

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

Interim       Final

Date of Report    January 22, 2021

## Auditor Information

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Telephone: (713) 818-9098

Date of Facility Visit: December 9 – 11, 2020

## Agency Information

Name of Agency:

Texas Department of Criminal Justice

Governing Authority or Parent Agency (If Applicable):

State of Texas

Physical Address: 861-B 1-45 North

City, State, Zip: Huntsville, TX 77320

Mailing Address: P. O. Box 99

City, State, Zip: Huntsville, TX 77342

The Agency Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

Agency Website with PREA Information: <https://www.tdcj.texas.gov/tbcj/prea.html>

## Agency Chief Executive Officer

Name: Bryan Collier

Email: Bryan.Collier@tdcj.texas.gov

Telephone: 936-437-2101

## Agency-Wide PREA Coordinator

Name: Cassandra McGilbra

Email: Cassandra.McGilbra@tdcj.texas.gov

Telephone: 936-437-5570

PREA Coordinator Reports to:

Honorable Patrick O'Daniel, Chairman of the  
Texas Board of Criminal Justice

Number of Compliance Managers who report to the PREA  
Coordinator:

6

## Facility Information

**Name of Facility:** Cotulla and Dolph Briscoe Units

**Physical Address:** 610 FM 624 and 1459 W. Hwy 86

**City, State, Zip:** Cotulla, TX 78014 and Dilley, TX 78017

**Mailing Address (if different from above):**  
Same As Above

**City, State, Zip:** Click or tap here to enter text.

**The Facility Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Facility Type:**

Prison

Jail

**Facility Website with PREA Information:** <https://www.tdcj.texas.gov/tbcj.prea.html>

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

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

ACA

NCCHC

CALEA

Other (please name or describe: Click or tap here to enter text.

N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**  
Please add information from PAQ.

### Warden/Jail Administrator/Sheriff/Director

**Name:** Maria Ramirez

**Email:** Maria.D.Ramirez@tdcj.texas.gov

**Telephone:** 936-730-5946

### Facility PREA Compliance Manager

**Name:** Juan Olguin (Cotulla) Rudy Aguirre (Dolph Briscoe)

**Email:** Juan.Olguin@tdcj.texas.gov and Rudy.Aguirre@tdcj.texas.gov

**Telephone:** 830-879-3077, ext. 1247/830-965-4444, ext. 4317

### Facility Health Service Administrator N/A

**Name:** Emily Hart

**Email:** elhart@utmb.edu

**Telephone:** 830-365-4444, ext. 4254

### Facility Characteristics

Designated Facility Capacity:	606/1384	
Current Population of Facility:	560/1377	
Average daily population for the past 12 months:	570/1367	
Has the facility been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males	
Age range of population:	18 - 79	
Average length of stay or time under supervision:	5 months/2 years 2 months	
Facility security levels/inmate custody levels:	G1 – G3/G1 - Gr	
Number of inmates admitted to facility during the past 12 months:	911/871	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for <i>72 hours or more</i> :	894/857	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for <i>30 days or more</i> :	737/744	
Does the facility hold youthful inmates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):</p>	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Number of staff currently employed by the facility who may have contact with inmates:	99/238	

Number of staff hired by the facility during the past 12 months who may have contact with inmates:	29/119
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	2/3
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	Medical – 11, Windham – 6/Medical 13, Windham 13, College 10
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	13/287
<b>Physical Plant</b>	
<p><b>Number of buildings:</b></p> <p>Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	1/18
<p><b>Number of inmate housing units:</b></p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	27/18
Number of single cell housing units:	0/0
Number of multiple occupancy cell housing units:	16/12
Number of open bay/dorm housing units:	16/4
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	20/7
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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**Medical and Mental Health Services and Forensic Medical Exams**

Are medical services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are mental health services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> )

**Investigations**

**Criminal Investigations**

Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	Office of Inspector General (OIG) - 142
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input checked="" type="checkbox"/> Other (please name or describe: <b>OIG</b> ) <input type="checkbox"/> N/A

**Administrative Investigations**

Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	8/8
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input checked="" type="checkbox"/> Other (please name or describe: <b>OIG conducts Administrative Investigations on Staff</b> ) <input type="checkbox"/> N/A

# Audit Findings

## Audit Narrative

*The auditor's description of the audit methodology should include a detailed description of the following processes during the pre-onsite audit, onsite audit, and post-audit phases: documents and files reviewed, discussions and types of interviews conducted, number of days spent on-site, observations made during the site-review, and a detailed description of any follow-up work conducted during the post-audit phase. The narrative should describe the techniques the auditor used to sample documentation and select interviewees, and the auditor's process for the site review.*

### PRE-AUDIT

A Notice of PREA Audit was sent to the Cotulla/Dolph Briscoe Units on November 2, 2020 via the PREA Ombudsman's Office. Notices were to be posted in all living units, program areas, recreation areas and any other areas that offenders would gather. The notice also contained contact information of the auditor and advised staff and offenders that the onsite portion of the PREA audit will be conducted on December 9 – 11, 2020.

On November 6, 2020, this Auditor received a flash drive containing the Cotulla/Dolph Briscoe Units' Pre-Audit Questionnaire. The flash drive contained department and agency policies, curriculum, and other supporting documentation. The files were divided up by standard and were easy to read and navigate.

The Auditor reviewed the provided documentation and began completing the Auditor's Compliance Tool to determine a baseline for compliance and to formulate questions for the onsite portion of the audit. On December 7, 2020, a tentative agenda for the PREA audit was sent to Warden Maria Ramirez of the Cotulla/Dolph Briscoe Units. This agenda outlined when the auditing would be on site, the types of staff and inmates that would be interviewed and when the audit would conclude.

### ONSITE

On December 9, 2020, the Auditor was greeted and given a history and the layout of the Dolph Briscoe Unit by Warden Maria Ramirez. Both Unit PREA Managers as well as other Unit and Regional leadership were also present. After the initial meeting with staff from both units, a detailed tour of the Dolph Briscoe Unit was provided to the Auditor. The Dolph Briscoe Unit is located in Dilley, Texas.

Warden Ramirez lead the onsite tour. The tour began with the housing units. The Auditor viewed showers/restrooms and observed cross-gendered announcements being made to offenders. PREA reporting information was clearly marked on bulletin boards in each living unit. In all living units, toilets and shower stalls all had appropriate coverings. The "Notice of PREA Audit" was also clearly visible throughout the tour.

In addition to the living units, intake, medical area, outside recreation, dining areas, library, programs, and control posts were also toured. PREA reporting information in English and Spanish were found on every bulletin board and were clearly marked.

Immediately after the tour, the Unit PREA Manager provided the Auditor with staff rosters from all shifts and provided a list of specialized staff. The Auditor then randomly selected from each shift, as well as established times to interview specialize staff. The Cotulla/Dolph Briscoe Units share some of the specialized positions identified. This includes, but is not limited to, the warden and her administrative team, medical, education and classification.

The Unit PREA Manager provided the Auditor with housing unit rosters. In reviewing the housing rosters the Auditor randomly selected inmates from each unit for random inmate interviews and selected inmates for the targeted protocols. Based on the available inmate population, inmates were selected for the following targeted protocols: Inmates who Reported Sexual Abuse During the Risk Screening and Inmates, Inmates who Report Sexual Abuse, Inmates who Identify as Transgender and Inmate who were Limited English Proficient. A total of 27 inmates were selected to be interviewed at the Dolph Briscoe Unit.

On December 10, 2020, the Auditor met with Warden Ramirez, her administrative team, and the Unit PREA Manager of the Cotulla Unit at the Cotulla Unit in Cotulla, Texas.

Warden Ramirez lead the onsite tour. The tour began with the living areas. The Auditor viewed showers/restrooms and observed cross-gendered announcements being made to offenders. PREA reporting information was clearly marked on bulletin boards in each living unit. In all living units, toilets and shower stalls all had appropriate coverings. The "Notice of PREA Audit" was also clearly visible throughout the tour.

The tour also included viewing intake, medical, dining areas, library, programs, and control posts. PREA reporting information in English and Spanish were found on every bulletin board and were clearly marked.

Immediately after the tour, the Unit PREA Manager of the Cotulla Unit provided the Auditor with staff rosters from all shifts and provided a list of specialized staff. The Auditor randomly selected staff to interview, as well as established times to interview specialize staff assigned solely to the Cotulla Unit.

The Cotulla Unit PREA Manager also provided the Auditor with inmate rosters. The Auditor randomly selected inmates from each area for random inmate interviews and selected inmates for the targeted protocols. Based on the available inmate population, inmates were selected for the following targeted protocols: Inmates who Reported Sexual Abuse During the Risk Screening and Inmates, Inmates who Report Sexual Abuse, Inmates who Identify as Transgender and Inmate who were Limited English Proficient. A total of eleven inmates were selected to be interviewed at the Cotulla Unit.

Cotulla/Dolph Briscoe Units provided confidential locations in the training center for the Auditor to interview inmates.

Cotulla/Dolph Briscoe Units provided appropriate accommodations for the Auditor to conduct inmate and staff interviews. The Auditor was given access to staff files, inmate files and any documentation that was requested. Facility staff was great to work with and were very accommodating. The Regional and Unit PREA Managers and Warden were readily available to answer any questions and assist in any way. Staff at the Cotulla/Dolph Briscoe Units were extremely helpful and polite throughout the entire process and escorted the Auditor throughout both units.

Auditor interviewed a total of 38 inmates of various ages, races, and lengths of stay. In addition, the Auditor interviewed a total of 30 staff to include the Warden, Medical Staff, Human Resources staff, Grievance Officer, Upper-Level Supervisors, Intake Staff, Staff who Perform Risk Screening, Contractors, Staff who Monitor Retaliation, members of the Debrief Team, Investigators, as well as random staff.

An exit interview conducted at the end of the site visit.

## **POST AUDIT**

After the onsite portion of the PREA audit, this Auditor reviewed the notes from the tour; all interviews conducted and did another review of the supporting documentation. Work on the final audit report began.

The final PREA audit report was submitted to the PREA Resource Center and copies were sent to the PREA Ombudsman Office.

## Facility Characteristics

*The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.*

### **Cotulla Unit**

The Cotulla Unit is in Cotulla, Texas and was established in July 1992. It consists of one building. This building contains inmate housing, educational programs, medical, food service, laundry, and outside recreation.

The current population at the Cotulla Unit is 560 adult male offenders. During the past 12 months 911 offenders have been admitted to this unit. Of this number, 737 inmates admitted had a length of stay longer than thirty days. The age range of the current offender population is 19 - 79 with custody level being G1 to G3.

The Cotulla Unit has 99 employees who have contact with the offender population. In addition to its 99 employees, the Cotulla Unit also has 30 volunteers and individual contractors who are currently authorized to enter the unit. At this time, volunteers are not allowed in the unit due to COVID-19 protocols. There are 143 investigators across the State of Texas with the Office of Inspector General (OIG). Cotulla Unit has eight facility investigators who conduct administrative investigations.

The Cotulla Unit is located within a secure perimeter. The unit has the official capacity to house 606 adult male offenders.

### **Dolph Briscoe Unit**

The Dolph Briscoe Unit is in Dilley, Texas and was established in January 1992. This unit consists of seventeen buildings. These building contains inmate housing, educational programs, medical, food service, laundry, and outside recreation.

The current population at the Dolph Briscoe Unit is 1,377 adult male offenders. During the past 12 months 871 offenders have been admitted to this unit. Of this number, 744 inmates admitted had a length of stay longer than thirty days. The age range of the current offender population is 18 - 62 with custody level being G1 to G4.

The Dolph Briscoe Unit has 238 employees who have contact with the offender population. In addition to its 238 employees, the Dolph Briscoe Unit also has 323 volunteers and individual contractors who are currently authorized to enter the unit. At this time, volunteers are not allowed in the unit due to COVID-19 protocols. There are 143 investigators across the State of Texas with the Office of Inspector General (OIG). Dolph Briscoe Unit has eight facility investigators who conduct administrative investigations.

The Dolph Briscoe Unit is located within a secure perimeter. The unit has the official capacity to house 1,384 adult male offenders.



## Summary of Audit Findings

*The summary should include the number and list of standards exceeded, number of standards met, and number and list of standards not met.*

**Auditor Note:** *No standard should be found to be “Not Applicable” or “NA”. A compliance determination must be made for each standard.*

### Standards Exceeded

**Number of Standards Exceeded:** 6

**List of Standards Exceeded:** 115.11; 115.17; 115.31; 115.33; 115.51; and 115.64

### Standards Met

**Number of Standards Met:** 39

### Standards Not Met

**Number of Standards Not Met:** 0

**List of Standards Not Met:** N/A

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's*

*conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

a) The Texas Department of Criminal Justice (TDCJ) and the Cotulla/Dolph Briscoe Units have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment.

The Texas Department of Criminal Justice Correctional Institutions Division, Safe Prisons/PREA Plan, dated February 2019 states, "The Texas Department of Criminal Justice (TDCJ) has a zero tolerance for all forms of sexual abuse and sexual harassment of offenders. The TDCJ shall take a proactive approach concerning the detection, prevention, response, and punishment of sexual abuse, including consensual sexual contact while in TDCJ custody. The TDCJ shall be vigilant in establishing a safe environment for staff and offenders at all secure correctional facilities and take immediate action to address the protective needs of offenders who have been victimized. Every attempt shall be made to prevent the sexual abuse and sexual harassment of offenders in accordance with agency policy. ED-03.03, "Safe Prisons/PREA Program," directs the TDCJ to develop and implement a plan to govern the operation of the Safe Prisons/PREA Program." (Page 1)

This same policy also includes definitions of prohibited behaviors regarding sexual abuse and sexual harassment as well as outlines TDCJ's plan to prevent, detect and respond to sexual abuse and sexual harassment.

This policy is also translated into the foundation of TDCJ's training of staff. The Unit Safe Prisons/PREA Program Awareness Training states, "The USPPM shall ensure all unit staff is knowledgeable of the agency zero-tolerance policy regarding sexual abuse and sexual harassment; as well as methods of the prevention, detection, reporting, and response to allegations of sexual abuse, sexual harassment, extortion, and other acts of offender aggression." (Page 1)

The policy of zero-tolerance was also present in posters found throughout both units.

b) An upper-level, agency-wide PREA Ombudsman, who is appointed by the Texas Board of Criminal Justice and reports directly to the TBCJ Chairman, is also designated as PREA Coordinator for the TDCJ.

TDCJ policy BP-02.09 (rev. 2), Prison Rape Elimination Act Ombudsman Policy Statement, dated October 31, 2019 outlines the appointment of the agency-wide PREA Ombudsman and the position's responsibility in coordinating TDCJ efforts to comply with the PREA standards.

Underneath the PREA Ombudsman are six (6) PREA Compliance Managers. Each PREA Compliance Manager is assigned to a specific region. The PREA Compliance Manager for this region was onsite for this portion of the Cotulla/Dolph Briscoe Units audit.

The PREA Compliance Manager states, "I have more than enough time as PREA is all I do. I cover fifteen (15) units in my region. My role is to aid the units when it comes to PREA compliance."

The PREA Ombudsman/TDCJ PREA Coordinator is in the agency's organizational chart and reports directly to the Texas Board of Criminal Justice.

c) In addition to the TDCJ PREA Ombudsman and Regional PREA Compliance Managers, each unit has a Unit Safe Prisons PREA Manager.

TDCJ policy requires the USPPM to assist the unit warden with monitoring of the Safe Prisons/PREA Program, as well as coordinate and maintain compliance with PREA standards at the unit level. The USPPM also ensures training, education and PREA awareness are provided for both staff and offenders. This includes ensuring PREA awareness posters are visible throughout the unit.

The Cotulla/Dolph Briscoe Units each have their own Unit Safe Prisons PREA Manager assigned to the individual unit. Both Unit Safe Prisons PREA Managers are in the Cotulla Unit and Dolph Briscoe Unit Organizational Chart. Both USPPMs report directly to the warden.

Both Unit Safe Prisons PREA Managers feel they have enough time and authority to complete their PREA related responsibilities.

It should also be noted every inmate interviewed during the onsite portion of this audit reported both units were safe. Many stated, "They don't play around with PREA here. They take it seriously."

Based on the review of policy and supporting documentation, the tour of the facility, interviews with staff and inmates, the Cotulla/Dolph Briscoe Units exceed this standard.

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

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

#### 115.12 (a)

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

#### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

a, b) TDCJ has entered or renewed the following number of contracts for the confinement of inmates, parolees, and probationers: 11 Secured Facilities; 8 Residential Reentry Centers; and 19 Transitional Treatment Centers.

These contracts required contractors to adopt and comply with the PREA Standards and require the contractor's employees to be trained in PREA as well as comply with the standards.

TDCJ Administrative Directive, AD-02.46 (rev. 4), Employees, of Private Businesses and Governmental Entities Contracting with the TDCJ, dated September 1, 2016 states, "The TDCJ requires employees of entities contracting with the TDCJ to comply with applicable TDCJ policies, procedures, regulations, and posted rules."

The Cotulla/Dolph Briscoe Units do not contract for the confinement of inmates.

Based on the review of documentation and interviews with administrative staff, the Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.13: Supervision and monitoring

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

#### 115.13 (a)

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies?  Yes  No

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

#### 115.13 (b)

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

#### 115.13 (c)

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

#### 115.13 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

Since the date of the Cotulla/Dolph Briscoe Units last PREA audit in June 2017, the average daily population of inmates has been 570 for the Cotulla Unit and 1,367 for the Dolph Briscoe Unit. The average daily population in which the staffing plan is predicated on is 606 inmates for the Cotulla Unit and 1,384 inmates for the Dolph Briscoe Unit.

a) TDCJ requires each facility it operates to develop, document, and make its best efforts to comply on a regular basis with staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates.

This is outlined in TDCJ Administrative Directive, AD-11.52 (rev 6), Security Staffing, dated March 4, 2016. In addition to this directive, the Safe Prisons/PREA Plan (February 2019) states, “The TDCJ shall ensure each unit develops, documents, and complies with a staffing plan that provides adequate levels of staffing and, where applicable, video monitoring, to protect offenders against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, units shall take into consideration TDCJ policies and procedures, and...” This plan identifies all eleven elements identified in this subsection of 115.13.

The Warden states, “We have adequate staffing levels. We also document all information for the plan.”

The Safe Prisons Unit PREA Manager reports he is not involved in the creation of the staffing plan.

b) Each time the staffing plan is not complied with, TDCJ requires its' facilities to document and justify all deviations from the staffing plan. This requirement is outlined in TDCJ's AD11.52 (rev. 6). This directive also defines priority positions and outlines out deviations are to be documented.

The Safe Prisons/PREA Plan states, "In circumstances where the staffing plan is not complied with, the unit shall document and justify all deviations from the plan." (Page 11)

Both units have deviated from their staffing plan in the past twelve (12) months. The most common reason for this deviation includes staff shortage, restrictive housing, infirmary duty, constant direct observation, medical transport, and hospital security.

The Auditor reviewed sixteen (16) turnout rosters from February 2020. These turnout rosters are from both units. These turnout rosters covered both shifts (7 a.m. to 7 p.m. and 7 p.m. to 7 a.m.). All rosters have a location where staffing plan deviations can be documented.

The Warden stated, "Any deviations from the staffing plan have to be cleared with the Regional Director and documented."

c) Cotulla/Dolph Briscoe's staffing plan are reviewed annually with the Safe Prisons PREA Manager and the PREA Ombudsman as well.

Safe Prisons/PREA Plan states, "Each unit the TDCJ operates shall complete an assessment, whenever necessary, but no less frequently than once each year in consultation with the CID director, who serves as the PREA coordinator, and the TDCJ SSPM, to determine and document if the following require adjustments: The staffing plan established pursuant to paragraph 1 of this section; The unit's deployment of video monitoring systems and other monitoring technologies; or Resources the unit has available to commit to ensure adherence to the staffing plan." (Page 11)

TDCJ policy requires an annual review of each unit's turnout rosters. This is done by the Regional Director and the Safe Prisons/PREA Compliance Manager. They meet to assess, determine, and document whether adjustments are needed to the unit turnout roster.

The Auditor reviewed TDCJ's, Statement of Participation for both units from 2017, 2018, 2019 and 2020. This Statement of Participation is signed by the Regional Director, Warden of the Unit, Warden of Security Operations, Staffing Coordinator from Security Operations and Safe Prisons PREA Manager.

The Safe Prisons Regional PREA Compliance Manager reported he is not involved in the staffing plan reviews. He stated this was the job of the Safe Prisons PREA Manager.

d) Cotulla/Dolph Briscoe Units require intermediate-level or higher-level staff conduct unannounced rounds to identify and deter staff sexual abuse and sexual harassment.

Safe Prisons/PREA Plan states, "Security supervisors at each unit shall conduct and document unannounced rounds to identify and deter sexual abuse and sexual harassment. These rounds shall be conducted during all shifts in accordance with applicable post orders. Staff is prohibited from alerting other staff members when these rounds are occurring unless the announcement is related to the legitimate operational functions of the unit. Violations shall be handled in accordance with PD-22, "General Rules of Conduct and Disciplinary Guidelines for Employees." (Page 9)

TDCJ Executive Directive, PD-22 (rev. 15), General Rules of Conduct and Disciplinary Action Guidelines for Employees, dated July 1, 2018 states, "Employees are representatives of TDCJ and are



expected to adhere to the highest standards of conduct while on-duty or off-duty, including adherence to the rules of conduct described in the Listing of Employee General Rules of Conduct and Disciplinary Violations (Attachment A). Employees who allegedly commit a rule violation will be subject to disciplinary action in accordance with the procedures within this directive...Misconduct – Violation Level 4: An employee shall not engage in any activity that would have an adverse impact upon the integrity or productivity of the employee or the TDCJ. This includes...alerting other staff members when supervisor rounds are being conducted, unless otherwise instructed...” (Page 2 and 46)

The Auditor interviewed four upper levels supervisors (two from each unit) who conduct unannounced PREA rounds. Both supervisors report these rounds are documented on the reverse side of the turnout rosters as well as in the housing units.

The Auditor reviewed sixteen turnout rosters from February 2020 and found documentation of PREA rounds conducted on shift on the reverse side. The Auditor also reviewed ten (10) “Employee and Visitor Logs” from housing units and buildings in both units. These logs contained documentation unannounced PREA Rounds. Documentation included dates, staff conducting the rounds, and time in and out of the housing unit or building.

Based on the review of documentation and interviews with administration and staff, the Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

#### 115.14 (c)

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

- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].)  
 Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

a, b, c) The Cotulla/Dolph Briscoe Units do not house youthful inmates. This was confirmed through documentation review, tour of the units and interviews with staff and inmates.

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

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

#### 115.15 (a)

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

#### 115.15 (b)

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

#### 115.15 (c)

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

#### 115.15 (d)

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

#### 115.15 (e)

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

#### 115.15 (f)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

a, c) The Cotulla/Dolph Briscoe Units do not conduct cross-gender strip or cross-gender visual body cavity searches of inmates. In the past 12 months, there have been zero (0) cross-gender or cross-gender visual body searches of inmates.

TDCJ has a directive in place directing its' facilities on when and how to conduct searches of inmates in custody. This same directive also outlines the documentation requirements for all cross-gender strip searches.

In addition, the Safe Prisons/PREA Plan states, "Staff shall not conduct cross-gender strip searches or cross-gender visual body cavity searches, such as a search of the anal or genital opening, except in exigent circumstances or when performed by medical practitioners in accordance with AD-03.22, "Offender Searches. Unit staff shall document all cross-gender strip searches and cross-gender visual body cavity searches for male offenders, and all cross-gender visual body cavity searches... Those searches shall be documented on an Inter-Office Communication containing a supervisor's signed approved and filed with the USPPM." (Page 9)

b) N/A Cotulla/Dolph Briscoe Units are male only units.

d) The Cotulla/Dolph Briscoe Units have implemented policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. These same policies and procedures require female staff to announce their presence when entering an inmate's housing unit.

TDCJ's Safe Prisons/PREA Plan states, "Correctional officers shall make best efforts to allow offenders to shower, perform bodily functions, and change clothing without staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Staff of the opposite gender shall announce their presence when entering an offender housing area in accordance with applicable post orders." (Page 9)

During the tour of these units, the Auditor found the following when it comes to inmate showers, restrooms and blind spots.

#### Cotulla Unit:

- Education: Contains two classrooms with no blind spots.
- Law Library: Open format with no blind spots.
- Holding: Inmate toilet is located behind a barrier.

- Maintenance/Back Gate: One restroom available to inmate workers. This restroom is located behind a barrier to ensure privacy. Strip searches are also conducted in this area and are conducted behind a movable barrier.
- Food Services: Mirrors are in areas to provide clear view of inmate workers. One inmate restroom is also located in this area. The entry into the restroom is behind a door with a high window to ensure privacy but allow security checks by staff when needed.
- Commissary: This area contains inmate workers. This floor plan includes mirrors in the corner to always ensure clear view of workers.
- Laundry: This area has an open floor plan with no blind spots.
- Outside Recreation: One inmate toilet is located in this area. The toilet has sufficient barriers in place to ensure privacy and the ability to conduct security checks.
- Housing: Open dorm style setting with bunk beds. Inmate toilets are in the front of the housing area with barriers in place to ensure privacy. Inmate showers consist of two individual showers with curtains ensuring privacy.
- Restrictive Housing: Consists of single cells with showers (behind a curtain) and a toilet in each cell.

#### Dolph Briscoe Unit:

- Laundry: Mirrors are in the corners to ensure clear view of all inmate workers. This area also has two inmate urinals behind a half wall. This ensures privacy while allowing for security. Strip searches are also conducted in this area and done behind a movable barrier to ensure privacy.
- Boiler Room: One restroom available to inmate workers. This restroom area was located behind a privacy barrier to ensure privacy.
- Maintenance: One inmate restroom is in this area. The restroom entry barrier consists of a swinging half door.
- Food Service: One restroom available to inmate workers. This restroom has a solid door with a window facing out to the kitchen area. These windows are painted partially up to ensure privacy. Mirrors are also located in the area to ensure clear viewing of inmate workers. Freezers and dry food storage are restrictive areas and must have officer to unlock the doors for entrance.
- Medical: Inmate restroom is in the waiting area. This restroom has appropriate barriers in place to ensure privacy.
- Vocation: Inmate restroom behind solid door. Inmates are allowed in one at a time.

- Law Library, Library, Classrooms: All have open floor plans with no blind spots. The inmate restroom is in the hallway. Windows face the hallway; however, they are partially colored to ensure privacy.
- Housing Unit J4: Contains four wings with each wing consisting of two tiers. Each two-man cells contains a toilet located at the front corner of the cell. The window in the cell door has a wire mesh ensuring privacy for inmates using the toilet. Inmate showers are located on the lower tier. They are located in individual stalls and have a swinging half door to ensure privacy.
- Housing Unit J1 is similar to J4 with the exception being it contains only three wings.
- Faith Based Dorm: This is an open bay dorm (two tiers) with individual cubes separated by half walls. Inmate showers are located behind barriers to ensure privacy. Individual toilets are also behind a half door, with a half wall between toilets. The toilet area is located on the lower tier. The Auditor walked up the stairs, stopping periodically to view this area, to the top tier. The Auditor found sufficient privacy was in place even while standing on the top tier.
- Restrictive Housing: Single cells with toilets located inside. Individual shower stalls are also located in this area with sufficient privacy in place.

All staff interviewed reported cross-gender announcements are made every time a female enters the living areas.

All inmates interviewed reported hearing cross-gender announcements made throughout the day. Most inmates also reported they felt they had enough privacy to shower, change clothes and use the restroom without female staff observing them in a state of undress.

e) The Cotulla/Dolph Briscoe Units have policies and procedures in place prohibiting staff from searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. There have been zero (0) such searches conducted in the past twelve (12) months.

TDCJ's Safe Prisons/PREA Plan states, "During the intake process, non-medical staff shall not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status. If the offender's genital status is unknown, it may be determined during conversation with the offender, by reviewing medical records, or, if necessary, as part of a broader medical examination conducted in private by a medical practitioner." (Page 10)

TDCJ's Safe Prisons/PREA Plan states, "Under no circumstances shall an offender search by conducted solely for the purpose of determining an offender's genitalia." (Page 9)

All staff interviewed report they are forbidden to search an offender to solely for the purpose to determine the genitalia of an offender.

The Auditor interviewed one transgender inmate at the Cotulla Unit. This inmate states they have never been searched solely for the purpose of determining their genitalia. While the USPPM at Dolph Briscoe Unit provided the names of two inmates who identified to the unit as being transgender, these inmates did not self-identify to the Auditor as being transgender.

f) 100% of security staff have been trained to conduct cross-gender pat-down searches and searches of transgender and intersex inmates.

TDCJ's Safe Prisons/PREA Plan states, "Correctional staff shall be trained in the methods of conducting cross-gender, transgender, and intersex offender pat-down searches in order to ensure the searches are conducted professionally and respectfully, in the least intrusive manner possible, but with the attention to security needs. The trainings shall be tailored to the gender of the offenders at the unit of the assignment. The employee shall receive additional training when transferring to a unit with offenders of a different gender." (Page 17)

The Auditor reviewed the curriculum, "Legal Responsibilities: Contraband and Searches." This curriculum is three hours and thirty minutes in length and is taught at the academy. This curriculum references AD-03.22 "Offender Searches," and the PREA Standards for Prisons and Jails. This curriculum also includes watching videos and practice. Instruction covers cross-gender pat searches and pat searches of transgender and intersex offenders.

All staff interviewed report they have received pat-search training while in the academy.

Based on the review of policies, documentation, tour of the unit and interviews with staff and inmates, Cotulla/Dolph Briscoe Units meet this standard.

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

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

#### **115.16 (a)**

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have speech disabilities?  Yes  No

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

#### 115.16 (b)

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

#### 115.16 (c)

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

#### Auditor Overall Compliance Determination

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



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

**Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

a) Cotulla/Dolph Briscoe Units have established procedures to provide disabled inmates equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

These procedures can be found in Correctional Managed Health Care (CMHC) Policy G.51.1, Offenders with Special Needs, dated March 17, 2016; CMHC Policy A-08.3, Referral of Offenders to the Development Disabilities Program (DDP), dated September 22, 2014; and TDCJ Administrative Directive, AD-06.25 (rev. 4), Qualified Interpreter Services – American Sign Language, dated April 10, 2015. These policies and directives outline the requirements for qualified interpreters and defines inmates with disabilities.

TDCJ's Safe Prisons/PREA Plan also addresses this subsection. It states, "Appropriate steps shall be taken to ensure offenders with disabilities, including offenders who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities, have an equal opportunity to participate in or benefit from all aspects of TDCJ efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Staff shall provide access to qualified interpreters, when necessary, to ensure effective communication with offenders who are deaf or hard of hearing. Written materials shall be provided in accordance with TDCJ policies and procedures, to ensure effective communication with offenders with disabilities, limited reading skills, or who are blind or have low vision." (Page 20)

There were no inmates onsite, at either unit, during this portion of the audit who were identified as being hearing or visually impaired.

b) Cotulla/Dolph Briscoe Units have established procedures to provide inmates with limited English proficiency equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

These procedures require the USPPM to continuously display the English and Spanish Safe Prisons/PREA Program posters throughout the unit.

During the tour of the unit, the Auditor noted Safe Prisons/PREA Posters in English and Spanish posted in every living area, work area, medical, visitation and education.

Safe Prisons/PREA Plan states, "Offenders with limited English proficiency shall be provided meaningful access to information regarding TDCJ efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary." (Page 21)

Several TDCJ's Administrative Directives, outline how staff are to work with inmates who are limited English proficient who are identified during intake and how to obtain qualified interpreters for these inmates. These directives also ensure the Offender Grievance process has written translation into a language the inmate understands.

TDCJ requires units to use qualified interpreters to provide verbal interpretation services during certain unit activities in accordance with AD-04.25.

TDCJ also allows units to use qualified interpreters for other activities when needed to ensure communication is accurate. This includes through the intake process and interviews.

The Auditor reviewed a list of qualified Spanish interpreters from March and April 2020. These interpreters were located at both units.

The Auditor interviewed four inmates who were identified as Limited English Proficient (LEP). Three inmates at the Dolph Briscoe Unit and one inmate at the Cotulla Unit. Their primary language is Spanish. A qualified staff member acted as the interpreter for all conversations. These inmates advise they have access to all information Spanish. All were able to identify Safe Prisons PREA posters in unit and shared with the Auditor these posters were in Spanish. They also informed the Auditor they have no issues communicating with staff. They also shared their needs are being met.

c) The Cotulla/Dolph Briscoe Units do not allow the use of inmate interpreters. In the past twelve months, there have been no instances of using inmate interpreters.

The Safe Prisons/PREA Plan states, "When seeking interpreters, staff shall not rely on offender interpreters, offender readers, or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first-response duties described within this plan, or the investigation of the offender's allegations. Staff shall follow appropriate TDCJ policies and procedures for obtaining a qualified interpreter..." (Page 21)

All staff interviewed reported they would not use inmate interpreter. They advised there are plenty of staff available who speak multiple languages.

Based on the review of policies, documentation, tour of the unit and interviews with staff and inmates, Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.17: Hiring and promotion decisions

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

#### 115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)?  Yes  No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community

facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?  Yes  No

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

### 115.17 (f)

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

### 115.17 (g)

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

### 115.17 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

a) TDCJ and the Cotulla/Dolph Briscoe Units have established policies and procedures prohibiting the hiring and promoting anyone who has pending or prior criminal convictions.

TDCJ Executive Directive, PD-75 (rev. 8), Applicants with Pending Criminal Charges or Prior Criminal Convictions, dated April 1, 2017 states, "The TDCJ, contract employees, construction contractors, and

program-specific vendors will follow provisions of this directive when considering applicants for employment who have pending criminal charges or prior criminal convictions...The TDCJ will not hire, as an employee or contract employee, any individual who may contact with offenders, if they have: Engaged in sexual abuse in a prison, jail, adult or juvenile confinement facility, or other similar institution setting; Been convicted of engaging or attempting to engage in sexual activity by use of force, overt or implied threats of force or coercion, or if the victim did not consent or was unable to consent or refuse; Been civilly or administratively adjudicated for engaging in the activity listed in I.C.1-2." (Pages 1, 5)

This same language is also found in Safe Prisons/PREA Plan.

These questions are specifically asked on the TDCJ "Employment Application Supplement for Agency Applicants" and the "Employment Application Supplement." These forms must be attached, or the application is not considered complete.

TDCJ Executive Directive, PD-73 (rev. 12), Selection Criteria for Correctional Officer Applicants, dated September 1, 2015 states, "Basic Criteria. All CO applicants, including non-correctional TDCJ employees applying for reassignment, or being involuntarily demoted, including through a disciplinary action resolution of a grievance, or Independent Dismissal Mediation, to a CO position, shall meet the following basic eligibility criteria to be employed as a CO...Not be on community supervision (probation), including deferred adjudication for any criminal offense; Not have pending charges for any criminal offense or have an outstanding warrant; Not have a Class A misdemeanor conviction within the last 10 years; Not have a Class B misdemeanor conviction within the last five years; Not have an active restraining order that prohibits the applicant from possessing a firearm; Never have been convicted of an felony." (Page 3 and 4)

b) Cotulla/Dolph Briscoe Units require the consideration of any incidents of sexual harassment in determining whether to hire or promote anyone, or enlist the services of any contractors, who may have contact with inmates.

TDCJ Executive Directive, PD-75 (rev. 8), Applicants with Pending Criminal Charges or Prior Criminal Convictions, dated April 1, 2017 states, "The TDCJ will consider any incidents of sexual harassment in determining whether to hire an individual, or to enlist the services of a contractor, who may have contact with offenders." (Page 5)

This same language is also in the Safe Prisons/PREA Plan.

TDCJ Human Resources stated, "TDCJ, as part of the clearance process for employees and contractors, contacts all previous employers where the applicant may have had contact with inmates. Any reference or prior incidents of sexual harassment or abuse is taken into consideration and may make the applicant ineligible for employment."

c, d, e) Cotulla/Dolph Briscoe Units have policies and procedures in place to conduct background checks on new hires and current employees and contractors.

Safe Prisons/PREA Plan states, "Before hiring new employees who may have contact with offenders, the TDCJ shall: Perform a criminal background check; and Attempt to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse, in accordance with federal, state and local law. Criminal background checks shall either be conducted at least every five years for current employees and contractors who may have contact with offenders, or a system shall be in place to otherwise attain information for current employees." (Page 39)

TDCJ Executive Directive, PD-71 (rev. 13), Selection System Procedures, dated August 1, 2018 states, "If an applicant was selected by the primary interviewer and the results of the interviews have been reviewed and approved by the selection reviewer, the contact person shall obtain clearance to ensure the selected applicant is eligible for selection." (Page 25)

For current employees this directive states, "The contact person shall obtain written clearance from the inside applicant's human resource representative via the HR Clear eform. The clearance shall include verification of the applicant's current title, salary schedule, salary group, established salary rate, and actual salary rate. In addition, the contact person shall verify that the applicant's eligibility is not affected due to current disciplinary probation, having been recommended for dismissal, or any other reasons." (Page 25) This same directive also outlines reasons why a current employee would be disqualified for a promotion and requires a background check. "The contact person shall request a criminal record check from the Employment Section if an inside applicant is selected for one of the following positions: A supervisor of CO's, food service managers, laundry manager from outside the respective series, parole officer, or unit commissary position. The criminal record check shall be used to determine whether the applicant whether the applicant has an any pending criminal charges or prior criminal convictions that would disqualify the applicant from the position in accordance with PD-75, "Applicants with Pending Criminal Charges or Prior Criminal Convictions.." (Page 26)

For new applicants and interagency transfers, this directive states, "The Employment Section shall perform a final employment clearance prior to a conditional offer to an outside or interagency applicant. The employment clearance shall include a criminal record check, verification that all required documents have been provided, verification of document authenticity, and eligibility for employment." (Page 26)

TDCJ Executive Directive PD-27 (rev. 6), Employment Status Pending Resolution of Criminal Charges or Protective Orders, dated August 1, 2015 states, "Employees of the TDCJ are required to notify the TDCJ in accordance with the procedures in this directive upon being arrested, learning of an outstanding warrant of arrest, or when criminal charges are filed against them for a misdemeanor or felony offense. In addition, certain employees identified in this directive are required to notify the TDCJ upon being named as a respondent in a protective order...Employee Relations shall conduct a semi-annual background check for each employee to ensure there are no outstanding warrants of arrest for the employee once during the month of the employee's birthday and once 180 days later." (Page 1 and 2)

TDCJ also uses an automatic arrest notification via employee fingerprints.

PD-27 also states, "Texas Department of Public Safety (DPS) Automatic Arrest Notification System. Upon receipts of an employee's fingerprints from Employee Relations, the DPS automatically notifies Employee Relations if the employee has been arrested."

TDCJ Human Resources stated, "TDCJ performs criminal record background checks on all newly hired employees and contractors during the clearance process. This is done regardless of whether they may have contact with offenders. The employee's information is entered into the Criminal Justice Information System (CJIS) and a response is sent back to the Texas Department of Public Safety (DPS). The DPS also immediately provides an automatic notification to the agency through e-mail if any criminal charges are brought against any employee or contractor during their employment. Additionally, the agency performs warrant searches during the employee's birth month and six months after their birth month. This disciplinary record of all employees considered for promotion is reviewed at the time of consideration."

They went on to say, "During the initial criminal history check, each employee's or contractor's information is entered into CJIS. The DPS will immediately provide an automatic notification to TDCJ by e-mail of any new criminal activity on that part of the employee. Additionally, TDCJ conducts warrant checks of each employee and contractor every six months."

It should be noted the minimum requirement for this standard on conducting background checks on current employees is once every five (5) years.

The Auditor reviewed a spreadsheet with the 29 new hires from the Cotulla Unit and 119 new hires from the Dolph Briscoe Unit. These sheets included the date of hire and the date the background was completed. Background checks were completed before all employees were hired.

f, g) Cotulla/Dolph Briscoe Units' employees have a duty to report any previous or current misconduct. In addition, material omissions regarding such misconduct or providing false information shall be grounds for termination.

Safe Prisons/PREA Plan states, "The TDCJ shall directly ask all applicants and employees who may have contact with offenders about previous misconduct described in Section VII.A.1.a in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of employee review. The TDCJ shall also impose on employees a continuing affirmative duty to disclose knowledge or any such misconduct. Material omissions regarding misconduct of this nature, or the provision of materially false information, shall be grounds for termination." (Page 38)

TDCJ Executive Directive, PD-73 (rev. 12), Selection Criteria for Correctional Officer Applicants, dated September 1, 2015 states, "Disqualification for Providing Inadequate, False, or Inaccurate Information or Documentation. Prior to an applicant being employed by the TDCJ, the applicant shall provide all required documentation. The Employment Section, Human Resources Division, shall verify the authenticity of the documentation. 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 of one year from the date of the applicant's PERS 239, 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." (Page 5)

TDCJ Executive Directive, PD-27 (rev. 6), Employment Status Pending Resolution of Criminal Charges or Protective Orders, dated August 1, 2015 states, "Employees of the TDCJ are required to notify TDCJ in accordance with procedures in this directive upon being arrested, learning of an outstanding warrant of arrest, or when criminal charges are filed against them for a misdemeanor or felony offense. In addition, certain employees identified in this directive are required to notify the TDCJ upon being named as a respondent in a protective order...An employee who is arrested or becomes the subject of a criminal charge for misdemeanor or felony offense shall report such action by telephone or in person to the employee's immediate supervisor within 48 hours of the event and before reporting for duty..."

TDCJ Human Resources stated, "As part of the selection process, TDCJ asks all applicants to list all previous employers. For all positions listed, applicants are asked their reason for leaving and whether they have ever been fired or asked to resign. This information can be found on the latest version of the application supplement. PD-29, Sexual Misconduct with Offenders, describes the responsibilities of all employees to report all incidents of sexual misconduct, to include their ongoing duty to disclose such incidents."

The Auditor reviewed nine (9) signed Standard or Supplemental Safe Prisons/PREA Training Acknowledgement forms. This form is not only an acknowledgment for attending PREA training is also an acknowledgment for the employees continuing affirmative duty to disclose. This acknowledgment form asks the three questions required under 115.17a.

h) TDCJ will provide information on substantiated allegations of sexual abuse and sexual harassment involving former employees when contacted by another institution.

Safe Prisons/PREA Plan states, “Unless prohibited by law, information shall be provided on substantiated allegations of sexual abuse or sexual harassment involving a former employee after receiving a request from an institutional employer for whom the employee has applied for work.” (Page 39)

TDCJ Executive Directive PD-56 (rev. 7), Request for and Release of Employment Information or Documents, dated June 1, 2017 states, “The release of information or documents relating to active or former TDCJ employees shall be in accordance with guidelines established in this directive...Unless prohibited by law, the TDCJ shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee after receiving a request from an institutional employer for whom such employee has applied for work.” (Page 3)

TDCJ Human Resources stated, “Any questions regarding substantiated sexual abuse or sexual harassment claims by employees against offenders are referred to an answered by the TDCJ Office of the Inspector General.”

Based on policy and documentation review, practices of TDCJ and interviews with staff, Cotulla/Dolph Briscoe Unit exceeds this standard.

## Standard 115.18: Upgrades to facilities and technologies

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

#### 115.18 (a)

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

#### 115.18 (b)

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



## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

a) NA Neither unit has acquired a new facility or made a substantial expansion to existing units since the last PREA audit dated June 2017.

b) NA Neither unit has installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since the last PREA audit dated June 2017.

Based on documentation review and tour of the units, Cotulla/Dolph Briscoe unit meets this standard.

# RESPONSIVE PLANNING

## Standard 115.21: Evidence protocol and forensic medical examinations

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

#### 115.21 (a)

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

#### 115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National

Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA

#### 115.21 (c)

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

#### 115.21 (d)

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

### 115.21 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Cotulla/Dolph Briscoe Units are responsible for conducting administrative investigations of inmate-on-inmate sexual abuse and sexual harassment. The Office of Inspector General (OIG) is the outside agency that conducts all criminal investigations and administrative investigations of staff-on-inmate sexual abuse and sexual harassment allegations. The OIG also is responsible for conducting criminal investigations of inmate-on-inmate sexual abuse and sexual harassment allegations. This is found in in TDCJ policy and practice at both units.

a, b, f) Safe Prisons/ PREA Plan states, "All allegations of sexual abuse shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol shall be developmentally appropriate for youth, where applicable, and as appropriate, shall be adapted from otherwise based on the most recent edition of the U. S. Department of Justice Office on Violence against Women publication, " A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011." (Page 25)

c) Victims of sexual assault who require a forensic exam will be taken to the nearest hospital emergency department for completion of the exam. State law (SB-1191) requires that ER staff have specialized training to compete a forensic exam by does not require that the SANE or SAFE training. When possible SANE and SAFE will be utilized.

In the past twelve (12) months there have been zero SANE's/SAFE's performed for the Cotulla/Dolph Briscoe Units.

Safe Prisons/PREA Plan states, “All offender victims of sexual abuse shall be offered access to forensic medical examinations, whether on-site or at an outside medical facility, without financial cost, where evidentiary or medically appropriate. Such examination shall be performed by a sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE) when possible. If neither a SAFE nor SANE can be made available, the examination may be performed by other qualified medical practitioners in accordance with CMHC policies. Efforts to provide a SAFE or SANE shall be documented.” (Page 13)

TDCJ Office of the Inspector General, Operational Procedures Manual, OIG-04.05, Offender Sexual Assault Investigations, outlines procedures for investigators when responding to the scene, initiating an investigation, examining the crime scene and when to send a victim for a forensic medical exam.

There are no SAFE/SANE staff onsite for the Auditor to interview at either unit.

d, e) The Cotulla/Dolph Briscoe Units will make available, when requested by the victim, a victim advocate or qualified agency staff member to accompany the victim through the forensic medical examination process and investigatory interviews.

Safe Prisons/PREA Plan states, “Attempts shall be made to make a victim advocate from a rape crisis center available to the offender victim first. If a rape crises center is not able to provide the offender with victim advocate services, the unit shall make available a qualified staff member from a community-based organization. If a qualified staff member from a community-based organization is not able to provide the offender with victim advocate services, the unit shall make available a qualified TDCJ staff member to provide the offender with victim advocate services. As requested by the offender victim, the victim advocate or qualified TDCJ staff member, or qualified community-based organization staff member shall: Accompany and support the victim through the forensic medical examination process and investigatory interviews; Provide emotional support, crisis intervention, information, and referrals; and, Not delay or otherwise impede the screening or stabilization of an emergency medical condition. For the purposes of this section, a qualified TDCJ staff member is an offender victim representative (OVR). (Page 12)

Both Unit PREA Managers report there are no MOU’s in place with a local rape crises center. The Auditor reviewed documentation showing TDCJ attempts to enter into a partnership with local rape crises center.

While both units identified inmates who reported sexual abuse, during these interviews no inmate reported to the Auditor they reported sexual abuse to the unit.

Based on the policy, documentation review and interviews with staff, Cotulla/Dolph Briscoe Units meet this standard.

f) The facility is responsible for conducting administrative investigations while the Office of the Inspector General is responsible for conducting administrative and criminal allegations. The OIG is independent of the agency, however policies including OIG-04.05, indicate they are required to comply with all federal PREA standards.

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

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

### 115.22 (a)

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

### 115.22 (b)

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

### 115.22 (c)

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

### 115.22 (d)

- Auditor is not required to audit this provision.

### 115.22 (e)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's*

*conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

In the past twelve (12) months, the Cotulla Unit has had two (2) allegations of sexual abuse and sexual harassment. The Dolph Briscoe Unit has had eight (8) allegations. All allegations resulted in a administrative and criminal investigation.

The Cotulla/Dolph Briscoe Units are responsible for conducting administrative investigations of inmate-on-inmate sexual abuse and sexual harassment. The Office of Inspector General (OIG) is the outside agency that conducts all criminal investigations and administrative investigations of staff-on-inmate sexual abuse and sexual harassment allegations. The OIG also is responsible for conducting criminal investigations of inmate-on-inmate sexual abuse and sexual harassment allegations.

a, b, c) TDCJ ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. This is found in policy and practice at the Cotulla/Dolph Briscoe Unit. TDCJ policy requires that allegations of sexual abuse be referred for investigation.

TDCJ Executive Directive, PD-29 (rev. 5), Sexual Misconduct with Offenders, dated March 1, 2017 states, "An employee who becomes aware of alleged sexual misconduct shall immediately report such misconduct to one or more of the following: The employee's immediate supervisor, warden or department head; The employee's second level supervisor if the person allegedly conducting such misconduct is the employee's immediate supervisor; A unit Office of the Inspector General (OIG) investigator...The PREA Ombudsman Office. Supervisors who receive notification of alleged sexual misconduct and other individuals who become aware of alleged sexual misconduct shall immediately report such misconduct to one or more of the following: Warden or department head; A unit OIG investigator...PREA Ombudsman. Upon being notified by an employee, an employee's supervisor, other individual, an offender, or an offender's family member of any alleged sexual misconduct, a warden, department head, or the PREA Ombudsman shall contact the OIG in accordance with AD-16.20, "Reporting Incidents/Crimes to the Office of the Inspector General." (Page 4 and 5)

These same requirements are also found in TDCJ Administrative Directive, AD-16.20, Reporting Incidents/Crimes to the Office of the Inspector General, dated October 15, 2019.

Attachment B of AD-02.15 lists alleged sexual abuse, unless determined to be unfounded, and alleged sexual harassment, unless determined unfounded, as incidents that shall be reported as soon as possible but within three hours to the Emergency Action Center (EAC).

All PREA information, including investigative information and reporting information, is located on TDCJ's website: <https://www.tdcj.texas.gov/tbcj/prea.html>

Based on policy and documentation review, Cotulla/Dolph Briscoe Units meet this standard.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

#### 115.31 (a)

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

#### 115.31 (b)

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

#### 115.31 (c)

- Have all current employees who may have contact with inmates received such training?  Yes  No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures?  Yes  No

- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies?  Yes  No

### 115.31 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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a) TDCJ trains all employees who may have contact with inmates on all requirements outlined in this standard.

Safe Prisons/PREA Plan states, "All Safe Prisons/PREA Program training and education shall be performed in accordance with the Correctional Training and Staff Development program schedule, the SPPOM, and this plan. All employees who may have contact with offenders shall receive the following information in accordance with Safe Prisons/PREA requirements..." (Page 33) The requirements listed in this plan match the requirements of this subsection.

This plan goes on to state, "The training shall be tailored to the gender of the offenders at the unit of assignment. The employee shall receive additional training when transferring to a unit with offenders of a different gender." (Page 34)

The Auditor reviewed the following curriculums taught during Pre-Service and In-service:

- In-Service Training: Safe Prisons/PREA Program (1:30)
- Pre-Service Training: Safe Prisons Module – Sexual Abuse/Assault (00:45)
- Supervisor In-Service Training: Safe Prisons/PREA Program (2:00)
- (Video) Created by TDCJ and shown to all staff who have contact with offenders during pre-service and in-service training.

Both curriculums cover all requirements listed in 115.31a.



All staff interviewed advised they have received PREA training and were able to discuss all elements covered in their training.

c) All staff who have contact with inmates at the Cotulla/Dolph Briscoe Units have received the required PREA training per TDCJ policy and requirements of this standard.

Safe Prisons/PREA Plan states, "All employees who have contact with offenders, including medical and mental health care practitioners, shall receive training as outlined in Section VI.B.1, at least every two years. In the interim years, employees shall be provided refresher information on current sexual abuse and sexual harassment policies." (Page 34)

d) The Cotulla/Dolph Briscoe Units maintain records of all employee training.

Safe Prisons/PREA Plan states, "All training shall be documented, through employee signature or electronic verification, confirming that employees understand the training and information that have received." (Page 34)

TDCJ Executive Directive, PD-97 (rev. 7), Training and Staff Development, dated June 1, 2017 states, "The TDCJ may require employees to attend and satisfactorily complete training, staff development, or educational programs, if the curriculum is related to the employee's duties or prospective duties." (Page 1) "The respective training proponent shall verify an employee's completion of any internal training, staff development, or educational program." (Page 5) "The human resources representative, instructor, or training and staff development representative shall follow the appropriate procedures to ensure that an employee's participation in a training, staff development, or educational program is properly recorded. If the training is registered in the TDCJ training database or is a GCMD course or an NIC training program, completion of training shall be recorded in the training database." (Page 6)

The Auditor reviewed eight (8) signed acknowledgments of staff who received PREA training at the Cotulla Unit and three (3) acknowledgements for the Dolph Briscoe Unit.

Based on policy, documentation review and interviews with staff, Cotulla/Dolph Briscoe Units exceed this standard.

## Standard 115.32: Volunteer and contractor training

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

#### 115.32 (a)

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

#### 115.32 (b)

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

## 115.32 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

All volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's policies and procedures regarding sexual abuse and sexual harassment. This is done in accordance to TDCJ policy and the requirements of this standard.

a, b) Safe Prisons/PREA Plan states, "All volunteers and contractors who have contact with offenders shall be trained regarding sexual abuse and sexual harassment prevention, detection, and response policies and procedures in accordance with the TDCJ Volunteer Services Plan, PD-29, "Sexual Misconduct with Offenders," and this plan. The level and type of training provided to volunteers and contractors shall be specific to the services provided and the level of contact with offenders; however, all volunteers and contractors who have contact with offenders shall be notified of the TDCJ's zero-tolerance policy regarding sexual abuse and sexual harassment and informed of the procedures for reporting incidents." (Page 25)

The Auditor reviewed the curriculum "Volunteer Service Training." This is a four-hour course that covers volunteer conduct as well as zero tolerance for sexual misconduct, how to report sexual misconduct, retaliation, and sexual abuse.

All volunteers are also given a letter or orientation that also covers zero tolerance and how to report sexual abuse.

CMHC policies outlines requirements for refresher training on current sexual abuse and sexual harassment policies as well as orientation training for new employees. Orientation covers many topics including the response to offender-victims of sexual abuse and sexual harassment, the preservation of physical evidence, and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment. Policy also outlines how these trainings are to be documented.

CMHC employees also watch a video created by TDCJ and shown to all staff who have contact with offenders during pre-service and in-service training. They also view an online PowerPoint, Safe Prison Sexual Assault.

The Auditor interviewed two contract staff. Both stated they received PREA training and knew how to report sexual abuse. Volunteers were not onsite due to COVID-19 protocols in place for TDCJ.

c) Cotulla/Dolph Briscoe Units maintain documentation confirming volunteers and contractors understand the training they have received. This is done in accordance with TDCJ policy and the requirements of this practice.

Safe Prisons/PREA Plan states, "Training documentation confirming the volunteers and contractors have received and understand the training shall be maintained in accordance with the TDCJ Records Retention Schedule...Documentation verifying that medical and mental health practitioners have received all necessary training referenced on this plan, either from the TDCJ or from outside sources, shall be maintained by the TDCJ." (Page 35)

TDCJ Volunteer Services Plan states, "Volunteers shall sign a TDCJ Volunteer Training Sign-In Roster form (Appendix E) and a TDCJ Acknowledgment of Volunteer Training/Orientation form (Appendix F) at the conclusion of the training session. These forms provide a written record of the volunteer's training and their written acknowledgment of agency rules and risks. The trainers shall also sign the training form at the conclusion of the training session...The Acknowledgment of Volunteer Training/Orientation form serves as the needed documentation confirming that the volunteer has completed the process to become an approved TDCJ volunteer." (Page 12)

The Auditor reviewed three (3) signed Acknowledgment of Volunteer Training/Orientation for the Cotulla Unit and three (3) signed acknowledgments for the Dolph Briscoe Unit.

Based on the review of policy, curriculum, documentation and interviews with contractors and volunteers, Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.33: Inmate education

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

#### 115.33 (a)

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

#### 115.33 (b)

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment?  Yes  No

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

### 115.33 (c)

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

### 115.33 (d)

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

### 115.33 (e)

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

### 115.33 (f)

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

### Auditor Overall Compliance Determination

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

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

### **Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

All inmates at the Cotulla/Dolph Briscoe Units have received PREA education including information on zero-tolerance and how to report sexual abuse and sexual harassment.

a, b, c) Inmates receive information on the Unit's zero-tolerance policy and how to report incidents at the time of intake.

TDCJ Unit Classification Procedure, 5.00, Orientation Procedures, dated April 2017, requires inmates receive this information within one week of arriving at the unit.

Offender Orientation Handbook dated February 2017 includes Safe Prisons/PREA information, (TDCJ Zero Tolerance Policy; What is Sexual Abuse; How to Report Sexual Abuse) and the Grievance Procedures. This handbook is provided in English and in Spanish.

Offenders are also shown a PREA video within 30 days of intake as part of their comprehensive PREA education.

Intake staff report every offender who enters the unit receive information zero tolerance, how to report sexual abuse and their right to be free from sexual abuse. They advised this information is given to them immediately; the day they arrive at the unit. They stated the inmates are given flyers and watch a video. Intake staff also report this information is also present throughout the unit via posters. It is also found in the Inmate Handbook.

The Auditor noted Safe Prison posters in English and in Spanish through the unit.

All inmates interviewed reported they were aware of the zero-tolerance policy and how to report sexual abuse. Most stated they remembered watching a video but also admitted they did not pay attention. All inmates could describe the Safe Prison Posters to the Auditor.

d) The Cotulla/Dolph Briscoe Units provide inmate education in formats accessible to all inmates. This is a requirement as found in TDCJ Unit Classification Procedure, 5.00, Orientation Procedures, dated April 2017.

TDCJ Administrative Directive, AD-04.25 (rev. 5), Language Assistance Services to Offenders Identified as Monolingual Spanish-Speaking, dated August 25, 2016 ensures the requirement to provide qualified interpreters to Spanish only speaking inmates. This directive also requires information in Spanish to be posted throughout the unit.

The Auditor observed posters in Spanish throughout the units and also viewed the Inmate Handbook in Spanish.

e) TDCJ maintains documentation of inmate participation in PRE education sessions. This is done in accordance with TDCJ policy and the requirements of this standard.

f) TDCJ ensures key information about the agency's PREA policies is continuously and readily available or visible through posters and the inmate handbook.

The Auditor noted Safe Prison posters in English and in Spanish through both units.

Based on the review of policy, curriculum, documentation and interviews with inmates and staff, Cotulla/Dolph Briscoe Units exceed this standard.

## Standard 115.34: Specialized training: Investigations

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

#### 115.34 (a)

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

#### 115.34 (b)

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Cotulla/Dolph Briscoe Units are responsible for conducting administrative investigations of inmate-on-inmate sexual abuse and sexual harassment. The Office of Inspector General (OIG) is the outside agency that conducts all criminal investigations and administrative investigations of staff-on-inmate sexual abuse and sexual harassment allegations. The OIG also is responsible for conducting criminal investigations of inmate-on-inmate sexual abuse and sexual harassment allegations.

There are 143 OIG investigators who conduct criminal investigations in TDCJ facilities. OIG investigators are certified peace officers. All OIG investigators are trained to conduct criminal investigations inside all TDCJ prisons.

There are eight (8) Unit investigators at the Cotulla Unit and eight (8) Unit investigators at the Dolph Briscoe Unit. These investigators conduct administrative investigations only on all inmate-on-inmate sexual abuse and sexual harassment allegations.

a) TDCJ policy requires all investigators be trained in conducting sexual abuse investigations in confinement settings. This is specifically found in OIG 2013 Operational Procedures Manual, OIG-02.15, Training Procedures, dated August 14, 2013.

b) OIG investigators have received training on TDCJ Safe Prisons/PREA Program, sexual assault investigative topics, and interviews and interrogations.

Unit Investigators receive training on TDCJ Safe Prisons/PREA Programs, sexual abuse and sexual harassment investigations, report writing, criteria needed, and evidence used to determine the outcome

of an investigation, report writing, medical and mental health protocols, and techniques for interviewing sexual abuse investigations.

The Auditor reviewed all curriculum. These curriculums meet the requirements of this standard.

c) TDCJ policy requires Units to maintain documentation showing investigators have completed all required training.

This requirement is found in OIG 2013 Operational Procedures Manual, OIG-02.15, Training Procedures, dated August 14, 2013; Executive Directive, ED-12.10 (rev. 2), Training Records and Database, dated August 23, 2016.

All OIG investigators have completed the NIC PREA training. Auditor was provided a list of investigators, date the course was completed and the score they obtained.

Based on the review of policy, curriculum and documentation, the Cotulla/Dolph Briscoe Units meet this standard.

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

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

### **115.35 (a)**

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

### **115.35 (b)**



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

### 115.35 (c)

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

### 115.35 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

There are thirteen (13) medical and mental health care practitioners who work regularly at the Cotulla/Dolph Briscoe Units. All medical and mental health staff have been have received TDCJ PREA training as well as specialized PREA training for health care practitioners.

- a) All health care practitioners have completed the following training:
- PREA Health Care Standards (PREA Resource Center)

- Safe Prison/Sexual Assault (Correctional Managed Care/Department of Education/Professional Development)

Medical staff reported they received PREA training when they first started in addition to annual training.

b) N/A Medical staff are not employed by the agency and do not conduct forensic examinations.

c) Cotulla/Dolph Briscoe Units maintain documentation showing that medical and mental health practitioners have completed all required training. This training is required by policy and by this standard.

All health care practitioners have completed the following annual training:

- PREA MH and Medical Training (National PREA Resource Center): First Quarter
- PREA Policy Packet: Second Quarter
- PREA Local Unit Annual Training, PREA Unit Checklists, PREA Employee Test: Third Quarter
- PREA Compliance Instrument, Safe Prisons PREA Plan: Fourth Quarter

d) TDCJ Executive Directive, PD-97, Training and Staff Development, dated June 1, 2017 states, "Texas Department of Criminal Justice (TDCJ) employees, interns, and all contract employees who have been issued a TDCJ contract employee identification (ID) card and meet the definition for contract employee within this directive...The TDCJ may require employees to attend and satisfactorily complete training, staff development, or educational programs, if the curriculum is related to the employee's duties or prospective duties...An employee shall attend and satisfactorily complete any training, staff development, or educational program required by the TDCJ... (Page 1 and 5)

In addition PD-97 states, "The Orientation Session shall consist of a minimum of eight hours of instruction form employees and include the following general topics...Security issues, including the TDCJ's prohibitions regarding relationships and sexual misconduct with offenders...TDCJ employees shall attend all required standard training no later than 30 calendar days after most recent hire date, and TDCJ contract employees and interns shall attend within 30 calendar days of reporting to the unit or department of assignment. The required standard training for TDCJ employees, contract employees, and interns includes the following...All unit assigned contract employees and interns shall report to the unit safe prisons program manager in coordination with the human resources representative at their unit of assignment to receive Safe Prisons/PREA Training, in accordance with federal PREA Standard 115.31, by viewing the Safe Prisons/PREA in Texas training video and completing the PERS 631, Standard or Supplemental Safe Prisons/PREA Training Contract Employee or Inter Acknowledgment Form (Attachment F) after viewing the video." (Page 10 and 11)

CMHC Policy C-19.1, Continuing Education/Staff Development, dated October 20, 2013 requires a refresher training to be provided annually to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures.

Based on review of policy, curriculum, documentation and interviews with staff, Cotulla/Dolph Briscoe Units meet this standard.

## **SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

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

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

### 115.41 (a)

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

### 115.41 (b)

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

### 115.41 (c)

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

### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the

inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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Cotulla/Dolph Briscoe Units have policy in place that requires screening (upon admission to a facility or transfer to another facility) for risk of sexual abuse victimization or sexual abusiveness toward other inmates within 72 hours of their intake. The Units' Offender Assessment Screening assesses inmates as "V" (victim/victim potential) or "P" (predator/predator potential).

a, b) TDCJ has a policy that requires screening upon admission to the unit for risk of sexual abuse victimization or sexual abusiveness toward other inmates.

Safe Prisons/PREA Plan states, "All offenders shall be assessed during intake, and if transferred to another unit for permanent assignment, to determine the risk of being sexually abused by or sexually abusive toward other offenders. Intake screening shall take place within 24 hours of arrival at the unit in accordance with SPPOM." (Page 16)

Staff who conduct the Offender Assessment Screening stated all assessments are completed the same day inmates arrive at the Cotulla/Dolph Briscoe Units.

c, d, e) The risk assessment is conducted using an objective screening instrument. This is done in accordance with TDCJ policy and the requirements of this standard.

Safe Prisons/PREA Plan states, "Assignments shall be made through the collaborative efforts of intake staff, the USPPM, and medical and mental health services by using objective screening instruments. The initial intake screening shall include, at a minimum, the following criteria to assess offenders for risk of sexual victimization: Any mental, physical, or developmental disability; the age of the offender; the physical build of the offender; previous incarceration; whether the criminal history is exclusively

nonviolent; prior convictions of sex offenses against an adult or child; perception of the offender as gay, lesbian, bisexual, transgender, intersex, or gender non-conforming; previous sexual victimization; and the offender's own perception of vulnerability. The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the TDCJ, in assessing offenders for risk of being sexually abusive. After completion of the screening instrument, the USPPM shall forward a copy to the intake coordinator, for intake facilities, and the original shall be provided to the unit classification department for review." (Page 16 and 17)

Staff who conduct the Offender Assessment Screening stated the assessment looks at incarceration history, sexual victimization and predation, sexual orientation, and mental and physical disabilities. They also stated all screens are done in a private office in intake.

All inmates interviewed remember sitting down with a staff person and being asked "the PREA questions." They report this was done the same day they arrived.

The Auditor reviewed the Offender Assessment Screening (Attachments E and E-1) and found all elements required in 115.41d and 115.41e present on the form. The TDCJ does not detain inmates for the sole purpose of civil immigration.

f, g) Reassessments are completed less than 30 days after the initial assessment and when warranted due to a referral, request, incident of sexual abuse or receipt of additional information. This done per TDCJ policy and the requirements of this standard.

Safe Prisons/PREA Plan states, "Within a period of time not to exceed 30 days from the offender's arrival at an intake facility, the offender shall be reassessed for risk of victimization or abusiveness following receipt of any additional or relevant information received by the TDCJ since the initial intake screening. An offender's risk level shall be reassessed following a referral, request, incident of sexual abuse, or receipt of additional information that may affect the offender's risk of sexual victimization or abusiveness.

Staff who conduct Offender Assessment Screening state reassessments are done fifteen to thirty days after the initial assessment. They also advised reassessments are done when new information is gathered and upon request.

Most inmates interviewed reported the "PREA questions" were asked again since they had been at the Cotulla/Dolph Briscoe Units.

h) Safe Prisons/PREA Plan states, "Offenders shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to Section III.B.3." (Page 19)

Staff who conduct the Offender Assessment Screening stated while they have never had an inmate refuse to answer questions, the inmate would never be punished for not participating.

i) TDCJ has implemented appropriate controls on the dissemination of information from the risk assessment within the units. This done per TDCJ policy and the requirements of this standard.

Safe Prisons/PREA Plan states, "Staff shall use appropriate controls to disseminate responses to questions asked pursuant to this plan within the units, ensuring that sensitive information is not exploited to the detriment of any offender by staff or other offenders. Any 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 necessary, assisting with making treatment plans and informed management decisions, including those related to housing, bed, work, education, and

program assignments, or as otherwise required by federal, state, or local law. In accordance with CMHC policies, medical and mental health practitioners shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting unless the offender is under the age of 18.” (Page 19 and 20)

Both Unit PREA Managers advise only classification, the warden, sergeants, lieutenants, and captains have access to the answers to the risk screen.

The Regional PREA Compliance Manager reported classification committee, Safe Prisons and investigators have access to the answer on the risk screen. Staff who conduct the Offender Assessment Screening stated only rank staff have access to this information.

Based on documentation review, staff and inmate interviews, Cotulla/Dolph Briscoe Units meet the standard of screening for risk of victimization and abusiveness.

## Standard 115.42: Use of screening information

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

#### 115.42 (a)

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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



or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  Yes  
 No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Cotulla/Dolph Briscoe Units use information from the Offender Assessment Screening (required by 115.41) to make individualized housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

a, b) Safe Prisons/PREA Plan states, "The Unit Classification Committee (UCC), or a similarly designed committee of units without a UCC, shall use information from the risk screening document required by Section III.B of this plan to make housing, bed, work, education, and program assignments with the goal of separating offenders at high risk of being sexually victimized from offenders at high risk of being sexually abusive in accordance with the TDCJ Classification Plan and the TDCJ Classification Procedures Manual. The Committee shall make individualized determinations regarding how to ensure the safety of each offender." (Page 18)

Unit PREA Managers state information from the Offender Assessment Screening is used to determine housing.

Staff who conduct the Offender Assessment Screening state information is used from this form to determine bed placement.

c, d, e, f, g) Safe Prisons/PREA Plan states, "Offenders identified as transgender or intersex shall be given the opportunity to shower separately from other offenders in accordance with Correctional Managed Health Care (CMHC) policies. (Page 9)

The Safe Prisons/PREA Plan also states, "LGBTI offenders shall not be placed in dedicated facilities, units, or wings solely on the basis of this identification or status, unless the placement is in a dedicated unit wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting these offenders. When deciding to assign transgender or intersex offender to a unit for male or female offenders, and when making other housing and programming assignments, consideration shall be made on a case-by-case basis with regard to the health and safety of the

offender and potential management or security problems. Housing determinations shall not be made solely on the basis of LGBTI status. Placement and programming assignments for each transgender or intersex offender shall be reassessed semiannually to review any threats to safety experienced by the offender. A transgender or intersex offender's views with respect to his or her own safety shall be given serious consideration." (Page 19)

The Auditor interviewed one inmate who identified as being transgender. This inmate reports they are "happy" with their housing assignment. They shared with the Auditor they felt safe at the Cotulla Unit.

Based on policy, documentation review and interviews with staff, Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers?  Yes  No
- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment?  Yes  No

#### 115.43 (b)

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

- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the reasons for such limitations? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.)  Yes  No  NA

#### 115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged?  Yes  No
- Does such an assignment not ordinarily exceed a period of 30 days?  Yes  No

#### 115.43 (d)

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

#### 115.43 (e)

- In the case of each inmate who is placed in involuntary segregation because he/she is at high risk of sexual victimization, does the facility afford a review to determine whether there is a continuing need for separation from the general population EVERY 30 DAYS?  Yes  No

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

In the past twelve (12) months, there have been zero inmates placed in involuntary segregation due to high risk of sexual victimization in the Cotulla/Dolph Briscoe Units.

a, b, c, d, e) TDCJ has policy prohibiting the placement of inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made and

a determination has been made there is no available alternative means of separation from likely abusers. The Cotulla/Dolph Briscoe Units restrict access to programs, privileges, education, or work. The reason for this limitation is documented in the inmate's file.

TDCJ Safe Prisons/PREA Plan states, "Offenders at high risk for sexual victimization shall not be placed in protective safekeeping unless an assessment of all available alternatives has been made and it is determined there are no available alternative means of separation from likely abusers. If the assessment cannot be completed immediately, the unit may hold the offender in involuntary segregated housing while completing the assessment, for no longer than 24 hours." (Page 18)

The Safe Prisons/PREA plan also states, "If a protective safekeeping housing assignment is made pursuant to Section III.C.3, the unit shall clearly document: The basis of the concern for the offender's safety; and the reason why no alternative means of separation can be arranged. Offenders shall be assigned to protective safekeeping only until an alternative means of separation from likely abusers is arranged, for no longer than 30 days. (Page 18) Every day the unit shall conduct a review to determine if there is a continuing need for separation of the offender from the general population." (Page 19)

Based on documentation review and tour Cotulla/Dolph Briscoe Units meet this standard.

## REPORTING

### Standard 115.51: Inmate reporting

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

##### 115.51 (a)

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

##### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the inmate to remain anonymous upon request?  
 Yes  No

- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes)  
 Yes  No  NA

#### 115.51 (c)

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

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Cotulla/Dolph Briscoe Units provide multiple ways for inmates to report sexual abuse and sexual harassment.

a, b) TDCJ has established procedures allowing for multiple internal ways for inmates to report to agency officials about sexual abuse or sexual harassment; retaliation; and staff neglect. Inmates in TDCJ custody can also report abuse to an outside agency who in turn immediately reports allegation to the unit.

Safe Prisons/PREA Plan states, "Offenders shall be provided multiple internal methods to privately report sexual abuse, sexual harassment, and other acts of aggression including, but not limited to, extortion and violence. Offenders may report retaliation by other offenders or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to the incidents. Offenders may report allegations directly to the major, the Office of Inspector General (OIG), of the PREA Ombudsman. Reports to the PREA Ombudsman may be made confidentially in accordance with ED-02.10, "Prison Rape Elimination Act Complaints and Inquiries."

Offenders may remain anonymous upon request when reporting allegations of sexual abuse and sexual harassment to the PREA Ombudsman.” (Page 20)

Reporting information is also located in the Inmate Orientation Handbook. This information outlines multiple ways an inmate can report sexual abuse or sexual harassment. (Page 25 - 28) It should also be noted the Inmate Orientation Handbook is also available in Spanish.

Inmates are also given the flyer “PREA Ombudsman Office” during intake.

During the tour of both units, the Auditor noted information on how to contact the PREA Ombudsman posted in English and Spanish in all living areas and on all PREA bulletin boards. In addition to this information, Safe Prisons PREA Posters were present along with information on how to contact the Unit PREA Manager. The information on the Unit PREA Manager also contained his picture. This allows new inmates to know who he is when he walks through the unit.

All staff interviewed reported multiple ways inmates could report sexual abuse or sexual harassment. This included telling an officer directly, submitting an I-60 or contacting the PREA Ombudsman.

Most inmates interviewed stated they could file a report by directly telling staff or “PREA Officer.” These same inmates all followed up with “his picture is on the wall.” Most inmates also reported their family could report on their behalf or they could submit a grievance.

c) TDCJ has policy mandating that staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties.

Safe Prisons/PREA Plan states, “Staff shall accept reports made verbally, in writing, anonymously, and from third parties, and shall promptly document any verbal reports.” (Page 21) “Staff shall accept reports made verbally; in writing, including by letter, Inmate Request to Official (I-60), sick call form, or a grievance submitted through the grievance process; anonymously; and from third parties. All verbal reports shall be promptly documented.” (Page 23)

TDCJ Executive Directive, PD-29 (rev.5), Sexual Misconduct with Offenders, dated March 1, 2017 states, “The TDCJ has zero tolerance for sexual misconduct, sexual abuse, and sexual harassment of offenders. An employee is prohibited from subjecting another employee, offender, or other individual to harassment or retaliation for reporting or cooperating with an investigation of alleged sexual misconduct with offenders... An employee or other individual may privately report alleged sexual misconduct of offenders directly to the PREA Ombudsman, a unit OIG investigator, or through OIG Records Management Office with reporting such misconduct through the chain of command.” (Page 1 and 5)

d) TDCJ has established procedures for staff to privately report sexual abuse and sexual harassment of inmates.

Safe Prisons/PREA Plan states, “A method shall be provided for staff to privately report sexual abuse and sexual harassment of offenders...” (Page 23)

All staff reported they could report outside of their chain of command. Most stated they would contact OIG if they needed to do so.

Based on documentation review, tours, interviews with staff and inmates, Cotulla/Dolph Briscoe Units exceed this standard.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

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

#### 115.52 (b)

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

#### 115.52 (c)

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

#### 115.52 (d)

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

### 115.52 (e)

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

### 115.52 (f)

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

### 115.52 (g)



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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

Cotulla/Dolph Briscoe Units have administrative procedure for dealing with inmate grievances regarding sexual abuse. The unit is not exempt from this standard. In the past 12 months, Cotulla Unit has had zero grievances filed alleging sexual abuse and Dolph Briscoe Unit has had three (3). All reported grievances did not exceed 90 days to reach a final decision.

a, b, c, d) Administrative procedures for dealing with inmate grievances regarding sexual abuse can be found in TDCJ Board Policy, BP-03.77 (rev. 9), Offender Grievances, dated December 10, 2015; TDCJ Administrative Directive, AD-03.82, Management of Offender Grievances, dated July 8, 2015; and OGOM 4.00 Grievance Time Limits, dated September 2014.

Safe Prisons/PREA Plan states, "Time limits to any portion of a grievance that does not allege an incident of sexual abuse shall be managed in accordance with the TDCJ Offender Grievance Operations Manual. Offenders shall not be required to use any formal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse...An offender may be not disciplined for filing a grievance related to alleged sexual abuse only when the investigation determines the offender filed the grievance in bad faith. At any level of the grievance process, including the final level, if the offender does not receive a response within the allotted time, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level. A response shall be provided to the offender in accordance with the TDCJ Offender Grievance Operations Manual." (Page 22 and 23))

e) TDCJ Administrative Directive, AD-03.82, Management of Offender Grievances, dated July 8, 2015 addresses third party grievances.

f) TDCJ Administrative Directive, AD-03.82, Management of Offender Grievances, dated July 8, 2015 outlines how the grievances will be reviewed by the unit.

OGOM 4.00 Grievance Time Limits, dated September 2014 addresses emergency grievances and the time limits in processing these type of grievances.

Safe Prisons/PREA Plan states, “An emergency grievance alleging substantial risk of imminent sexual abuse shall be filed and managed in accordance with the TDCJ Offender Grievance Operations Manual. When an emergency grievance is received, any portion that alleges the substantial risk of imminent sexual abuse shall be forwarded to a level of review for immediate corrective action. An initial response shall be provided within 48 hours of receipt, and a final decision shall document whether the offender is in substantial risk of imminent sexual abuse and the action taken. Information related to this item may be found in the TDCJ Offender Grievance Operations Manual.” (Page 22)

The inmates who filed grievance alleging sexual abuse were no longer assigned to the Dolph Briscoe Unit during this portion of the audit.

Based on policy, documentation review and interviews with staff, Cotulla/Dolph Briscoe Units meet this standard.

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

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

#### 115.53 (a)

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

#### 115.53 (b)

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

#### 115.53 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Cotulla/Dolph Briscoe Units have attempted to enter a partnership with a local rape crises center to provide victim advocates and emotional support services related to sexual abuse.

- a) The Offender Orientation Handbook states, "Depending on the type of abuse, you may be provided with a community rape crises advocate (where available) or an offender victim representative (chaplain, psychologist, sociologist, or case manager) to provide emotional support services during the forensic examination and any investigatory interviews. You are not obligated to accept the services; however, it is highly encouraged... You shall also be referred for Mental Health Services. The days following the abuse can be traumatic and it helps to have people who will be there to help you. Seek professional help. Offenders who are victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crises intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment in accordance with Correctional Managed Health Care (CMHC) policies." (Page 29 and 30)
- b) Cotulla/Dolph Briscoe Units inform inmates, prior to giving them access to outside support services, the extent to which such communication will be monitored. This requirement is found in TDCJ Board Policy, BP-03.91 (rev. 3), Uniform Offender Correspondence Rules, dated August 23, 2013. This policy also addresses the limits to confidentiality.
- c) Safe Prisons/PREA Plan states, "Attempts shall be made to make a victim advocate from a rape crisis center available to the offender victim first. If a rape crises center is not able to provide the offender with victim advocate services, the unit shall make available a qualified staff member from a community-based organization. If a qualified staff member from a community-based organization is not able to provide the offender with victim advocate services, the unit shall make available a qualified TDCJ staff member to provide the offender with victim advocate services. As requested by the offender victim, the victim advocate or qualified TDCJ staff member, or qualified community-based organization staff member shall: Accompany and support the victim through the forensic medical examination process and investigatory interviews; Provide emotional support, crisis intervention, information, and referrals; and, Not delay or otherwise impede the screening or stabilization of an emergency medical condition. For the purposes of this section, a qualified TDCJ staff member is an offender victim representative (OVR). (Page 12)

Both Unit PREA Managers report there is no MOU in place with a local rape crises center, but attempts have been made to seek partnerships with RCC's in the area.

While both units identified inmates who reported sexual abuse, during these interviews no inmate reported to the Auditor they reported sexual abuse to the unit.

Most inmates interviewed stated they were not sure if there were outside confidential support services available to them; however, they said if there was, it would be posted on the bulletin boards.

Based on the policy, documentation review and interviews with staff and inmates, Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.54: Third-party reporting

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

#### 115.54 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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The Cotulla/Dolph Briscoe Units have established a method to receive third party reports of sexual abuse and sexual harassment and has this information distributed publicly.

All visitors to Cotulla/Dolph Briscoe Units have access to the TDCJ General Information Guide for Families of Offenders brochure. This brochure has information on PREA and how to report on behalf of their family member. This includes information on how to report to the PREA Ombudsman.

The TDCJ also has information on how to report sexual abuse and sexual harassment. This information goes straight to the PREA Ombudsman's office. That website is:

<https://www.tdcj.texas.gov/tbcj/prea.html>

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

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

#### 115.61 (a)

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

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Cotulla/Dolph Briscoe Units require all staff to report any knowledge or suspicion of sexual abuse or sexual harassment of inmates.

a) Safe Prisons/PREA Plan states, "All staff members shall immediately report, according to TDCJ policy, any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred on a unit, whether or not it is a TDCJ facility; retaliation against offenders or staff who reported an incident; and any staff neglect or violations or responsibilities that may have contributed to an incident or retaliation." (Page 23)

This requirement is also found in TDCJ Administrative Directive, AD-16.20, Reporting Incidents/Crimes to the Office of the Inspector General, dated October 15, 2019.

TDCJ Executive Directive, PD-29, Sexual Misconduct with Offenders, dated March 1, 2017 states, "An employee who becomes aware of alleged sexual misconduct shall immediately report such misconduct to one or more of the following: The employee's immediate supervisor, warden, or department head; The employee's second level supervisor if the person allegedly conducting such misconduct is the employee's immediate supervisor; An unit Office of the Inspector General (OIG) investigator...The PREA Ombudsman Office." (Page 4 and 5)

All staff reported they are mandated to report any knowledge or suspicion of sexual abuse. They advised failure to report this information could result in termination or criminal charges. Most stated, "We would be just a liable as the one who committed the crime."

b) TDCJ has policy in place requiring confidentiality.

Safe Prisons/PREA Plan states, "Staff shall not reveal any information related to a sexual abuse report to anyone other than designated supervisors or officials, and only to the extent necessary to make informed treatment, investigative, security, and management decisions." (Page 23)

This same language is also found in TDCJ, Safe Prisons/PREA Operational Manual, 05.01, dated September 1, 2019.

All staff reported confidentiality is a must when it comes to reporting sexual abuse incidents.

c) Safe Prisons/PREA Plan states, "Unless otherwise precluded by federal, state, or local law, and at the initiation of services, medical and mental health practitioners shall be required to report sexual abuse pursuant to Section IV.B.1 of this plan, and to inform offenders of the practitioner's duty to report, as well as the limitations of confidentiality." (Page 23)

CMHC Policy G-57.1, Sexual Assault/Sexual Abuse, dated December 11, 2014 and CMHC Policy E-35.2, Mental Health Evaluation, dated May 20, 2016 addresses the requirements for informed consent and practitioners duty to report.

Health service practitioners advised they are mandated reporters.

d) Cotulla/Dolph Briscoe Units do not house youthful offenders.

e) Safe Prisons/PREA Plan states, "Investigations involving allegations of sexual abuse shall be conducted by investigators who have received special training in sexual abuse investigations pursuant to this plan." (Page 26)

TDCJ Administrative Directive, AD-16.20, Reporting Incidents/Crimes to the Office of the Inspector General, dated October 15, 2019 appoints OIG as the primary investigative unit for criminal offense occurring on TDCJ property.

The warden reports all investigations start out in the facility before moving to the OIG.

Based on policy, documentation review and interviews with staff, the Cotulla/Dolph Briscoe Units exceed this standard.

## Standard 115.62: Agency protection duties

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

#### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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*not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

When staff at the Cotulla/Dolph Briscoe Units learn an inmate is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the inmate. In the past twelve (12) months, there have been no incidents of inmates being in substantial risk of imminent sexual abuse at the Cotulla Unit and one (1) incident at the Dolph Briscoe Unit.

a) Safe Prisons/PREA Plan states, “An emergency grievance alleging substantial risk of imminent sexual abuse shall be filed and managed in accordance with the TDCJ Offender Grievance Operations Manual. When an emergency grievance is received, any portion that alleges the substantial risk of imminent sexual abuse shall be forwarded to a level of review for immediate corrective action. An initial response shall be provided within 48 hours of receipt, and a final decision shall document whether the offender is in substantial risk of imminent sexual abuse and the action taken. Information related to this item may be found in the TDCJ Offender Grievance Operations Manual.” (Page 22)

The warden reports she expects her staff to “separate the offender from the population, notify their supervisor and begin an investigation” when they learn an inmate is in substantial risk of imminent sexual abuse.

All staff report if they learned an inmate was at substantial risk of imminent sexual abuse, they would immediately contact their supervisor.

Based on policy, documentation review and interviews with staff, Cotulla/Dolph Briscoe Units meet this standard.

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

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

#### **115.63 (a)**

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

#### **115.63 (b)**

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

#### **115.63 (c)**

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

#### **115.63 (d)**

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

### **Auditor Overall Compliance Determination**



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

### Instructions for Overall Compliance Determination Narrative

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Cotulla/Dolph Briscoe Units have policy in place requiring that, upon receiving an allegation that an inmate was sexually abuse while confined at another facility, they must notify that agency. In the past twelve (12) months, the Cotulla Unit received zero reports requiring this type of notification and the Dolph Briscoe Unit received three (3) reports.

a, b, c, d) Safe Prisons/PREA Plan states, “After receiving an allegation that an offender was sexually abused while confined at another facility, such as a county jail or out of state facility, the individual taking the initial report shall immediately notify the USPPM. The USPPM shall provide the SPPMO with the details of the alleged incident so the SPPMO may initiate notification to the appropriate office of the outside agency where the alleged abuse occurred. The SPPMO shall provide the notification to the appropriate agency as soon as possible, but no later than 72 hours after receiving the allegation. The SPPMO shall document the notification. Any TDCJ warden or departmental office receiving notification from an outside agency that an offender in the outside agency’s custody alleged sexual abuse while assigned to TDCJ custody shall ensure the allegation is forwarded to the PREA Ombudsman in accordance with ED-02.10, “Prison Rape Elimination Act Complaints and Inquiries,” for possible investigation.” (Page 24 and 25)

The warden reported if she receives an allegation from another facility, she takes immediate action and initiates an investigation. Once the investigation is complete, forward it to the facility for their records.

Based on policy, documentation review and staff interviews, the Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.64: Staff first responder duties

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

#### 115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?
  - Yes  No

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

#### 115.64 (b)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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The Cotulla/Dolph Briscoe Units have a first responder policy for allegations of sexual abuse. In the past twelve (12) months, the unit has received one allegation of inmate sexual abuse. Security staff were the first responder in this allegation.

a, b) Safe Prisons/PREA Plan states, "After learning of an allegation that an offender was sexually abused, the first correctional officers responding to the report shall...separate the alleged victim and assailant; preserve and protect the crime scene, if applicable, until appropriate steps can be taken to collect any evidence; Be required to request that the alleged victim not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence; Ensure that the alleged abuser does not take any actions that could destroy

physical evidence including as appropriate washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence..." (Page 26)

Safe Prisons/PREA Plan also states, "If the first responder is not a correctional officer, the respondent shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and shall immediately notify a correctional officer." (Page 26 and 27)

All staff interviewed were knowledgeable of TDCJ's evidence protocol. All staff were able to discuss separating the offenders and not allowing them to change clothes, brush their teeth and get a drink. Each staff also has a reference card as part of their uniform. This card outlined their first responder duties.

Based on policy, documentation review and interviews with staff, the Cotulla/Dolph Briscoe Units exceed this standard.

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Cotulla/Dolph Briscoe Units have a developed written institutional plan to coordinate actions taken in response to an incident of sexual abuse amount staff first responders, medical and mental health practitioners, investigators, and facility leadership.

This plan is seen in the Safe Prisons/PREA Plan and Safe Prisons/PREA Operational Manual.

The Cotulla/Dolph Briscoe Units have a unit specific coordinated response titled, "Sexual Abuse Response and Investigation Coordination Response Plan," via Inter-Office Communication.

Based on policy, documentation review, tour of the unit, interviews with staff and inmates, the Cotulla/Dolph Briscoe Units meet this standard.

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

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

#### 115.66 (a)

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency's behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted?  Yes  No

#### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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a) TDCJ Executive Directive PD-22 (rev. 15), General Rules of Conduct and Disciplinary Action Guidelines for Employees, dated January 1, 2017 states, "Employees are representatives of the TDCJ and are expected to adhere to the highest standards of conduct while on-duty or off-duty, including adherence to the rules of conduct described in the Listing of Employee General Rules of Conduct and Disciplinary Violations (Attachment A). Employees who allegedly commit a rule violation will be subject to disciplinary action in accordance with the procedures with this directive. The TDCJ promotes equal employment opportunity through an employee disciplinary system designed to impose disciplinary actions without regard to race, color, religion, sex (gender), national origin, age, disability, or genetic information (collectively "protected class"). The TDCJ has zero tolerance for all forms of employment

discrimination in the disciplinary process. Retaliation for opposing or reporting employment discrimination is prohibited.” (Page 1) “It is an employee’s responsibility to know the rules in this directive and to seek clarification, if necessary. Being unaware of the existence of any of the rules is not a defense for violations.” (Page 8)

TDCJ Executive Directive, PD-35 (rev.3), Independent Dismissal Mediation and Dispute Resolution, dated August 1, 2012 states, “An employee who has been recommended for dismissal shall be given the opportunity to have the dismissal recommendation mediated through a voluntary independent dismissal mediation session. In order to promote a mutually acceptable agreement, a mediator facilitates communication between a designated TDCJ official and the employee who has been recommended for dismissal. An employee who has separated from the TDCJ through a process other than the disciplinary dismissal process, for example administrative separation, shall not be offered the opportunity to participate in independent dismissal mediation.” (Page 3)

Based on policy review, the Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

#### 115.67 (b)

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

#### 115.67 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff?  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?  Yes  No

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

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

### **Instructions for Overall Compliance Determination Narrative**

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The Cotulla/Dolph Briscoe Units have a policy in place to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff. In the past twelve (12) months, there have been zero incidents of retaliation at either unit.

a) Safe Prisons/PREA Plan states, "Offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation by other offenders or staff. The USPPM shall monitor for incidents of retaliation in accordance with the SPPOM." (Page 24)

PD-22, Attachment A, Listing of Employee General Rules of Conduct and Disciplinary Violations, dated July 2018, lists "Harassing or Retaliating Against and Offender or Another Individual for Participating in an Official Investigation or Inquiry or for Pursuing Legal Activities, Such as Petitioning the Courts" as a Level One Violation. Disciplinary action listed is "Dismissal shall be recommended for a level 1 violation." It also lists "Harassing or Retaliating Against Another Individual" as a level 2 violation which could result in probation, suspension, reduction in pay to dismissal depending on the number of level 2 violations the employee has received.

b) Safe Prisons/PREA Plan states, "As appropriate, multiple protective measure may be taken, such as housing changes or transfers or offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offender or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations." (Page 24)

The warden stated they look at housing assignment changes for both the offender and staff if retaliation is suspected. She also said there is a zero-tolerance of retaliation of any kind.

Staff designated to monitor retaliation reported, "I initiate all contact. I monitor for any housing changes, disciplinary reports and if they have got into any fights."

While both units identified inmates who reported sexual abuse, during these interviews no inmate reported to the Auditor they reported sexual abuse to the unit.

c) Safe Prisons/ PREA Plan states, "For at least 90 days following a report of sexual abuse, the USPPM shall monitor and document the conduct and treatment of offenders or staff who reported the sexual abuse, and of offenders who were reported to have been victims of sexual abuse, for changes that may indicated possible retaliation by offenders or staff, and shall act promptly to address any retaliation. Monitoring shall include a review of offender disciplinary reports and housing or program changes, and negative performance reviews and reassignments of staff. The monitoring shall continue beyond 90 days if circumstances dictate the need." (Page 24)

d) Safe Prisons/PREA plan states, "The monitoring shall also include periodic status checks of offenders." (Page 24)

Staff charged with monitoring retaliation stated, "I do checks at 30 days, 60 days and 90 days. We will go past 90 days if we feel it is needed."

e) Safe Prisons/PREA plan states, "If any other individual who cooperates with an investigation expresses a fear of retaliation, the TDCJ shall take appropriate measures to protect that individual against retaliation." (Page 24)

f) Safe Prisons/PREA Plan states, "If the TDCJ investigation determines the allegation to be unfounded, the monitoring shall be discontinued." (Page 24)

Based on policy, documentation review and interviews with staff, the Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.68: Post-allegation protective custody

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

#### 115.68 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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In the past twelve (12) months, there have been zero inmates placed in involuntary segregation who have suffered sexual abuse in the Cotulla/Dolph Briscoe Units.

a) TDCJ has policy prohibiting the placement of inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made there is no available alternative means of separation from likely



abusers. The Cotulla/Dolph Briscoe Units restrict access to programs, privileges, education, or work. The reason for this limitation is documented in the inmate's file.

TDCJ Safe Prisons/PREA Plan states, "Offenders at high risk for sexual victimization shall not be placed in protective safekeeping unless an assessment of all available alternatives has been made and it is determined there are no available alternative means of separation from likely abusers. If the assessment cannot be completed immediately, the unit may hold the offender in involuntary segregated housing while completing the assessment, for no longer than 24 hours." (Page 18)

The Safe Prisons/PREA plan also states, "If a protective safekeeping housing assignment is made pursuant to Section III.C.3, the unit shall clearly document: The basis of the concern for the offender's safety; and the reason why no alternative means of separation can be arranged. Offenders shall be assigned to protective safekeeping only until an alternative means of separation from likely abusers is arranged, for no longer than 30 days. (Page 18) Every day the unit shall conduct a review to determine if there is a continuing need for separation of the offender from the general population." (Page 19)

Based on documentation review and tour Cotulla/Dolph Briscoe Units meet this standard.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

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

#### 115.71 (b)

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

#### 115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data?  Yes  No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses?  
 Yes  No

- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator?  Yes  No

#### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse?  Yes  No
- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings?  Yes  No

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

### 115.71 (I)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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The Cotulla/Dolph Briscoe Units are responsible for conducting administrative investigations of inmate-on-inmate sexual abuse and sexual harassment. The Office of Inspector General (OIG) is the outside agency that conducts all criminal investigations and administrative investigations of staff-on-inmate sexual abuse and sexual harassment allegations. The OIG also is responsible for conducting criminal investigations of inmate-on-inmate sexual abuse and sexual harassment allegations.

There are 143 OIG investigators who conduct criminal investigations in TDCJ facilities. OIG investigators are certified peace officers. All OIG investigators are trained to conduct criminal investigations inside TDCJ prisons.

a) Safe Prisons/PREA Plan states, "Investigations of sexual abuse, threatened sexual abuse, and sexual harassment shall be conducted promptly, thoroughly and objectively for all allegations, including third-party and anonymous reports. (Page 25)

The Facility Investigative stated, "I immediately start an investigation upon notification."

b) OIG investigators have received training on TDCJ Safe Prisons/PREA Program, sexual assault investigative topics, and interviews and interrogations.

Unit Investigators receive training on TDCJ Safe Prisons/PREA Programs, sexual abuse and sexual harassment investigations, report writing, criteria needed, and evidence used to determine the outcome of an investigation, report writing, medical and mental health protocols, and techniques for interviewing sexual abuse investigations.

Investigative staff reported they received their training during the academy.

c) Safe Prisons/PREA Plan states, "All allegations of sexual abuse shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions." (Page 25)

Facility investigative staff reported, "We secure offenders and the area. We make sure the proper authorities are notified. We conduct interviews, review video, and collect evidence. OIG then takes over."

d) Safe Prisons/PREA Plan states, "When the evidence supports criminal prosecution, OIG shall conduct compelled interviews only after consulting with prosecutors to ensure the interviews do not impede subsequent criminal prosecution." (Page 28)

e) Safe Prisons/PREA Plan states, "An offender who alleges sexual abuse shall not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of the allegations." (Page 28) "The credibility of an alleged victim, assailant, or witness shall be assessed on an individual basis and not on the status as an offender or staff member. Staff shall document the description of physical and testimonial evidence in the body of the report, the reasoning behind credibility assessment, and investigative facts and findings." (Page 29)

Facility investigative staff reported, "We have to take them at their word until we learn otherwise."

While both units identified inmates who reported sexual abuse, during these interviews no inmate reported to the Auditor they reported sexual abuse to the unit.

f) Safe Prisons/PREA Plan states, "Information regarding staff action or inaction that may have contributed to the alleged abuse shall be included in the investigative report." (Page 29) "Administrative investigations shall: Include an effort to determine if staff actions or inactions contributed to the abuse; Be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings." (Page 30)

g) Safe Prisons/PREA Plan states, "Criminal investigations shall be documented in accordance with OIG policies and procedures. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution in accordance with OIG policies and procedures." (Page 30)

h) TDCJ Executive Directive PD-29 (rev. 5), Sexual Misconduct with Offenders, dated March 1, 2017 states, "The OIG will refer substantiated violations of criminal law to the appropriate district attorney for criminal prosecution." (Page 6)

i) Safe Prisons/PREA Plan states, "All administrative and criminal investigations shall be retained in accordance with TDCJ Records Retention Schedule." (Page 30)

TDCJ CID, OIG-03.72, Record Retention-PREA, dated August 1, 2013 also address record retention.

j) Safe Prisons/PREA Plan states, "The departure of the alleged assailant or victim from employment or custody of the TDCJ shall not be the basis for terminating an investigation." (Page 28)

l) Safe Prisons/PREA Plan states, “Unit staff conducting OPI’s shall cooperate with the OIG when applicable, to avoid interfering with possible criminal investigation related to the same incident.” (Page 29)

Based on policy, documentation review and interview with staff, Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.72: Evidentiary standard for administrative investigations

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

#### 115.72 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

a) Safe Prisons/PREA Plan states, “No standard higher than the preponderance of evidence shall be imposed in determining if allegations of sexual abuse or sexual harassment are substantiated.” (Page 28)

Investigative staff reported that 51% of evidence is used.

Based on policy review and interview with staff, the Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

#### 115.73 (b)

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

#### 115.73 (c)

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

#### 115.73 (d)

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

#### 115.73 (e)

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

## 115.73 (f)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

Cotulla/Dolph Briscoe Units have a policy requiring any inmate who allege that he or she suffered sexual abuse, is informed verbally or in writing the outcome of the case.

- a) Safe Prisons/PREA Plan states, "Offenders shall be notified of relevant information regarding criminal investigations, in accordance with the SPPOM." (Page 27) "Following an OPI committee review, the committee shall inform the offender if the allegations were determined to be substantiated, unsubstantiated, or unfound." (Page 30)
- b) Safe Prisons/PREA Plan states, "The TDCJ SPPM shall ensure the relevant criminal information is received form the OIG in order to inform the offender." (Page 28)
- c) Safe Prisons/PREA Plan states, "If an offender is determined to have been a victim of staff-on-offender sexual abuse, the warden shall inform the offender when: The staff member is no longer assigned to the offender's unit; or, The staff member is no longer employed by the TDCJ. If an offender is determined to have been a victim of staff-on-offender sexual abuse and the abuse is determined criminal, the SPPMO shall inform the offender when: The staff member has been indicted on a charge related to sexual abuse within the unit; or, The staff member has been convicted on a charge related to sexual abuse within the unit." (Page 27)
- d) Save Prisons/PREA Plan states, "If an offender alleges to have been a victim of offender-on-offender sexual abuse, the SPPMO will subsequently inform the alleged victim when: The alleged assailant has been indicted on a charge related to sexual abuse within the unit; or, The alleged assailant has been convicted on a charge related to sexual abuse within the unit." (Page 27 and 28)
- e) Safe Prisons/PRES Plan states, "All offender notifications or attempted notifications described in items 4-6 of this section shall be documented. The requirement to provide offender notification shall terminate if the offender is released from custody of the TDCJ." (Page 28)

Based on policy and documentation review, the Cotulla/Dolph Briscoe Units meet this standard.

# DISCIPLINE

## Standard 115.76: Disciplinary sanctions for staff

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

### 115.76 (a)

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies?  Yes  No

### 115.76 (b)

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse?  Yes  No

### 115.76 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories?  Yes  No

### 115.76 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does



*not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

Staff at the Cotulla/Dolph Briscoe Units are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. In the past twelve (12) months there has been no staff who have violated the agency's policy on sexual abuse.

a) Safe Prisons/PREA Plan states, "Disciplinary actions related to staff-on-offender sexual abuse or sexual harassment violations shall be handled in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees." (Page 31)

TDCJ Executive Directive, PD-22 (rev. 15), dated July 1, 2018 states, "Employees are representatives of TDCJ and are expected to adhere to the highest standards of conduct while on-duty or off-duty, including adherence to the rules of conduct described in the Listing of Employee General Rules of Conduct and disciplinary Violations (Attachment A). Employees who allegedly commit a rule violation will be subject to a disciplinary action in accordance with the procedures within the directive. Attachment A lists violating statutory authority, court order, rules, regulations or policies is a violation level 2; Refusal to cooperate with an official inquiry or investigation is a level 2 violation. Sexual misconduct with an offender is violation level 1 and means termination.

b) Safe Prisons/PREA Plan states, "Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse." (Page 39)

c) Safe Prisons/PREA Plan states, "Disciplinary sanctions for violations of TDCJ policies relating to sexual abuse or sexual harassment, that do not involve actual sexual abuse, shall be commensurate with the nature and circumstances of acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories." (Page 39)

d) Safe Prisons/PREA Plan states, "All terminations for violations of TDCJ sexual abuse or sexual harassment policies, or resignations in lieu of termination, shall be reported to the OIG, unless the activity was clearly not criminal, and to any relevant licensing bodies." (Page 39)

Based on policy and documentation review, the Cotulla/Dolph Briscoe Units meet this standard.

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

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

#### **115.77 (a)**

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies?  Yes  No

#### **115.77 (b)**

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Cotulla/Dolph Briscoe Units have policy in place requiring any contractor or volunteer who engages in sexual abuse be reported to law enforcement agencies and to relevant licensing bodies.

a, b) Safe Prisons/PREA Plan states, "Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with offenders and shall be reported to applicable law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies." (Page 39) "The unit shall take appropriate remedial measures and shall consider whether to prohibit further contact with offenders, in the case of any other violation of TDCJ sexual abuse or sexual harassment policies by a contractor or volunteer." (Page 40)

The Volunteer Services Plan, dated March 2013 states, "The TDCJ has zero tolerance for sexual misconduct, as defined in PD-29, "Sexual Misconduct with Offenders." Volunteers are prohibited from establishing or continuing in personal relationships with offenders, including engaging in, or attempting to engage in, any form of consensual sexual misconduct with offenders, including forcing or attempting to force offenders to participate in non-consensual sexual misconduct. It is a felony offense if any, including a volunteer, at a TDCJ facility violates the rights of a person in custody or engages in sexual contact or sexual intercourse with a person in custody. Volunteers who violate the policy shall not be allowed to continue to perform services for the agency and may be subject to criminal prosecution." (Page 22)

The warden stated, "If a volunteer or contractor violates the sexual abuse policy, they will not be allowed back into the unit until the investigation is complete.

Based on policy, documentation review and interviews with staff, the Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.78: Disciplinary sanctions for inmates

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

### 115.78 (a)

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process?  Yes  No

### 115.78 (b)

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories?  Yes  No

### 115.78 (c)

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior?  Yes  No

### 115.78 (d)

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming and other benefits?  Yes  No

### 115.78 (e)

- Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact?  Yes  No

### 115.78 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation?  Yes  No

### 115.78 (g)

- If the agency prohibits all sexual activity between inmates, does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.)  Yes  No  NA

## Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

Inmates at the Cotulla/Dolph Briscoe Units are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse. In the past twelve (12) months there have been no inmates sanctioned for engaging in inmate-on-inmate sexual abuse.

a, b) Safe Prisons/PREA Plan states, "Offenders shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse, sexual harassment, extortion, substantiated acts of violence, or following a criminal finding of guilt for offender-on-offender sexual abuse in accordance with the TDCJ Disciplinary Rules and Procedures for Offenders. Sanctions shall be appropriate to the nature of abuse committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders with similar histories." (Page 31)

Disciplinary Rules for Offenders, dated February 2015, states, "An offender found guilty of a major disciplinary violation may be assessed one or more of the following penalties: Major Penalties: Counsel and reprimand; Extra duty not to exceed 42 hours per disciplinary case; Loss of privileges not to exceed 45 days per disciplinary case; Cell restriction not to exceed 45 days per disciplinary case; and, Suspension of contact visitation privilege for a minimum of one visit and a maximum of four months." (Page 20 and 21)

This also states, "The following disciplinary offenses represent violations of the TDCJ offender rules. A violation of these rules may consist of engaging, attempting to engage in, or conspiring to engage in specified behavior or aiding others in engaging, attempting to engage in, or conspiring to engage in specified behavior." (Page 25)

c) Safe Prisons/PREA Plan states, "The disciplinary process shall consider whether an offender's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed." (Page 31)

Disciplinary Rules for Offenders, dated February 2015, states, "Special considerations are required for offenders charged with or suspected of a disciplinary infraction who are developmentally disabled or psychiatric patients. The applicable procedures are specified in the Developmentally Disabled Plan and the Correctional Managed Health Care Policy Manual. These procedures shall be followed when dealing with developmentally disabled offenders or psychiatric patients." (Page 14)

CMHC Policy A-08.1, Decision Making – Mental Health Patients, dated September 24, 2014 also addresses the considerations needed for inmates with a mental illness. These considerations are used in inmate disciplinary procedures.

d) Safe Prisons/PREA Plan states, "If the unit offers therapy, counseling, or other interventions designed to address and correct possible underlying reasons or motivations for the abuse, consideration shall be made to determine if participation should be a requirement for access to programming or other benefits." (Page 31)

The Cotulla/Dolph Briscoe Units do not offer therapy, counseling or other interventions to abusers in sexual abuse cases.

There were no mental health practitioners available to interview while onsite.

e) Safe Prisons/PREA Plan states, "An offender may be disciplined for sexual contact with staff only if it is determined the staff member did not consent to the contact." (Page 31)

f) Safe Prisons/PREA Plan states, "Sexual misconduct between offenders is prohibited and shall result in disciplinary sanctions in accordance with TDCJ Disciplinary Rules and Procedures for Offenders. However, Sexual misconduct between offenders shall not constitute sexual abuse if it determined the activity is consensual." (Page 31)

g) Safe Prisons/PREA Plan states, "A report of sexual abuse made in good faith, based on reasonable belief that the alleged conduct occurred, shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. When the preponderance of evidence exists supporting a false allegation, the offender involved in the false allegation shall be disciplined in accordance with the TDCJ Disciplinary Rules and Procedures for Offenders." (Page 31)

Based on documentation review and interviews with staff, Cotulla/Dolph Briscoe Units meet this standard.

## MEDICAL AND MENTAL CARE

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

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

##### 115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)  
 Yes  No  NA

##### 115.81 (b)

- If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure

that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)  Yes  No  NA

#### 115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law?  Yes  No

#### 115.81 (e)

- Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18?  Yes  No

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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Inmates at the Cotulla/Dolph Briscoe Units who have disclosed any prior sexual victimization during a screening pursuant to 15.41 are offered a follow-up meeting with medical or mental health practitioner.

a, c) Safe Prisons/PREA Plan states, "If the screening pursuant to this section indicates an offender has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure the offender is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening." (Page 17)

This same information is also found in CMHC Policy E-35.2, Mental Health Evaluations, dated May 20, 2016.

While both units identified inmates who disclosed prior victimization, only one inmate reported this fact. He reports he was offered mental health services when he made his report.

Staff who conduct the Offender Assessment Screening stated inmates who disclose prior sexual victimization are offered mental health services. They advised inmates are seen the same day as the referral or as close as possible to that date.

b) Safe Prisons/PREA Plan states, "If the screening pursuant to this section indicates an offender has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the offender is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening." (Page 18)

d) Safe Prisons/PREA Planning states, "Any 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 necessary, assisting with making treatment plans and informed management decisions, including those related to housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law." (Page 20)

e) Safe Prisons/PREA Planning states, "In accordance with CMHC policies, medical and mental health practitioners shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age 18." (Page 20)

CMHC Policy E-35.2, Mental Health Evaluations, dated May 20, 2016 and CMHC Policy G-57.1, Sexual Assault/Sexual Abuse, dated December 11, 2014 addresses the notification to inmates on the limits of confidentiality and the practitioner's duty to report.

Based on policy, documentation review and interviews with inmates and staff, Cotulla/Dolph Briscoe Units meet this standard.

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

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

#### **115.82 (a)**

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?  
 Yes  No

#### **115.82 (b)**

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.62?  Yes  No

- Do security staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

### 115.82 (c)

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate?  Yes  No

### 115.82 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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Inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services.

a) Safe Prisons/PREA Plan states, "Offender victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis interventions services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment in accordance with CMHC policies." (Page 13)

this This same information is also found in CMHC Policy G-57.1, Sexual Assault/Sexual Abuse, dated December 11, 2014.

Medical staff report victims are seen immediately. They stated, "We treat any injury before they are transferred to the hospital."

While both units identified inmates who reported sexual abuse, during these interviews no inmate reported to the Auditor they reported sexual abuse to the unit.



b) Safe Prisons/PREA Plan states, "If no qualified medical or mental health practitioners are on duty at the time a report of abuse is made, staff first responders shall take preliminary steps to protect the victim and immediately notify the appropriate on-call medical and mental health practitioners." (Page 13)

This same information is also found in CMHC Policy G-57.1, Sexual Assault/Sexual Abuse, dated December 11, 2014.

Medical staff report inmate victims are provided this information immediately.

While both units identified inmates who reported sexual abuse, during these interviews no inmate reported to the Auditor they reported sexual abuse to the unit.

c) Safe Prisons/PREA Plan states, "Offenders who become victims of sexual abuse while incarcerated shall be offered timely information about and access to emergency contraception and sexually transmitted infections prophylaxis, according to professionally accepted standards of care, where medically appropriate, in accordance with CCMC policies." (Page 13)

This information is also found in CMHC Policy G-57.1, Sexual Assault/Sexual Abuse, dated December 11, 2014.

d) Safe Prisons/PREA plan states, "Treatment services shall be provided to the offender victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident." (Page 13)

CMHC Policy G-57.1, Sexual Assault/Sexual Abuse, dated December 11, 2014 also contains this same requirement.

Based on policy, documentation review and interviews with staff, the Cotulla/Dolph Briscoe Units meet this standard.

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

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

#### **115.83 (a)**

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?  Yes  No

#### **115.83 (b)**

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody?  Yes  No

#### **115.83 (c)**

- Does the facility provide such victims with medical and mental health services consistent with the community level of care?  Yes  No

#### 115.83 (d)

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No  NA

#### 115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No  NA

#### 115.83 (f)

- Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate?  Yes  No

#### 115.83 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

#### 115.83 (h)

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Cotulla/Dolph Briscoe Units offer medical and mental health evaluations to all inmates who have been victimized by sexual abuse in a correctional setting.

a) Safe Prisons/PREA Plan states, "All offenders who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile unit shall be offered medical and mental health evaluation and treatment, as appropriate." (Page 14)

This same requirement can also be found in CMHC Policy G-57.1, Sexual Assault/Sexual Abuse, dated December 11, 2014.

b) Safe Prisons/PREA Plan states, "The evaluation and treatment of such offender victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in other units in accordance with CMHC policies or their releases from custody." (Page 14)

Medical staff stated they follow the treatment set by the hospital.

While both units identified inmates who reported sexual abuse, during these interviews no inmate reported to the Auditor they reported sexual abuse to the unit.

c) Safe Prisons/PREA Plan states, "Offender victims shall be provided medical and mental health services consistent with community level of care." (Page 14)

Medical staff feel their level of care is higher than the community as inmates do not have to wait for services.

d, e) N/A Cotulla/Dolph Briscoe Units are all-male units.

f) Safe Prisons/PREA Plan states, "Offenders who become victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate and in accordance with CMHC policies." (Page 14)

CMHC Policy G-57.1, Sexual Assault/Sexual Abuse, dated December 11, 2014 also contains this requirement.

While both units identified inmates who reported sexual abuse, during these interviews no inmate reported to the Auditor they reported sexual abuse to the unit.

g) Safe Prisons/PREA Plan states, "Treatment services shall be provided to the offender victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident." (Page 13)

This is also stated in CMHC Policy G-57.1, Sexual Assault/Sexual Abuse, dated December 11, 2014.

While both units identified inmates who reported sexual abuse, during these interviews no inmate reported to the Auditor they reported sexual abuse to the unit.

h) The Cotulla/Dolph Briscoe Units do offer offender mental health evaluations of known inmate-on-inmate abusers.

Based on documentation review and interviews with staff and inmates, Cotulla/Dolph Briscoe Units meet this standard.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded?  Yes  No

#### 115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation?  Yes  No

#### 115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners?  Yes  No

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No

- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  
 Yes  No

### 115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

Cotulla/Dolph Briscoe Units conduct sexual abuse incident reviews at the conclusion of every criminal or administrative sexual abuse investigation unless the allegation has been determined to be unfounded.

a, b, c) Safe Prisons/PREA Plan states, "An administrative review shall be completed for alleged sexual abuse and staff sexual harassment incident, unless determined unfounded. The unit warden shall obtain input from security supervisors, investigators, and medical or mental health practitioners when completing the review. The review team shall include upper-level management, with input from line supervisors, investigators, and medical or mental health practitioners." (Page 32)

Instructions for Submitting Reports of Alleged Sexual Abuse and Sexual Harassment states, "The Administrative Incident Review shall be forwarded to appropriate regional director, PFCMOD deputy director of operations, or department head no later than 10 working days following the notification to EAC. The warden's or administrative supervisor's review shall be recorded as outlined in the following attachment. The regional director, PFCMOD deputy director of operations, or department head shall review the Administrative Incident Review and document any comments in the final portion of the Administrative Review section. The completed Administrative Incident Review shall be forwarded to EAC no later than 20 working days following the notification to EAC..." (Page 3)

d, e) Safe Prisons/PREA Plan states, "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 unit shall implement recommendations that result from the review or document the reasons for not doing so." (Page 32)

Instructions for Submitting Reports of Alleged Sexual Abuse and Sexual Harassment states, “After reporting an allegation of sexual abuse or harassment, the warden or supervisor shall conduct a prompt, thorough investigation, and complete an Administrative Incident Review. The review shall include: A review of the circumstances of the incident...Events leading up to and following the incident; A consideration of whether the action taken were consistent with TDCJ policies; 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 Incident Command System levels or response levels were used during the incident; A determination of whether employee action or inaction was a factor in the incident; Corrective Action taken...An alleged sexual abuse report is provided daily via mainframe INFOPAC to the Prison Rape Elimination Act (PREA) Ombudsman and Safe Prisons/PREA personnel with alleged sexual abuse incidents that occurred the previous day. All alleged sexual abuse Administrative Incident Reviews are available to the PREA Ombudsman and Safe Prisons/PREA personnel for assessment.” (Page 3 and 4)

The Administrative Incident Review lists all the requirements in 115.86e.

This same language is also found in TDCJ Administrative Directive AD-02.15 (rev.12), Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents, dated May 5 2015.

Based on policy and documentation review, the Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.87: Data collection

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

#### 115.87 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions?  Yes  No

#### 115.87 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually?  Yes  No

#### 115.87 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice?  Yes  No

#### 115.87 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?  Yes  No

### 115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.)  Yes  No  NA

### 115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Cotulla/Dolph Briscoe Units collect accurate, uniform data for every allegation of sexual abuse at the unit.

a, c) Safe Prisons/PREA Plan states, "Accurate, uniform data shall be collected for every incident of sexual abuse alleged to have occurred at a TDCJ operated facility using a standardized instrument and set of definitions." (Page 36)

TDCJ Board Policy BP-02.09 (rev. 2), Prison Rape Elimination Act Ombudsman Policy Statement, dated October 31, 2019 assigns these responsibilities to the PREA and outlines when this information is to be collected.

b) Safe Prisons/PREA Plan states, "Incident-based sexual abuse data shall be aggregated at least annually." (Page 36)

d) Safe Prisons/PREA Plan states "All available incident-based documents, including reports, investigation files, and sexual abuse incident reviews shall be maintained, reviewed, and collected as needed to complete the SSV." (Page 36)

e) While the Cotulla/Dolph Briscoe Units do not contract for confinement of its inmates, TDCJ does and obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of inmates. This complies with the SSV reporting regarding content.

f) Safe Prisons/PREA Plan states, "Once requested, the TDCJ shall provide all relevant data from the previous calendar year to the Department of Justice." (Page 37)

Based on policy and documentation review, the Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole?  Yes  No

#### 115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse?  Yes  No

#### 115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means?  Yes  No

#### 115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility?  Yes  No

### Auditor Overall Compliance Determination

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



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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

TDCJ reviews data collected and aggregated pursuant to 115.87 in order to assess and improved the effectiveness of its sexual abuse prevention, detection, and response policies and training.

a, b, c, d) TDCJ Board Policy BP-02.09 (rev. 2), Prison Rape Elimination Act Ombudsman Policy Statement, dated October 31, 2019 outlines who shall collect this data and how this information is to be presented.

The Auditor reviewed the annual reports from 2015, 2016, 2017 and 2019 and found they met all the requirements outlined in this standard. These reports contained information on the progress the department made in the previous years in PREA, a trend analysis of all investigations in the state and correction actions for each facility.

Based on policy and documentation review, the Cotulla/Dolph Briscoe Units meet this standard.

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

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

#### 115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?  
 Yes  No

#### 115.89 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means?  Yes  No

#### 115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available?  Yes  No

#### 115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes  No

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

a, b, c, d) Safe Prisons/PREA Plan states, "All data collected pursuant to Section VII.A shall be securely maintained. Aggregated sexual abuse data, from all TDCJ operated facilities, including privately contracted facilities, shall be readily available to the public at least annually, through a website or other means. Personal identifiers and sensitive information shall be redacted from the reports in instances when publication would present a clear and specific threat to the safety and security of a unit, while maintaining the nature of the material. All sexual abuse data collected shall be maintained for at least 10 years after the date of the initial collection unless federal, state, or local law requires otherwise." (Page 37)

The Auditor reviewed the annual reports from 2015, 2016, 2017 and 2018 and found they met all the requirements outlined in this standard. These reports contained information on the progress the department made in the previous years in PREA, a trend analysis of all investigations in the state and correction actions for each facility.

Based on policy and documentation review, the Cotulla/Dolph Briscoe Units meet this standard.

# AUDITING AND CORRECTIVE ACTION

## Standard 115.401: Frequency and scope of audits

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

### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*)  Yes  No

### 115.401 (b)

- Is this the first year of the current audit cycle? (Note: a “no” response does not impact overall compliance with this standard.)  Yes  No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the second year of the current audit cycle.)  Yes  No  NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the third year of the current audit cycle.)  Yes  No  NA

#### 115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility?  Yes  No

#### 115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)?  Yes  No

#### 115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees?  Yes  No

#### 115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel?  Yes  No

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

- a) During the prior three-year audit period, TDCJ ensured each of their facilities was audited at least once.
- b) This is the third year of the current audit cycle, TDCJ ensured at least one-third of their facilities was audited during the first year of the current audit cycle.
- h) The Auditor had access to, and the ability to observe, all areas of the both units.
- i) The Auditor was permitted to request and receive copies of any relevant documents (including electronically stored information) needed to complete the audit.
- m) The Auditor was permitted to conduct private interviews with inmates and staff.
- n) Inmates were permitted to send confidential information or correspondence to the Auditor in the same manner as if they were communicating with legal counsel. The Auditor received zero letters from inmates at both units.

Based on the evidence provided through policy, staff and inmate interviews, and documentation review, the Cotulla/Dolph Briscoe Units meet this standard.

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports. The review period is for prior audits completed during the past three years PRECEDING THIS AUDIT. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does

*not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

It is clear the Cotulla/Dolph Briscoe Units believe incarcerated individuals have the right to be free from sexual abuse and sexual harassment. This zero-tolerance culture is evident in the policies of the agency, the actions of Cotulla/Dolph Briscoe Unit leadership as well as the knowledge the staff demonstrated of PREA. The Cotulla/Dolph Briscoe Units leadership was quick to ask great questions through the tour. Staff was able to articulate the agencies coordinated response to sexual abuse and harassment.

The overall theme of the interviews with inmates included feeling safe at the facility and the belief that staff takes reports of sexual abuse seriously. The inmates were able to explain how to report incidents of sexual abuse and harassment and were able to discuss how they were exposed to PREA education upon intake. While some stated they could not remember the PREA video in its entirety, they did remember viewing it. All inmates reported they knew when opposite gender staff announced themselves when entering their living area.

Staff knew their responsibilities to prevent, detect, and respond to incidents of sexual abuse and harassment. Staff was able to articulate the coordinated response to sexual abuse and harassment. They knew to separate the victim from the alleged perpetrator, secure the scene and to contact their supervisor. They stated that all reports would be documented by the end of shift. They also stated that if they received knowledge of someone being in imminent danger, they would immediately secure the safety of that individual. It is clear that there is a zero –tolerance culture at the Cotulla/Dolph Briscoe Units.

## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.<sup>1</sup> Auditors are not permitted to submit audit reports that have

<sup>1</sup> See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

been scanned.<sup>2</sup> See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Elisabeth M. Copeland

April 8, 2021

**Auditor Signature**

**Date**

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<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.  
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