

Prison Rape Elimination Act (PREA) Audit Report  
 Adult Prisons & Jails  
 Final Report  
 Date of Report April 11, 2018

Auditor Information

|                               |  |
|-------------------------------|--|
| Name: William E Peck          | Email: william199@comcast.net                    |
| Mailing Address: PO Box 10449 | City, State, Zip: Fairbanks Alaska 99710         |
| Telephone: 901-378-3998       | Date of Facility Visit: 28 February-2 March 2018 |

Agency Information

|   |                                   |  |   |
|---|-----------------------------------|--|---|
| Name of Agency:<br>Texas Department of Criminal Justice |                                   | Governing Authority or Parent Agency:<br>State of Texas  |   |
| Physical Address: 861-B I-45 North                      |                                   | City, State, Zip: Huntsville, Texas, 77320   |   |
| Mailing Address: P.O. Box 99                            |                                   | City, State, Zip: Huntsville, Texas, 77342   |   |
| Telephone: 936-295-6371                                 |                                   | Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No |   |
| The Agency Is:  | <input type="checkbox"/> Military | <input type="checkbox"/> Private for Profit  | <input type="checkbox"/> Private not for Profit |
| <input type="checkbox"/> Municipal                      | <input type="checkbox"/> County   | <input checked="" type="checkbox"/> State  | <input type="checkbox"/> Federal                |

Agency mission: The mission of the Texas Department of Criminal Justice is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society and assist victims of crime.

Agency Website with PREA Information: PREA Ombudsman  
[http://tdcj.texas.gov/tbcj/tbcj\\_prea.html](http://tdcj.texas.gov/tbcj/tbcj_prea.html)

Agency Chief Executive Officer

|                                     |                           |
|-------------------------------------|---------------------------|
| Name: Bryan Collier                 | Title: Executive Director |
| Email: Bryan.Collier@tdcj.texas.gov | Telephone: 936-437-2101   |

Agency-Wide PREA Coordinator

|                                   |  |
|-----------------------------------|--|
| Name: Lorie Davis                 | Director, Correctional Institutions Division |
| Email: Lorie.Davis@tdcj.texas.gov | Telephone: 936-437-2170                      |

|   |  |   |   |
|---|--|---|---|
| PREA Coordinator Reports to:<br>Bryan Collier | Number of Compliance Managers who report to the<br>PREA Coordinator      91  |   |   |
| Facility Information                          |  |   |   |
| Name of Facility:                             | Jim Ferguson Unit  |   |   |
| Physical Address:                             | 12120 Savage Drive Midway, TX 75852  |   |   |
| Telephone Number:                             | (936) 348-3751   |   |   |
| The Facility Is:                              | <input type="checkbox"/> Military  | <input type="checkbox"/> Private for profit | <input type="checkbox"/> Private not for profit |
|   | <input type="checkbox"/> Municipal   | <input type="checkbox"/> County             | <input checked="" type="checkbox"/> State       |
|   |  |   | <input type="checkbox"/> Federal                |
| Facility Type:                                | <input type="checkbox"/> Jail  | <input checked="" type="checkbox"/> Prison  |   |
| Facility Mission:                             | The mission of the Texas Department of Criminal Justice is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society and assist victims of crime. |   |   |
| Facility Website with PREA Information:       | <a href="http://tdcj.texas.gov/tbcj/tbcj_prea.html">http://tdcj.texas.gov/tbcj/tbcj_prea.html</a>  |   |   |
| Warden/Superintendent                         |  |   |   |
| Name:   | Rocky Moore  | Title:                                      | Senior Warden                                   |
| Email:  | Rocky.Moore@tdcj.texas.gov   | Telephone:                                  | (936) 348-3751 ext. 4100                        |
| Facility PREA Compliance Manager              |  |   |   |
| Name:   | Sandra King  | Title:                                      | Unit Safe Prisons PREA Manager                  |
| Email:  | Sandra.King@tdcj.texas.gov   | Telephone:                                  | (936) 348-3751 ext. 4392                        |
| Facility Health Service Administrator         |  |   |   |
| Name:   | Joe Morgan   | Title:                                      | Senior Practice Manager                         |
| Email:  | jfmorgan@utmb.edu  | Telephone:                                  | (936) 348-3751 ext. 4415                        |
|   |  |   |   |

| Facility Characteristics   |                               |  |                             |
|--|-------------------------------|--|-----------------------------|
| Designated Facility Capacity: Unit: 2100 Camp: 321   |                               | Current Population of Facility: 2382   |                             |
| Number of inmates admitted to facility during the past 12 months   |                               |  | 2014                        |
| Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:   |                               |  | 1257                        |
| Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:  |                               |  | 1977                        |
| Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:   |                               |  | 328                         |
| Age Range of Population:   | Youthful Inmates Under 18: NA | Adults: 18-69                          |                             |
| Are youthful inmates housed separately from the adult population?  |                               | <input type="checkbox"/> Yes           | <input type="checkbox"/> No |
|  |                               | <input checked="" type="checkbox"/> NA |                             |
| Average length of stay or time under supervision:  |                               |  | 54 Months                   |
| Facility security level/inmate custody levels:   |                               |  | G1-G5 AdSeg                 |
| Number of staff currently employed by the facility who may have contact with inmates:  |                               |  | 552                         |
| Number of staff hired by the facility during the past 12 months who may have contact with inmates:   |                               |  | 179                         |
| Number of contracts in the past 12 months for services with contractors who may have contact with inmates:   |                               |  | 1                           |
| Physical Plant   |                               |  |                             |
| Number of Buildings: 24  |                               | Number of Single Cell Housing Units: 7 |                             |
| Number of Multiple Occupancy Cell Housing Units:   |                               | 10                                     |                             |
| Number of Open Bay/Dorm Housing Units:   |                               | 7                                      |                             |
| Number of Segregation Cells (Administrative and Disciplinary):   |                               | 530                                    |                             |
| Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.): Since the last audit, significant numbers of cameras have been added at key sites throughout the prison and now total 689 that cover all areas except those with expected or routine nudity. There is a central Surveillance Center that monitors all cameras and communications systems. |                               |  |                             |

| Medical   |   |
|---|---|
| Type of Medical Facility:   | Ambulatory medical, dental, and mental health services. Digital Medical Services (DMS), electronic specialty clinics, and CPAP accommodating housing available. |
| Forensic sexual assault medical exams are conducted at:   | Nearest Hospital or Huntsville Memorial Hospital  |
| Other   |   |
| Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility: | 23288 in TDCJ<br>126 at Ferguson  |
| Number of investigators the agency currently employs to investigate allegations of sexual abuse:                                | OIG 138; 4 assigned this Unit   |

## Audit Narrative

### ACRONYMS:

|      |   |
|------|---|
| TBCJ | Texas Board of Criminal Justice                                 |
| TDCJ | Texas Department of Criminal Justice                            |
| CMHC | Correctional Managed Health Care Policy Manual                  |
| OGOM | Offender Grievance Operational Manual                           |
| OIG  | Office of the Inspector General                                 |
| OVR  | Offender Victim Representative/Victim Advocate (Facility-level) |
| UTMB | University of Texas Medical Branch (medical provider)           |
| WSD  | Windham School District   |

TDCJ Offenders are generally referred to as "offenders" rather than inmates.

### "SAFE PRISONS" Acronyms

Safe Prisons is the TDCJ Oversight and Management Program for PREA Compliance and is charged to monitor and reduce the amount of predator/victim violence in the facility. It is part of the statewide TDCJ program that includes all provisions of the Prison Rape Elimination Act and gives offenders an immediate way to report problems.

|         |  |
|---------|--|
| --SPPMO | Safe Prisons/PREA Management Office - (HQ level)   |
| --USPPM | Unit Safe Prisons/PREA Manager - (Facility level)  |
| --SPPOM | Safe Prisons/PREA Operations Manual - Primary TDCJ PREA guidance, supplemented by other directives (OIG, Administrative, Policy, etc.) |

### Mission of the Texas Department of Criminal Justice

The Mission Statement of the Jim Ferguson Unit is to "accomplish the mission of the agency, which is to protect the public, to promote positive change in offender behavior, and to reintegrate offenders into society." In addition, it is the mission of the Jim Ferguson Unit to decrease the number of incidents involving staff assaults, offender assaults, disturbances, use of chemical agents, and use of force.

## Audit Findings

The Ferguson Unit of the Texas Department of Criminal Justice (TDCJ) is compliant with the U.S. Department of Justice Prison Rape Elimination Act (PREA) standards.

The on-site PREA audit of the Ferguson Unit was conducted 28 February – 2 March 2018 by Department of Justice Certified Auditors William Peck and Marcus Butler. An initial meeting and tour began 28 February at 9:00 a.m., following which the facilities were toured.

The tour was led by Senior Warden Rocky Moore; Wardens Robert Jenkins and Allen McKee; and Safe Prisons/PREA Compliance Manager Sandra King, and included Regional Director Tony O'Hare (Region I) and the following staff:

- Assistant Regional Director
- Regional Monitoring and Standards Coordinator
- Major, General Population
- Major, Administrative Segregation
- ACA Accreditation Officer
- Operational Review Sergeant
- Regional Safe Prisons/PREA Manager
- Use of Force Officer
- 2 Captains
- 1 Lieutenant
- 1 Correctional Officer

On 2 March 2018, the auditors conducted a preliminary out brief to the Senior Warden and his executive staff to give them a general overview of the process and to thank them for their participation. The following staff were in attendance:

- Senior Warden Rocky Moore
- Warden Robert Jenkins
- Warden Allen McKee
- Major, General Population
- Major, Administrative Segregation
- Sgt. Sandra King, USPPM/PREA
- Regional SPPM

The timeline, deliverables and expectations for the remainder of the audit were discussed. The audit chairperson explained the procedures that would follow the completion of the audit., i.e. the triangulation of all data from the site visit and tour, the documents submitted and reviewed, and the interviews completed.

It was explained that any areas found not to meet standards during the on-site visit would need to be corrected and the auditor would be working with the leadership and the Unit Safe

Prisons/PREA Manager to accomplish compliance. The chairperson expressed appreciation for the exceptional hospitality and cooperation of everyone involved.

Staff was recognized for the difficult job they do every day to keep the public, staff and offenders safe.

The willingness of all staff involved to accomplish PREA compliance was acknowledged and their determination to become compliant was evident. The Auditors appreciate the courtesy and support extended during the on-site visit.

### **TOUR:**

During the tour, camera placement, sight lines, and staff placement were noted to assist in determining standards compliance. Cameras are digital and there is recording capability of up to 24 days to aid in investigations or incident reviews.

The tour provided an opportunity for the Auditor to conduct in-depth observations of the different areas of the facility, observe staff conduct, observe interactions between staff and offenders, and conduct informal interviews with staff and offenders to gain an understanding of facility operations and practice as well as obtain insight into the facility's compliance with the PREA standards. The areas that were observed included: living units, work areas, cells along with toilets and showers, program areas, outdoor recreation areas, administrative areas, kitchen, storage areas, training facility, Control Centers, and the overall facility grounds.

Video monitoring systems were observed and noted, and housing zones, day rooms, offender programs areas, work areas and all other offender accessible areas were toured. While touring, several staff and offenders were informally interviewed and acknowledged receiving training and procedures for reporting sexual abuse and harassment and the right to be free from retaliation. Offenders and staff both knew that they could report sexual safety issues but were generally not well aware of specific external addresses and phone numbers of potential sources to report or gain assistance with their issues. The Auditor verified that higher ranking staff such as the Warden, Assistant Wardens and Majors make unannounced rounds that are documented in the logbook by the Picket (unit control area) officer.

Staff were aware of the requirement to announce the presence of the opposite gender and did so in all housing in a timely manner. Interviews with offenders and staff supported that the facilities ensure these announcements and that this practice is adhered to during daily operation. It was also evident that all staff and offenders receive appropriate training concerning PREA and the zero-tolerance policy during initial training as well as annual and also regular refreshers. All staff were well versed in their responsibilities in reporting sexual abuse, sexual harassment, staff negligence and retaliation for reporting. Although there have been no emergency PREA responses necessary, all staff interviewed were familiar with the expectations of their duties as well as the procedures for evidence preservation. Training is a strong point in this agency, region and facility.

Staffing appeared adequate and well-positioned, to include roving staff making random checks

in housing areas. Of note were the clear lines of sight throughout housing areas and the general lack of remaining blind spots as well as the relatively new installed camera system that is significant in size and has good clarity and detail. The Warden continues to mitigate remaining visual problem areas with mirror placements. The Agency and Unit have also demonstrated their commitment to compliance to the PREA standards by providing appropriate privacy barriers in the toilet and shower areas, while still providing a secure environment for the population. The shower and toilet areas are aged and difficult to visually secure from opposite gender viewing but the facility has accomplished this through emphasis on controlling group movements into and through these areas, aided by placement of limited visual barriers in significant key spots.

Training is provided concerning cross-gender pat searches and these searches are presently conducted by female officers on this all-male population, as is expected in the TDCJ policies and procedures. Strip searches are conducted by male staff with the normal policy exception for exigent circumstances, which have not occurred thus far. Staff interviewed were all aware of the prohibition of physically examining a transgender or intersex offender to determine sex.

Staff Training receives significant emphasis and appears more than compliant at all levels. All staff receive Initial training at the Regional Academy and complete specialty training in their area (e.g., investigators, mental health, etc.). All staff receive quarterly updates and annual Refresher training as well as routine training at shift turnover. The 4 major recurring training themes in TDCJ are PREA; suicide prevention; heat safety; and cold weather concerns and responses.

All staff is required to attend initial and annual training at the TDCJ Ellis Unit. New cadets are required to attend a 5.5 week/216-hour pre-service TDCJ Training Academy, with an additional 104 hours on- the-job training at the facility, and a minimum of 48 hours with an assigned mentor before being assigned to a post.

The OIG investigators complete the NIC Investigator training related to their specialty in addition to extensive OIG law enforcement training and specific training related to sexual assault cases. All University of Texas Medical Branch (UTMB) medical staff attends training as required and provided by UTMB policies in addition to entry training in corrections.

Reviewing documentation is a critical component of the audit process, so throughout the pre-audit review and the on-site audit, the auditor reviewed various documents including personnel records, investigation files, training and education records, assessment and screening tools, policies and procedures, and related materials relating to PREA standards.

In addition to the tour and the extensive interview process, auditors reviewed the PAQ (Pre-Audit Questionnaire) submitted by the facility, TDCJ policies related to PREA compliance, and spot-checked training, investigative and human resource files. The post-audit phase consisted of triangulating all data and input received, reviewing interview data in detail, and a final review of the PAQ submission. Questions that arose about procedures or data needed for clarification were referred to the facility and the responses are incorporated in this report.

It became clear during the pre-visit review that policy component sections were uniformly



compliant and that TDCJ staff has drafted policy with the intent to be PREA-compliant for all TDCJ facilities. TDCJ policy parallels very closely, often verbatim, the PREA Standards and checklists for policy. The on-site visit, then, focused on actual compliance in operations and whether local training, process and actual procedure mirrored policies.

## **INTERVIEWS:**

A major portion of the site audit consisted of conducting structured interviews with specialized and randomly selected staff and also with random and specific categories of offenders (LGBTI, reported victims of abuse, reported perpetrators of abuse, sex offenders, etc.).

The Auditors interviewed a wide range of staff that included executive leadership (Warden, Assistant Wardens, Facility Major, Safe Prisons/PREA Coordinator for the facility; and the interview data is summarized at the end of this narrative.

Specialized staff interviews included the Medical and Mental Health Supervisor, Nursing staff, Sergeants and higher-level supervisors, as well as staff from Programs, Human Resources, Training, Classification, Volunteers and Intake Staff.

During the visit, in addition to PREA-related discussions with employees selected during the tour, the Auditor conducted 23 random prisoner interviews and special category offenders as noted below; 19 random staff and 38 specialized staff as outlined below. The prisoners and staff were well aware of PREA and the zero-tolerance policy of the Agency. Prisoners interviewed were knowledgeable about how and where to report sexual abuse and sexual harassment. They all indicated they had received written information either on their arrival or on the housing units for those that have been at the facility for a considerable amount of time. LGBTI offenders interviewed largely reported that they felt safe and older and disabled prisoners responded in a similar vein. All staff and offenders interviewed were very cooperative during the interview process.

## **STAFF INTERVIEWS**

- 1 Agency Head Designee (On File)
- 1 Agency PREA Coordinator (On File)
- 1 Contracting Officer (On File)
- 2 Investigators- Agency Criminal/Administrative (OIG Office)
- 1 Investigator- Facility
- 1 Warden
- 1 Assistant Warden
- 1 PREA Compliance Manager/Facility Safe Prisons
- 3 Incident Review Auditor members
- 3 HR/Administrative Staff
- 1 Retaliation Monitors
- 2 Volunteers who have contact with offenders
- 1 Education Teacher
- 1 Education Counselor

- 2 Medical staff Administrator
- 2 Mental Health staff
- 6 Intermediate or higher-level supervisors
- 2 Intake Staff who perform screening for risk of victimization and abusiveness
- 2 Intake Supervisor
- 2 Staff Who Supervise Segregated Housing
- 1 Grievance Coordinator
- 1 Chaplain
- 19 Random Staff, including Correctional Officers on all shifts

Some employees also serve in additional collateral roles and were interviewed concerning the duties of each targeted collateral assignment. All staff interviewed were well versed in their respective areas of responsibility regarding PREA and affirmed compliance with the applicable PREA standards. All uniformed staff are trained as first responders and are familiar with their duties. There is no SAFE or SANE certified staff at the Unit, but they are available through the Huntsville, TX Medical Center, about 30 minutes away. Staff were familiar with the procedures regarding reporting, responding and evidence preservation.

### OFFENDER INTERVIEWS

- 5 LGB Offenders
  - 1 Transgender offender; only one in the Facility
- 3 Limited English Proficiency Offenders
  - 1 Cognitive Issue Offender
  - 4 Offenders Who Reported a Sexual Abuse/harassment
  - 3 High Risk Offenders Who Had Reported Sexual Victimization During Screening
- 23 Random Offender Interviews

All of the offenders interviewed acknowledged receiving PREA training and written materials (pamphlets, handbooks) outlining the agency's zero tolerance policies toward sexual abuse, harassment and retaliation.

Most offenders were able to discuss confidential reporting numbers and addresses posted, primarily the Ombudsman and OIG located at headquarters levels. Most, but not all, offenders were aware of how to locate contact data for advocacy organizations recognized and listed by TAASA, the Texas Association Against Sexual Assault.

Other Language Dominant offenders understood PREA. The facility is using trained staff for interpretation, and there is also a statewide service available to assist with language issues if no one is available or able to speak the language of the offender.

The only transgender offender in the facility was interviewed, reported no problems of concern and expressed good awareness of PREA and how it relates to transgender offenders.

All gay offenders felt that they were being treated fairly at the Ferguson Unit and that the facility is treating them according to PREA standards. All offenders were aware of PREA guidance regarding treatment/safety of LGB offenders.

Offenders reporting abuse at screening were also well aware of PREA. All offenders indicated that they were offered counseling services at the time of screening. There were no issues of concern reported and no issues of concern were reported by offenders who had reported harassment while at the facility.

Offenders reporting sexual abuse while at the facility were well aware of PREA. The Administrative Segregation offender reported no PREA concerns or issues.

General population offenders interviewed were well aware of PREA. The facility does an excellent job at getting required information to this population. During interviews, almost all offenders disclosed that they felt sexual abuse incidents would not often happen here, that it was a safe place to be confined, that staff would take an allegation seriously, and it would be acted on and investigated. They did recognize that total prevention of any incidents was unlikely in a prison with such a large population of aggressive offenders but felt that it would be a rare exception. Offenders offered several reasons they believed this— the 689 cameras now installed throughout the facility; the staff training emphasis; and the religious and cultural biases of several of the major gangs represented here. The offenders also attributed their safety to the restricted movement controls within the facility and the widespread awareness of the executive leadership's lack of tolerance for such assaults, or any type of assaults.

A few interviews reflected some offender belief that newer junior staff and senior leadership would respond more positively than older, mid-level supervisors.

## **Facility Characteristics**

The Jim Ferguson Unit is at Midway, Texas in Madison County, 20 miles northeast of Huntsville, Texas. The Ferguson Unit was constructed in 1962, has been expanded through the years, houses state offenders, and operates under the Texas Department of Criminal Justice (TDCJ).

The facility is situated on 4,355 acres, 19.7 acres inside the secure perimeter. There are 45 buildings contained on the grounds, including 9 Main Unit and 8 Trusty Camp buildings. The Main Unit is a telephone pole configuration with most housing units and program/service areas radiating off a long central corridor in the main building; additional housing and services are located outside the main building. The facility was very clean and well maintained.

The Jim Ferguson Unit consists of two separate compounds (Main Unit and Trusty Camp). It is capable of housing virtually all threat categories of TDCJ male offenders including Outside Trusty and Transient Offenders. The Main Unit is an adult male maximum security facility housing up to 2100 G1-G5 (G5 being the most restrictive) general population, administrative segregation, and transient offenders. The Trusty Camp is located less than a mile away and houses up to 321 G1 minimum custody 'outside trusty' adult male offenders.

Offender housing at the Jim Ferguson Unit is divided into 16 main housing units (cellblocks A – P) and four dormitories (1-4). Trusty Camp housing is provided in three dormitory style units.

There were no major renovations, additions, or new construction at the facility during the audit

cycle, however, there have been significant upgrades in the camera system with the recent addition of new and high-quality cameras, bringing the current total number to 689.

There are extensive segregation cell capabilities due to the volatile nature of this population, which tends to be younger and more assaultive as well as gang-oriented.

As with a number of TDCJ sites where several institutions are located in the same area, the Main Unit and Trusty Camp share resources and take advantage of proximity to other units in the system to support specialized medical and classification needs. In addition, the TDCJ system provides centralized Emergency Response Teams and Drug Detection Teams to assist in special security issues, as well as some shared access to additional OIG staff from nearby facilities if needed. The facility also has a collaborative/contractual relationship with the University of Texas Medical Branch (UTMB), which provides managed health care; and with the Windham School District, which provides a wide range of educational services to TDCJ; and with Lee College, which provides higher education and technical training.

There were 448 full-time and 60 part-time security staff positions funded at the Jim Ferguson Unit primarily responsible for the Main Unit and Trusty Camp security and services functions. These positions include two majors, five captains, ten lieutenants, 32 sergeants, and 399 correctional officers. Correctional officers have the opportunity to advance through five levels within their classification.

### **Facility Demographics**

|                              |           |
|------------------------------|-----------|
| Rated Capacity:              | 2421      |
| - Main Unit                  | 2100      |
| - Trusty Camp                | 321       |
| Actual Population (2/23/15): |           |
| - Main Unit                  | 2076      |
| - Trusty Camp                | 264       |
| Average Length of Stay:      | 54 months |
| Age Range of Offenders:      | 18-61     |
| Full-Time Staff (funded):    | 544       |
| Administrative:              | 19        |
| Support:                     | 73        |

|   |     |
|---|-----|
| Program:                                      | 4   |
| Security:                                     | 448 |
| Part-Time Security (funded):                  | 60  |
| University Texas Medical Branch (contracted): | 27  |
| Windham School Dist./Education (contracted):  | 22  |

**Security:**

There were 448 full-time and 60 part-time security staff positions funded at the Jim Ferguson Unit primarily responsible for the Main Unit and Trusty Camp security and services functions. These positions include two majors, five captains, ten lieutenants, 32 sergeants, and 399 correctional officers.

There are 689 digital cameras to cover the facility; recordings are retained for 24 days.

Staff performs scheduled and unscheduled searches of living units and common areas. There is a walk-through metal detector for offenders in the main hallway of the main building. Strip searches are conducted on specified work groups; before and after visits; and on segregation offenders leaving their cells.

Dayrooms are located next to each cell block and dorm at the Main Unit. Dayrooms provide television sets, benches or chairs and tables, board games, telephones, and ice coolers; they are covered by cameras and are observable 24/7 while the rooms are in use.

Food service is managed by TDCJ Ferguson Unit staff. One supervisor, 14 food service staff, and 12 correctional officers were assigned between the two kitchens within three shifts, with offenders assigned to assist. The prevalence of staff and cameras combine to make incidents unlikely in the food service preparation and cleaning areas.

**Medical Care:**

Managed Health Care is provided to offenders through a contract with the University of Texas Medical Branch (UTMB), including ambulatory medical, dental, and mental health services, and Telemedicine Services. UTMB provides for the basic health care, emergency care, and ongoing care for chronic illnesses. Licensed healthcare professionals providing health care at the Ferguson Unit consists of 27 UTMB employees.

Specialty referral services are available through the Huntsville Memorial Hospital, telemedicine

assistance through Digital Medical Services (DMS), or through larger UTMB medical facilities.

Medical offices and clinical space include nurse's station, emergency room, staff offices, four examination rooms, Tele-med room, and medication room. The medical unit is staffed Monday through Friday from 2:30 a.m. to 6:00 p.m., and on Saturday and Sunday from 5:30 a.m. to 6:00 p.m. Correctional staff provides security during clinic hours.

If an offender has any mental health issues that occur after hours for medical staff, he would be placed in one of the two Constant Direct Observation cells located within the infirmary section. However, they are located in the disciplinary section of the wing and Security staff conducts direct observation of offenders, including those placed on suicide watch. If the offender's clothing is removed, a paper/suicide gown is issued. Observation is maintained as long as the offender is on suicide watch.

Mental health staff are present Monday through Friday during administrative hours. Services are available on-site and include counseling, medication management, crisis management, group and individual therapy, and testing.

Offenders requiring significant mental health watch cannot be housed here as there is no separate medical housing unit and nursing care is not available 24/7. A psychiatrist can conduct interviews and evaluations via Tele-Medicine. After 72 hours the offender is removed from observation or transferred to Skyview Unit for further mental health evaluation.

There is DMS (Digital Medical Systems) capability, where the offender could be seen by medical staff through video conferencing. If the situation called for it, the offenders would be transported to the TDCJ Estelle Unit which does have 24/7 medical staff available, or the offender would be transported to an offsite hospital.

Normal offsite treatment, including forensic sexual assault exams, goes to Huntsville Memorial Hospital, about 30 minutes away. Other hospitals may be used in medical crises as determined by EMS resources if they are called in.

### **Offender Work Programs:**

Offenders have the opportunity to work full-time or attend school and work part-time. Many offenders are assigned to traditional prison support functions or assigned to work in Industries programs and to outside trusty work programs. Offender workers are also provided to city and county agencies and the local school district.

### **Academic and Vocational Education:**

The Windham School District (WSD) was established by the Texas Legislature as an entity separate and distinct from the Texas Department of Criminal Justice in 1969. It was the first education system of such scope to be established within a statewide prison system. The WSD provides academic, life skills, and career and technical education programming to eligible offenders incarcerated within TDCJ. The school is directed by a principal who oversees the

academic education, vocational programs, and the general library. The school has eight classrooms, one testing room, and numerous computers. Full staffing includes one principal, 12 teachers/administrative staff, seven trades instructors, and two full-time Lee College Vocational teachers.

The Ferguson WSD offers academic classes in Literacy (Adult Basic Education/GED) and Special Education; Life Skills classes - CHANGES/Pre- Release and Cognitive Intervention; Career and Technology Programs - Culinary Arts, Electrical Trades, Mill and Cabinetmaking, Small Engine Repair, and Welding. Associate degree classes are offered at the offender's expense. Lee College offers vocational classes in Data Processing and Cabinetmaking and Food Services Careers.

### **Social Services and Religious Programs:**

Social Services are provided through the combined efforts of the chaplain, mental health case managers, and education staff.

Education staff offers a pre-release life skills program called CHANGES (Changing Habits and Achieving New Goals to Empower Success) and a Cognitive Intervention Program that teaches students to examine and change thinking that leads to criminal behavior.

The mental health clinic provides individual and group therapy sessions, plays a key role in initial assessments of all newly received offenders, and provides required initial and on-going treatment for victims and aggressors when identified. They enable telemedicine psychiatric consultations and are frequently the first staff to discern significant changes in behavior or other behavioral warning signs.

Religious and volunteer services are planned, directed, and coordinated by one full-time chaplain. The chaplain is extensively involved in providing faith-based programs to assist in the rehabilitation of offenders and has also established connections in the community to assist offenders in preparing for their reintegration back into the community.

He reported he receives great support and assistance from local volunteers and churches who assist him in the delivery of a variety of religious programs. At the time of the audit there were 126 approved volunteers on the list who assist Ferguson and reportedly about 30 who come regularly. Volunteers are screened and provided four hours initial training regarding resident behavior, PREA and security requirements.

The Chaplain assists in the notification of critical incidents to offenders and is also a trained OVR who can serve, and has served, as a Victim Advocate in a sexual assault if one is requested.

Religious/Faith Based Studies and Activities include a Faith Based Dormitory, Adult Education Program (upon availability), Peer Education, Reentry Planning, Chaplaincy Services, and the TDCJ 'GO KIDS' Initiative (Giving Offenders' Kids Incentive and Direction to Succeed.) The goal of the GO KIDS initiative is to help the kids of those persons under criminal justice supervision by identifying and coordinating resources that may assist them.

Ferguson has 4 Offender Field ministry graduates on board to help minister to and assist offenders. This is a unique program, a branch of one that began in Angola prison, that sends long-term offenders to college to complete ministry studies, after which they return to serve the offender population. These field ministry offenders are often the first ones to be aware of attitude or behavior changes in individuals or to observe possible threats to other offenders.

## Conclusion

The Ferguson Unit of TDCJ is compliant with PREA Standards.

The Warden, leadership team, and members of the staff are all sensitive to ensure continuing this facility in compliance with PREA standards. The final briefing indicated that this present sensitivity and attention will continue.

## Summary of Audit Findings

Number of Standards Exceeded: 2

Number of Standards Met: 41

Number of Standards Not Met: 0

## PREVENTION PLANNING

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

#### 115.11 (a)

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

#### 115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator?  Yes  No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy?  Yes



No

- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities?  
 Yes  No

#### 115.11 (c)

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

#### ***Auditor Overall Compliance Determination***

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

Policy ED-03.03 provides the TDCJ safe Prisons/PREA Plan. The PREA Compliance Manager reports to the Warden. The TDCJ policy mandates zero tolerance of sexual abuse and harassment. The policy outlines the agency's approach to preventing, detecting and responding to such conduct. Prohibited acts are clearly defined. Staff duties are defined within the policy. The TDCJ state-wide PREA Coordinator and PREA Managers were familiar with their respective responsibilities to ensure compliance to policies by staff. The TDCJ and Facility Coordinators interviewed indicated that they have sufficient time and authority to coordinate efforts to comply with the PREA standards as required. The extensive TDCJ PREA compliance oversight and management effort is assigned to the Safe Prisons Unit and function statewide and is operated from TDCJ headquarters.

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

##### 115.12 (a)

- If this agency is public and it contracts for the confinement of its offenders 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 offenders.)  
 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 offenders OR the response to 115.12(a)-1 is "NO".)  Yes  No  NA

#### ***Auditor Overall Compliance Determination***

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

Based on contract documentation provided and interviews with the PREA Coordinator, it was determined that the TDCJ system (not Ferguson per se) does contract with other facilities to house offenders assigned to their custody and requirements to monitor are being met, as are contractual requirements that the contractor be compliant with PREA Standards. TDCJ has an extensive oversight system for contractual relationships.

The TDCJ Contracts policy, AD-02.46 requires that any contracted providers (there are 11) meet all PREA requirements. Providers of confinement space are audited by TDCJ annually.

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

#### 115.13 (a)

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

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

#### 115.13 (b)

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

#### 115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed

to: The staffing plan established pursuant to paragraph (a) of this section?  Yes  No

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

#### 115.13 (d)

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

#### ***Auditor Overall Compliance Determination***

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

The average daily count is 2385 and the staffing plan is predicated on a capacity of 2421, with 2100 inside and 321 at the Trusty unit. TDCJ's systemic approach meets requirements for the Staffing Plan, although only a portion of the process occurs at the Unit level. The Annual Plan is developed by the Ferguson leadership team, including the PREA Coordinator in conjunction with the State-wide PREA Coordinator from TDCJ. The local plan emphasis, as in most systems, is more geared towards managing allotted resources than a total review of needs to run the facility that addresses all sexual safety needs, but the Ferguson Warden's annual assessments, normally in the March-April time frame, are thorough and address all required basic areas.

The overall process includes the review of manpower and technology, the review of incidents, and the monitoring of deviations. The system is cumulative and addresses more overarching issues as it rises through the Region and other review echelons.

It is noted that a number of the local deviations revolve mostly around medical transport and supervision issues but the unit maintained basic staff coverages even as those shortfalls occurred. The most common reason for staffing deviations include: emergent need for continuous observation of an offender; medical transport or hospital security; evacuees due to weather emergency; and additional needs due to installation of nearly 700 cameras. All deviations are logged and explained. The staffing plan receives annual reviews and assessments by the facility, Region and at TDCJ levels. Unannounced supervisory visits are required and routinely accomplished on all shifts.

### **Standard 115.14: Youthful offenders**

#### 115.14 (a)

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

#### 115.14 (c)

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

Youthful Offenders are not housed at this facility. Not Applicable.

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

#### 115.15 (a)

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

#### 115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female offenders in non-exigent circumstances? (N/A here for facilities with less than 50 offenders before August 20,2017.)  Yes  No  NA
- Does the facility always refrain from restricting female offenders' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A here for facilities with less than 50 offenders before August 20, 2017.)  
 Yes  No  NA

#### 115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No
- Does the facility document all cross-gender pat-down searches of female offenders?  
 Yes  No  NA

#### 115.15 (d)

- Does the facility implement a policy and practice that enables offenders 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 offender housing unit?  Yes  No

#### 115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex offenders for the sole purpose of determining the offender's genital status?  Yes  No
- If an offender's genital status is unknown, does the facility determine genital status during conversations with the offender, 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 offenders 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)

Based on policy, tour observations, training curricula, staff and offender interviews, and documentation provided in logs, they do not conduct cross gender strip searches and/or cross- gender body cavity searches, although policy allows for exigent circumstances and requires extensive log data showing supervisory approval etc. There have been no instances to date but, if any occur, staff are aware of the procedures and that policy defines the requirement to document such searches in an Incident Report.

Offenders interviewed all supported that they are allowed to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing these evolutions, especially with the implementation of barriers for the shower areas and privacy barriers in the toilet areas. Cameras are appropriately positioned to ensure basic privacy while maintaining a more secure overall environment.

Opposite gender staff are required to announce their presence prior to entering the housing areas and this was observed throughout the tour. Interviews with staff and offenders revealed that opposite gender announcements are common practice. If the cellblock/dorm officer is of the opposite gender, at the beginning of each shift, the cellblock officer announces their presence when entering an offender housing area. For other cross-gender staff, males entering female housing areas announce each entry. Non-security and security staff of the opposite gender who are not assigned to the offender housing area(s) for the duration of the shift make a similar announcement each time when entering offender housing areas. In addition to this "Knock and Announce" there are newly added curtains or doors on showers and strip-search throughout the unit. These measures have been adopted in effort to further prevent cross-gender viewing of an offender in the state of undress.

Staff were aware of the prohibition of searching or examining a transgender or intersex offender for the purpose of determining the offender's genital status. As to transgender offenders, policy, training documentation and staff interviews show that staff are familiar with the search procedures for this population.

No female offenders are confined here, this element of the Standard is Non-Applicable. Female officers pat search males and are trained to do so; all strip searches are conducted by male staff. All female staff 'knock and announce' upon entering any housing unit as verified by policy, observation, and both staff and offender interviews. Search procedure training specific to transgender offenders is provided to all staff but policy is clear that searches to determine genital status are prohibited.

### **Standard 115.16: Offenders with disabilities and offenders who are limited English proficient**

#### 115.16 (a)

- Does the agency take appropriate steps to ensure that offenders 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: offenders who are deaf or hard of hearing?  Yes  No
- Does the agency take appropriate steps to ensure that offenders 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: offenders who are blind or have low vision?  Yes  No
- Does the agency take appropriate steps to ensure that offenders 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: offenders who have intellectual disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that offenders 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: offenders who have psychiatric disabilities?  Yes  No

- Does the agency take appropriate steps to ensure that offenders 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: offenders who have speech disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that offenders 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 offenders 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 offenders with disabilities including offenders 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 offenders with disabilities including offenders 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 offenders with disabilities including offenders 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 offenders 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 offender interpreters, offender readers, or other types of offender assistance 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 under §115.64, or the investigation of the offender'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)

Offenders with disabilities may be housed here during intake but they are transferred to a more appropriate facility with the required services if the disability is severe. The Facility makes available written information in English and Spanish if needed. Through staff and offender interviews, it is clear that staff are available to ensure effective communication with offenders having difficulty reading or understanding information provided.

Certified American Sign Language Interpreter service is provided in accordance with their Correctional Managed Care Health Care Policy Manual for hearing impaired offenders, but if someone is profoundly deaf they are normally recommended for transfer to an appropriate institution where services are more routinely available. Services are also available via DMS (Digital medical Systems) via visual connection with headquarters at Huntsville. TDCJ also maintains a roster of languages spoken by staff Statewide and can call upon them at any time needed.

Offenders identified as Spanish speaking only or limited English will be provided orientation in Spanish, and this is noted on the Orientation Sign In sheet.

The Correctional Managed Health Care Committee and the TDCJ Health Services Division oversee policy for services for offenders who require medical supervision and/or multidisciplinary care. These include offenders who are chronically ill or have a communicable disease; require Assistive Disability Services; are frail elderly; are terminally ill; are seriously mentally ill; have a developmental disability; and/or are pregnant.

As a general rule, only qualified interpreters who scored a Level 5 (a high-performance level) provide translations; If the subject involves a specialty area, such as Safe Prisons/PREA or Health Services, an interpreter who is familiar with the terminology used by the subject matter is supposed to be used. Qualified interpreters are not intended to translate or interpret if they are not knowledgeable or familiar with the subject matter. In this case, assistance from another qualified interpreter will be obtained.

TDCJ trains all staff on PREA-compliant practices and communicating with offenders with disabilities or who are limited in English proficiency. Certified staff translators are available, as are translation services. Policy AD-04.25 prohibits offender interpreters unless a hazardous situation is immediately present. No offender interpreters have been utilized in the past year.

## Standard 115.17: Hiring and promotion decisions

### 115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with offenders 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 offenders 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 offenders 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 offenders 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 offenders 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 offenders who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above?  Yes  No

### 115.17 (b)

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

### 115.17 (c)

- Before hiring new employees, who may have contact with offenders, does the agency: perform a criminal background records check?  Yes  No

- Before hiring new employees, who may have contact with offenders, 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 offenders?  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 offenders 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 offenders 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 offenders 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)

By review of policy, an interview with a staff responsible for Human Resources functions, and documentation review, it was determined that the TDCJ does not hire or promote staff or enlist the services of any volunteer or contractor who may have contact with offenders if they have committed or been convicted of any of the prohibited acts as defined in sections 1-3 of standard 115.17(a) or had any incidents of sexual harassment.

New employees and potential contractors receive criminal background checks and those are renewed every 5 years through the NCIC system. Applicants for hire or promotion are asked directly about misconduct through a separate reporting form during the process and every applicant is reviewed and vetted by the HR Background Investigation Unit before a selection is made.

Hiring lists of Correctional officers are centrally managed by HQ; and the hiring process for specialists unique to a specific facility are normally accomplished by that facility.

Requests from employers concerning former employees are responded to by the staff responsible for HR functions but policies and interviews made it clear that TDCJ ensures any staff member with adverse information on their record has that data provided to the requesting agency considering the former staff member for possible hire. Policy 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 to work."

This includes those who resign in the middle of an investigation. Depending on the nature of the employee information, all requests are referred to the OIG or to the 'Open Records' office for response, but TDCJ policy is to meet the standard. Any questions regarding actual substantiated sexual abuse or sexual harassment claims by employees against offenders are referred to and answered by the TDCJ Office of the Inspector General.

Every applicant is fingerprinted with prints entered into the system so that the agency checks their history and also is notified of any subsequent arrests. Any staff not reporting an incident are directly reported to the Facility Head.

Per PD 73, the Selection Criteria for Correctional Officer Applicants, minimum hiring standards for correctional officers and other security applicants are as follows:

1. Never have been convicted of a felony.
2. Not have been convicted of a Class A misdemeanor, or the equivalent, within the last 10 years

3. Not have been convicted of a Class B misdemeanor, or the equivalent, within the last 5 years.
4. Never have been convicted of a drug-related offense.
5. Never have been convicted of an offense that involved domestic violence.
6. Not have been discharged from the Armed Forces under dishonorable conditions.
7. Must pass the TDCJ pre-employment test and physical agility test.

All criminal history checks are performed through the Criminal Justice Information System (CJIS). TDCJ access is provided through the Texas Law Enforcement Telecommunication System (TLETS) operated by the Department of Public Safety (DPS). Once an employee or contractor is entered into the system, DPS provides an automatic notification by e-mail of any subsequent activity on the individual's criminal history.

Additionally, PD 73 Selection System Procedures requires that a criminal record check be conducted if an inside applicant is selected for one of the following positions: a supervisor of Correctional Officers, food service manager, or laundry manager. The criminal record check is used to determine whether the applicant has any pending criminal charges or prior criminal convictions that would disqualify the applicant from the position.

All agency employees are subject to annual criminal offense checks during the employee's birth month, and six months after, to ensure there are no outstanding warrants form, arrest.

Interviews indicated this process is enforced at all levels and staff can be dismissed at any stage where misconduct becomes known; TDCJ has a very thorough and well-documented system.

During the past year, 179 staff were hired and had criminal background checks completed; 1 service contractor was brought in and had a criminal background check completed. Policies PD-27 and PD-75 require the background checks and 5-year re-checks in accordance with the Standard. HR staff interviewed all indicated that any negative information regarding sexual abuse would be provided to prospective employers but that the information was centrally managed at the HQ level, not by the facility. Required questions about PREA-related actions are included in all interviews and processes.

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

### **115.18 (a)**

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

**Auditor Overall Compliance Determination**

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

The facility has added numerous cameras and now has 689 digital cameras that significantly enhance security and sexual safety in this facility. Their retention time is 24 days. Most blind spots have been eliminated or greatly reduced; the Warden and executive staff are continuing to address the remaining areas as identified, especially with mirrors that open up areas for better observation. A consistent trend across both staff and offender interviews is that there are many fewer actual incidents, and also far fewer allegations of incidents, since the population is well aware of the extensive coverage.

The Surveillance Center is not staffed 24/7 but cameras record 24/7 since their main function is investigatory use, they are not replacing staff.

An annual assessment is conducted as part of the staffing plan to ensure camera placement is appropriate and adequate to enhance sexual safety. The video monitoring system installed has high clarity and capability to monitor activities within the general facility zones and other areas; the recording capability is mostly 24 days to allow for use in investigations. Staff and offenders confirmed during interviews that they felt more safe and secure because of the widespread presence of the camera system.

TDCJ policy is that Video Surveillance equipment will not be installed, deleted or moved without approval by the Surveillance Systems Coordinator. Prior to that approval, the Coordinator will coordinate with the agency Safe Prison/ PREA Compliance Manager to collect any relevant information containing incidents of sexual abuse from the previous year. The System Coordinator, in conjunction with the Unit Warden, will deploy the

surveillance equipment in an effort to enhance the agency's ability to protect offenders from sexual abuse.

The quantity of cameras allocated may be increased or decreased as required by unit mission changes. Policy requires that, at least once a year, the Warden reviews deployment of video monitoring systems to ensure adequate coverage is provided to protect against sexual abuse. The Warden receives relevant data from the agency Safe Prison/PREA Compliance Manager containing the prevalence of incidents during this review.

## RESPONSIVE PLANNING

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

#### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate?  Yes  No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible?  Yes  No



- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)?  Yes  No
- Has the agency documented its efforts to provide SAFEs or SANEs?  Yes  No

#### 115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center?  Yes  No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member?  Yes  No
- Has the agency documented its efforts to secure services from rape crisis centers?  Yes  No

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? [N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.21(d) above.]  Yes  No  NA

### ***Auditor Overall Compliance Determination***

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

Policies AD-16.03 Victims of sexual assault who require a forensic exam will be taken to the nearest hospital emergency department for completion of the exam. OIG Investigators determine whether elapsed times since the incident allow for a forensic exam and investigators determine whether one is to be done. However, medical staff and investigators both stated in interviews that a medical recommendation for an exam would always be followed. State law (SB-1191) requires that ER staff have specialized training to complete a forensic exam but does not require that to be SANE or SAFE training. When possible SANE or SAFE will be utilized. TDCJ prefers to use staff OVR's (Offender Victim Representatives) to be immediately available if an offender requests an advocate. OVR's are trained and normally selected from appropriate support staff areas (Chaplain, Classification, Mental health, etc.). There is no cost to the offender for this process. Offenders are provided the list of statewide TAASA-approved rape crisis centers if they request it. The agency/facility is responsible for conducting administrative or criminal sexual abuse investigations (including offender-on-offender sexual abuse or staff sexual misconduct) and all such investigations begin with the OIG investigators, all of whom are sworn Texas law enforcement personnel.

Informational postings were available or placed throughout the facility informing offenders they could report issues, but addresses and phone numbers were difficult to obtain, including in offender literature, for either reporting issues and/or securing assistance and advocacy.

Interview with the Unit Safe Prisons/PREA Coordinator reflected that the staff contacted the local agencies to provide support, advocacy and counseling when requested by offenders. The Safe Prisons coordinator is also the primary person with oversight of the post-allegation monitoring program.

The highest-ranking security supervisor on duty always notifies the OIG on all allegations of sexual abuse and policy states that the OIG investigator determines whether a forensic medical examination is required, however the investigator was clear that forensic exams would always be pursued if the incident was still in a window where evidence might be obtained.

Following the OIG investigator authorization of a forensic exam, the security supervisor offers the offender a victim advocate, where available, or a staff OVR to accompany and provide the offender with emotional support services during the forensic examination. If the offender wants the services, the security supervisor immediately contacts the crisis/advocacy center or OVR and provides them with information regarding the location of the impending exam. The notifying supervisor documents the appropriate contact

information or whether the alleged victim refuses support services from an advocate/OVR.

Qualifications of an OVR (Offender Victim Representative). Each unit Warden designates at least two OVR's from the following:

- A qualified mental health practitioner (includes physicians, midlevel practitioners, psychologists, and master's level psychotherapists and master's level social workers);
- A Sociologist who performs social services work as an interviewer during reception and diagnostic process;
- A Chaplain, who works with religious services and education and provides pastoral care and counseling;
- A Social Worker, who performs social services in obtaining assistance and rehabilitative treatment; or
- A Case Manager, who performs work developing and maintaining contact with offender clients and service providers for medical, social, educational, and related service needs.

Wardens are required to screen OVRs for appropriateness to serve in this role, keeping in mind the emotional stability required when providing emotional support services to sexual assault victims.

Each newly designated OVR completes a TDCJ Offender Victim Representative Training course prior to performing any OVR functions. The SPPMO coordinates OVR training with the appropriate Health Services Division Sexual Assault Nurse Examiner and inform agency leadership of any scheduled training.

The OVR may only provide the offender victim of sexual assault with counseling and other emotional support services but cannot delay or impede the screening or stabilization of an emergency medical condition.

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

#### 115.22 (a)

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

#### 115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior?  Yes  No

- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means?  Yes  No
- Does the agency document all such referrals?  Yes  No

#### 115.22 (c)

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

### ***Auditor Overall Compliance Determination***

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

The agency/facility is responsible for conducting all administrative sexual abuse investigations (including offender-on-offender sexual abuse or staff sexual misconduct) and all such criminal investigations reside with OIG investigators, all of whom are sworn Texas law enforcement personnel. Interviews and policy all reflected that the OIG is notified immediately in every allegation.

Any allegation of sexual abuse will be referred to the Office of Inspector General, TDCJ, for a criminal investigation by an investigator with specific training in sexual abuse investigations. Per policy, and as documented on training records, OIG staff have completed specialized training specific to conducting investigations concerning sexual safety for both criminal and administrative investigations. Facility (non-OIG) investigators have been trained in the collection and preservation of usable evidence and were able to verbalize the steps required but these facility-based staff are Internal Administrative Investigators (non-criminal) and complete the Safe Prisons/PREA Training titled "Conducting A Thorough Investigation." The Warden or Administrative Investigator is responsible for conducting administrative investigations.

TDCJ follows a uniform evidence collection protocol that maximizes the potential for obtaining usable physical evidence. OIG investigators are commissioned Texas peace officers and have full law enforcement authority and statewide jurisdiction in criminal matters affecting the TDCJ. The OIG has primary responsibility for communication between the TDCJ and outside law enforcement agencies.

Employees are required to report occurrences or allegations of administrative violations, criminal offenses, and other incidents required to be reported by this directive immediately upon becoming aware of such conduct or as soon as practical. Reports may be made directly to the OIG or through the employee's supervisor. Supervisory staff ensure that incidents reported to them are also reported to the OIG. TDCJ specifies also that employees who do not report incidents are subject to discipline and charges themselves. Every employee interviewed was aware of this and could immediately relate consequences of failure to report.

All investigations are not only sent to the TDCJ and the OIG, but all sexual harassment and abuse investigations are also referred to the Emergency Action Center (EAC) in order to increase visibility in the system. The OIG conducts all criminal investigations involving staff-on- offender or offender- on-offender.

TDCJ policy requires an investigation for every allegation of sexual abuse or harassment. During the 12 months prior to the site visit, 30 allegations were received and 27 were referred for administrative investigation; 7 were referred for criminal investigation. There were a few in-process cases carried over from the prior year.

Action relating to some administrative violations prohibited by the TDCJ "General Rules of Conduct and Disciplinary Action Guidelines for Employees" are the responsibility of TDCJ staff who supervise or manage the employee involved.

All policies regarding reporting are clearly published on the TDCJ website and are under the management of the Safe Prisons Unit.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

#### 115.31 (a)

- Does the agency train all employees who may have contact with offenders on its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with offenders 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 offenders on offenders' right to be free from sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with offenders on the right of offenders 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 offenders on the dynamics of sexual abuse and sexual harassment in confinement?  Yes  No
- Does the agency train all employees who may have contact with offenders on the common reactions of sexual abuse and sexual harassment victims?  Yes  No
- Does the agency train all employees who may have contact with offenders 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 offenders on how to avoid inappropriate relationships with offenders?  Yes  No
- Does the agency train all employees who may have contact with offenders on how to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming offenders?  Yes  No
- Does the agency train all employees who may have contact with offenders 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 offenders at the employee's facility?  Yes  No
- Have employees received additional training if reassigned from a facility that houses only male offenders to a facility that houses only female offenders, or vice versa?  Yes  No

#### 115.31 (c)

- Have all current employees who may have contact with offenders 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)

All security and support staff were trained on PREA as required this past year. There are 552 staff currently employed by the facility who may have contact with offenders and there were 179 staff hired by the facility during the past 12 months who have contact with offenders. All new staff received the required training before assuming their posts. Of the 552 staff on board, 535 have received this year's training, the remainder being on some version of family, medical or military leave; those receive training upon their return.

If the employee's position is a clerical or other support staff position assigned to a unit and does not require attendance at the TDCJ Correctional Institutions Division (CID) Pre-Service Training Academy (PSTA), the employee attends a 32-hour Correctional Awareness class conducted and monitored by the Training Department no later than 30 calendar days after hire. The requirement for clerical/support staff to receive 40 hours of orientation training is accomplished through attendance in an eight-hour Direct Hire Session plus the 32-hour Correctional Awareness class. The employee is considered in trainee status until they attend a Correctional Awareness class.

#### Safe Prisons/PREA Training:

- Employees: All unit assigned employees receive Safe Prisons/PREA Training, in accordance with Standard 115.31, through required attendance at the Academy or Correctional Awareness training by viewing the Safe Prisons/PREA in Texas training video. They sign a PREA Training Employee Acknowledgment Form.

Additionally, requirements are met through the annual Staff Survivor training or in-service training by viewing the Safe Prisons/PREA in Texas training video and completing the PREA Training Employee Acknowledgment Form after viewing the video, which exceeds the Standards requirement of every two years.

- Contract Employees and Interns: All contract employees report to the unit Safe Prisons program manager to receive PREA Training by viewing the Safe Prisons /PREA in Texas training video and completing the Safe Prisons/PREA Training Contract Employee or Intern Acknowledgment Form after viewing the video. All contract employees/interns receive the refresher Safe Prisons/PREA Training every two years.

Agency policy requires that OIG investigators are trained in conducting sexual abuse investigations in confinement settings. The agency maintains documentation showing that investigators have completed the required training. All investigators currently employed have completed the required training. OIG Investigators also complete the NIC training, TDCJ Investigator Training Academy, and complete an Investigator Field Training Program. The OIG Academy lesson plan were reviewed and are comprehensive.

The 27 contract UTMB staff and 22 Windham education employees participate in an Orientation Session within 30 days of reporting. Their supervisor notifies human resources when each contract employee reports to the unit or department. The orientation is on similarities and differences between providing health care in the community and the correctional setting. Topics presented in medical orientation include: security, classification, health care needs of the offender population, offender social system; organization of Health Services and the Department of Criminal Justice, infection control, the Patient Liaison Program, the detection, signs, assessment, and 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.

Education staff receive initial Windham training, followed by monthly training whose topics range from security to District school issues.

The medical staff receive gender responsiveness training, a focus on suicide prevention and also training concerning how to detect and assess signs of sexual abuse and harassment. Additional training is provided on how to preserve physical evidence, effective responding and first responder training, and how and to whom to report, especially as forensic examinations are not conducted by on-site staff. All UTMB have annual in-service training from UTMB.

The audit included a review of the Volunteer Services Training Curriculum, Safe Prisons/PREA Plan, Volunteer Services Plan, Handbook for Volunteers, Letter of Orientation for Special Volunteers, and Acknowledgement of Volunteer Training Orientation. All contractors and volunteers receive training on their responsibilities under the sexual abuse and harassment prevention, detection and response policies and procedures. Training included potential disciplinary and criminal or administrative procedures for violations. Interviews acknowledged compliance with the training required for the level of contact of the volunteer or contractor.

Both TDCJ and the Ferguson Unit place great emphasis on staff training. All TDCJ line staff receive the 6- week Academy preservice training upon hiring, as well as annual refresher training, on the required specific standards outlined in standard 115.31, as well as specific training on being first responders. Training documentation reveals that staff acknowledge



their understanding of the training received within the training area files and the individual training files.

The four (4) major recurring in-service training themes are: PREA; suicide prevention; heat safety (a major area concern); and cold weather training.

Random lesson plans were reviewed and training staff interviewed. It was evident during the staff interviews, as well as upon review of training documentation, that staff received the training and were aware of their offender protection responsibilities concerning sexual abuse and harassment incidents as well as required steps of evidence collection.

Review of curricula showed that PREA training is both generic and also tailored to the gender-specific issues of offenders in each facility. Employees reassigned receive additional training if offender gender changes with the new assignment.

TDCJ invests major resources in training and this is further supported by the Region and the Ferguson leadership; training exceeds the standard's requirements and is a strong pillar of the system and facility.

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

#### 115.32 (a)

- Has the agency ensured that all volunteers and contractors who have contact with offenders 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 offenders 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 offenders)?  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)

The audit included a review of the Volunteer Services Training Curriculum, Safe Prisons/PREA Plan, Volunteer Services Plan, Handbook for Volunteers, Letter of Orientation for Special Volunteers, and Acknowledgement of Volunteer Training Orientation.

TDCJ maintains one statewide list of 23,288 approved volunteers, and the number is about 126 volunteers who routinely appear specifically at Ferguson, as well as 49 contractors, but the contractors reported are actually UTMB people medical and mental health staff and Windham school district personnel.

All contractors and volunteers receive training on their responsibilities under the sexual abuse and harassment prevention, detection and response policies and procedures. Training includes potential disciplinary and criminal or administrative procedures for violations. Interviews acknowledged compliance with the training required for the level of contact of the volunteer or contractor.

During the interview, the volunteer confirmed receipt of the training and accurately communicated the requirements of reporting and response. The volunteer agreement utilized here accurately reflects requirements and potential sanctions for violations.

### **Standard 115.33: Offender education**

#### 115.33 (a)

- During intake, do offenders receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No
- During intake, do offenders 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 offenders 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 offenders 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 offenders either in person or through video regarding: Agency policies and procedures for responding to such incidents?  Yes  No

#### 115.33 (c)

- Have all offenders received such education?  Yes  No
- Do offenders receive education upon transfer to a different facility to the extent that the policies and procedures of the offender's new facility differ from those of the previous facility?  Yes  No

#### 115.33 (d)

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

#### 115.33 (e)

- Does the agency maintain documentation of offender 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 offenders through posters, offender 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)

According to the PAQ, 2014 offenders were admitted during the past 12 months and given basic information at intake as required. Documentation provided to each offender includes an Orientation Handbook (English or Spanish). Grievance, visitation, correspondence, rules and regulations are all included in the Handbook provided. A Telephone System Notice is also provided.

They have Peer Education Classes conducted monthly, only offered to offenders who have not previously taken it, or who request to take it again. There were 360 offenders who took the Peer Education Class.

While in the TDCJ reception process, all offenders receive the PREA-required information concerning sexual safety, to include response and retaliation issues, by video and in person. Training/education is documented in the TDCJ electronic offender file. The classification staff and also the Safe Prisons/PREA Coordinator are involved in asking some of the same PREA-related questions asked during Intake, but the replication provides additional assurance of the items being covered during the process due to the numbers of offenders involved. Offenders are shown a Safe Prisons/PREA video which includes Sexual Assault prevention. TDCJ requires this to be reshowed every 2 years.

During the intake Orientation, geared towards acclimation, offenders receive additional comprehensive information explaining the zero-tolerance policy regarding sexual abuse and harassment and the importance of reporting incidents or suspicions of sexual abuse or harassment. The zero-tolerance information is also disseminated in Safe Prisons training as well as in the offender handbook. All basic sexual safety postings were throughout the unit as required- including the Zero Tolerance posters that inform the offender to report to staff immediately. All were in both English and Spanish.

TDCJ does receive some offenders who have limited English proficiency, or who are deaf/hard- of-hearing or visually impaired. Offenders identified as Spanish speaking only or limited English are to be provided orientation in Spanish, and this is required to be noted on the Orientation sheet. In the event such an offender is received, staff are available to personally assist the offender with accessing services available through the TDCJ for translation services.

Certified American Sign Language Interpreter services are provided in accordance with the Correctional Managed Health Care Manual for hearing impaired offenders. Profoundly deaf offenders would receive initial support but also generally be referred for transfer to a more appropriate facility with better services for confinement and care.

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

### **115.34 (a)**

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

#### 115.34 (b)

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### ***Auditor Overall Compliance Determination***

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

- Does Not Meet Standard (Requires Corrective Action)

Texas Government Code identifies the OIG as the primary investigative and law enforcement entity of TDCJ and OIG investigators are certified peace officers. There are 138 OIG Investigators Statewide, and 19 are assigned to the area serving the Ferguson Unit and other nearby facilities.

Agency policy requires that OIG investigators are trained in conducting sexual abuse investigations in confinement settings. The agency maintains documentation showing that investigators have completed the required training. All investigators currently employed have completed the required training. OIG Investigators also complete the NIC training, TDCJ Investigator Training Academy, and complete an Investigator Field Training Program. The OIG Academy lesson plan were reviewed and are comprehensive. Based on review of policy, curriculum and investigator interviews, investigative staff have received adequate specialized training in conducting investigations in a confinement setting in addition to general training provided for all employees.

In the event of an allegation, the OIG Investigators have also received specialized training in techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and level of evidence required to substantiate a case for administrative action or prosecution referral. All training is documented in the training records. Facility-based investigators are Internal Administrative Investigators and complete the Safe Prisons/PREA Training titled "Conducting A Thorough Investigation."

Interviews reflected the use of the "preponderance of evidence" standard in PREA cases.

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

#### 115.35 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment?  Yes  No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse?  Yes  No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment?  Yes  No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom

to report allegations or suspicions of sexual abuse and sexual harassment?  Yes  No

115.35 (b)

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

115.35 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere?  Yes  No

115.35 (d)

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

***Auditor Overall Compliance Determination***

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

All Health Services staff complete a formal orientation program, recommended within 30 days but required within 90 days. The University of Texas Medical Branch and TDCJ are responsible for developing and implementing the orientation program. Completion of the orientation is documented and kept in the employee's personnel file. Contract and subcontract personnel are also required to complete an orientation program, if possible within 30 days, but required within 90 days.

The orientation is on similarities and differences between providing health care in the community and the correctional setting. Topics presented in orientation include: security, classification, health care needs of the offender population, offender social system; organization of Health Services and the Department of Criminal Justice, infection control, the Patient Liaison Program, the detection, signs, assessment, and 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.

They also receive gender responsiveness training and a focus on suicide prevention. Training is also received concerning how to detect and assess signs of sexual abuse and harassment, how to preserve physical evidence, effectively responding and first responder training, and how and to whom to report, especially as forensic examinations are not conducted by on-site staff. All UTMB have annual in-service training from UTMB.

The agency has a policy related to the training of medical and mental health practitioners who work regularly in its facilities. All 27 medical and mental health care practitioners who work regularly at this facility have received the training required by agency policy. Specialized training was verified through review of policy requirements and interviews of medical staff. Training is documented and maintained in the training record.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

#### 115.41 (a)

- Are all offenders assessed during an intake screening for their risk of being sexually abused by other offenders or sexually abusive toward other offenders?  Yes  No
- Are all offenders assessed upon transfer to another facility for their risk of being sexually abused by other offenders or sexually abusive toward other offenders?  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 offenders for risk of sexual victimization: (1) Whether the offender has a mental, physical, or developmental disability?  Yes  No



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

#### 115.41 (e)

- In assessing offenders for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior acts of sexual abuse?  Yes  No

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

#### 115.41 (f)

- Within a set time period not more than 30 days from the offender's arrival at the facility, does the facility reassess the offender'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 offender's risk level when warranted due to a: Referral?  Yes  No
- Does the facility reassess an offender's risk level when warranted due to a: Request?  Yes  No
- Does the facility reassess an offender's risk level when warranted due to a: Incident of sexual abuse?  Yes  No
- Does the facility reassess an offender's risk level when warranted due to a: Receipt of additional information that bears on the offender's risk of sexual victimization or abusiveness?  Yes  No

#### 115.41 (h)

- Is it the case that offenders 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 offender's detriment by staff or other offenders?  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)

TDCJ policy and procedure requires an assessment of all offenders during intake screening and upon transfer from another unit for risk of being sexually abused by other offenders or sexually abusive toward other offenders. The Classification Counselor or designated alternate conducts the offender PREA assessment-screening interview and completes assessment forms for all newly assigned offenders upon transfer to this unit for permanent assignment. A nurse is assigned to do the initial health screen on all incoming offenders as part of Intake processing and on-site medical staff are also involved in screening at intake.

The Unit Classification Committee (UCC) shortly thereafter reviews information available in order to decide initial offender housing, job placement, education, and program assignments with the goal of keeping offenders with a high risk of sexual victimization separated from those at high risk of being sexually abusive. Evaluation includes: health screening, assessment for disabilities, drug and alcohol assessment, custody classification, sex offender assessment, educational, and mental health/psychological evaluation. This identification is enhanced by the participation of the classification and medical staff in the Intake screening process since they ask questions as well about victimization history.

The intake process consists of an orientation and screening process; a battery of assessments including mental health, Drug and Alcohol assessments, education testing and security classification for appropriate prison placement and treatment eligibility; a physical exam by a midlevel practitioner and an initial dental exam. The period immediately following arrival, about a week, is spent gathering information to verify histories and information prior to the offender's permanent housing assignment and/or transfer.

The Offender Assessment Screening form is good one and meets requirements and needs. Interviewers are required to use appropriately private areas for the interviews.

Interviews and Policy review indicated that the mandated '30 Day Reassessment' of every offender received is being completed by the PREA Coordinator sometime around the 15-20-day mark, well within standards. It is also done if new information is received. In the past 12 months, 1977 offenders were transferred in and re-screened during Ferguson intake processing.

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

#### 115.42 (a)

- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those offenders 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 offenders 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 offenders 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 offenders 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 offenders 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 offender?  Yes  No

#### 115.42 (c)

- When deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, does the agency consider on a case-by-case basis whether a placement would ensure the offender's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns offenders 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 offenders, does the agency consider on a case-by-case basis whether a placement would ensure the offender'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 offender reassessed at least twice each year to review any threats to safety experienced by the offender?  Yes  No

#### 115.42 (e)

- Are each transgender or intersex offender'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 offenders given the opportunity to shower separately from other offenders?  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 offenders, does the agency always refrain from placing: lesbian, gay, and bisexual offenders in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex offenders, does the agency always refrain from placing: transgender offenders in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex offenders, does the agency always refrain from placing: intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No

#### ***Auditor Overall Compliance Determination***

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

As required by TDCJ policy and as indicated through staff interviews, the Facility staff uses information from the risk screening to determine institutional location, housing, bed, work, and programs assignments with the goal of separating offenders determined at high risk of being sexually victimized from those at risk of being sexually abusive. Additionally, identification of potential predators or victims results in expedited notification to senior staff for individualized determinations of how to ensure the safety of each offender. This identification is enhanced by the participation of the classification and medical staff in the Intake screening process.

Generally, although there was only one in the population at the time of the audit, transgender offenders would be assigned to a larger institution with a wider range of services and resources for routine housing and programming assignments, ensuring the offender's health and safety as well as greater access to programming. Any transgender offender sent to this institution is sent there for specific security and risk issues unrelated to gender identity, and they will be assigned single cell/single shower housing until transferred onward to another facility. In the event of a permanent assignment to this facility, policy provides that placement and programming assignments would be reassessed at least twice per year to review any threats to safety, with the offender's own views of safety given serious consideration.

Policy provides the opportunity to shower separately from other offenders. Offenders are not placed in dedicated facilities, units or wings solely on the basis of the LGBTI identification or status but they are separated on the basis of identification as either a potential predator or potential victim. Entries into the offender information system and files are specifically marked for victim/aggressor status as well as required separation orders regarding other offenders.

Policy and procedure requires an assessment of all offenders during an intake screening, and upon transfer from another unit, of his risk of being sexually abused by other offenders or sexually abusive toward other offenders. The Unit Classification Committee (UCC) reviews intake data and risk assessment to facilitate offender housing, job placement, education, and program assignments.

In making housing assignments, consideration is given to characteristics such as age, height and weight, violent or passive tendencies, criminal sophistication, homosexual (active and passive) tendencies, offender enemies, separation requirements from specific offenders, Security Threat Group (STG) status and current institutional adjustment.

It is noted that a study of the Texas Safe Prisons Program statistics suggests housing cell partners within 9 years of age and 40 pounds of each other, to the maximum extent possible. Offenders identified as victims/potential victims are not to be cell-housed with offenders identified as predators/potential predators.

### **Standard 115.43: Protective Custody**

#### 115.43 (a)

- Does the facility always refrain from placing offenders 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 offender in involuntary segregated housing for less than 24 hours while completing the assessment?  Yes  No

#### 115.43 (b)

- Do offenders 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 offenders 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 offenders 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 offenders who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations?  Yes  No

#### 115.43 (c)

- Does the facility assign offenders 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 offender'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 offender 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)

The agency has a policy prohibiting the placing of offenders 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. Staff and offender interviews, and files documentation initially reported that no offenders at risk of sexual victimization were held in involuntary segregated housing in the past 12 months.

However, "Protective Custody" terminology in TDCJ is not totally comparable to PC status in other systems-- that category name is utilized systemically in TDCJ for a generally different and higher security population. TDCJ Protective Custody housing is segregated from general population housing areas, and offenders assigned there have a much higher degree of protection. Offenders in TDCJ protective custody are reviewed every seven days for the first sixty days and then at least every thirty days thereafter per the Administrative Segregation Plan and the Safe Prisons/PREA Plan.

Most Ferguson offenders who are the subject of the intent of this PREA standard are undergoing an OPI (Offender Protection Investigation) or, if already identified as the aggressor, go to PHD (Pre-Hearing Detention.)

TDCJ policy is that the placement of an offender into this OPI housing is not a separation from general population but a means to remove the offender from the environment in which the allegation was made until risk can be determined. Although this defines OPI (Offender Protection Investigation) as a status rather than a custody, the idea that they are in 'general population' is somewhat misleading since their movement and physical location is clearly restricted while the investigation is on-going.

Policy states that Offender Protection Investigations begin with a third party or the offender making a request for protection. The offender may then be placed in transient housing pending an investigation for 72 hours and an additional 72 hours, if needed and as determined by the Warden, for the completion of the investigation. Upon completion of the investigation and the finding of a substantiated incident and/or other high-risk factors, the facility addresses individual housing and program needs.

TDCJ policy does require that, if separation is used for this purpose, both a statement of the basis for facility's concern for the offender's safety, and the reason or reasons why alternative means of separation could not be arranged are required. If an involuntary segregated housing



assignment is made, efforts are made to review and move the offender within 12-72 hours. If required for a longer period, the facility affords each such offender a review every 30 days to determine whether there is a continuing need for separation from the general population.

The Unit Classification Committee (UCC) makes individualized determinations on how to ensure the safety of each offender. If an assessment cannot be completed immediately, they document the safety reason why no alternative means of separation can be arranged. Every 30 days, the unit conducts a status and program review to determine if there is a continuing need for separation of the offender from the general population.

Protective Safekeeping is for offenders who require the highest level of protection due to threats of harm by others or a high likelihood of victimization. All offenders initially placed in protective safekeeping are afforded an initial hearing within seven days, which is documented on the Protective Safekeeping Initial Hearing Record, Attachment C of the Protective Safekeeping Plan. A subsequent paper review is completed by the UCC every seven days for the first two months, and at least every month thereafter. All of these reviews are documented on the Protective Safekeeping 7/30-Day Review Record, Attachment D of the Protective Safekeeping Plan.

|                  |
|------------------|
| <b>REPORTING</b> |
|------------------|

**Standard 115.51: Offender reporting**

115.51 (a)

- Does the agency provide multiple internal ways for offenders to privately report: Sexual abuse and sexual harassment?  Yes  No
- Does the agency provide multiple internal ways for offenders to privately report: Retaliation by other offenders or staff for reporting sexual abuse and sexual harassment?  Yes  No
- Does the agency provide multiple internal ways for offenders 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 offenders 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 offender reports of sexual abuse and sexual harassment to agency officials?  Yes  No

- Does that private entity or office allow the offender to remain anonymous upon request?  
 Yes    No
  
- Are offenders detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security?  Yes    No

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 offenders?  Yes    No

***Auditor Overall Compliance Determination***

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

The agency policy reports that it provides ways for offenders to report abuse or harassment to a public or private entity or office that is not part of the agency, primarily mail to internal or external organizations.

- There is a policy requiring information for offenders detained solely for civil immigration purposes, however, TDCJ does not house offenders solely for immigration purposes.
- The agency has a policy mandating that staff accept reports of sexual assault and sexual harassment made verbally, in writing, anonymously, and from third parties. There have been 3<sup>rd</sup> party reports received from some offenders and they were quickly acted upon.
- Staff are required to immediately document verbal reports.
- The agency has established procedures for staff to privately report sexual abuse and sexual harassment of offenders to the PREA Ombudsman and the Office of the Inspector General.
- Staff are informed of these procedures in Staff handbooks and in required Training and are subject to stringent potential penalties for failure to act or report.

The address of the Ombudsman for the system is posted in every housing unit.

The agency or facility provides a method to receive third-party reports of offender sexual abuse or sexual harassment and publicly distributes to families and others, such as legislators, information on how to report offender sexual abuse or sexual harassment on behalf of offenders. The booklet for families of offenders has all necessary Ombudsman contact information.

## Standard 115.52: Exhaustion of administrative remedies

### 115.52 (a)

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

### 115.52 (b)

- Does the agency permit offenders 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 offender 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 offender 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 offenders 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 offender 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 offender does not receive a response within the time allotted for reply, including any properly noticed extension, may an offender 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 offenders, staff members, family members, attorneys, and outside advocates, permitted to assist offenders 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 offenders? (If third-party files such a request on behalf of an offender, 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 offender declines to have the request processed on his or her behalf, does the agency document the offender'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 offender 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 offender 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 offender 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 offender for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the offender filed the grievance in bad faith? (N/A if agency is exempt from this standard.)  
 Yes    No    NA

***Auditor Overall Compliance Determination***

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

The TDCJ Offender Grievance Program is intended to identify issues and facilitate corrective actions and to afford offenders a formal mechanism for review and redress while providing agency administrators with current information for direct interaction and proactive planning.

A grievance form and Instructions may be obtained from any staff member or from the unit law library. Each unit has a Unit Grievance Investigator (UGI), responsible for processing and resolving offender complaints, who works with the Warden and department heads to ensure issues identified are appropriately addressed.

If an offender is not satisfied with the response to a Step 1 grievance, they may appeal the decision by submitting a Step 2 grievance, including the answered Step 1 data, and submit the grievance to the UGI on their unit of assignment. The UGI will forward the grievance to the Central Grievance Office for

processing. Central administration and regional directors, as well as other departmental specialists, will review the appeal and take additional action if necessary.

It is a violation of TDCJ policy to subject any offender to harassment, retaliation or reprisal for using the grievance procedure.

When a grievance is received, the grievance is processed and the investigator interviews the offender. If at any point during the interview or the investigation, it is revealed the allegations are false then the offender would receive disciplinary action at that point.

When an anonymous or third-party allegation is filed, staff will interview the alleged victim to validate the need for protection/investigation, reportedly because some offenders utilize the grievance and protection investigations to manipulate the system to achieve a housing move or some alternative motive. Subsequent steps depend on whether the grievance was filled anonymously or has a name and number that it can be assigned to. If it is not anonymous then they staff proceed to process the report as an emergency grievance.

OGOM 1.01 Section VII.C says that offenders will not receive a discipline case for submitting grievances in bad faith, but interviews support what other TDCJ policies say: "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." Interviews reflected the uniform understanding that a bad faith grievance would result in disciplinary action, which is allowable within PREA standards.

Policy regarding offender grievances of sexual abuse (BP-03.77, AD-03.82 115.52 (b)-1) allows an offender to submit a grievance regarding an allegation of sexual abuse at any time, regardless of when the incident is alleged to have occurred. There is no requirement for attempts to informally resolve any complaint. It allows an offender to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. Agency policy and procedure requires that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within 90 days of the filing of the grievance.

During the past year, no grievances required extensions beyond 90 days; no offenders declined third-party assistance; and no offenders were disciplined for filing a false allegation grievance. There were 2 Emergency Grievance requests alleging danger of imminent sexual abuse and both were handled immediately and within required time limits of the Standard.

It is also noted that policy requires immediate notice to senior leadership, the PREA Coordinator, and the PREA Coordinator at the OIG office. No offenders received disciplinary action this year based on filing a grievance in bad faith.

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

#### **115.53 (a)**

- Does the facility provide offenders with access to outside victim advocates for emotional support services related to sexual abuse by giving offenders mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies?  Yes  No
- Does the facility enable reasonable communication between offenders and these organizations and agencies, in as confidential a manner as possible?  Yes  No

#### 115.53 (b)

- Does the facility inform offenders, 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 offenders 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)

The Ferguson Unit reports that they provide offenders with access to outside victim advocates for emotional support services related to sexual abuse through either designated and trained TDCJ staff or programs affiliated with the TASSA (Texas Association Against Sexual Assault). TASSA organizations focus on sexual abuse victims and provide reporting, advocacy and wide- ranging support to victims as needed.

The Unit Safe Prisons/PREA Manager reports that victims are given a pamphlet with TAASA agency addresses and a current TAASA information packet with a list of resources available statewide, not just locally, at the time they are interviewed for a statement. No

request is required. If an offender requests to call a TAASA organization, he would be provided a confidential phone call on a phone located in the law library.

It is also noted that one service of the TAASA agency list is to allow follow-on referral to an offender's home agency anywhere in Texas, and TAASA can also provide a list of other agencies anywhere in the US for offenders departing Texas after release.

Offenders are advised of the restrictions on confidentiality and that all calls are recorded except calls to attorneys; this information is available in the Offender Orientation Handbook and explains restraints on data provided to the Ombudsman, OIG etc.

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

#### **115.54 (a)**

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

#### ***Auditor Overall Compliance Determination***

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

The facility provides information concerning third party reporting directly to the TBCJ Ombudsman or writing to the TDCJ OIG as well as poster information in all visiting areas. The pamphlet available to families reports this same information and 3<sup>rd</sup> parties can either write or call these organizations. The facility takes all reports seriously, no matter the method of reporting and each reported incident is investigated.

The Prison Rape Elimination Act (PREA) Ombudsman was established by the Legislature in 2007 and is appointed by the Texas Board of Criminal Justice (TBCJ). The PREA ombudsman reports directly the chairman of the TBCJ and is an office external to the reporting process of TDCJ. The Texas Board of Criminal Justice (TBCJ) established the PREA ombudsman's office to investigate and process PREA complaints and inquiries in



accordance with BP-02.09, "Prison Rape Elimination Act Ombudsman Policy Statement."

The PREA Ombudsman was created to provide offenders, and the public, with an independent office to report sexual assaults. The PREA ombudsman provides a confidential avenue for receiving reports of sexual abuse and sexual harassment, as well as investigating and responding to PREA complaints and inquiries received from elected officials, the public, and offenders. The primary responsibilities of the PREA Ombudsman Office are to monitor TDCJ's efforts to eliminate sexual abuse and sexual harassment in correctional facilities; review the TDCJ's policies and procedures to ensure they are in compliance with federal and state laws and standards; and respond to public inquiries related to allegations of sexual abuse and sexual harassment in TDCJ correctional facilities and ensure impartial resolution.

Third parties, including fellow offenders, staff members, family members, attorneys, and advocates, are permitted to assist offenders in filing requests for administrative remedies relating to an allegation of sexual abuse, and also permitted to file these requests on behalf of offenders.

## OFFICIAL RESPONSE FOLLOWING AN OFFENDER REPORT

### Standard 115.61: Staff and agency reporting duties

#### 115.61 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against offenders 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 offenders 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)

TDCJ requires all staff (to include medical and mental health practitioners) to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or harassment or retaliation; and for staff not to reveal any information related to a sexual abuse report to anyone other than those necessary. All incidents are reported to the OIG since they have criminal investigation responsibility. Random staff interviews confirmed staff awareness of their responsibility for the immediate reporting requirement and not disclosing information of allegations except in the investigation process, treatment or management process. This same policy also includes mandatory reporting of any activities related to retaliation.

Staff interviewed indicated they believed that both they and their fellow staff would adhere to these rules. It is noted that the Texas policy is quite strong and staff can be disciplined and/or charged for not reporting.

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

115.62 (a)

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

**Auditor Overall Compliance Determination**

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

The TDCJ policy requires all staff, volunteers and contractors to take immediate action to protect any offender subject to risk of imminent sexual abuse. During interviews, staff and volunteers were aware of the steps to take to protect an offender as well as most normal first responder procedures. Extensive training concerning this topic was evident throughout all positions interviewed and all lesson guides reviewed. Random questions to staff during the tour gave the same results, that staff were aware of the steps and processes required.

There were 2 cases this past year where the agency determined an offender was at risk of imminent sexual abuse and action was taken to protect them immediately in both cases.

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

115.63 (a)

- Upon receiving an allegation that an offender 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)

TDCJ policy requires that documented notification occur within 72 hours to the appropriate agency or facility, upon receiving an allegation that an offender was sexually abused while confined at that facility, in order to ensure it is investigated. There have been no instances of notification to other facilities in the past year, but during interviews with the Warden and PREA Coordinator, familiarity with the required procedure was demonstrated as they acknowledged requirements regarding this occurrence.

Upon receiving an allegation that an offender was sexually abused while confined at an outside agency facility, the SPPMO is required to notify the head of the facility or appropriate office of the agency where the alleged incident occurred as soon as possible, but no later than 72 hours after receiving the allegation at the TDCJ. This procedure is all done by Safe Prisons staff, frequently by email. They also FAX a letter to head of the facility where it happened, and a telephone call is made.

Any notice from an outside agency that an offender in their custody alleged sexual abuse while assigned in the TDCJ is immediately provided to the Warden. The Warden is required to report the allegation to the PREA Ombudsman and the Office of the Inspector General (OIG). Such reports are treated the same as if the incident were reported on the unit. They would first make sure the incident or allegation had not previously been investigated or an investigation would be initiated.

**Standard 115.64: Staff first responder duties**

115.64 (a)

- Upon learning of an allegation that an offender 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 offender 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 offender 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 offender 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)

In the past 12 months, there were 29 allegations that an offender was sexually abused, usually quite some time after the incident; and none were of a nature to allow forensic evidence collection. Only 7 of these required separations of an aggressor and a victim and all first responder required actions were taken in all 7 of those cases. No non-security staff members were the first person to respond.

Training of staff members to respond are in accordance with the following TDCJ/facility training:

- Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.
- Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- 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.

These procedures are trained but interviews, records, and information from the outside agency, reported that the common offenses were touching someone, fondling, grabbing buttocks or breasts over clothing etc. and therefore were not cases that allowed for the collection of forensic evidence.

TDCJ specifically outlines the above detailed procedures for all staff to respond to allegations of sexual abuse in accordance with the standard. All line staff are trained as first responders, and all volunteers and contractors also receive instruction on appropriate initial responses if they are first on scene, and all are provided pocket-sized cards with the required steps as a memory tool in any crisis. All staff interviewed were aware of their expected duties to include protection and separation, evidence preservation and collection, medical assessment and treatment if needed. The checklist utilized by staff mirrors the PREA standard and staff have received required training specific to these duties as confirmed through interviews and training records provided.

### **Standard 115.65: Coordinated response**

#### **115.65 (a)**

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

#### ***Auditor Overall Compliance Determination***

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

The Facility has a well-written and well-developed institutional policy and plan to coordinate actions of staff in response to an incident of sexual abuse. Interviews with Specialized Staff and intermediate level managers confirmed that all were knowledgeable concerning the response plan and the specific duties of each. The response checklist is very clear and specific as to which staff are responsible at each step and also includes the various requirements and restrictions involved.

Responding to an allegation of sexual abuse requires a coordinated effort between unit security staff, the Office of the Inspector General (OIG), medical and mental health services, and victim advocates (when utilized) or an Offender Victim Representative (OVR). They follow detailed procedures that provide a systematic notification and response process following a reported sexual abuse incident. The checklist and matrix for investigation, and other security and management decisions is well-done and mirrors the

needs of the standard.

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

115.66 (a)

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency’s behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency’s ability to remove alleged staff sexual abusers from contact with any offenders 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)

TDCJ does not engage in collective bargaining but does provide for Mediation if an employee is dismissed, although making it clear that it does not restrict the Agency’s ability to terminate an employee at will.

**Standard 115.67: Agency protection against retaliation**

115.67 (a)

- Has the agency established a policy to protect all offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other offenders 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 offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offenders 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 residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by offenders 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 offenders who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by offenders 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 offender 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 offender 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 offender 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 offenders, 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)

Multiple protection measures such as housing changes, rare transfers to a larger or different TDCJ facility, emotional support services and removal of perpetrators have been put in place to protect all offenders and staff who report sexual abuse or harassment from retaliation. In the event of an allegation of sexual abuse, monitoring for retaliation is provided by the Safe Prisons/PREA Manager at the unit. Interviews with the Monitor, a review of the TDCJ and the Ferguson Unit policies, and a review of the position descriptions provide good support for this standard being compliant. Monitoring does continue for the minimum 90 days but frequently continues beyond that if it appears advisable.

Offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation by other offenders or staff per policy. The USPPM monitors for incidents of retaliation in accordance with the Safe Prisons/PREA Plan.

As noted, multiple protective measures may be taken for offender or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. For at least 90 days following a report of sexual abuse, the USPPM monitors and documents 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 indicate possible retaliation by offenders or staff and are required to act promptly to address any retaliation.

Monitoring includes a review of offender disciplinary reports and housing or program changes; and negative performance reviews and reassignment of staff. The monitoring continues beyond 90 days if circumstances dictate the need. The monitoring includes periodic status checks of offenders. If any other individual who cooperates with an investigation expresses a fear of retaliation, the TDCJ also will take appropriate measures to protect that individual against retaliation.

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

#### 115.68 (a)

- Is any and all use of segregated housing to protect an offender 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)

The number of offenders who allege to have suffered sexual abuse who were held in involuntary segregated housing in the past 12 months for one to 24 hours awaiting completion of assessment is reported to be 0; and note the discussion at standard 115.43 for an additional review of this issue.

The agency has a policy that offenders at high risk for sexual victimization will not be placed in 'protective custody' unless an assessment of all available alternatives has been made and there is no available alternative means of separation from likely abusers. If the assessment cannot be immediate, the unit may hold the offender in involuntary segregated housing while completing the assessment, for no longer than 24 hours.

Policy also states that the segregation, if used, will be very short-term or will include the provision of programs and privileges being offered. In the past year, the facility reported that there were no offenders placed in involuntary restrictive housing for protection following an allegation of sexual abuse.

The Offender Protection Investigation (OPI) process appears to ensure offender safety and to follow PREA Standard time guidelines closely. Offender safety does appear to be the driver of this process and the intent of the standard is met.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

#### 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 offender or staff?  Yes  No
- Does the agency investigate allegations of sexual abuse without requiring an offender who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding?  Yes  No

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the

investigation? (N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

**Auditor Overall Compliance Determination**

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

Any allegation of criminal sexual abuse, no matter the method used to report, is immediately referred to the OIG investigators for criminal investigation, with cooperation from staff leadership. TDCJ is responsible for administrative investigations and both types of investigation may be occurring simultaneously. In the event an incident cannot be proven to be criminal, it may also still be pursued for Administrative Investigation. All TDCJ OIG investigators have received appropriate and documented training oriented towards investigating either staff or offender. Interview and documentation review indicates that the local OIG Investigators would take the lead in a criminal investigation. Substantial training had been received concerning sexual abuse investigations, evidence collection and preservation. All investigators and senior staff interviewed stated that any allegations found to be substantiated would be referred for prosecution and any departure of the alleged abuser or victims would not terminate the investigation. Policy requires that the credibility of an alleged victims, suspect or witness be assessed on an individual basis and not be determined by any offender status.

Investigations of sexual abuse and sexual harassment are required to be conducted promptly, thoroughly, and objectively for all allegations, including third party and anonymous reports. Investigations involving allegations of sexual abuse are conducted by investigators who have received special training in sexual abuse investigations pursuant to this plan.

There is no specific report generated by HR for officers who are under investigation for sexual abuse or harassment. It is only noted in their employment file and they are tagged so they are not rehired. Human Resources staff reports there were no investigations during the 12-month time period reported.

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

115.72 (a)

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

**Auditor Overall Compliance Determination**

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

The agency imposes a standard of a preponderance of evidence or a lower standard of proof when determining whether allegations of sexual abuse or sexual harassment are substantiated, per Safe Prisons/PREA Plan.

### Standard 115.73: Reporting to offenders

#### 115.73 (a)

- Following an investigation into an offender's allegation that he or she suffered sexual abuse in an agency facility, does the agency inform the offender 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 offender'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 offender? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.)  Yes  No  NA

#### 115.73 (c)

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

or unless the resident has been released from custody, does the agency subsequently inform the resident 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 offender's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident 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 offender's allegation that he or she has been sexually abused by another offender, 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 offender's allegation that he or she has been sexually abused by another offender, 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)

The agency has a policy requiring that any offender who makes an allegation that he or she suffered sexual abuse in an agency facility is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the agency. There were 25 investigations of allegations during the past year and all 25 outcomes were reported to offenders and all were documented.

The interviews conducted, TDCJ policy reviewed and records reviewed all indicate that offenders are notified of investigation outcomes and that this notification occurs from the investigating agency through the Safe Prisons/PREA Coordinator, including complaints against staff. This policy was supported by interviewed staff.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

### ***Auditor Overall Compliance Determination***

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



- Does Not Meet Standard (Requires Corrective Action)

Staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Interviews stated that any allegation against staff is investigated by the OIG investigators, not facility investigators.

In the past 12 months, no staff from the facility have been terminated, disciplined short of termination, or resigned prior to termination for violating agency sexual abuse or sexual harassment policies.

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, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. There is no specific report generated by HR for officers who are under investigation for sexual abuse or harassment. It is only noted in their employment file and they are tagged so they are not rehired. Human Resources reports there were no investigations during the 12-month time period reported.

TDCJ policy clearly specifies that staff are subject to disciplinary sanctions, to include termination, for violating sexual abuse or harassment policies and that policy is reaffirmed in staff training and on acknowledgement documents with staff signatures throughout the hiring and promotion processes.

Departure of the staff does not halt the investigative process.

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

#### 115.77 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with offenders?  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 offenders?  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)

In the past 12 months, no contractors or volunteers were reported to law enforcement for engaging in sexual abuse of offenders.

TDCJ policy clearly designates that sexual abuse of an offender by contract, volunteer or staff member is reported to law enforcement agencies and relevant licensing bodies and such persons will be prohibited from further contact with offenders. There have been no incidents, but interviews with contractors reinforced that they are trained in the agency's policy, the stated consequences, as well as related training information on preventing, recognizing, and reporting signs of abuse by others. All contractors and volunteers receive training on dangers and avoidance of personal relationships with offenders and sign acknowledgements of these policies, actions and consequences.

### **Standard 115.78: Disciplinary sanctions for offenders**

#### 115.78 (a)

- Following an administrative finding that an offender engaged in offender-on-offender sexual abuse, or following a criminal finding of guilt for offender-on-offender sexual abuse, are offenders 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 offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders 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 offender'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 offender 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 offender for sexual contact with staff only upon a finding that the staff member did not consent to such contact?  Yes  No

115.78 (f)

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

115.78 (g)

- Does the agency always refrain from considering non-coercive sexual activity between offenders to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between offenders.)  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)

In accordance with the Standard, and as reported during random and supervisory staff interviews, offenders are subject to discipline pursuant to a formal process if an offender engages in sexual misconduct. The disciplinary process does consider whether an offender's mental disability or illness contributed to his behavior when determining sanctions, and all sanctions are commensurate with the nature of the abuse, offender history and comparable offenses of other offenders. The policy clearly defines the ability to hold an offender accountable for sexual contact with staff only upon concluding that staff did not consent to such contact. Senior staff interviews supported that good faith reports of sexual abuse would not constitute false reporting. Additionally, there is a recognition of difference between coercive and non-coercive offender sexual activity.

The Offender handbook clearly states that all sexual contact with an employee is a crime and is subject to internal administrative charges as well and criminal charges.

Staff interviewed, including Mental Health staff, all supported that in PREA related cases where sanctions would be imposed, offender mental health is taken into consideration.

A report of sexual abuse made in good faith, based on a reasonable belief that the alleged conduct occurred, does not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

## MEDICAL AND MENTAL CARE

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

#### 115.81 (a)

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

In the past year, per interviews of mental health, PREA and management-level staff, every offender who disclosed prior victimization during screening was offered a follow-up meeting with a medical or mental health practitioner.

No offenders disclosed that they had previously perpetrated sexual abuse during screening, and so none were offered a follow up meeting with a mental health practitioner, but this referral would have been made if the report occurred.

Staff in Classification reported, offenders interviewed, and pre-audit records reviewed supported that any offender reporting prior victimization is referred to medical or mental health for further evaluation. The PREA Coordinator indicated that 100% of these offenders had been referred. If a known or potential victim or perpetrator, they are also referred to mental health for information and they are automatically classified as requiring enhanced supervision and sent to separate housing areas.

The PREA reports are strictly controlled and have limited distribution only to those with a specific need to know that information in making management and security decisions. Confidentiality rules and related Texas mandatory reporting laws are clearly explained to offenders and acknowledged by them in writing.

Any offender disclosing prior sexual abuse while incarcerated or at any other time, whether victim or perpetrator, will be seen by a medical or mental health provider very quickly after disclosure. Informed consent is obtained before reporting any prior victimization of adults which occurred outside the institution setting.

Upon interview of medical staff and review of policy, it is evident that information related to sexual victimization or abusiveness occurring in the institutional setting would be strictly limited to those staff required to provide appropriate care and programs/housing assignments.

Extensive Mental Health Services are provided through the TDCJ facilities, as needed, and offenders with significant needs can be transferred to a larger State system facility, although that need would be rare.

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

#### 115.82 (a)

- Do offender 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 offender 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)

The policy on first responders mirrors national PREA standards and governs both security and non-security staff who respond to crises in the facility. They have been trained on responding specifically to PREA allegations.

Offender victims of sexual abuse are offered timely information about and access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, when medically appropriate. Services, including forensic medical examinations and mental health counseling, are provided to every victim without financial cost and this process was verified through policy review and interviews of senior and also medical staff.

The highest-ranking security supervisor on duty always notifies the OIG on all allegations of sexual abuse. Policy states and interviews support that the OIG investigator determines whether a forensic medical examination is required, however the investigator was clear that forensic exams would always be pursued if the incident was still in a window where evidence might be obtained. Other documentation in policy indicates that medical staff is the determining source for the decision on medical treatment.

The facility offers medical and mental health evaluation and, as appropriate, treatment to all offenders who have been victimized by sexual abuse in any prison, jail, lockup, or youth facility. The evaluation and treatment of such victims includes follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to or placement in other facilities or release from custody. Medical/mental health staff interviews reported that emergency services, follow-up treatment, counseling, and whatever the offender needs are provided. The prison does conduct a mental health evaluation of all known offender-on-offender abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health providers.

When needed, a full range of specialty consultations is available, and specialty hospital services are available depending on the extent of medical care needed by the offender. The Unit is contracted with and utilizes UTMB Galveston, St. Josephs in Bryan/College Station, Huntsville Memorial Medical Center in Huntsville and Madisonville. Services are also available via DMS with visual connection to resource personnel at headquarters in Huntsville.

If there are services that UTMB on the facility or through DMS (Digital Medical Systems) cannot provide the offender would be transported to an offsite hospital or to a UTMB larger or more specialized facility.

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

#### 115.83 (a)

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all offenders 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 offender victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.)  Yes  No  NA

#### 115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.)  Yes  No  NA

#### 115.83 (f)

- Are offender 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 offender-on-offender 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)

Policy SPPOM-05.01 and AD-02.15 both mandate mental health evaluation and appropriate treatment as required by the Standard. Elements of the standard related to female offenders are non-applicable at this male facility. Mental Health staff consistently supported that these



standards are met and, in fact, believe their standard of care is superior to what offenders would receive in the community. Testing is done as required. All costs associated with this are at no charge.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

#### 115.86 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded?  Yes  No

#### 115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation?  Yes  No

#### 115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners?  Yes  No

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No

- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

#### 115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so?  Yes  No

#### ***Auditor Overall Compliance Determination***

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

In the past 12 months, there were 23 criminal or administrative investigations of alleged sexual abuse completed at the facility, excluding unfounded allegations, and all were followed by a sexual abuse incident review within 30 days.

TDCJ policy requires a sexual abuse incident review within 30 days of the conclusion of every sexual abuse investigation, including those where the allegation has not been substantiated, and no review if the allegation has been determined to be unfounded. The review includes the upper-level management officials, to include the Warden, and sometimes the PREA Coordinator, with input from line supervisors, investigators and medical or mental health providers. Senior leaders interviewed all confirm familiarity with the policy requirement and all considerations that must be reviewed in compliance with the standard and that those do include:

- Whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse
- Whether the incident 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
- Examining the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse
- Assessing the adequacy of staffing levels in that area during different shifts
- Assessing whether monitoring technology should be deployed/augmented to supplement staff supervision
- Preparing a report of its findings and recommendations for the facility Warden and PREA Coordinator

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

115.87 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions?  
 Yes  No

115.87 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually?  
 Yes  No

115.87 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice?  Yes  No

115.87 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?  Yes  No

115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its offenders? (N/A if agency does not contract for the confinement of its offenders.)  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)

Senior staff and PREA Coordinator interviews, and Safe Prisons/PREA policy state the annual report is generated as required and has the essential elements of the standard, including all incident reviews and assessments. TDCJ also reviews contracting providers and retains and assesses all data related to their performance. Data is available to DOJ and for SSV use as required or requested. The report is generated by TDCJ and all input is

submitted via the Safe Prisons and management chains.

### Standard 115.88: Data review for corrective action

#### 115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole?  Yes  No

#### 115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse?  Yes  No

#### 115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means?  Yes  No

#### 115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility?  Yes  No

### ***Auditor Overall Compliance Determination***

- Exceeds Standard (Substantially exceeds requirement of standards)

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

TDCJ policy requires the review of aggregated data to assess and improve its abuse prevention, detection and response policies and training. A report is prepared annually and compares the current and prior year data. Aggregate information is submitted to the TDCJ for inclusion in their annual reporting and publishing for the State. The PREA Coordinator indicated having prepared the data to report to Safe Prisons Unit and that they report the published data. Redacted data areas are identified but are essentially limited to Personally Identifiable Information. The website is: [http://tdcj.texas.gov/tbcj/tbcj\\_prea.html](http://tdcj.texas.gov/tbcj/tbcj_prea.html)

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

115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?  
 Yes    No

115.89 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means?  Yes    No

115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available?  Yes    No

115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes    No

***Auditor Overall Compliance Determination***

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

TDCJ policy requires that all case records concerning claims of sexual abuse, to include incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings and recommendations for treatment and/or counseling are securely retained for a minimum of 10 years after the date of the initial collection and criminal-related data permanently. The provided documentation shows that all aggregated sexual abuse data under the TDCJ is made readily available to the public at least annually through the agency website, following the removal of all personal identifiers.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

#### 115.401 (a)

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, 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? (N/A before August 20, 2016.)  Yes  No  NA

#### 115.401 (b)

- During each one-year period starting on August 20, 2013, 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?  Yes  No

#### 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 offenders, residents, and detainees?  Yes  No

#### 115.401 (n)

- Were offenders 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)

All standard elements are met by TDCJ, which has an extensive agency program to ensure audit compliance.

**Standard 115.403: Audit contents and findings**

115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility’s last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there 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)

All standard elements are met; responsibility for website management is assigned to the Safe Prisons Program, also responsible for PREA compliance.

**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 offender or staff member, except where the names of administrative personnel are specifically requested in the report template.

William E. Peck \_\_\_\_\_  
Auditor Signature

April 11, 2018 \_\_\_\_\_  
Date