD 2.46 Entities Contracting with the TDCJ, AD 7.35 Administration of Volunteer Services, PD-29 Sexual Misconduct with Offenders, Volunteer Service Plan, Volunteer Services Training Video, Handbook for Volunteer, Letter of Orientation for Special Volunteers, and the Safe Prisons/PREA Plan covers the PREA training requirements of volunteers and contractors. This training includes the agency's policy and procedures regarding sexual abuse and sexual harassment prevention, detention, and response. The agency also has a PREA training video, Volunteer Services Training Video, to help educate volunteers on PREA information. Volunteers are provided a handbook which is also available on the public website that covers PREA. The medical and mental health staff contractors attend the annual employee in-service training with facility staff. Training records were reviewed and the files demonstrated the contractors and volunteers received training and documented they understood the training through a signature on the Acknowledgement of Volunteer Training/Orientation Form. The form is filed in the volunteer's central file maintained at the TDCJ Volunteer Services in Huntsville, Texas. The electronic file is the source to which the facility identifies the approval status of a volunteer. The electronic file is updated by

the TDCJ volunteer services staff. Volunteers and contractors are required to attend the classroom training every two years to maintain their approval process. The alternate year a refresher course is provided on-line. The agency exceeds the standard by providing training annually with the requirement of training every two years and the on-line refresher course. The agency and facility also provides updated information as needed to the volunteers and contractors.

Interviews were conducted with five (5) volunteers and contractors. They all indicated they had received training. They were knowledgeable on PREA, their responsibilities for reporting, the reporting process, who to report to, and the agency's zero tolerance policy.

### **Standard 115.33 Inmate Education**

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

The Byrd Unit serves as the Reception and Diagnostic facility for male offenders entering and returning to the agency. It also operates as a holding facility for those offenders in transit status on their way to and from medical appointments elsewhere in the TDCJ. The Unit's operational challenge is the number of offenders the Unit is transferring in and out on a daily basis. The unit receives and transfers an average of 750 offenders per week. During the on-site audit process, the facility daily population changed by 25% on Wednesday, 38% on Thursday, and 27% on Friday with transfers in and out of the facility. In 2014, the facility received a total of 47,374 offenders. In 2015, it received 47,601 offenders. In the first ten (10) months of 2016, 38,972 offenders were received at the facility. The majority of the offenders were housed for less than forty (40) days and then transferred to their "Unit of Assignment" or to their medical appointments.

During the random offender interviews, it was noted that education is not provided to all offenders within the facility. There was a clear difference between the interviews of the new intakes, the facility's permanent assigned offenders, and the transient offenders. The Texas Department of Criminal Justice and the Byrd Unit provide a comprehensive offender PREA education to the new intake offender population beginning at reception into the agency. Offenders that are in transient status are not provided education upon transfer to the unit. The agency policies, UCPM 5.00 Orientation Procedures, Unit Orientation, and SPPOM 6.02 Offender Sexual Abuse Awareness Training, address the PREA education for offenders at intake. At intake into the facility, staff provide offenders information through a PREA pamphlet and offender rule book (both available in English and Spanish) that explains the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents. The agency's policy UCPM 5.00 Orientation Procedures also outline that all newly-assigned offenders receive a unit orientation which includes the Safe Prisons Program.

During this audit period, 47,023 offenders were received at the facility with 11,922 being new intakes. The 11,922 new offender intakes from the county and parole violators were provided educational information. The PREA information is provided to the offender by staff during the risk assessment process. The Saturday after intake, new intake offenders receive the facility's orientation training which includes the Offender Sexual Abuse Awareness Education through a video titled Offender Safe Prisons Orientation Video and classroom information which expands on previous information provided in the handbook and pamphlet. The training is documented through a signature of each offender on Attachment Q Sign-in Roster of policy SPPOM 6.02 Offender Sexual Abuse Training. This training is conducted by staff and the Inmate Peer Educators.

The 35,101 offenders classified as transient were not provided any unit orientation including the Safe Prisons Information. This offender population during interviews indicated they had not received facility specific education/information at the Byrd Unit including the staff they may report a PREA concern specifically the Safe Prisons/ PREA Manager, Grievance Officer, and the administration. The offenders indicated that no unit information is provided upon arrival to the facility in regards to the facility operations. After the on-site audit, the facility posted signs in the receiving area and housing runs that identify the Assistant Warden, Major, and Unit Safe Prisons/PREA Coordinator by name so that an offender will know who to specifically request to speak with concerning any PREA allegations. The signage also provides the name of the Grievance Officer. The agency provided photos to the auditor for documentation.

Of the 11,922 new intakes, 3,229 offenders had a length of stay for thirty days or longer. Of those, 1,212 (37%) had comprehensive education provided. All new intakes through the county and parole violators are scheduled for comprehensive

education, as well as, any permanent assigned offender that has not received Peer Education at another facility. The facility comprehensive education is provided through Peer Education Sexual Assault Awareness Class which is part of the Peer to Peer Training. This program is conducted through the six (6) trained offender Peer Educators. The facility also has three (3) offenders in training to become Peer Educators. This is a training developed through the agency's Safe Prisons Office. Peer to Peer Class is a four day, four hour training taught by offenders. The program is offered in both English and Spanish. The training provides open discussion and interactive activities. Offenders interviewed regarding the class indicated the class is well received and educational. During an interview with a Peer to Peer Offender instructor, he indicated the positive environment and response that offenders demonstrate during the course. The instructors receive updated training as needed. The Safe Prisons Office works with them on updated information/materials and any issues.

The facility conducted education with the permanent assigned offenders within the twelve month period and documented it on the Attachment Q Sign-in Roster of policy SPPOM 6.02 Offender Sexual Abuse Training. The training was held on March 14 and 16, 2016. The training was provided by staff and the Peer Educators and included the viewing of the PREA video. The random offenders interviewed from the permanent assigned offender population indicated the video was played and training was conducted.

The agency and facility procedures indicate offender education is accessible in all formats to all offenders. This is accomplished through written handbooks, pamphlets, and posters; verbally through video; and staff interaction. Information is provided in English and Spanish, American Sign Language, and other languages are available through the Qualified Interpreter Services. Policies AD 6.25 Qualified Interpreter Services - American Sign Language, G-51.1 Offenders with Special Needs, G-51.5 and Certified American Sign Language (ASL) Interpreter Services outlines this process and accessibility of services. The auditor found the facility not in compliance with this standard and facility procedure. The facility indicates that offender education is provided during the intake process by playing the video continuously on televisions in the intake holding area. The auditor visited the area twice to view this process. The first time the video was not playing while offenders were in the area. On the second visit to the area, the video was playing on the black and white 13" televisions located in the top corners of the intake holding cages behind plexi-glass. The current televisions in the intake area playing the information video are not adequate for education. The televisions do not provide any sound and the close caption could not be read due to the size of the monitors. After the on-site audit, the facility installed four (4) 36" flat screen televisions in the receiving department that play the Safe Prisons/PREA Video on a "loop." The agency provided photos to the auditor for documentation and a video showing the video playing on one of the new televisions.

The facility's offender handbook which includes the Safe Prisons/PREA information is only provided to the permanent assigned offenders. This information needs to be provided or accessible to all offenders. The Safe Prisons/PREA information posters are posted within bulletin boards in a reduced size which are hard to read and lost among all the information posted. The informational posters should be posted in the actual size of the posting (paper size) and in locations readily accessible to the offenders. Through conversations with the Warden and the Correctional Institutions Division Director/PREA Coordinator, they indicated the facility could provide a handout to the offenders at receiving with specific unit information. At the time of this interim report, the facility has not provided documentation of this process.

Through random offender interviews and discussions with offenders on the facility tour, offenders acknowledged they have received PREA information. The new intakes acknowledged the education occurred at the Byrd Unit at intake. The transient offenders were knowledgeable of the PREA general information that was received at another TDCJ facility, however, nothing specific to the Byrd Unit. They indicated they had not received any information upon arriving at the Byrd Unit and handouts/handbook was not provided. They were not aware of PREA information posted. They were able to explain how to report an incident to staff and were aware of the zero tolerance policy.

Compliance with the standard was achieved by the agency and facility by providing education to all offenders during intake to the facility. Educational is provided through the informational postings provided in the housing units and the intake area that outline the zero tolerance for sexual abuse and sexual harassment; identifying the assistant warden, warden, and safe prisons manager as the staff to contact regarding a PREA allegation; and also provides the PREA Ombudsman and OIG contact information for reporting an incident. The Sexual Abuse Awareness pamphlet contained within the offender orientation handbook, are now made available to all offenders upon arrival to the unit. And the facility installed four (4) 36" flat screen televisions in the intake/receiving department that play the Safe Prisons/PREA Video on a "loop." All offenders are screened during the intake process and during this process the offender is notified verbally that the agency has a zero tolerance policy concerning all forms of sexual abuse and sexual harassment, including consensual contact of offenders. They are also informed to read the Safe Prisons/PREA material contained in the offender handbook and posting in the unit and if they have any questions or concerns to contact the Safe Prisons/PREA Manager at the facility. The agency provided photos, completed offender assessment screening forms, and a video clip showing the Safe Prisons/PREA Video playing on one of the

new televisions in the intake area to the auditor for documentation of compliance with the standard.

#### **Standard 115.34 Specialized training: Investigations**

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

The agency's policies, Board Policy 01.17 Inspector General Policy Statement, OIG 2.15 Training Procedures, AD 16.03 Evidence Handling, OIG 4.05 Offender Sexual Assault Investigations reflects that investigators are to be trained in conducting sexual abuse investigations in confinement settings. The specialized training curriculums Safe Prisons/PREA Investigations Conducting a Thorough Investigation, OIG Sexual Assault Investigation Topics, and OIG Interview and Interrogation includes techniques for interviewing sexual abuse victims, proper use of the Miranda and Garrity warnings, sexual abuse evidence collection in confinement setting, and the criteria and evidence to substantiate a case for administrative action or prosecution referral. The agency's 136 OIG and 13 Byrd Unit's investigators have completed the general PREA training and the required specialized training for investigators. The specialty training was verified through the investigator interviews and review of the training records.

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

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

The twenty-two (22) medical and mental health staff of Byrd Unit are contractors through the University of Texas Medical Branch (UTMB). The Correctional Managed Health Care policies G57.1 Sexual Abuse/Sexual Assault, C19.1 Continuing Education/Staff Development, and the Medical and Mental Health PREA Training direct specialized PREA training and continuing education for all medical and mental health staff. The training curriculum includes how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and who to report allegations or suspicions of sexual abuse and sexual harassment. All the medical and mental health staff have received training through an electronic on-line course, classroom with the Safe Prisons staff, and attending annual in-service training with the facility's employees. Interviews with the healthcare staff demonstrated they understood how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and who to report allegations or suspicions of sexual abuse and sexual harassment.

The facility's staff are not trained on the conducting forensic exams. All offenders requiring a forensic exam are transported to a local hospital. The agency's policy G 57.1 Sexual Assault / Sexual Abuse states: "If a sexual assault kit is required, then the physical examination and collection of evidence are accomplished by a qualified medical practitioner (provider, Sexual Assault Nurse Examiner, or Sexual Assault forensic Examiner) exactly according to instructions provided in the standard rape kit. (Available through the medical warehouse.) In the event a "qualified medical practitioner" is not available at the facility where the offender is assigned, the offender will be taken to the nearest Hospital Emergency Department that has medical staff qualified to perform forensic medical exams. Regardless of the location of the exam, the kit with collected evidence must be claimed by a TDCJ Office of the Inspector General investigator for processing." State law, Senate Bill 1191 Emergency Services for Survivors of Sexual Abuse, requires that emergency room staff have specialized training to complete a forensic exam, but does not require that the SANE or SAFE training. When it is possible trained SANE or SAFE staff will be utilized.

The facility noted on the Pre-Audit Questionnaire 115.35(c)-1 that they were non-applicable for maintaining documentation showing that medical and mental health practitioners have completed the required training. The facility is in compliance with PREA Audit Report

the requirement. The health care department maintains training records for the medical and mental health staff demonstrating that specialized and general PREA training was conducted. These records are also maintained by the University of Texas Medical Branch (UTMB) electronically. All training conducted by the unit is maintained by the unit and the health care department; including annual in-service and any training conducted by the Safe Prisons Office. This practice is verified through the training records maintained by the Safe Prisons Office and the interview with the Safe Prisons/PREA Manager.

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

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

The agency's screening process for the risk of victimization and abusiveness is outlined in the Safe Prisons/PREA Operational Manual (SPPOM) 3.01 Offender Assessment Screening, Correctional Managed Health Care Policy Manual (CMHCPM) E35.1 Mental Health Appraisal for Incoming Offenders, 5.06 Intake Procedures, and the Safe Prisons/PREA Plan. The policies, manuals, and Offender Assessment Screening Form were reviewed. Policy SPPOM 3.01 Offender Assessment Screening states: "Policy and procedure requires an assessment of all offenders during an intake screening and upon transfer to another facility for his or her risk of being sexually abused by other offenders or sexually abusive toward other offenders."

During the random interviews with offenders, it was noted that numerous offenders had not received a risk assessment at the Byrd Unit. Upon discussion with the Safe Prisons/PREA Manager and the Warden, it was explained that only new intakes from the county, parole violators, and the facility's permanent assigned offenders receive risk screening. Offenders that are classified as transient offenders are not risk screened. During this audit period, 47,023 offenders were received at the facility with 11,922 being new intakes. The 11,922 new offender intakes from the county and parole violators were screened for risk of sexual victimization or risk of sexually abusing other offenders. This assessment assists with determining an offender's vulnerability or tendencies of acting out with sexually aggressive behavior. Offenders identified as high risk with a history of sexually assaultive behavior or vulnerability will be identified, classified appropriately, and monitored.

The auditor observed a risk screening of a new intake. The auditor had the screening staff member explain the assessment process from the receiving of the offender at the facility to the completion of the risk screening process. At the arrival to the facility, a staff member trained in the risk screening will complete the Offender Assessment Screening Form of a new intake offender on the day of arrival or by the following day. The screening forms include questions regarding mental, physical, and developmental disabilities; age of the offender; physical build of the offender; whether the offender has been previously incarcerated; whether the offender's criminal history is exclusively nonviolent; whether the offender has prior convictions against an adult or child; whether or not the offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; whether or not the offender has previously experienced sexual victimization; and the offender's own perception of vulnerability. The forms are usually completed on the day of arrival at the facility. The policy requires the screening should occur within 24 hours but no longer than 72 hours of arrival. The process conforms to the PREA standards. The facility on the PRE-Audit Questionnaire indicated 11,078 of offenders were screened within 72 hours of their intake; which was 100% of the offenders admitted to the facility in the past twelve months whose length of stay was for 72 hours or more. The facility has seventeen (17) staff members trained who can perform the risk assessments. During the offender interviews of offenders that were new intakes to the agency indicated they remember being asked these questions on the day of their arrival and others indicated by the next day.

The non-compliance is in regards to the transient offenders. The 35,101 offenders classified as transient were not risk screened upon transfer to the unit. The facility was following the agency's policy SPPOM 3.01 Offender Assessment Screening I.A.1 which states: "It is not required to conduct an assessment of offender received at a unit for temporary assignment or upon return to his/her assigned unit following a temporary assignment, unless the temporary assignment exceeded 30 days from when he/she departed. Temporary assignments include, but are not limited to: bench warrant; crisis management; medical treatment facility returns; inter-unit visits; and Immigration and Naturalization Service interviews." The agency's interpretation was the transient offenders would not be required to have further screening since they were in transient status and not a permanent transferred offender and the risk screening occurred at the intake facility. The standard states that all offenders shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other offenders or sexually abusiveness toward other offenders. The auditor contacted the PREA Resource Center

to discuss the interpretation of this standard. The standard requires all offenders to be assessed upon transfer to another facility, which includes the transient status offenders. The assessment would provide an update or changes from the previous assessment that may reflect incidents from other housing placements. For compliance the transient offenders must be assessed for their risk of being sexually abused by other offenders or sexually abusiveness toward other offenders.

Of the 11,922 new intakes, 3,229 offenders had a length of stay for thirty days or longer. The classification committee reassesses the offender's risks of victimization and abusiveness. The agency's Safe Prisons/PREA Plan policy addresses the reassessment of offenders risk level when warranted by a referral, request, incident of sexual abuse, or receipt of additional information that bears on the offender's risk of sexual victimization. In the audit period, thirteen (13) offenders were reassessed for risk of victimization or abusiveness, less than 1%. These reassessments were completed within 30 days of the offenders' intake into the facility.

Through policy review of SPPOM 3.01 Offender Assessment Screening and the Safe Prisons/PREA Plan and confirmed through staff interviews, offenders may not be disciplined for refusing to answer or disclosing information during the risk assessment process. The staff interviews also confirmed appropriate controls have been implemented to ensure that sensitive information is not exploited by staff or other offenders. The screening tools are maintained in the offender's institutional file in the Record Department. Other than the record staff, the only other staff with access is the Warden, Assistant Warden, Safe Prisons/PREA Manager, Intake Staff, and the Unit Classification Committee (UCC). Information is shared with appropriate staff (medical, mental health, and supervisors) as needed to make housing, bed, work, education, program assignments and mental health and medical referrals. The protection of information is outlined in policies SPPOM 3.01 Offender Screening Assessment, Safe Prisons/PREA Plan, Correctional Managed Health Care Policy Manual (CMHCPM) A09.01 Privacy of Care, and CMHCPM H61.1 Confidentiality and Release of Protected Health Information.

Compliance with the standard was achieved by the agency and facility by completing an offender assessment screening on all offenders received at the facility including the transient offenders. The Operational Procedure states " All intra-system transfers (unit to unit) that arrive at the Byrd Unit to complete their intake processing, medical appointments, or any other reason besides newly received shall have an Offender Assessment Screening, Attachment E-1 completed within 72 hours of arrival. This Safe Prisons/PREA Offender Assessment Screening will be completed by the receiving department staff upon the offender's arrival." Facility staff reviews the offender information within the agency database from the initial screening to determine if there are any PREA classifications or flags prior to the intake. Upon receiving at the facility, the trained staff utilize the Offender Assessment Screening to ask the offender: age; height; weight; prior to incarceration have you ever experienced sexual victimization as a child or adult; since your last unit of assignment have you experienced sexual victimization by staff or offender; do you feel at risk from sexual assault, sexual harassment, or other victimization by staff or offender; do you wish to identify yourself as lesbian, gay, bisexual, or heterosexual; and do you wish it identify yourself as transgender or intersex. There are follow-up questions and referral made based on affirmative answers to certain questions. Any affirmative answers to questions must be reported to a supervisor and the Safe Prisons/PREA Coordinator. The forms are usually completed on the day of arrival at the facility. The operational procedure requires the screening should occur within 72 hours of arrival. The agency has provided completed offender assessment screening forms for documentation for transient offenders. The submitted documentation and operational procedure now conforms to the PREA standard.

#### **Standard 115.42 Use of screening information**

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

The agency's policies IPM 4.01 Intake Procedures, SPPOM 3.01 Offender Assessment Screening, AD 4.17 Offender Housing Assignment Criteria and Procedures, AD 4.18 Offender Job Assignments, and the Safe Prisons/PREA Plan address the assessment process and the use of the screening information to determine housing, bed, work, education, and program assignments with the goal of keeping offenders at high risk of being sexually victimized from those at high risk of being sexually abusive. If an offender screens for high risk of sexual victimization or high risk of being sexually abusive an immediate referral will be made to the classification committee and a shift supervisor to determine housing assignment. During the site visit, the auditor observed the risk assessment process with an offender during receiving. The housing and program assignments are made on a case by case basis. Through offender and staff interviews, it was determined that the

facility addresses the needs of the offender consistent with the security and safety of the individual offender.

The majority of the offenders received at the facility are classified as transient. Of the 47,023 offenders received at the unit in the audit period, 35,101 were classified as transient and were not risk screened upon transfer to the unit. For those offenders, the Safe Prisons/PREA Manager indicated during the interview that the transient offenders' electronic files Unit Classification Records Screen are reviewed prior to arrival at the unit. The screening of the offender's Unit Classification Record will determine if the offender has been screened and determined to have a PREA classification and housing placement requirements. If flagged as a PREA classification or housing placement, this information is shared with the intake and classification staff for appropriate housing placement is made. The classification staff indicated this is a daily challenge with the amount of offender movement within the facility.

The agency's policy CMHCPM G51.1 Treatment of Offenders with Intersex Conditions and the Safe Prisons/PREA Plan indicate that the facility makes housing and program assignments for transgender or intersex offenders in the facility on a case-by-case basis. There were four (4) identified transgender offenders housed at the facility during the audit. During interviews with three (3) transgender offenders, they indicated they had the opportunity to shower separately and were treated with respect. The offenders felt they were housed in a specialized housing area for transgender offenders. The agency does not place lesbian, gay, bisexual, transgender, or intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification or status. All transgender offenders are housed in housing unit run #17; this is not a designated housing area for transgenders. This housing run is utilized for special housing needs including handicap. The housing run has a separate shower which allow transgender and intersex offenders the opportunity to shower separately from other offenders. The other housing runs utilize a gang shower within the facility. It was recommended to the facility staff to educate the transgender offenders on the reason for housing placement on housing unit run #17 to eliminate their concern of being placed in dedicated housing.

By policy SPPOM 3.02 Special Population Review and the Safe Prisons/PREA Plan, transgender and intersex offenders shall be reassessed at least twice each year to review any threats of safety experienced by the offender. The Safe Prisons/PREA Manager stated during the interview a special population review would be conducted with each transgender offender at least twice a year. The facility has not had a transgender offender that has been housed at the facility long enough to have a special review. The special review would be conducted as a classification meeting with the classification committee including the Director of Classification and a Safe Prisons Staff member.

#### **Standard 115.43 Protective custody**

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

The agency's Administrative Segregation Plan, Administrative Segregation Initial Placement and Notification Form, Safe Prisons/PREA Plan, Guidelines for Administrative Segregation, and the Offender Protective Investigation Form Report prohibits the placement of offenders at high risk for sexual victimization in the 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. The Safe Prisons/PREA Plan and Administrative Segregation Plan direct that if an offender is placed in segregation housing for protective custody, the offender would have access to programs, privileges, educations, and work opportunities to the extent possible. Any restrictions will be documented on the Administrative Segregation Hearing Record Form. The staff member interviewed that supervises offenders in special housing indicated that offenders still access to services including law library, commissary and religious services to the extent possible. If a restriction occurs, it will be reviewed every twenty-four (24) hours. If an offender would be placed in involuntary segregation housing (special housing), the offender would have a review conducted every seven days for the first sixty days then at least every thirty days thereafter per policy Administrative Segregation Plan, Guidelines for Administrative Segregations, and the Safe Prisons/PREA Plan.

The Byrd Unit during the audit period housed two offenders for longer than thirty (30) days in involuntary segregated housing (special housing). Both offenders were housed in housing unit run #13 which is the only identified single cells in the facility. The first offender was placed in involuntary segregation after unit classification reclassified the offender to G3 and identified as a potential victim. The housing placement was from January 25 through March 7, 2016 until the offender was transferred.

The second case was an offender who made allegations against a staff member which was determined unsubstantiated. The classification committee recommended the offender to be transferred to another facility. The facility had to wait for the state classification office to review and approval the transfer of the offender. The housing placement for this offender was from October 26, 2015 to February 5, 2016 until facility transfer. The facility reviewed other housing alternatives for both offenders. It was determined for the safety of the offenders; the single celled housing unit was the only housing alternative. A classification committee member completed the required seven (7) day and thirty (30) day reviews. Upon review of the cases and documentation, the auditor determined that the facility addressed individual housing and program needs consistent with the security and safety for the two (2) offenders.

Offenders may also be placed on housing unit run #13 for single cells housing during a pending investigation. Offenders are placed in transient housing for 72 hours pending investigation; it may be extended for another 72 hours if needed for completion of the investigation. An Offender Protective Investigation is started immediately upon the offender being placed in transient housing. This timeframe was verified through the review of investigation files. From the interviews with staff and offenders, the auditor determined that the facility was addressing individual housing and program needs consistent with the security and safety of the offender.

### **Standard 115.51 Inmate reporting**

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

The Texas Department of Criminal Justice established procedures allowing for multiple internal and external ways for offenders to report sexual abuse, sexual harassment, and retaliation. PREA reporting methods are shared with offenders at intake, during orientation, in the PREA brochure, and on posters throughout the facility. Offenders can report verbally and in writing to staff, write the Safe Prisons Office, report through the grievance system, utilize third party reporting, or send an anonymous note. Offenders may also report allegations in writing to the Office of the Inspector General and PREA Ombudsman as an outside agency, policy ED 02.10 Prison Rape Elimination Act Complaints and Inquires. Reports to the PREA Ombudsman may be made confidentially and remain anonymous upon request. Per policy BP-3.91 Uniform Offender Correspondence Rules, the offender may send correspondence to a special correspondent which includes the PREA Ombudsman, any member of the Texas Board of Criminal Justice, and Executive Director, sealed and uninspected. The PREA Ombudsman and OIG offices immediately forward any reports of sexual abuse and sexual harassment to facility officials for investigation. The offices forward to the facility information regarding the allegation and the victims name unless the victim has requested to stay anonymous. There were no allegations during this audit period reported outside of the facility through the PREA Ombudsman Office and/or OIG. These reporting systems were demonstrated through review of policies and procedures, offender handbook, posters throughout the facility, and interviews with offenders and staff.

During the formal offender interviews and informal offender interviews during the tour, most offenders indicated they felt comfortable reporting sexual abuse or sexual harassment to a staff member. They also were able to identify other options available to them for reporting including telling a staff member, writing a grievance, writing the PREA Ombudsman, and/or contacting their family or friend. This offender population during interviews indicated they had not received facility specific education/information of the Byrd Unit including the staff they may report a PREA concern specifically the Safe Prisons/ PREA Manager, Grievance Officer, and the administration. The facility after the on-site audit posted signs in the receiving area and housing runs that identify the Assistant Warden, Major, and Unit Safe Prisons/PREA Coordinator by name so that an offender will know who to specifically request to speak with concerning any PREA allegations. The signage also provides the name of the Grievance Officer. The agency provided photos of the signage to the auditor for documentation.

Upon reviewing the reporting methods of the nineteen (19) allegations reported within the facility; fifteen (15) were verbally reported to a staff member, two (2) were reported in writing through an I-60, and two (2) through a grievance. Also during the informal interviews with offenders while touring the facility, they indicated they knew the reporting process and felt comfortable reporting to the housing unit officer, Safe Prisons Officer, Major, or a supervisor.

Staff indicated through interviews they were aware of the methods available to them to report sexual abuse and sexual harassment of offenders. Staff were also knowledgeable on the ways offenders could report to staff and their responsibility in

the process. Staff acknowledged through interviews that they would report immediately any allegations and document through an inter-office communication form. They were aware they could privately report an incident to the OIG or Ombudsman Offices. They identified the PREA Ombudsman Office and OIG as outside offices they could contact by phone or in writing. This information is also provided to staff through training, employee policies, and located on the informational card provided to the employee.

The agency does not house offenders solely for immigration purposes.

#### **Standard 115.52 Exhaustion of administrative remedies**

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

The agency's policies AD 03.82 Management of Offender Grievances, BP 03.77 Offender Grievances, Safe Prisons/PREA Plan and OGOM 1.04 PREA Allegations addresses administrative procedure for offender grievances regarding sexual abuse and the agency's policies and procedures for filing emergency grievances when an offender is subject to a substantial risk of imminent sexual abuse. The Department does not impose a time limit for the submission of a grievance regarding an allegation of sexual abuse or requires an offender to use an informal grievance process or otherwise to attempt to resolve with staff. The offender handbook, the Safe Prisons/PREA Plan, and the Safe Prisons/PREA Operational Manual also outlines this process. Grievances are submitted to the Unit Grievance Investigator's Office.

Grievances alleging sexual abuse are handled as emergency grievances. They are coordinated immediately with the Warden, Major, Chief of Unit Classification, Unit Safe Prisons/PREA Program Manager, OIG, and the PREA Ombudsman as outlined in the Safe Prisons/PREA Plan. When the emergency grievance alleges the substantial risk of imminent sexual abuse, it is forwarded to a management level for review for immediate corrective action. An initial response is provided within 48 hours of receipt. The agency's policy requires that within 5 calendar days of notification of a grievance, a staff member must respond with the action taken. The agency's policy also requires that a decision on the merits of any grievance alleging sexual abuse be made within forty (40) days. Policy does not allow extensions on emergency grievances which all sexual abuse allegations are considered. There were two (2) grievances submitted; one alleged sexual abuse and the other sexual misconduct (voyeurism). These grievances were handled as emergency grievances; they were forwarded to a management level for immediate corrective action. The initial responses were provided within 48 hours of receipt of the grievance. Through a review of the grievances and discussion with the Unit Grievance Officer, it was determined they were handled in a timely and proper manner. This was also documented through the review of the timeframes in the investigation files.

During the random interview process, offenders indicated they felt comfortable reporting sexual abuse or sexual harassment to the staff. They indicated they could report through the grievance process also. Also during the informal interviews with offenders while touring the facility, they indicated they knew the reporting methods: telling a staff member, writing a grievance, writing the PREA Ombudsman, and/or contacting their family or friend. The offenders interviewed stated they felt comfortable reporting to the housing unit officer, Safe Prisons Officer, Major, or a supervisor.

The Department policies AD 03.82 Management of Offender Grievances, OGOM 9.00 Third Party Grievances, and the Safe Prisons/PREA Plan address third party assistance in filing requests for administrative remedies of sexual abuse and permit to file such requests on behalf of offenders. A third party grievance received will be processed as an emergency grievance. The alleged offender will be given an opportunity to agree or disagree with the allegation and to have the request processed on the offender's behalf. The offender's decision will be documented on the Third Party Preliminary Investigation Form. There were no third party grievances filed.

The Pre-Audit Questionnaire indicated that there was two (2) grievances alleged substantial risk of imminent sexual abuse. After discussion with the Safe Prisons/PREA Manager and Grievance Officer and review of the grievances, none were for substantial risk of imminent sexual abuse. One (1) of the grievance was based on voyeurism and one (1) alleging sexual abuse. All the allegations received through the offender grievance system were post allegations.

The Safe Prisons/PREA Plan states an offender may be disciplined for filing a grievance related to sexual abuse only when the PREA Audit Report

investigation determines the offender filed the grievance in bad faith. The Byrd Unit had no disciplinary actions against an offender for having filed a grievance in bad faith.

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

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

The agency's policy SPPOM 2.02 Offender Victim Representative, BP 03.91 Uniform Offender Correspondence, PREA Brochure, and the Safe Prisons/PREA Plan indicates that offenders shall be provided access to victim advocates for emotional support services related to sexual abuse by access to victim offender representatives, giving offenders mailing addresses and telephone numbers, including toll-free hotline numbers, where available, and the extent to which communications will be monitored. There is a list of outside confidential support services available to the offender population through the law library. Offenders can write the PREA Ombudsman, which is confidential, and the PREA Ombudsman Office will fax the letter to the addressed Rape Advocacy Agency.

The majority of offenders interviewed indicated they were not aware of the outside support services. However, the facility provides this information in multiple ways to the offenders: during the education process, in the PREA brochure, and on posters within the facility. This information is also available through the law library and Safe Prisons Office. Upon discussion of this concern with the facility staff, the Safe Prisons staff indicated they would further stress this information during the education process with the offenders. While verifying the directory in the law library, the auditor suggested the directory be better labeled for better accessibility for the offenders. The staff member labeled the directory and placed it on a shelf easily accessible to the offenders.

The agency and facility has attempted to obtain an agreement for a community victim advocate from a rape crisis center. However at this time, an agreement has not been established. The agency continues to solicit community rape crisis organizations across the state which are willing to establish a partnership with the agency. The effort to obtain an agreement is documented in various letters to rape crisis center agencies with the last solicitation letters dated August 2015 (previous ones dated January 2014). The Agency's Safe Prisons/PREA Program Manager is overseeing this process. The facility does provide a list of Rape Advocacy Centers in the Law Library and available through the Safe Prisons Office.

Policy SPPOM 2.02 Offender Victim Representative (OVR) Training requires each facility to have at least two offender victim representatives from the following job qualifications: mental health practitioner, sociologist, chaplain, social worker, and case manager. The OVR must be available to provide emotional support services and counseling on and off the facility as needed. The Byrd Unit has six (6) designated staff as offender victim representatives (OVR): the chaplain and five (5) sociologists. The offender victim representatives are trained as victim advocates who can provide victim support to staff or offenders who have been sexually abused. Anytime an offender is the victim of a sexual assault, and if OIG requests a forensic examination, an Offender Victim Representative must be offered to the offender, to be present during the examination. They are also available to respond when requested by the victim to provide services. It will be documented whether the offender refused the offender victim representative or accepted the representative with the representative's name provided.

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

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

The agency's policies Executive Directive 02.03 Ombudsman Program, ED 02.10 Prison Rape Elimination Act Complaints and Inquires, and SPPOM 4.02 Receiving Allegations of Sexual Abuse from an Outside Agency establishes guidelines and PREA Audit Report

procedures for responding to complaints or inquires both through the Ombudsman Office and agency staff. The Department's website provides a link to the PREA Ombudsman as a method for third party reporting of sexual abuse and sexual harassment. The link encourages family members and the general public to report allegations of sexual assault to the PREA Ombudsman Office, the agency's Ombudsman Coordinator, and/or the CID Ombudsman Office. Third party reporting can also be accomplished through contacting the Office of the Inspector General. Third party reporting information is shared through the agency's website, brochures, pamphlets, and handouts including the General Information for Families of Offenders Brochure.

General public complaints and inquires received by the Ombudsman Office, either in writing or verbally, must be responded to within ten days. However, the sexual assault allegations are forwarded immediately to the PREA Ombudsman, Facility Administrator, and OIG for investigation.

During the formal offender interviews and informal offender interviews during the tour, offenders were able to identify the PREA Ombudsman, OIG, and contacting family as methods for third party reporting. Staff were also able to identify these reporting methods during their interviews also. These reporting systems were outlined through review of policies and procedures, offender handbook, and posters throughout the facility. There was no third party reporting of allegations during the audit period.

### **Standard 115.61 Staff and agency reporting duties**

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

The agency's policies AD 16.20 Reporting Incidents/Crimes to the Office of Office of Inspector General, PD29 Sexual Misconduct with Offenders, and the Safe Prisons/PREA Plan requires that all staff must report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment; retaliation against offenders or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Policy SPPOM 5.01 Sexual Abuse Response and Allegation states that staff are not to reveal any information related to a sexual abuse report to anyone other than extent necessary. This is covered in the annual in-service training, pre-service training, and turnout briefings for all staff. The Safe Prisons/PREA Plan and the Employee General Rules of Conduct also outlines these requirements. Specialized and random staff interviews confirm that staff are knowledgeable in their reporting duties, the process of reporting, and to whom to report. Staff acknowledged through interviews that they would report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment and document through an inter-office communication form.

Policy CMHC G57.01 Sexual Assault/Sexual Abuse addresses the medical and mental health staff reporting requirements for sexual abuse. Medical and mental health staff must report incidents that occurred in a correctional setting without consent only in the interest of treatment, security, and management issues. If the sexual assault/abuse occurred in the community setting previously, the staff may only report to OIG if the offender provides consent. If under the age of 18, the staff must report the incident to OIG and the offender consent is not required. The Child Protective Services Agency would also be contacted by the facility's administration.

All allegations are reported to designated investigators, policy AD 16.20 Reporting Incidents/Crimes to the Office of Inspector General, CMHC G57.1 Sexual Assault/Sexual Abuse and Safe Prisons/PREA Plan. Staff indicated through interviews they were aware of the methods available to them to report sexual abuse and sexual harassment of offenders including third-party and anonymous reports. Staff acknowledged through interviews that they would report immediately any allegations and document them through an inter-office communication form. They were aware they could privately report an incident to the OIG or the Ombudsman Offices. They identified the OIG and Safe Prisons Office as the investigators they could contact by phone or in writing. This information is also provided to staff through training, employee policies, and located on the informational card provided to the employee.

### **Standard 115.62 Agency protection duties**

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

The agency's policies SPPOM 5.01 Sexual Abuse Response and Investigation, 02.15 Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents, 5.03 Time Frames Associated with Offenders Protection Investigations, and the Safe Prisons/PREA Plan requires staff to take immediate action to protect any offender subject to substantial risk of sexual abuse. The Safe Prisons/PREA Operational Manual outlines the immediate action that is to be taken to protect offenders who are in substantial risk of sexual abuse by removing the offender immediately from the area to a safe location. All staff interviewed knew the steps to take to protect an offender at risk for sexual abuse; to immediately separate the offender from the area to keep the offender safe and contact the supervisor. Line and supervisory staff work simultaneous to take protective measures as information is reported. The first responders interviewed outlined the process taken to ensure the safety of the offender. This information is also provided to staff through training, employee policies, and located on the informational card provided to the employee.

In the audit period, the Pre-Audit Questionnaire reported two (2) offenders were subject to substantial risk of imminent sexual abuse. The Safe Prisons/PREA Manager indicated during the interview that the offenders were removed immediately from the area and placed in transient housing to ensure safety of the offender while the investigation was started. During the Warden's interview, he outlined the steps that would be taken to ensure the safety of the offender determined to be at substantial risk of imminent sexual abuse by removing the offender from the area and placing the offenders in safe housing during the investigation process.

### **Standard 115.63 Reporting to other confinement facilities**

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

The agency's policies SPPOM 4.02 Receiving Allegations of Sexual Abuse from an Outside Agency, SPPOM 4.01 Reporting Allegations of Sexual Abuse to Other Confinement Agencies, BP-2.09 PREA Ombudsman Policy Statement, AD-16.02 Reporting Incidents to the Office of Inspector General, and the Safe Prisons/PREA Plan requires upon receiving an allegation that an offender was sexually abused while confined at another facility, that the Warden of the facility that received the offender must immediately notify the facility where the sexual abuse is alleged to have occurred, and start the investigation process. This process is outlined in the Safe Prisons/PREA Operating Manual and Safe Prisons/PREA Plan. The facility must document and report as soon as possible but no later than 72 hours the offender's allegation by submitting a priority email via the Department's mainframe followed by a phone call to alert of the allegation and impending email. The facility will print and retain a copy of the email in the appropriate PREA compliance folder. The reporting facility must also notify the Safe Prisons/PREA Manager. The facility staff is also responsible for notifying the head of the facility or appropriate office of the agency where the alleged incident occurred as soon as possible, but no later than 72 hours after receiving the allegation. A letter in writing is prepared and faxed within 72 hours, usually within 24 hours from the time the facility becomes aware of the incident. This process was confirmed through the interviews with the Warden, PREA Manager, Investigator, and the Agency Head.

In the audit period, there were seven (7) allegations reported at the facility that an offender was abused while confined at another facility. The allegations were investigated and all were determined unsubstantiated. There was one (1) allegation of sexual abuse the facility received from another facility where it was reported. The allegation was investigated and found to be unsubstantiated. Notifications were reviewed and the notifications were made within the acceptable time frame as documented in the investigation files.

### **Standard 115.64 Staff first responder duties**

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

The agency's policies SPPOM 5.01 Sexual Abuse Response and Investigation, OIG 4.05 Offender Sexual Assault Investigations, AD 16.03 Evidence Handling, and the Safe Prisons/PREA Plan requires that all staff must report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse. The policies also clearly specify the detailed procedures for security and non-security staff when responding to an allegation of sexual abuse. The first security staff member to respond to the report is required to separate the alleged victim and abuser; preserve and protect the crime scene; and request the alleged victim and alleged abuser to take no action to destroy evidence. Policy also outlines that staff are to notify the immediate supervisor or shift supervisor. The Shift Supervisor will make further notifications to the Warden, medical, mental health, Safe Prisons Office, and OIG.

The first responder responsibilities to separate the alleged victim and abuser, instruct not to take any actions that could destroy physical evidence, and ensure the crime scene is secure is covered in the PREA pre-service training, annual in-service training, and during turnout briefings. Each staff member is provided an informational card identifying the steps to take as a first responder and the reporting requirements.

Through interviews with investigative staff, higher and intermediate level supervisors, first responders, and random staff it was demonstrated that staff was knowledgeable in the steps as a first responder: to separate the alleged victim and abuser; preserve and protect the crime scene; and request the alleged victim and alleged abuser to take no action to destroy evidence and contact supervisor. The four (4) first responders interviewed outlined the process that was taken to ensure the safety of the offender.

In the audit period, there were twenty (20) allegations that an offender was sexually abused. A security staff member was the first responder in ten (10) of the allegations. A non-security staff was the first responder in four (4) of the allegations. Only one (1) of the allegation was within a time frame that still allowed for the collection of physical evidence. Physical evidence was collected on the allegation.

### **Standard 115.65 Coordinated response**

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

The agency's policy SPPOM 5.01 Sexual Abuse Response and Investigation and the Safe Prisons/PREA Plan outlines the coordinated effort between security staff, Office of the Inspector General, medical and mental health services, and victim advocate/offender victim representative. The procedures provide a systemic notification and response following a reported sexual abuse incident. A checklist, Sexual Abuse Investigation Checklist, is provided to assist with the documentation of the completion of each part of the notification and response process. The Byrd Unit has a written institutional plan, Unit Specific Sexual Abuse Incident Plan, coordinating actions taken in response to an incident of sexual abuse among first responders, medical and mental health practitioners, investigators, OIG, and facility leadership. This written plan mirrors the agency's plan outlined in the Safe Prisons Plan. The Sexual Abuse Investigation checklist is utilized to ensure all process steps are completed and notifications are made. During staff interviews, each department detailed their responsibilities in their coordinated efforts during an incident. Interviews with the Warden and higher-level staff indicated a commitment by the facility leadership for handling a coordinated response. The coordinated response was also documented on the Sexual Abuse Investigation Checklist located in each of the investigation files reviewed.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)
- Non Applicable

The Texas Department of Criminal Justice reported there has been no collective bargaining agreement entered into or renewed since August 2012. Texas is an "at will employer" and does not have collective bargaining. The facility can remove alleged staff sexual abusers from contact with any offenders or place an employee on administrative leave pending the outcome of an investigation.

### **Standard 115.67 Agency protection against retaliation**

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

The Department's policies SPPOM 5.08 90-Day Monitoring for Retaliation, PD29 Sexual Misconduct with Offenders, PD22 General Rules of Conduct and Disciplinary Action Guidelines for Employees, PD31 Discrimination in the Workplace and the Safe Prisons/PREA Plan outlines protection of all offenders and staff who report sexual abuse or sexual harassment, cooperates with sexual abuse or sexual harassment investigations, and from retaliation by staff or offenders. The policy designates the Warden or the Safe Prisons/PREA Compliance Manager as the staff member to monitor retaliation.

The Safe Prisons/PREA Manager monitors the offenders. The Safe Prisons/PREA Manager completes at a minimum thirty (30) day reviews for retaliation, a number of the reviews occurred more frequently. A file is maintained with a documentation form, Offender 90 Day Monitoring Form, for each offender that is being monitored. As part of the monitoring, a review of the offender files for changes that may reflect retaliation concerns including housing changes, program changes, job assignment changes, disciplinary findings, and information from staff. The offender monitoring was documented. A suggestion was made by the auditor for the monitoring notes to include detailed notes on all changes, including why a housing, job or program change was made. The Safe Prisons/PREA Manager is knowledgeable of the monitoring responsibilities. There is a ninety (90) day monitoring time period for retaliation review, however the time frame can be extended if warranted. There were fourteen (14) offenders monitored for retaliation during the audit period. Three (3) of the cases were monitored for ninety (90) days. The majority of the offenders that were being monitored were transferred during the monitoring process. There were no monitoring cases extended beyond the 90 days for this audit period.

At the Byrd Unit, the Warden monitors the staff sexual abuse retaliation. During this audit time period, there were no instances of staff monitoring for retaliation. The process is to complete monitoring reviews at a minimum every thirty (30) days for retaliation. A file is maintained with a documentation form, Staff 90 Day Monitoring Form, for each staff that is being monitored. As part of the review, performance reviews, reassignments of staff, and staff information are reviewed to determine if retaliation is occurring. The monitoring includes periodic in-person status checks every thirty days. There is a ninety (90) day monitoring time period for retaliation review, however the time frame can be extended if warranted. When evidence suggests the staff member is experiencing or expresses fear of retaliation for reporting and cooperating with sexual abuse and/or harassment investigations, the warden will promptly remedy the situation and advise the staff member of the availability of emotional support services. Different measures to protect the staff may include different job position, shift, and/or work hours while the investigation of retaliation is in progress. During the interview with the Warden, he outlined the process to be taken that matched the policy and procedures.

If a staff member or offender who reported sexual abuse or cooperated with an investigation expresses a fear of retaliation, the facility and agency will take appropriate measures to protect that individual against retaliation. The Warden indicated a

review of disciplinary records would be a method to review for retaliation. Also he would notify OIG to assist and initiate an investigation. The monitoring would be extended during the investigation process.

Once the monitoring is completed, the Completed Monitoring Form is placed in the investigation packet maintained in the Warden's area in the completed PREA incident investigation files. The retaliation monitoring process was confirmed through interviews with the Warden and Safe Prisons/PREA Manager and through reviews of the monitoring forms. There were no reported incidents of retaliation at the facility.

#### **Standard 115.68 Post-allegation protective custody**

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

The agency's policies AD-4.63 Transient Status Offenders, Administrative Segregation Plan, and the Safe Prisons/PREA Plan prohibits the placement of offenders who alleged to have suffered sexual abuse in involuntary segregated housing (special housing) unless an assessment of all available alternatives have been made and a determination has been made that there is no available alternative means of separation from likely abusers. The Byrd Unit utilizes the single cells in housing unit run #13 as transient housing cells to separate offenders as needed during the investigation process. Offenders are placed in transient status in special housing for 72 hours pending investigation; it may be extended for another 72 hours if needed for completion of the investigation. From the interviews with staff and offenders, the auditor determined that the facility was addressing individual housing and program needs consistent with the security and safety of the offender. The staff member interviewed that supervises offenders in special housing indicated that offenders still access to services including law library, commissary and religious services to the extent possible. If a restriction occurs, it will be reviewed every twenty-four (24) hours.

The Byrd Unit during the audit period housed two (2) offenders who alleged sexual abuse in involuntary segregated housing (special housing). Both offenders were housed in housing unit run #13 which is the only identified single cells in the facility. The first offender was placed in involuntary segregation after unit classification reclassified the offender to G3 and identified him as a potential victim. The offender reported an allegation of alleged sexual abuse that occurred at another facility. The housing placement was from January 25 through March 7, 2016 until the offender was transferred. The second case was an offender who made allegations against a staff member which was determined unsubstantiated. The classification committee recommended the offender to be transferred to another facility. The facility had to wait for the state classification to review and approval the transfer of the offender. The housing placement for this offender was from October 26, 2015 to February 5, 2016 until transferred from the facility. The facility reviewed other housing alternatives for both offenders. It was determined for the safety of the offenders; the single celled housing unit was the only housing alternative. A classification committee member completed the required seven (7) day and thirty (30) day reviews. Upon review of the cases and documentation, the auditor determined that the facility was addressing individual housing and program needs consistent with the security and safety of the offenders.

#### **Standard 115.71 Criminal and administrative agency investigations**

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

The PREA standard is met through the agency's policies AD-16.20 Reporting Incidents/Crimes to the Office of Inspector General, 2.15 Operations of Emergency Action Center, OIG 4.05 Offender Assault Investigations, OIG 5.10 Property and Evidence Control, 16.03 Evidence Handling, SPPOM 5.05 Completing the Offender Protection Investigation Worksheet, 5.11 Completing the Staff on Offender Sexual Abuse Investigative Worksheet, and the Safe Prisons/PREA Plan. These policies

address conducting the sexual abuse and sexual harassment investigations including third-party and anonymous reports.

The agency follows a uniform evidence protocol to investigate sexual abuse and sexual harassment. The sexual investigations will be conducted promptly, early, and objectively including third party and anonymous reports, and the use of investigators who have been specially trained in sexual abuse investigations. Through the review of investigation reports, the investigations were initiated immediately and notification to OIG was immediate. OIG starts their investigation immediate upon notification. This was also confirmed through the interviews with the Safe Prisons/PREA Manager who conducts the administrative investigations and the OIG investigator. If the incident occurs after hours, the shift supervisor will begin the investigation process and notify the Safe Prisons/PREA Manager and the OIG investigator. Once on site, OIG will take over the investigation and evidence collection and the Safe Prisons/PREA Manager will continue the administrative investigation on the offender on offender investigations. Investigations of staff on offenders are conducted by supervisors of Lieutenant or above in rank. Once an offender protective investigation is initiated, notifications are made through email to the Chief of Classification, Warden, Assistant Warden, count room, Major, and supervisors as needed.

In the review of the training records, all investigators have received special training in sexual abuse investigations. The specialized training curriculums, Safe Prisons Training: Conducting a Thorough Investigation and OIG Sexual Assault Investigations are utilized for the specialized training of investigators. The agency's 136 OIG and 13 facility investigators have completed the general PREA training and the required specialized training for investigators. The specialty training was verified through the investigator interviews and review of the training records. The positive partnership between the facility staff and the OIG investigators were demonstrated through the daily working relationship.

Based on the review of the investigations, the agency's policies, and interviews with facility staff, investigators, and offenders it was determined investigations into allegations of sexual abuse and sexual harassment are done promptly, thoroughly and objectively for all allegations. When an allegation is reported, the facility's investigator begins an administrative investigation immediately. It is also referred to the Office of Inspector General immediately to begin a criminal investigation. The investigators and the Warden acknowledged the outstanding cooperation and working relationship between the facility and OIG during the investigation process. The OIG investigator shares information that is able to be shared giving consideration to the integrity of the case. The Warden and the OIG investigators both noted during their interviews the positive communication and information sharing regarding updates and outcomes of the case.

If OIG determines a crime has been committed, the case is referred for prosecution. It is discussed with the special prosecution unit to determine if additional information or items are needed for support. Seven (7) cases were opened by OIG. Six (6) were closed with no findings. One (1) case is still open waiting DNA results. The OIG investigator indicated the length of time to obtain SANE DNA results, about twelve to eighteen months, is the reason for the case remaining open. No cases have been referred for prosecution.

The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and not determined by the person's status as an offender or staff. Neither the agency nor OIG require an offender who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. All administrative and criminal investigations will be completed on all allegations even if the alleged abuser or victim transfers or departs employment with the agency.

The investigators complete a written report with investigation findings. The report format contains the persons involved; a thorough summary of the incident including the physical, testimonial, and documentary evidence; notifications made with timeline; what action or inaction was taken; attachments from the investigation; administrative review and summary; and the Warden's comments. The investigation report is part of the Investigation Folder which also contains the EAC incident report, victim offender travel card, alleged abuser travel card, offenders photographs after allegation, medical and mental health clinical notes including the referrals, completed retaliation monitoring forms, and the Sexual Abuse Investigation Checklist completed. The Investigation Folder is maintained in the Warden's area. Thirteen (13) cases were reviewed. All contained the required information. The investigation reports were very detailed, well written, and easy to follow the reasoning of the findings.

The criminal and administrative investigation reports involving any sexual abuse assault must be retained for as long as the alleged abuser(s) is incarcerated or employed within the Texas Department of Criminal Justice, plus five years. The Offender Investigation Packet and the OIG criminal investigation reports are maintained permanently electronically. This process is supported by Department policies OIG OPM 3.72 Record Retention-PREA and the records retention Schedule.

There were twenty (20) allegations during the audit period: twelve (12) allegations occurred at the facility, one (1) allegation

reported by another facility, and seven (7) allegations that occurred at another facility and reported at the Byrd Unit. Of the three (3) staff on offender allegations; there were two (2) alleged staff on offender sexual abuse, and one (1) alleged staff on offender sexual misconduct. The administrative findings of these allegations were one (1) unsubstantiated and two (2) unfounded. Of the staff on offender allegations, OIG did not open any cases. Of the seventeen (17) offender on offender allegations; there were eleven (11) offender on offender sexual abuse and six (6) offender on offender sexual misconduct. The administrative findings of the eleven (11) offender on offender sexual abuse allegations were ten (10) unsubstantiated and one (1) substantiated. The administrative findings of the six (6) offender on offender sexual misconduct allegations were five (5) unsubstantiated and one (1) substantiated. Of the offender on offender allegations, OIG opened seven (7) cases: one (1) is still active and six (6) were closed with no charges. The open case is still open pending the sexual assault kit DNA results. A review of thirteen (13) administrative investigations was conducted. The actual OIG investigations files were not available for review.

The auditor determined the facility exceeds this standard through the partnership OIG and the facility demonstrates in the investigation process and communication. The investigation reports were very detailed, well written, and easy to follow the reasoning of the findings. And the Offender Investigation Packet and the OIG criminal investigation reports are maintained permanently electronically, beyond the five year requirement of the standard.

### **Standard 115.72 Evidentiary standard for administrative investigations**

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

The Department's policy SPPOM 5.05 Completing the Offender Protection Investigation and the Safe Prisons/PREA Plan imposes a standard of preponderance of the evidence for determining whether or not allegations of sexual abuse or sexual harassment are substantiated. This is also documented through the Specialized Investigation Training lesson plan. The interviews with the investigator and staff confirm compliance with the policy and standard.

### **Standard 115.73 Reporting to inmates**

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

The agency's Safe Prisons/PREA Plan and UCC Notification of Offender Protective Investigation requires that all offenders who make allegations of sexual abuse shall be informed of the investigation outcome whether the finding was substantiated, unsubstantiated, or unfounded. The procedures for reporting investigation outcomes to offenders are documented on the Attachment J: Offender Protection Investigation Form. The process directs the Unit Classification Committee (UCC) and the Safe Prisons/PREA Manager to notify the offender in person the outcome when it is determined to be substantiated, unsubstantiated, and unfounded. The process outlines that the offender will be notified verbally and in writing by the UCC Chairperson, and the offender signs acknowledging the notification on the Offender Protection Investigation Form Attachment J, along with the UCC Chairperson's signature for documentation of the process completion. If an offender is transferred prior to the Unit Classification Committee meeting, the offender is notified in writing. This process was confirmed during interviews with staff and offenders and reviews of the notifications in the case files.

OIG provides monthly updates to the facility on the criminal investigations. The offender is informed of the progress of the investigation, policy SPPOM 5.10 Reporting Sexual Abuse Criminal Case Status to Offenders and the Safe Prisons/PREA Plan. The investigation updates to offenders of prosecution cases are made through written format by the agency's Safe Prisons/PREA Program Manager.

If the allegation of sexual abuse was by a staff member, the policy requires the Warden to inform the offender of the status of the staff member to include whether the staff member is no longer posted within the offender's unit, the staff member is no longer employed at the facility, the agency's learns that the staff member has been indicted on a charge related to sexual abuse within the facility, and/or the agency learns the staff member has been convicted on a charge related to sexual abuse within the facility. If the allegation was sexual abuse by another offender, the policy requires the Safe Prisons PREA Manager to inform the offender whether the alleged abuser has been indicated on a charge related to sexual abuse within the facility and/or convicted on a charge related to sexual abuse within the facility. The investigation files reviewed all contained the offender notifications documented on the Offender Protection Investigation Form. In an interview with the offender that reported a sexual abuse, the offender stated the Warden verbally provided him with the outcome of the investigation about a week after the allegation.

Notifications of all twenty (20) allegations were made to the offender by the facility through the Unit Classification Committee. The notifications were documented in the case files.

### **Standard 115.76 Disciplinary sanctions for staff**

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

The agency's policies PD29 Sexual Misconduct with Offenders, PD13 Sexual Harassment and Discourteous Conduct of a Sexual Nature, and PD22 General Rules of Conduct and Disciplinary Action Guidelines for Employees state that staff are subject to disciplinary sanctions up to and including termination for violating the agency's sexual abuse or sexual harassment policies. Sexual misconduct with offenders and harassing and retaliating against an offender or another individual for participating in an official investigation is a level 1 violation where dismissal is recommended. Only the Executive Director, Deputy Executive Director, or the appropriate Division Director is authorized to impose a less severe disciplinary action. The policies also provide disciplinary sanctions for violations of the agency's policies relating to sexual abuse or sexual harassment 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. Policy AD 16.20 Reporting Incidents/Crimes to the Office of Inspector General directs that all incidents or allegations of serious employee misconduct shall be reported to the OIG for determination regarding the OIG action to be taken in response to the reported incident.

There were no employees that violated the agency sexual abuse or sexual harassment policies. There were no employees terminated or resigned prior to termination. When a staff member resigns during an investigation, the facility places the discipline process in a pending status. If the staff member returns to employment at any time, the disciplinary process would continue at that time. The staff member is coded not to rehire.

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

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

The Department's policies PD29 Sexual Misconduct with Offenders, the Volunteer Service Plan, Volunteer Training Facilitators Guide, and the Safe Prisons/PREA Plan prohibit contractors or volunteers who engaged in sexual abuse to have contact with offenders and require they be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The contractor/volunteer will also be prohibited from further contact with offenders. This was supported by the volunteer and contractor training and orientation including the PREA training video. Interviews with five (5) contractors and volunteers confirmed they were aware of the policies and the remedial measures that could occur for

engaging in sexual abuse or sexual harassment of offenders. The Warden stated during the interview that the volunteer/contractor would be suspended from entering the facility during the investigation. If the sexual abuse case is substantiated, the volunteer/contractor would be prohibited from entering an agency facility and may be turned over for prosecution if warranted. The facility would take appropriate remedial measures for any violation of agency sexual abuse or sexual harassment policies and would consider whether to prohibit further contact with offenders.

In the audit period, there have been no contractors or volunteers who have violated the agency sexual abuse or sexual harassment policies.

**Standard 115.78 Disciplinary sanctions for inmates**

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

The agency's policies Disciplinary Rules and Procedures for Offenders and the Safe Prisons/PREA Plan outline disciplinary sanctions for offenders for sexual abuse and sexual harassment. The offenders are subject to disciplinary sanctions following an administrative finding that the offender engaged in offender-on-offender sexual abuse or following a criminal finding of guilt for offender-on-offender sexual abuse. The Warden indicated in the interview that disciplinary sanctions could include loss of good time, property restriction, commissary restriction, extra duties, and cell restriction. The sanctions would 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, and consider whether an offender's mental disabilities or mental illness contributed to his behavior. The offender disciplinary policy outlines major and minor offenses, all with different levels, clearly indicating a formal disciplinary process resulting in administrative findings. Special considerations are required for offenders charged with or suspected of a disciplinary infraction who are developmentally disabled or mentally ill to determine if the disability or illness contributed to the behavior when determining what type of sanction should be imposed, if any; policy Disciplinary Rules and Procedures for Offenders and Safe Prisons/PREA Plan.

The agency's policy, SOPT 01.01 Overview of the Sex Offender Treatment Program, outlines the program to address the needs of sex offenders including providing need specific rehabilitative interventions designed to limit an offender's risk to reoffend. An offender can be referred to programming based on the mental health assessment of the offender abuser. The facility/agency's Safe Prisons/PREA Plan states consideration shall be made to determine if participation should be a requirement for access to programming or other benefits. During the interviews with medical and mental health staff, they indicated that an offender's participation is not required as a condition of access to programming or other benefits. This supports the answer provided by the facility on the Pre-Audit Questionnaire.

The policy indicates an offender may be disciplined for sexual conduct with staff only upon finding that the staff did not consent to such contact. The policy states an offender reporting a sexual abuse in good faith upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if the investigation does not establish sufficient evidence to substantiate the allegation for purposes of disciplinary action. The agency's policy prohibits all sexual activity between offenders to include consensual and will process discipline on offenders, but will not consider it sexual abuse.

There were no administrative findings of offender-offender sexual abuse. There was no criminal finding of guilty for offender-on-offender sexual abuse.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

The agency's policies G57.1 Sexual Assault/Sexual Abuse, Offender Assessment Screening, E35.2 Mental Health Evaluation, and the Safe Prisons/PREA Plan requires medical and mental health follow-up within ten business days for those offenders who disclosed during screening prior sexual victimization or previously perpetrated sexual abuse whether it occurred in an institutional setting or in the community. At intake screening, if the offender has disclosed prior sexual victimization and/or previously perpetrated sexual abuse the offender is referred for medical and mental health services. If deemed as an emergency or a serious nature, the offender is seen immediately by medical and mental health. All other follow-ups from referrals will be seen by medical and mental health within 10 days. During interviews with medical and mental health staff, they outlined the screening process and confirmed that follow-ups are conducted within the proper time frames. The two (2) offenders interviewed that disclosed victimization during screening acknowledged they were offered medical and mental health services. They also indicated they received follow-up with medical and mental health in most cases the same day of disclosure. The offenders noted in the interview that mental health did not offer any further services. The auditor reviewed the mental health cases for the two (2) offenders. In one case the mental health did not make any notes documenting the offender was seen. The other offender's case notes documented being seen by mental health; however the notes did not indicate the reason for the referral. A recommendation was made that mental health staff need to document the referral with the reason for the referral and the services provided to the offender.

Information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners, and other staff as required; policies SPPOM 5.05 Completing the Offender Protection Investigation, A09.1 Privacy of Care, H61.1 Confidentiality and Release of Protected Health Information, and the Safe Prisons/PREA Plan. Information is shared with appropriate staff including the Warden, Assistant Warden, Major, Classification, and the Safe Prisons/PREA Manager as needed to make housing, bed, work, education, and program assignments. The medical and mental health staff obtain informed consent before reporting prior sexual victimization that did not occur in an institutional setting, policies G57.1 Sexual Assault/Sexual Abuse, I70.1 Informed Consent, 2.05 Requirement to Contact Department of Family Protective Services. This process was confirmed through interviews with medical and mental health staff, the Warden, and the Safe Prisons/PREA Manager.

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

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

The Department's policies G57.1 Sexual Assault/Sexual Abuse, A01.1 Access to Care, SPPOM 5.01 Sexual Abuse Response and Investigation, and the Safe Prisons/PREA Plan indicate that offenders who are victims of sexual abuse shall be afforded access to forensic medical examinations at an outside facility without financial cost where evidentiary or medically appropriate. The policies also indicate victims of sexual abuse shall 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. Emergency medical attention is provided through the facility's medical department. Health care services are provided seven days a week, 24 hours a day.

The agency's policy indicates that all victims of sexual assault who require a forensic exam will be taken to the nearest hospital emergency department for completion of the exam and emergency medical healthcare with no cost to the offender. State law, Senate Bill 1191 Emergency Services for Survivors of Sexual Abuse, requires that emergency room staff have specialized training to complete a forensic exam, but does not require SANE or SAFE training. When it is possible trained SANE or SAFE staff will be utilized. There was one (1) alleged victim of sexual assault who required a forensic exam. The alleged victim was taken to the nearest hospital emergency department for completion of the forensic exam conducted by a SANE staff member. The interview with the offender that reported sexual assault indicated that he was seen by medical immediately and was offered follow-up services.

Interviews with staff first responders confirmed they understood the role of the first responder including taking actions to protect the victim and then notifying the shift supervisor. Upon an allegation of sexual abuse, the Shift Supervisor begins the notifications which include medical and mental health services as outlined in the Safe Prisons/PREA Plan and SPPOM 5.01

Sexual Abuse Response and Investigation. This process was verified through incident reviews, the Sexual Abuse Investigation Checklist within the investigation files, and interviews with staff and medical and mental health practitioners.

The offenders also receive timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, policy G57.1 Sexual Assault/Sexual Abuse. These services are offered through the CID nurse immediately. Additional educations and follow-up treatment and testing are provided as needed by the CID nurse. The interviews with medical staff confirmed this process. Treatment services are provided to every victim without any financial costs policy G57.1 Sexual Assault/Sexual Abuse.

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

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

The agency's policies G57.1 Sexual Assault/Sexual Abuse, SPPOM 5.01 Sexual Abuse Response and Investigation, and the Safe Prisons/PREA Plan outline medical and mental treatment including evaluations, on-going care, and treatment to all offenders that have been victims and abusers. The services and treatment is at no cost to the offenders and are consistent with the community level of care, per policies E32.1 Receiving, Transferring, and Continuity of Care Screening, G57.1 Sexual Assault/Sexual Abuse, and E44.1 Continuity of Care. Prophylactic treatment of venereal diseases is offered to victims of sexual abuse and the offender is scheduled for testing and education. These services are offered through the CID nurse immediately. Additional education, follow-up treatment, and testing are provided as needed by the CID nurse. Treatment services associated with sexual assault/sexual abuse or alleged sexual assault/sexual abuse will not result in the application of the health services fee to the victim. Interviews with medical and medical health staff, offenders, and file reviews verified and documented the process.

The Safe Prisons/PREA Plan and policy 57.1 Sexual Assault/Sexual Abuse states if an incident occurs within the 96 hours of reporting, the offender will be seen by a mental health professional immediately after medical exams are completed. If reported after 96 hours, the offender will be referred to and will be seen by a mental health professional within 10 business days. This applies to the victim and the offender-on-offender abuser. A mental health evaluation of all known offender-on-offender abusers shall be attempted within 60 days of learning of the abuse and treatment shall be offered when deemed appropriate in accordance with CMHC policies. Mental health staff interviewed that, in most cases, the offender is seen for an evaluation the day of the referral. Treatment will be offered based on the outcome of the mental health evaluation. There was one (1) confirmed offender abuser in the twelve month period. The offender was seen by mental health within the appropriate time frame. The case file notes were not detailed to indicate why the offender was seen, whether treatment was offered or deemed appropriate, and whether follow-up services were offered. It is recommended that mental health staff complete detailed notes to indicate whether treatment is offered when deemed appropriate by mental health staff, treatment was not deemed appropriate, or follow-up meeting is necessary.

### **Standard 115.86 Sexual abuse incident reviews**

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

The agency's policies AD 2.15 Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents, SPPOM 8.01 Monthly Safe Prisons/PREA Plan, and the Safe Prisons/PREA Plan direct that the Warden and the Incident Review Team complete an administrative review for all allegedly sexual abuse and staff sexual harassment incidents. The Administrative Incident Review must be forwarded to the Regional Director no later than 10 working days following the notification to Emergency Action Center (EAC). The facility's Warden obtains input from security supervisors, investigators,

and medical and/or mental health practitioners when completing the review. The review shall be conducted in accordance with AD-02.15, Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents. The review team includes the Assistant Warden, Major, Captains, Safe Prisons/PREA Manager, and as needed input from line supervisors, investigators, medical, and mental health practitioners. The review includes: a review of the circumstances of the incident; the name(s) of the person(s) involved; events leading up to and following the incident; a consideration of whether the actions taken were consistent with agency policies and procedures; consider whether the allegation or investigation indicates a need to change policy or practice to better detect, or respond to sexual abuse; 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 was motivated or otherwise caused by other group dynamics at the facility; an examination of the area in the facility where the incident alleged occurred to assess whether physical barriers in the area may enable abuse; an assessment of the adequacy of staffing levels in that area during different shifts; an assessment as to whether monitoring technology should be deployed or augmented to supplement supervision by staff; recommendations to the facility administrator and Unit Safe Prisons/PREA Manager for improvements based on the above assessments; a review of whether lesser alternative means of managing the situation were available; an identification of actions, if any, that could be taken to avoid future incidents of a similar nature and identification of training needs; a determination of whether substandard employee conduct was a factor in the incident; and corrective actions taken. The facility will implement recommendations that result from the review, or document the reasons for not doing so. The Regional Director reviews the Administrative Incident Review Report and documents any comments in the final portion of the Administrative Review Section and forwards to EAC no later than 20 working days following the initial notification to EAC. All Administrative Incident Reviews containing recommendations or corrective action require a written 90-day follow-up report prepared by the Regional or department head. The follow-up report shall be completed and submitted to the Deputy Director for Prison and Jail Operations or designee within 90 days of the notification to EAC.

There is a monthly Safe Prisons/PREA report as outlined in the Safe Prisons/PREA Operational Manual, which involves the Warden and PREA Compliance Manager review of findings and the implement recommendations or improvements. The Sexual Abuse Incident Review Team meets monthly and is documented through meeting minutes. The review team includes the Assistant Warden, Major, Safe Prisons/PREA Manager, Captains, and as needed input from line supervisors, investigators, medical, and mental health practitioners.

Sexual abuse incident reviews were completed on eighteen (18) cases. The two (2) unfounded cases were not formally reviewed. A review of the monthly meeting minutes and the administrative incident review team reports included in the investigation files was reviewed. The interviews with the Incident Review Team indicated they review all five elements including offender rosters, offender movements, area blind spots, review the incident area, building schedule, training records of the staff in area of incident, and whether cameras would supplement supervision in the area. The review of the files and interviews with the Warden, Incident Review team members, and Safe Prisons/PREA Manager demonstrates compliance with the standard.

#### **Standard 115.87 Data collection**

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

The agency collects accurate information and data regarding every allegation of sexual abuse at the facilities under its control through a case management database. The PREA Ombudsman oversees the reporting of sexual abuse and sexual harassment information for the Texas Department of Criminal Justice. One of the responsibilities of the PREA Ombudsman is to collect statistics regarding allegations of sexual abuse from each correctional facility in accordance with national PREA standards. Daily a list of all alleged sexual abuse incidents that occurred the previous day is reported to the PREA Ombudsman and Safe Prisons/PREA personnel. The information is collected using a uniform data standardized instrument, Survey of Sexual Violence 2012. The Safe Prisons/PREA Operational Manual directs the data collection for the facility. The agency and the PREA Ombudsman aggregates this incident based sexual abuse data at least annually. The 2015 Safe Prisons /PREA Annual Report is available for review on the agency's website. The agency provided the Department of Justice with data from the previous calendar year. This information also was incorporated into the 2015 Safe Prisons/PREA Annual Report. The annual report was reviewed as part of the audit process.

Department policies that outline the data collection process include: AD 2.15 Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents; BP 2.09 PREA Ombudsman Statement; OIG 4.05 Offender Sexual Assault Investigations; and 01.01 Safe Prisons/PREA Management Office.

**Standard 115.88 Data review for corrective action**

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

The Department’s policy BP 2.09 PREA Ombudsman Statement outlines the PREA Ombudsman’s responsibilities include collecting statistics regarding allegations of sexual assault, sexual contact, and staff sexual misconduct from each correctional facility; preparing monthly and semiannual activity reports for distribution to the Texas Board of Criminal Justice (TBCJ) chairman, TBCJ members, and TDCJ executive management; and ensuring the TBCJ chairman and TDCJ executive management are informed of any problematic, systemic trends. The Ombudsman office, along with TDCJ and the OIG, coordinate to produce the annual report. The report provides data evaluation, policies and program changes, camera improvements, training, and statistical information for yearly comparisons. The agency and facility uses the monthly and annual reports to improve the effectiveness of its sexual abuse prevention, detection, and training, including identifying problem areas and taking corrective action on an ongoing basis. Before publishing the annual report, all personal identifiers are removed. The annual report is approved by the Executive Director of the Texas Department of Criminal Justice then the report is published on the Texas Board of Criminal Justice PREA Ombudsman website. The 2015 Safe Prisons/PREA Program Annual Report is available on the website for review. The report was reviewed as part of the audit process. Through interviews with the PREA Compliance Manager, PREA Coordinator, and Warden and review of the facility’s monthly reports it documents the data collection process and correction actions taken by the facility.

**Standard 115.89 Data storage, publication, and destruction**

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

The Department’s policy BP 2.09 PREA Ombudsman Policy Statement, Record Retention Schedule, ED-2.29 Records Management, and the Safe Prisons/PREA Plan direct how the incident based information and aggregate data is collected, properly stored, and securely retained. The PREA Ombudsman’s responsibilities include collecting statistics regarding allegations of sexual assault, sexual contact, and staff sexual misconduct from each correctional facility including contracted facilities; preparing monthly and semiannual activity reports for distribution. Access to the data is controlled. The agency’s aggregate data is available to the public through the agency’s website and the PREA Ombudsman annual report. The 2015 Safe Prisons/PREA Program Annual Report is available on the website for review. Before publishing the annual report, all personal identifiers are removed. The record retention schedule indicates records are required to be maintained as part of the Texas State Library and according to Texas Government Code. All Offender Investigation Packets and criminal investigations and which include sexual abuse cases are permanently maintained electronically.

**AUDITOR CERTIFICATION:**

I certify that:

- X The contents of this report are accurate to the best of my knowledge.
- X No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- X 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.

Barbara King \_\_\_\_\_

May 20, 2017 \_\_\_\_\_

Auditor Signature

Date