

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

**Date of report:** March 29, 2017

<b>Auditor Information</b>			
<b>Auditor name:</b> Marilyn M McAuley			
<b>Address:</b> 1903 S Greeley Hwy., No 105, Cheyenne, WY 82007			
<b>Email:</b> mom@kideral.com			
<b>Telephone number:</b> 208 794 1901			
<b>Date of facility visit:</b> February 15-17, 2017			
<b>Facility Information</b>			
<b>Facility name:</b> Marshall Formby/J. B. Wheeler Complex			
<b>Facility physical address:</b> 998 Country Road AA Plainview, TX 79072 / 996 Country Road AA Plainview, TX 79072			
<b>Facility mailing address:</b> <i>(if different from above)</i>			
<b>Facility telephone number:</b> (806) 296-2448			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Charles McDuffie			
<b>Number of staff assigned to the facility in the last 12 months:</b> 287/117			
<b>Designed facility capacity:</b> 1100/576			
<b>Current population of facility:</b> 1038/556			
<b>Facility security levels/inmate custody levels:</b> Medium, Minimum			
<b>Age range of the population:</b> 18-76/18-67			
<b>Name of PREA Compliance Manager:</b> Matthew Keen/Matthew Keen		<b>Title:</b> Unit Safe Prison PREA Compliance Manager	
<b>Email address:</b> matthew.keen@tdcj.texas.gov		<b>Telephone number:</b> (806) 296-2448	
<b>Agency Information</b>			
<b>Name of agency:</b> Texas Department of Criminal Justice			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> State of Texas			
<b>Physical address:</b> 861-B 1-45 North, Huntsville, Texas 77320			
<b>Mailing address:</b> <i>(if different from above)</i> P. O. Box 99, Huntsville, Texas 77342			
<b>Telephone number:</b> 936-295-6371			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Bryan Collier		<b>Title:</b> Executive Director	
<b>Email address:</b> Bryan.Collier@tdcj.texas.gov		<b>Telephone number:</b> 936-437-2101	
<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Lori Davis		<b>Title:</b> Director, Correctional Institutions Division	
<b>Email address:</b> Lori.Davis@tdcj.texas.gov		<b>Telephone number:</b> 936-437-2170	

## AUDIT FINDINGS

### NARRATIVE

The Prison Rape Elimination Act (PREA) Audit for Marshall Formby and J. B. Wheeler Complex from initial notification through this auditor's Summary Report Adult Prisons and Jails/PREA Final Report began January 2017 with the notice that the Texas Department of Criminal Justice (TDCJ) through the American Correctional Association (ACA) had scheduled a PREA Audit with a tour date of February 15-17, 2017, of the Marshall Formby Unit /J.B. Wheeler Unit called the Formby/Wheeler Complex (FWC), Plainview, Texas. PREA Certified Auditor Marilyn (Lynn) McAuley (lead) and Debra Dawson (auditor) were notified by ACA e-mail of their appointment and schedule. The facility is accredited by the American Correctional Association (ACA) and the reaccreditation audit was scheduled for February 13-15, 2017 the same week as the ACA PREA audit.

The audit process started with a contact from the TDCJ Office of Administrative Review and Risk Management, Huntsville, Texas. The Manager for the TDCJ, Review and Standards, mailed a USB thumb drive to the lead auditor. The thumb drive contained three essential parts with: part one including master file documents for each of the 43 standards; part two included supporting documents; and part three contained the PREA Pre-audit Questionnaire. Part one had separate documentation that was labeled for easy access to each part of the 43 standards. Also included were: Agency Contract Administrator interview; Agency Head designee interview; PREA Coordinator interview; and complete copy of the TDCJ Safe Prison PREA Plan (PREA Plan).

The documentation on part two, Supporting Documents, included: incidents reported to EAC; investigations SOF; unit staffing plans; staffing plan review and minutes; staffing rosters; cross gender SOF; employee acknowledgement of PREA training; American Correctional Association (ACA) notice of accreditation report for February 10-13, 2014 audit; agency mission statement; facility layouts; population report for the daily facility's staffing plan showing offender population on the 1<sup>st</sup>, 10<sup>th</sup> and 20<sup>th</sup> day of each month for twelve months prior to the audit; physical plant unit schematics; and unit video camera location. The Formby/Wheeler Complex layout provided valuable information prior to the actual facility visit and gave the auditor information necessary to complete pre-audit work.

Part three of the thumb drive contained the PREA Pre-audit Questionnaire folder (PAQ). The Pre-audit Questionnaire which was a stand-alone folder provided required data necessary for the auditors to make a decision on compliance of the standards, and information for the auditor to use in completing the PREA Compliance Audit Instrument. The PAQ provided comprehensive, specific material that could be verified by the auditors on site with review of documentation, interviews with staff and inmates and observations during the tour of the facility.

Some of the information provided in advance on the flash drive required hard copy and was requested in advance to be available for the first briefing meeting at the beginning of the facility audit. The 43 standards folders (one for each standard) contained substantiated compliance documentation for each of the standards addressing: interviews, screening appraisals of the incoming inmates, and treatment of offenders with intersex conditions, gender identity disorder, gender dysphoria, and staff personnel discipline forms. The ACA Standards Compliance Reaccreditation Report provided valuable information on facility description, condition of confinement, medical, mental health and programs that could be confirmed with observation, review of documentation and interviews.

The PREA Resource Audit Instrument used for Adult Prisons and Jails was furnished by the National PREA Resource Center. To summarize, there are seven sections, A through G, comprised of the following: A) Pre-Audit Questionnaire, sent by TDCJ; B) the Auditor Compliance Tool; C) Instructions for the PREA Audit Tour; D) the Interview Protocols; E) the Auditor's Summary Report; F) the Process Map; and G) the Checklist of Documentation. These instruments were used for guidance during the tour, interviews with staff and inmates and recommendations for review of documentations.

Following the protocols of making contacts, and checking on the posting of notices (posting was initiated through the American Correctional Association and the Formby/Wheeler Complex) the auditors, on their own, began review of the Pre-Audit Questionnaire and the material sent prior to discussion and the audit visit. Each item on the thumb drive was reviewed. Of particular interest to the auditors was the detailed information in the Pre-Audit Questionnaire completed by the Manager for the TDCJ, Review and Standards, in January 2017. Also, in this preliminary review, special interest was taken in the compliance documentation provided for each standard. The information from the standard files and the PAQ was used to complete the PREA Compliance Audit Instrument Checklist of Policies/Procedures; the PREA Resource Audit Instrument and other Documents in advance to identify additional information that might be required and could be collected prior and during the audit visit. Information from the flash drive was used during pre-audit prior to site visit and post audit when writing the report. Data received required review to confirm documentation for each part of the 43 standards was in place by policy and confirmed by practice.

On February 15<sup>th</sup> the Auditor proceeded to the Administration Building where a brief meeting was held with: the auditors; Senior Warden; PREA Regional Manager; Unit Safe Prison PREA Compliance Manager (referred to as PREA Compliance Manager); and facility Executive Staff. During the meeting the PREA Auditors were given hard copy of significant information that was on the flash drive and sent to the auditor in advance of the site visit. Included in this information was the inmate count list for Wednesday, February 15, 2017 for

random selection of inmates to be interviewed during the audit. Also provided were; list of employees, population reports, information packet with facility data important to the audit, interoffice memorandums and various reports confirming FWC staffing, Formby/Wheeler Complex diagram with location of cameras, agency and facility missions and organizational charts.

The auditors sent a daily audit activity schedule for the 3 days of the audit prior to arriving at the facility. This schedule was discussed during the initial briefing and revised based on the needs of individuals involved in the audit process. The first audit briefing discussed tour protocols and points of interest for the following two days and prior to beginning the facility tour. The interview process started with the Warden and facility PREA Compliance Manager Interviews after the morning PREA audit briefing on the first day of the audit. At this time, a review of the inmate population inmate counts on the first day of the audit: 976 inmates at Formby Unit and 530 inmates at Wheeler Unit. The inmates to interview at Formby Unit and Wheeler Unit were made and the random inmates were selected from each housing unit for interview by the auditors. Random selection of inmates resulted in: 42 Formby Unit inmates (4.3% of 976 Formby Unit inmates) and 14 Wheeler Unit inmates (2.6% of 530 Wheeler Unit inmates) were interviewed. Inmates selected to be interviewed including: 3 limited-English inmates with interpreters; one inmate who had reported sexual abuse and three gay inmates. Interviews with security, non-security and specialized staff included male and female staff with years of service ranging from 9 months to 32 years. Staff at Formby/Wheeler Complex was 404 and included: 287 at Formby Unit and 117 at Wheeler Unit. Random selection of 41 staff included: 30 Formby Unit staff (10.5% of 287 Formby Unit staff) and 11 Wheeler Unit staff (9.4% of 117 Wheeler Unit staff) were interviewed. Additionally 25 specialized staff was interviewed and the numbers are not broken down by unit since most of the specialized staff covered Formby Unit and Wheeler Unit.

Security staff was interviewed from day and evening shifts at Formby Unit and day, evening and night shifts at Wheeler Unit. Those interviewed included: Major; Captain; Lieutenants; Sergeants; Correctional Officers; Administrative Segregation Officer; Intake Officer; first responder; intermediate/higher-level staff (unannounced rounds); and staff who perform inmate screening. Non-security staff interviewed included: Agency Contract Administrator; educational staff; transitional staff; program staff; administrative staff; medical staff; mental health staff; human resource manager; SAFE/SANE staff; staff who perform screening for risk of victimization; volunteer; contractor; investigative staff; incident review team member; retaliation monitor; and first responder.

Review of the documentation received in advance of the site visit included a thorough look at: policies, procedures and directives; letters and emails, training curriculum and attendance reports; organizational charts; posters, brochures, inmate orientation manual, films and other PREA related materials; unannounced round logs; Annual TDCJ Report on Sexual Victimization for 6 years 2009-2014; employee manual; facility specific material; staffing plan with annual review; investigation guidelines; and ACA VCR report. Each piece of information received and identified with a part of the standard was compared for compliance. Missing and additional information required was requested and presented to the auditors during the beginning day of the site visit. During the three day audit the auditor and PREA Compliance Manager reviewed the 43 PREA Standard files using the Pre-Audit Questionnaire, supporting documentation and PREA Audit Tool to assess for final compliant review.

The Complex provided an outline of Formby Unit and Wheeler Unit layout plans showing all the building on site to review prior to actual tour. The major part of the observation process was during the official tour of the facility utilizing the PREA compliance audit instrument – instructions for PREA audit tour paying special attention to the following areas: intake/reception; general housing; segregated housing; residential mental health unit; health care and mental health; food service; disciplinary office; Administrative Segregation; training; academic/vocational programs; guidance and community supervision; ministerial services; and law library and general library. The PREA audit instrument was used to look at areas recommended and questions to ask; recording the answers for use in deciding compliance in the standards. It was important to observe and confirm the required signs, telling inmates of their right to be free of sexual abuse and how to report incidents of sexual abuse, were posted. During the tour of the facility the auditor observed logs to confirm unannounced rounds are being done on the day, evening and night shifts.

Sampling techniques for interviews with staff, inmates, and files included random selection of staff and inmates from: list of all inmates by housing unit; list of all employees broken down by security and non-security staff; list of employees hired during the last 12 months; list of volunteers and contractors; investigators assigned to facility; specialty staff; available SANE/SAFE staff; intake staff; medical and mental health staff; and list of inmates who: are disabled/limited English proficient; transgender/intersex/gay/bisexual; in Administrative Segregation for risk of sexual victimization; who reported a sexual abuse; and who disclosed sexual victimization during risk screening. Files selected for review were based on requirements of the standards and inmates available at the complex.

The facility provided the auditors offices to hold staff and inmate interviews. Facility staff provided excellent service making sure the individuals selected were available for the auditors to interview them. The auditors used the PREA Audit Instrument for: random sample of inmates; special class of inmates; random sample of staff (security and non-security); specialized staff; Warden; and PREA Compliance Manager. While the recommended questions were asked for staff and inmates the auditor also added questions that would help in deciding compliance of the various standards.

Observations during the tours, informal interviews with staff and inmates, and review of documents confirm that the Formby/Wheeler Complex staff considers PREA a number one priority and have developed, implemented and are monitoring all of the 43 standards to ensure compliance with the standards requirements. Formby/Wheeler Complex is well-managed with obvious complete cooperation between management, security, medical, mental health and other staff in developing, implementing and monitoring on a daily basis the

requirements of the 43 PREA standards. Review of documentation, observations during the tour, interviews with staff and inmates and comparing the information with the total requirements of the PREA audit was enhanced by the extreme cooperation of all staff at Formby/Wheeler Complex in providing additional information as requested. Staff is completely knowledgeable of the PREA standards and Formby/Wheeler Complex staff enforces the standards to ensure the safety of inmates and staff at the Complex. In conclusion the auditor based the decision of compliance for the standards on: data gathering; review of documentation; observations during tour of facility; sampling techniques for interviews with staff, inmates, and files; interviews; and comparing policies and practice to the requirements of the standards addressing all parts of each of the 43 standards.

## DESCRIPTION OF FACILITY CHARACTERISTICS

The Texas Department of Criminal Justice's mission is "to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime." The Marshall Formby/J.B. Wheeler Complex is located at 998/996 County Road AA, Plainview, Texas in Hale County. The Formby Unit opened in September 1995 and Wheeler Unit opened in March 1995. The Formby/Wheeler Complex's mission is; "to provide public safety through custody and control of offenders while reducing recidivism. Educational, vocational and spiritual programs will aid in the continuum of care, which will benefit communities and provide positive growth for offenders." The Formby/Wheeler Complex is two facilities interconnected as a complex supervised by one Warden and one Assistant Warden. While a number of staff have responsibilities at both facilities there are staff specifically assigned to each one of the facilities. Formby Unit has 184 security staff working two twelve hour shifts. Wheeler Unit has 79 security staff working three eight hour shifts. Designed capacity of the complex is 1,676; 1,100 in Formby Unit and 576 in Wheeler Unit. The actual count on the first day of the audit was 1,506 with 976 in Formby Unit and 530 in Wheeler Unit. The units, fenced separate from each other, are located on 601 acres.

There are ten buildings in the Formby Unit and five buildings on the Wheeler Unit. The Formby Unit has 23 open bay/dorm housing units with the Wheeler Unit having 9 open bay/dorm housing units. The Formby Unit has a two story building with twelve cells on the lower level and thirteen on the second floor for a total of 25 single administrative and disciplinary segregation cells. Offenders are escorted by two staff members. The unit also has five single transient cells in Z building and the Wheeler Unit has 3 single cells that are used for overflow offenders. Administrative and disciplinary segregation for Wheeler offenders are housed in the Formby Unit. The housing areas in both units are constructed with a control center in the middle of the entrance with pods/wings surrounding the control center. Each housing pod has double bunks in the living area with day rooms including metal tables with built-in stools and metal benches placed in front of the TVs. The televisions receiver over the air signals and there is a satellite dish available for religious programming. There are 3 telephones in each housing unit with offenders allowed 20 minute calls. The Formby Unit can be viewed from 35 exterior cameras with 63 interior cameras. Currently they have 13 terabytes of storage and have 27 day retention of recordings. Since the last ACA accreditation audit the DVD has been replaced. There are no cameras at the Wheeler Unit.

The Formby/Wheeler Complex tour began on the first day with the Formby unit and included the auditors, Senior Warden, PREA Regional Manager, PREA Compliance Manager and Executive staff. The Wheeler Unit tour was on the second day of the audit. The auditor utilized the PREA Compliance Audit Instrument-Instructions for PREA Audit Tour while touring and observing all areas in the facility to verify compliance with the standards. During the tour the auditors looked for blindspots and checked to make sure the inmates could use the toilet, shower and dress without being seen by staff of the opposite gender. Informal interviews were held with staff and inmates during the tour of the complex. Formal interviews with specialized staff, random sample of staff and inmates were conducted privately on all three days of the audit.

The average length of stay for inmates at Formby Unit is 1 years 1 month and Wheeler Unit is 323 days. There were 2,737 offenders admitted to Formby Unit and 1,155 admitted to Wheeler Unit during the last 12 months that received training on the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment upon arrival at the facility. Additionally, these offenders were assessed during intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates within 72 hours of their arrival to the facility. Currently, staff that has contact with inmates at Formby Unit is 287 with 38 hired within the last 12 months and Wheeler Unit is 117 with 2 hired in the last 12 months. Background record checks were completed on the 40 new staff.

Documentation reviewed during the audit confirmed 100% of staff in the Formby/Wheeler Complex had received the original PREA training prior to the last 12 months and 100% of staff was retrained during the last 12 months. Staff is very proud of their jobs, knowledgeable about their duties especially to the PREA Standards and confirms they have received and understand the required original PREA training and new PREA updated training. Review of files confirms that staff has signed forms confirming they have received and understood the original and new PREA training as required by the standards.

There has been no expansion, renovations or changes at Formby/Wheeler Complex since August 20, 2012. However, during the interview with the PREA Coordinator she confirmed a multi-disciplinary team from maintenance, engineering, security, Safe Prisons/PREA Management Office, and administration are involved in the process and would account for assessment of design for safe environment. Camera schematics for the facility were provided and reviewed by the auditors. The facility has not installed or updated a video monitoring system, electronic surveillance system or other monitoring technology since August 20, 2012. However, the interview with the PREA Coordinator confirm when installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency considers how such technology enhances the agency's ability to protect inmates from sexual abuse. Camera and mirror coverage at Formby/Wheeler Complex appears to be sufficient to ensure the safety of staff and inmates.

The Formby/Wheeler Complex have excellent security, offender movement and tracking. Each housing unit has a central control center. The Complex has implemented policies and procedures that enable inmates to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing. Observations during tours of the housing units confirm staff of the opposite gender announces their presence when entering an inmate housing unit. All staff, 100% have received training on conducting cross-gender

pat-down searches and searches of transgender and intersex inmates in a professional and respectful manner, consistent with security needs.

The Formby/Wheeler Complex is a well-managed medium prison housing J1-J5, G2, G4, Transient/J1, J2, G1, G2 classification of offenders. Administration has designed, developed, implemented and now are monitoring a comprehensive PREA practice to prevent, detect and respond to sexual abuse and sexual harassment that meets or exceeds all of the required PREA standards.

The Agency has zero tolerance for sexual abuse and sexual harassment. Sexual abuse and sexual harassment violate Agency rules and threaten security. All reports of sexual abuse, sexual harassment, and retaliation against an inmate or staff member for reporting or taking part in an investigation of possible sexual abuse or harassment is thoroughly investigated and if there is evidence that a crime was committed, it will be prosecuted to the fullest extent permitted by law. Today, TDCJ is proud to be a leader in the national efforts to improve correctional practices under the Prison Rape Elimination Act of 2003 (PREA).

## SUMMARY OF AUDIT FINDINGS

Comparing policies and practice with data received and reviewed, observations, and interviews to the standard requirements began with the pre-audit activity, continued during the site visit and was completed during the post audit summary report stage. There were 5 standards that substantially exceed requirement of the standard: 115.11 Zero tolerance of sexual abuse and sexual harassment: PREA Coordinator; 115.31 Employee training; 115.33 Inmate education; 115.41 Screening for risk of victimization and abusiveness; and 115.64 Staff first responder duties. The two Standards that are non-applicable include: 115.14 Youthful inmates; and 115.66 Preservation of ability to protect inmates from contact with abusers. The other 36 standards are compliant.

An explanation of the findings related to each standard showing policies, practice, observations and interviews are provided in this report under each standard. The Texas Department of Criminal Justice is a leader in national efforts to improve correctional practices under the Prison Rape Elimination Act of 2003 (PREA). Evidence supports PREA is a priority for the Agency and there is exceptionally strong leadership at the Formby/Wheeler Complex enforcing the Agency's PREA policies that were developed using best practices in corrections.

Number of standards exceeded:	5
Number of standards met:	36
Number of standards not met:	0
Number of standards not applicable:	2

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

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

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

The auditor reviewed: ED-03.03 P:1; PREA Plan, P: ii, 9-10, 12-14; and confirm policies are in place and enforced to ensure the agency has written policies mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. The policies include definitions of prohibited behaviors regarding sexual assault and sexual harassment of inmates with sanctions for those found to have participated in prohibited behaviors. Also, the TDCJ Safe Prisons PREA Plan P: 1-39 includes the agency strategies and response to reduce and prevent sexual abuse and sexual harassment of inmates. Interviews with specialty and random selection staff and inmates confirm they have been trained on PREA compliance and know PREA means Safe and Secure Prisons and TDCJ has a zero tolerance toward all forms of sexual abuse and sexual harassment. During the tour of the facility the auditor observed posters regarding TDCJ zero tolerance toward all forms of sexual abuse and sexual harassment strategically place throughout the facility.

The TDCJ Executive Director appointment of the Director, Correctional Institutions Division as the state-wide PREA Coordinator (TDCJ organizational Chart) confirms the Executive Director has designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee the agency's efforts to comply with the PREA standards in all of its facilities at all times. Interview with the PREA Coordinator confirms she is responsible for the TDCJ agency-wide PREA requirements and has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. The PREA Coordinator position in the agency's organizational structure is Director, Correctional Institutions Division reporting to the Executive Director. Interview with the PREA Coordinator, observation during the audit and review of TDCJ Organizational Chart confirms her status.

Formby/Wheeler Complex is one of many facilities under the direction of TDCJ. Interview with the PREA Coordinator and review of the PREA Coordinator duties confirms the agency operates more than one facility, and has required each facility to designate a PREA Compliance Manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards. The agency's commitment to PREA is shown in the organizational structure developed. There is a PREA Coordinator responsible for the agency-wide PREA with PREA Compliance Managers responsible for PREA in a number of facilities. If a facility does not have a PREA Compliance Manager located at the facility then the facility Warden designates a PREA Compliance Manager. Interviews with the PREA Coordinator, the area PREA Compliance Manager confirm that the PREA Compliance Manager has been designated at Formby/Wheeler Complex he has sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards. The Formby/Wheeler Complex PREA Compliance Manager is an Officers with direct access to the Complex Warden.

Review of documentation, observation of zero tolerance posters during tours of facility and interviews with staff and inmates, as described, confirms TDCJ is compliant with Standard 115.11. The agency's zero tolerance for sexual abuse and sexual harassment is a top priority. The Formby/Wheeler Complex staff is committed to operating in compliance with PREA and continues to report all allegations of any form of sexual abuse misconduct to TDCJ and criminal misconduct to the Office of Inspector General (OIG) a separate division of TDCJ for review and follow up. The facility has invested the necessary resources and time to educate the inmate population about their rights under PREA and to train security and civilian staff, contract staff, and volunteers concerning their obligation to identify and report knowledge or suspicion of inappropriate activity related to PREA. The agency's strong support for developing, implementing and monitoring the PREA Standards is evident with the policies developed and enforced. The agency's priority commitment to PREA is evident with three levels of staff beginning with the agency-wide PREA Coordinator, PREA Compliant Mangers with multiple facilities and facility PREA Compliance Manager. In conclusion, the auditor finds the facility substantially exceed the requirement for Standard 115.11 Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator.

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

- Exceeds Standard (substantially exceeds requirement of standard)

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

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

Review of: Solicitation; Offer and Awards; and Modifications of Contract (MOC); for TDCJ contracts confirms that contracts for the confinement of its offenders with private agencies or other entities, including other government agencies, include in any new contract or contract renewal the entity’s obligation to adopt and comply with the PREA standards.

Review of TDCJ Modification of Contract – Description of Modification C 4.25 PREA – Contract will comply with PREA Standards and TDCJ Department designated Contract Monitor will monitor each contract for compliance with all PREA Standards confirm any new contract or contract renewal provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

Interview with the Agency Contract Administrator confirms that the TDCJ has a contract monitor on site for each of the 15 contract facilities who oversee all the operational practices, the contract practice and the day to day operations of the particular facility. One of their primary responsibilities in monitoring is to make sure that the facility is PREA compliant. The contract monitor completes a compliance review checklist of documentation. All 15 contract facilities have undergone their initial PREA audits.

Based on review of documentation and interview with the Agency Contract Administrator the Agency is compliant with Standard 115.12.

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

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

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

Review of Formby/Wheeler Complex: staffing plans; AD-11, 52 P: 2-3; SOPM-07.02 P: 1; SPOM-08.01 P: 1-2; SPOM-08.06 P: 1; interviews with Warden, PREA Coordinator and facility PREA Compliance Manager confirm policies are in place and enforced to ensure Formby/Wheeler Complex has developed, documented, and makes its best efforts to comply a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, Formby/Wheeler Complex has taken into consideration: 1) Generally accepted detention and correctional practices; 2) Any judicial findings of inadequacy; 3) Any findings of inadequacy from Federal investigative agencies; 4) Any findings of inadequacy from internal or external oversight bodies; 5) All components of the facility’s physical plant (including “blind-spots” or areas where staff or inmates may be isolated); 6) The composition of the inmate population; 7) The number and placement of supervisory staff; 8) Institution programs occurring on a particular shift; 9) Any applicable State or local laws, regulations, or standards; 10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and 11) Any other relevant factors. Interview with the Warden found Formby/Wheeler Complex has staffing plans providing adequate staffing levels to protect inmates against sexual abuse using video surveillance to monitor inmate movement throughout the complex. The staffing plan is: reviewed annually; documented and available. According to the Unit Safe Prison PREA Managers the staffing positions are allocated from the staffing plan established by TDCJ. The Staffing Plan is: within generally accepted guidelines and practices; considers all 11 areas in the this paragraph; determined by the facility physical layout and its daily operational needs and is review annually.

The facility provided an example of the Formby/Wheeler Complex Post Closure Report showing circumstances: when the staffing plan was

not complied with; the facility documents and justifies all deviations from the plan as reviewed; and reasons staffing plan not met. Deviations from the Staffing Plan are documented in reports and include: medical transports and constant direct observation.

The auditor reviewed the Formby/Wheeler Complex Annual Staffing Audit Review RE: Consultation with PREA Coordinator confirming the agency, whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by 115.11, the agency assess, determine, and document whether adjustments are needed to: 1) The staffing plan established pursuant to the first paragraph of this section; 2) The facility's deployment of video monitoring systems and other monitoring technologies; and 3) The resources the facility has available to commit to ensure adherence to the staffing plan. The current average daily staffing level is based on 1,100 inmates in Formby and 576 inmates in Wheeler with the actual average daily number of inmates since August 20, 2012 being 1,015 inmates in Formby and 505 inmates in Wheeler. This staffing level is within generally accepted guidelines and practices. Interview with the PREA Coordinator confirmed he is consulted regarding assessments of and adjustments to the staffing plan for Formby/Wheeler Complex on an annual basis.

Review of agency's PO-07.002 P: 2; PO-07.003 P: 1; PO-007.004 P: 2; PO-007.005 P: 3; Staffing Rosters; and PREA Plan P:9; confirm Formby/Wheeler Complex has 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. Such policy and practice has been implemented for night shifts as well as day shifts. The facility has a policy to prohibit 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. The auditor reviewed data in example of log book entries: executive team and security supervisor announced/unannounced rounds on day and evening shifts at Formby and day, evening and night shifts at Wheeler; examples of weekly administrative activity report; day, evening and night shifts, and examples of security supervisor report; Interviews with the Warden, intermediate-level and higher-level supervisors confirm unannounced rounds are being done on all shifts on a regular basis. Observation while visiting the housing units and reviewing the log books confirm unannounced rounds are being done per Standard 115.13.

In conclusion, based on: review of documentation showing development, review and recommendations for improvement of the staffing plan; observation during tour of the facility; interviews with staff during tours; and interviews with random selection of staff and inmates; Formby/Wheeler Complex is compliant with Standard 115.13 Supervision and Monitoring.

#### **Standard 115.14 Youthful inmates**

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

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

A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters. Formby/Wheeler Complex does not house any youthful inmates. Therefore, this part of the standard is non-applicable.

In areas outside of housing units, agencies shall either; 1) maintain sight and sound separation between youthful inmates and adult inmates, or 2) provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact. Formby/Wheeler Complex does not have any youthful inmates so this part of the Standard is non-applicable.

Agencies shall make its best efforts to avoid placing youthful inmates in isolation to comply with this provision. Absent exigent circumstances, agencies shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible. Formby/Wheeler Complex does not have any youthful inmates so Standard 115.14 Youthful inmates is non-applicable.

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

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

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

Review of AD-03.22 P:2-3 and post orders confirm the facility does not conduct cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners. Interview with random selection of staff and inmates found the facility does not allow cross-gender viewing and searches except in exigent circumstances or when performed by medical practitioners per agency policy. There were zero cross-gender searches or cross-gender visual body cavity searches at Formby/Wheeler Complex during the last twelve months. During the tour of housing units the auditor interviewed security staff who confirmed they do not conduct cross-gender strip searches or cross-gender visual body cavity searches.

As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 inmates, the facility shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. Facilities shall not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision. Formby/Wheeler Complex is an all-male facility. Therefore, this part of the Standard is non-applicable.

Review of TDCJ AD-03.22 PL2-3 confirms the facility documents all cross-gender strip searches and cross-gender visual body cavity searches, and documents all cross-gender pat-down searches of female inmates. This is an all-male complex so there were no searches of female inmates. By policy under exigent circumstances cross-gender strip searches and cross-gender visual body cavity searches would be documented at Formby/Wheeler Complex. Interviews with staff confirmed there were no cross-gender strip searches or cross-gender visual body cavity searches.

Review of: AD-03.22 P: 2-3; PREA Plan P: 9; PO-07.105 P: 2; confirm the facility has implemented policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breast, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. These policies and procedures require staff of the opposite gender to announce their presence when entering an inmate housing unit. Interviews with random selection of staff and random selection of inmates from each housing unit confirm that inmates are able to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing them as required by the Standard. Modesty panels have been put in all housing areas. Interviews with staff and inmates confirm staff of the opposite gender announces their presence when entering an inmate housing unit. Observation during the tour of the housing units confirms staff of the opposite gender announces their presence when entering an inmate housing unit.

Review of: AD-03.22 P: 1-2; PREA Plan P: 16; confirm policies are in place to ensure the facility not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary by learning that information as part of a broader medical examination conducted in private by a medical practitioner. Interview with a random selection of: Major; Captain; Lieutenants; Sergeants; and Correctional Officers confirm they have been trained not to search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. The facility did not have such a search occurring in the past 12 months.

Review of CTSD Curricula P: 11-13 confirm policies are in place to ensure training security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. Documentation was provided showing that all security staff (100%) have signed a document showing they have received and understand the cross-gender pat-down searches and searches of transgender and intersex inmates. Interviews with random selection of staff confirmed they have received this training in training academy, with initial PREA training and receive in-service PREA training annually.

In conclusion, based on documentation provided and reviewed; observations of showers, toilet areas and dressing areas and interviews with staff and inmates Formby/Wheeler Complex is compliant with Standard 115.15 Limits to Cross-Gender Viewing and Searches.

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

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

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

Review of: AD-04.25 P: 2-4, 8-9; AD-06.25 P: 1; PO-07.105 P: 1-3; SPPOM 02.03 – Safe Prison/PREA Program Postings; CHMC G 51.1 – Offenders with Special Needs; CHMC G 51.5 – Certified American Sign Language (ASL) Interpreter Services; AD 04.25 – Language Assistance Services to Offenders Identified as Monolingual Spanish Speaking; SM 05.50 – Qualified Spanish Interpreters Guidelines; confirm the agency has policies in place and enforced to ensure the agency takes appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps include, when necessary to ensure effective communication with inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency ensures that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164. Interview with TDCJ Executive Director confirms: information is delivered in different formats, written, video, English, Spanish, etc.; policies are in place to provide assistance to any offender identified as having a Special Needs in accordance with Correctional Managed Health Care policy, i.e. American Sign Language Interpreter Services; language assistance is provided to monolingual Spanish offenders; and alert systems are on facilities that house blind and deaf offenders use a system of lights and bells to alert gender supervision changes in the housing area. Interviews with a handicap inmate and limited English speaking inmate confirmed the facility provides information about sexual abuse and sexual harassment that he is able to understand and he is aware additional assistance is available to him.

Review of: G-51.5 Sign Language P: 1; SM-05.50 P: 3; SPPOM-02.03 P: 1; List of staff that speak 20 Foreign Languages; confirms the agency has taken reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Interview with the Executive Director confirms the agency has procured Interpretation Services for Individuals with Limited English Proficiency that is available over-the-phone Interpretation Services and in-person (consecutive) Interpretation Services. There was no request for interpretation services at Formby/Wheeler Complex during the last 12 months.

Review of AD-04.25 P: 2-4, 8-9 confirms the agency does not rely, per policy, on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under 115.64, or the investigation of the inmate's allegations. Interviews with staff confirm that inmate interpreters for sexual abuse and sexual harassment are not allowed and facility approved interpreters are available for inmates if necessary. In the past 12 months there were zero instances where inmate interpreters, readers, or other types of inmate assistants were used.

In conclusion, based on review of policies and procedures; observation of posters placed strategically in the facility and interviews with Executive Director, staff and inmates Formby/Wheeler Complex has taken more than appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment and is compliant with Standard 115.16 Inmates with Disabilities and Inmates who are limited English Proficient.

## Standard 115.17 Hiring and promotion decisions

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

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

Review of: PD-71 P:2, 28-29; PD-73 P:1, 3-4; PD-75 P: 1-4, 9-10; PREA Plan P: 38; confirm policies are in place and enforced to ensure the agency not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who: 1) 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); 2) 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; or 3) Has been civilly or administratively adjudicated to have engaged in the activity described in the first paragraph (2) of this section. Interview with Human Recourse Manager found prior to appointment the facility performs criminal record background checks and considered pertinent civil or administrative adjudication for every candidate selected for an employment, contractor or potential promotional appointment is conducted as described in the first paragraph. Prior incidents of sexual harassment are considered when determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.

Review of: TDCJ's hiring policies; PD-75 P: 1-4, 9-10; PREA Plan P: 38; confirm the agency considers: any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates; incidents of sexual harassment are strongly considered in considering employment, promotions and contractor. Interview with Human Resources staff confirm the agency considers incidents of sexual harassment in determining whether to hire or promote. This also applies to consideration of contractors.

Review of PD-27 P: 1-5 and PD-75 P: 4 confirm before hiring new employees who may have contact with inmates, the agency: 1) Performs a criminal background records check; and 2) Consistent with Federal, State, and local law, makes 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. Interview with administrative staff confirms background checks have been done on all employees at Formby/Wheeler Complex and attempts are made to contact all prior institutional employers as per policy and this standard.

Review of policies, procedures and forms; random sample of employee files; and interview with the Human Resource Manager confirm the agency perform criminal record background checks. In the past 12 months 38 Formby and 2 Wheeler people who have contact with inmates were hired who had criminal background record checks. Interviews with Human Resource staff confirm background checks are completed on all new employees and contractors.

Review of PD-71 P: 2, 24-25 confirms the agency performs a criminal background records check before enlisting the services of any contractor who may have contact with inmates. There was 1 new contractor hired at the Formby/Wheeler Complex during the last twelve months. According to Human Resource staff, confirmed with review of the individual's file, a background records check was completed for the individual.

Review of PD-27 P: 1.5 and PD-75 P:4 confirm policies are in place to ensure the agency either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees. Review of policies, procedures and forms and interview with the Human Resource Director confirm the Division of Criminal Justice Service confirm that criminal background records checks are conducted every five years for current employees and contractors who have contact with inmates. Review of PD-71 and interviews with staff confirm all agency employees are subject to an annual criminal offense check during the employee's birth month, and six months after, to ensure there are no outstanding warrants of arrest. (Reference, PD-27, Employment Status Pending Resolution or Criminal Charges or Protective Orders, page 5, section B.).

Review of: PREA Plan P: 38; Employee Applicant Supplement Form P: 1-2; employee files; and interview with Human Resource Manager confirm applicants and employees complete a Personal History and Interview Record Form answering personnel history questions about sexual abuse and sexual harassment activity. Interview with the Human Resource Manager confirm policies and forms are in place to ensure material omissions regarding such misconduct, or the provision of materially false information, are grounds for termination.

Review of policies and procedures and interview with the Human Resource Manager confirms unless prohibited by law, the agency provides 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.

In conclusion, based on review of the documentation provided; observation when visiting the Human Resource area; and interviews with Human Resource staff found all elements of this standard in place. The auditor reviewed the list of new employees hired in the last year and reviewed a random selection of files and confirm compliance with the Standard 115.17 Hiring and Promotion Decisions.

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

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

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

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse. Formby/Wheeler Complex has not made a substantial expansion to existing facility since August 20, 2012 so this part of the Standard 115.18 is non-applicable.

When installing or updating a video monitoring system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse. Formby/Wheeler Complex has not had an updated of the video monitoring system or other monitoring technology since August 20, 2012. Formby compound can be viewed from 35 exterior cameras with 63 interior cameras. There are no cameras at the Wheeler compound.

Formby/Wheeler Complex has not designed, acquired or are planning any substantial expansion or modification of existing facility. There were no video up dates. However, should there be any expansions to facility or video/monitoring technology updates they would be done per TDCJ policy and this standard. Therefore, Standard 115.18 Upgrades to Facilities and Technology is compliant.

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

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

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

Review of: AD-16.03 P:13; OIG-04.05 P: 1-6; SPPOM-05.01 Sexual Abuse Checklist G; confirm policies are in place and enforced to enable TDCJ the responsibility for investigating allegations of sexual abuse and the agency follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Interviews with medical/mental health staff and investigators and review of specific evidence collection and preservation documentation found TDCJ does not conduct on-site forensic medical examinations. When evidentiary or medical appropriate, a victim of sexual abuse is transported to an

outside hospital and is provided treatment and services as required by the laws, regulations, standards and policies established by and administered includes but is not limited to, minimum standards and the uniform evidence protocol adopted by the medical facility. The uniform evidence protocol used includes sufficient technical detail to aid responders in obtaining useable physical evidence.

Review of policies and procedures and interviews with medical and investigative staff confirm policies are in place to ensure the protocol is developmentally appropriate for youth where applicable, and, as appropriate, is adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violent Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011. Formby/Wheeler Complex is an all-male adult facility for inmates 18 years and older. Therefore, this part of the standard is non-applicable.

Review of: CMHC-G-57.1 P: 1; OIG-04.05 P: 1-6; PREA Plan P: 13; Senate Bill 1191; SPPOM-05.01 P: 1-4; and interviews with medical staff and the SANE/SAFE hospital staff confirm there are policies are in place and enforced to ensure the agency offers all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioner. The agency documents its efforts to provide SAFEs or SANEs. Interviews with the Unit Safe Prison PREA Managers found they have contract hospitals in the area to provide SANE/SAFE forensic medical examinations with the service available 24/7. Should a SANE/SAFE not be available the inmate would be seen by medical staff in the emergency room. Interview with facility medical staff confirm the service is available without financial cost to the inmate. There were no forensic medical exams on inmates from Formby/Wheeler Complex conducted during the past 12 months.

Review of Solicitation Letter confirm TDCJ has policies in place and enforced to ensure the agency attempts to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency makes available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member. Agency documents efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(c), to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

Review of: POM-02.02 P:1; PREA Plan P: 26; Resource and Crisis Center letter; and interviews with PREA Compliance Manager, facility medical staff and SANE/SAFE staff confirm a rape crisis center staff is made available to provide victim advocate services. A list of National, State and Local Rape Advocacy Centers is made available to all inmates at Formby/Wheeler Complex.

Review of: SPPOM-02.02 P: 1-2; PREA Plan P: 12; CID-OVR Sexual Victim Representation Training P: 1-32; confirm that policies are in place and enforced to ensure as requested by the victim, 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 and provide emotional support, crisis intervention, information, and referrals. Interviews with medical staff, PREA Compliance Manager and SANE/SAFE staff confirm that policies are in place and enforced to ensure victim advocate services are available.

The requirements of all paragraphs of this section shall also apply to: 1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and 2) Any Department of Justice Component that is responsible for investigating allegations of sexual abuse in prisons or jails. The TDCJ is responsible for administrative and OIG is responsible for criminal investigations. Therefore, this part of Standard 115.21 is non-applicable.

For the purposes of this section, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general. The TDCJ is responsible for administrative and OIG is responsible for criminal investigations. Therefore, this part of Standard 115.21 is non-applicable.

In conclusion, based on documentation reviewed and interviews with medical, mental health staff and hospital staff TDCJ is responsible for administrative and OIG is responsible for criminal investigations, Forensic medical examinations are conducted in a hospital and are available to victims at no cost with victim advocate services available to inmate victims of sexual abuse. Formby/Wheeler Complex is compliant with Standard 115.21 Evidence Protocol and Forensic Medical Examinations.

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

- Exceeds Standard (substantially exceeds requirement of standard)

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

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

Review of: OIG-04.05 P: 1; SPPOM-05.05 P: 1 Sexual Abuse Response and Investigation; SPPO 05.05 Offender Protection Investigation; AD 16.20 Reporting Incidents/Crimes to the Office of the Inspector General P: 1, 3-4; AD 02.15 Operations of the Emergency Action Center P: 5, 14; confirm policies are in place and enforced to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. Interview with the Executive Director found there are multiple policies that cover both administrative and criminal investigations for sexual abuse or sexual harassment. All administrative investigations are reported to, and then conducted by TDCJ and criminal investigations are conducted by the Office of the Inspector General (OIG) which is a separate division of TDCJ. The OIG also assists in conducting staff-on-offender sexual abuse administrative investigations as well. During the last 12 month there were 2 allegations at Formby Unit with 2 unsubstantiated and both investigations were completed. At Wheeler Unit there were 0 allegations of sexual abuse/sexual harassment.

Reviews of: Ad-16.20 P: 3-4, 6; BP-01.07 P: 1-2, 4; OIG-04.05 P: 1, 3, 5-6; SPPOM-05.01 P: 2.; and interview with investigative staff confirm policies are in place and enforced to ensure 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. The agency publishes such policy on its website or, if it does not have one, makes the policy available through other means. The agency documents all such referrals. Review of the TDCJ’s website found: the PREA Policy; History of Combating Sexual Abuse; Report Sexual Abuse; all having valuable additional information available by clicking on the area desired. Interview with investigative staff confirm all allegations of sexual abuse/sexual harassment are referred immediately for investigation. Interview with the Executive Director found administrative investigations are conducted by staff trained in PREA investigations. The reports are given to a supervisor who completes the documentation requirements contained within the Safe Prisons/PREA manual and EAC requirements. Notifications are made to the appropriate officials, such as the facility warden, the OIG, medical and mental health staff, and the unit PREA manager. Depending on the nature of the incident, forensic medical exams are conducted, victim representatives are offered, statements gathered, interviews conducted, review of available monitoring equipment, and other elements to satisfy a sound correctional investigation into the allegations are completed. Summaries of investigations are reviewed through established incident review processes. All policies governing such investigations and conducted are complied with.

If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity. The TDCJ is responsible for conducting criminal investigations. This part of the standard is non-applicable.

Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations. The Department of Justice is not responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in Texas Department of Criminal Justice facilities. Therefore, this part of the standard is non-applicable.

In conclusion, based on the interview with the Executive Director and investigators for Formby/Wheeler Complex they confirmed the policies are in place to ensure all allegations of sexual abuse, sexual threats and retaliation concerning an incident of sexual abuse is thoroughly investigated. Other interviews with random staff and specialty staff confirm that all allegations of sexual abuse, sexual harassment and retaliation are immediately investigated. Review of documents including files, observations during tour, and interviews with staff and inmates the facility is compliant with Standard 115.22 Policies to Ensure Referrals of Allegations for Investigations.

**Standard 115.31 Employee training**

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

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

Review of: AD-12.20 P:1.8; PD-29 P: 6; PREA Plan Video; SPPOM-06.01 P: 1-2; CTSD Supervisor pre-service and in-service training PREA Curriculum; confirm TDCJ has policies in place and enforced to ensure training all employees who may have contact with inmates on: 1) Its zero-tolerance policy for sexual abuse and sexual harassment P:3; 2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures P:3,4; 3) Inmates ‘rights to be free from sexual abuse and sexual harassment P:4; 4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment P:7; 5) The dynamics of sexual abuse and sexual harassment in confinement P:4; 6) The common reactions of sexual abuse and sexual harassment victims P:7,8; 7) How to detect and respond to signs of threatened and actual sexual abuse P:7; 8) How to avoid inappropriate relationships with inmates P:5; 9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates P:9; and 10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities P:7. Interviews with random sample of staff, specialty staff and executive staff, and review of employee signed training rosters confirm that the PREA training has been given to: each new employee; all current staff within one year of employment and PREA training is including in the annual in-service training. The training records show that all employees signed they have received and understood their responsibilities under PREA.

Review of: PREA Plan P: 32-33; TDCJ Gender Specific Training; and interviews with staff confirm policies are in place and enforced to ensure that TDCJ training is tailored to the gender of the inmates at the employee’s facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only female inmates, or vice versa. Familiarization training policy review confirm all Department employee who have been newly transferred from one facility to another receive familiarization on compliance with PREA and the Department’s Sexual Abuse Prevention and Response Procedures. Such familiarization training is tailored to the gender of the inmate at the facility. Formby/Wheeler Complex is an all-male facility and by facility policy staff is trained tailored to male inmates. Staff interviews confirm they have received training tailored to male offenders.

Review of: AD-12.20 P: 1.8; CTSD-SOP-07.06 P: 1; and PREA Curriculum confirm all current employees who have not received such training were trained within one year of the effective date of the PREA standards, and the agency provided 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. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies. Interviews with the PREA Compliance Manager, random staff, specialty staff and executive staff, and review of employee signed training rosters confirm that the PREA training has been given to: each new employee; all current staff within one year of the effective date of PREA Standards and PREA training is including in the annual in-service training. As at the date of the audit the number of staff employed by the facility, which may have contact with inmates who were trained or retrained on the PREA requirements was 287 at Formby and 117 at Wheeler. Interviews with staff and review of signed documents by staff receiving training confirm policies are in place and enforced to ensure documents, through employee signature or electronic verification, that employees understand the training they have received.

The standard requires refresher PREA training every two years and TDCJ requires refresher PREA training annually. In conclusion, based on the excellent PREA employee training curriculum developed including training tailored to the gender of the inmates at the employee’s facility, and tracking program in place to confirm all employees who have contact with inmates have received and understand their responsibilities under PREA and interviews with specialty, security and non-security staff and observations and questions answered during tour the Formby/Wheeler Complex substantially exceeds the requirements of Standard 115.31 Employee Training.

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

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

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

### **corrective actions taken by the facility.**

Review of: AD-02-46 P: 1; AD-07.35 P: 1-2; PD-29 P: 6; PREA Plan P: 34-35; volunteer and contractor training curriculum P:21-24 S:34-35; A-a Handbook for Volunteer; Letter of Orientation for Special Volunteers; Handbook for Volunteers P: 1-24; confirm policies are in place and enforced to ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. Interviews with the PREA Compliant Manager, volunteers and contractors who have contact with inmates confirm they have received PREA training on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

Review of: ED Letter of Orientation; Explanation Statement of Fact; PREA Plan P: 34-35; Volunteer Services Training Handbook P: 1-24; and interviews with volunteers and contractors confirm policies are in place to ensure the level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with inmates, but all volunteers and contractors who have contact with inmates are notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. Interviews with PREA Compliance Manager, volunteers and contractors who have contact with inmates found they have been notified of the agency's zero-tolerance policy on sexual abuse and sexual harassment as well as informed about how to report such incidents. Interview with the individual who supervises volunteers confirmed volunteers receive training based on the level of contact they have with inmates with all volunteers trained in the agency's zero tolerance policy.

Review of: AD-07.35 P: 1-2; Volunteer Service training P: 4 and Appendix F acknowledgement of training and orientation P: 1; and AD-07.35 P:1 confirms the facility maintains documentation confirming that volunteers and contractors understand the training they have received. Review of PREA Volunteer and Contractors Training Forms signed by the volunteers and contractors were reviewed showing they had received and understood their responsibilities from the PREA training. There were 100 % of volunteers and contractors who have contact with inmates who were trained in agency policies and procedures regarding sexual abuse/harassment prevention, detection, and response.

In conclusion, based on: documentation reviewed; interviews with Unit Safe Prison PREA Managers and volunteers; reviewing volunteer signed rosters; and observations during tour with response to questions; Formby/Wheeler Complex is compliant with Standard 115.32 Volunteer and Contractor Training.

### **Standard 115.33 Inmate education**

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

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

Review of AD-06.02 P:1-2; AD-04.25 P:1; PREA Plan P: 32; SPPOM-02.03 P:1; SPPOM-06.02 p: 1-2; Offender SAA Video Letter; Offender Handbook and SAA Video Scrip P:1; confirm policies are in place and enforced to ensure during the intake process, inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. Interview with intake staff confirm inmates are provided with information about the Department's zero-tolerance policy and how to report incidents or suspicions of sexual abuse or sexual harassment immediately when they arrive at the facility during intake. Interviews with random sample of inmates confirm they receive the valuable PREA information verbally and in writing. The auditor observed arrival of new inmates to the facility and saw the PREA packets given to the inmates. There were 2,737 inmates at Formby and 1,155 inmates at Wheeler admitted during the past 12 months who were given PREA information at intake.

Review of: PREA Plan P: 32; SPPOM-06.02 P: 1; Offender PREA Video; confirm policy is in place and enforced to ensure within 30 days of intake, the agency provides comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. During the interview with intake staff staff advised he meets every inmate privately on the day of their arrival to the facility and addresses their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. This process was confirmed with PREA Audit Report

interview of random sample of inmates.

Review of: UCPM-05.00 P: 1; policies confirms policies are in place to ensure current inmates who have not received such education are educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility. Interviews with the staff confirm all inmates in the facility have been educated in PREA and inmates transferred in from another facility receive the PREA information upon arriving at the facility with formal PREA during orientation which is given within 7 day from arriving at the facility. Interviews with transfer-in inmates confirm they receive PREA information at intake and PREA education at the orientation.

Review of: AD-04.25 P: 1; AD-06.25 P: 1; CMHCG-51.1 P: 2; CMHC G-51.5 P: 1-2; E-37.5 P: 1; Offender SAA Video Letter; Offender SAA Video Script; SPPOM-02.03 P: 1; confirm the agency has policies that require they provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, otherwise disabled, as well as to inmates who have limited reading skills. Copies of new and updated PREA materials and PREA: Inmate Orientation Film Implementation was reviewed and confirms PREA material is available in a variety of languages with interpretation services provided in accordance with the Department's Language Access Policy. In the event that an inmate has difficulty understanding the written material due to a disability or limited reading skills then appropriate staff provides assistance. The auditor reviewed the films and found them to be excellent content and of professional quality. The films are shown to all inmates during the reception, classification and facility inmate orientation process. Interview with the PREA Compliance Manager confirms the reasonable accommodations PREA information ensures reasonable accommodations for inmates with Sensorial Disabilities provides equal access to all information provided to general population.

Review of: SPPOM-06.02 P: 1-2, attachment Q; ED Letter 3/14/14; confirm policy is in place to insure inmates sign documentation showing they have participated in the education sessions and maintain documentation of inmate participation in these education sessions. Interviews with random sample of inmates confirmed they had received PREA written information and participated in PREA educational sessions and documented in writing their receipt and understanding of the material the day they received in the training. The intake supervising staff also confirmed inmates sign a form when receiving material and training.

Review of: SPPOM-02.03 Attachments A, B 1-6, C; Offender SAA Video Script; PREA Plan P: 32; PREA Rape handout; confirm in addition to providing such education, the agency ensures that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats. Observations during the tour of the facility found PREA posters, telling inmates of their right to be free of sexual abuse and how to report incidents of sexual abuse, are strategically placed throughout the facility. Each inmate receives an Inmate Orientation Handbook and The Prevention of Sexual Abuse in Prison.

In conclusion, based on all inmates arriving at the facility receiving PREA information on day of arrival; inmates receiving complete PREA education training within 7 days of arrival at the facility; professional written PREA materials developed; PREA films available and inmates signing acknowledgement forms documenting training received the auditor finds the Formby/Wheeler Complex substantially exceeds requirement of Standard 115.33 Inmate Education.

### Standard 115.34 Specialized training: Investigations

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

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

Review of: BP-01.07 P:2-3; CTSD Specialized Investigations; OIG LP-2029 P: 1-43; OIG LP-3201 P: 1-38; OIG OPM-02.15 P: 1,3; OIG OPM-04.05 P: 1-6; PD-97 P: 5-6; ; confirm policies are in place and enforced that ensure that in addition to the general training provided to all employees pursuant to 115.31, TDCJ ensures that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. Interviews with investigative staff found they received training specific to conducting sexual abuse investigations in confinement settings beginning with a three week investigations school and then on-the-job-training with a seasoned investigator. Additionally they have completed the course "Investigating Sexual Abuse in a Confinement Setting" a course on interview, interrogation, and evidence collection.

Review of: AD-16.03 P: 1-2; CMHC Policy C-25.1 Orientation; CTSD Specialized Investigations; and interviews with investigators confirm policies are in place and enforced to ensure specialized training includes techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Interviews with investigative staff found the specialized training for investigators included: Techniques for interviewing sexual abuse victims; Proper use of Miranda and Garrity warnings; Sexual abuse evidence collection in confinement settings; and Criteria and evidence required to substantiate a case for administrative or prosecution referral. Review of training logs confirmed training received and understood.

Review of: OIG OMP-02.15 P: 4; and PD-97 P: 5-6; OIG 136 Roster NIC PREA Training P: 1-4; confirm TDCJ has policies in place and maintains documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. Training reports are on record and reviewed by the auditor confirming the 23 investigators for Formby and 15 investigators for Wheeler currently employed by TDCJ have completed the required specialized training for investigators.

Any State entity or Department of Justice component that investigates sexual abuse in confinement setting shall provide such training to its agents and investigators who conduct such investigations. There is no Department of Justice component and this part of the standard is non-applicable.

In conclusion, based on review of policies, procedures and training records, and interviews with investigators: investigators have received special training in conducting investigations in confinement settings, received specialized training and signed forms documenting they have received the training resulting in compliance for Standard 115.34 Specialized Training: Investigations.

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

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

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

Review of: AD-16.03 P: 1; CMHC C-25.1 P:1; CMHC G-57.1 P:1; and CMHC C-19.1 P: 1; New Employee Check List; SB 1191; TDCJ Letter of Orientation; confirm TDCJ ensures that all full-and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: 1) How to detect and assess signs of sexual abuse and sexual harassment; 2) How to preserve physical evidence of sexual abuse; 3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and 4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment. Interviews with medical and mental health staff confirm that full-and-part medical and mental health care practitioners have received training as described in 1-3 in the first paragraph. Medical and mental health care practitioners who work regularly at the Formby are 14 and Wheeler 9 with 100% receiving the required training.

The standard says if medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations. The TDCJ policy does not train medical staff to conduct forensic medical exams as this policy directs medical staff to send inmate victims to an outside hospital emergency department for evaluation by a certified Sexual Assault Forensic Examiner (SAFE) or certified Sexual Assault Nurse Examiner (SANE). Interviews with medical staff confirm they do not perform forensic medical exams as the inmate is taken to a medical facility that has SAFE and SANE service 24/7. Therefore, this part of Standard 115.35 is non-applicable.

Review of: Sstatement of Fact; Senate Bill 1191; New Employee Orientation Check List; and interviews with medical staff confirm TDCJ policies are in place and enforced to ensure medical and mental health care practitioners receive the training mandated for employees under 115.31 or for contractors and volunteers under 115.32, depending upon the practitioner's status at the agency. The Texas Tech (TTUHSC) staff/practitioners who regularly work at Formby/Wheeler Complex have received the specialized training. Interviews with medical and mental health confirm they receive PREA training mandated for employees under 115.31. Review of training records indicate that all medical and mental health staff sign a document showing they received and understand the PREA training.

In conclusion, based on review of policies, procedures, training records; interviews with medical and mental health staff and observations during the tour of the medical and mental health area of the Formby/Wheeler Complex meets the requirements of and is compliant with Standard 115.35 Specialized Training: Medical and Mental Health Care.

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

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

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

Review of: CMHC E-35.1 P: 1; SPPOM-03.01 P: 1; confirm policy is in place and enforced that ensures all inmates are assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. Interviews with the staff who performs screening for risk of victimization and abusiveness confirm that they screen inmates upon admission to the facility and transfer from another facility for risk of sexual abuse victimization or sexual abusiveness toward other inmates per TDCJ policies. Interviews of random sample of inmates confirm they received the screening as described.

Review of: SPPOM-03.01 P:1; SPPOM-03.01 Assessment Screening; SPPOM-03.01 Attachment E; PREA Plan P:16; confirms policy is in place and enforced ensuring intake screening ordinarily take place within 72 hours of arrival at the facility. Interview with the staff who performs the screening at the facility is by TDCJ policy that the initial assessment must include a preliminary review by Security, Health Services and Classification staff within 24 hours of an inmate's arrival at the reception facility. The sending facility senior correction counselor advises the receiving facility and each in-transit facility, via electronic mail to the watch commander, of any such history. Upon each transfer, any inmate so identified will be screened by a security supervisor within 24 hours of arrival at the facility for any indication of current sexual vulnerability or sexually aggressive behavior. Information from the screening process, the initial assessment, quarterly reviews, and inmate disciplinary history, will be reviewed and considered for purposes of classification, housing assignments and programming, etc. During the last 12 months 2,183 inmates at Formby and 1,053 inmates at Wheeler entering the facility were screened for risk of sexual victimization or risk of sexually abusing other inmates within 24 hours of their entry into the facility.

Review of: SPPOM-03.01 Attachment E; IPM-CI-69 P: 3; confirm that assessments are being conducted using an objective screening instrument. Interviews with the PREA Compliance Manager and classification staff and review of the Intake Screening Form confirm the Formby/Wheeler Complex meets the requirement of using objective screening instrument.

Review of: SPPOM-03.01 Assessment Screening P: 4; PREA Plan P:16-17; confirm that the objective screening instrument used during intake screening considers, at a minimum, the following criteria to assess inmates for risk of sexual victimization: 1) Whether the inmate has a mental, physical, or developmental disability; 2) The age of the inmate; 3) The physical build of the inmate; 4) Whether the inmate has previously been incarcerated; 5) Whether the inmate's criminal history is exclusively nonviolent; 6) Whether the inmate has prior convictions for sex offenses against an adult or child; 7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; 8) Whether the inmate has previously experienced sexual victimization; 9) The inmate's own perception of vulnerability; and 10) Whether the inmate is detained solely for civil immigration purposes. Interviews with staff performing the screening process confirmed that the initial risk screening considers: consideration of any inmate disabilities; inmate age; physical build; previous incarceration; criminal history exclusively nonviolent; inmate criminal history; perceived sexual orientation; previous sexual victimization; inmate perception of vulnerability and whether detention is related to civil immigration.

Review of: PREA Plan P: 17; IPM-5.06 SPPOM-03.01 Assessment Screening P: 1; confirm policies and forms are in place to ensure the initial screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive. Interviews staff performing the screening process confirmed that the initial risk screening includes assessments including: prior acts of sexual abuse, prior convictions for violent offenses and history of prior institutional violence or sexual abuse, as known to the agency, to assess the inmate for risk of being sexually abusive. Review of the PREA Intake Screening Form confirms all of the screening areas identified by the staff performing the screening appear on this form.

Review of policies and forms and interview with screening staff confirms TDCJ policies are in place to ensure within a set time period, not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening. There were 8 inmates at Formby/Wheeler Complex that required additional 30 day screening. Interview with the staff performing the screening process confirmed that the facility reassess the inmate's risk of victimization or abusiveness within 30 days per TDCJ policy. Interviews with random sample of inmates confirm the reassessment process occurs as required.

Review of: PREA Plan P: 17; SPPOM-03.01 Assessment Screening; screening documents and interviews with screening staff confirm policy is in place and enforced to ensure an inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

Review of: PREA Plan P: 19; SPPOM-03.01 P: 1; Offender Assessment Screening documents; confirm policy is in place and enforced to ensure inmates are not disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked about: whether the inmate has a mental, physical, or developmental disability; whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; whether the inmate has previously experienced sexual victimization; and the inmate's own perception of vulnerability. Interviews with staff performing the screening process confirm that inmates are not disciplined for refusing to answer, or for not disclosing complete information in response to questions asked. Interview with specialty staff and PREA Compliance Manager also confirm inmates are not disciplined for these four areas of this section.

Review of: PREA Plan P: 19; SPPOM-03.01 P: 2; Offender Assessment Screening; confirm TDCJ has policies in place to ensure the department implements appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates. Interviews with the PREA Coordinator, PREA Compliance Manager and staff responsible for screening inmates confirm the agency outlines who should have access to an inmate's risk assessment within the facility in order to protect sensitive information from exploitation and those including only those with a "need to know" allowed to have access. Apart from reporting to designated supervisions or officials, staff does not reveal 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.

The standard requires the offender screening process completed within 72 hours upon the offender arriving at the facility and documentation shows the facility completes the offender screening within 24 hours. In conclusion, based on interviews with PREA Coordinator, PREA Compliance Manager and the staff responsible for screening; and observations when visiting the screening process for inmates the Formby/Wheeler Complex substantially exceeds the requirement of Standard 115.41 Screening for Risk of Victimization and Abusiveness.

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

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

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

Review of: SPPOM-03.01 Assessment Screening; IPM-04.01 P: 1; AD-04.17 P:1; AD-04.18 P:1; PREA Plan P:18: confirms TDCJ has a policy in place showing how use of information from the risk screening required by 115.41 is limited to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Interviews with the staff responsible for screening and the PREA Compliance Manager the agency information from the risk screening during intake is reviewed and assessed with the Unit Safe Prison PREA Managers, security and medical/mental health staff. Information is used to inform housing, bed, work, education and program assignments.

Review of: AD-04.17 P:1; AD-04.18 P:1; PREA Plan P:18; and CMHC E-35.1 P:1-2; confirm TDCJ policies are in place to ensure the agency makes individualized determinations about how to ensure the safety of each inmate. Interviews with the staff responsible for screening inmates and the PREA Compliance Manager found the facility uses the intake screening information to make individualized determinations to ensure inmate safety.

Review of: CMHC G-51.11 P 1-2; confirm policy is in place to ensure in deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency considers on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. According to the interview with PREA Compliance Manager, transgender or intersex inmates goes through PREA risk assessment with the information gained from the correction counselor interview the basis for determining the inmate's initial housing assignment. This housing assignment may be changed after the inmate is further evaluated by the appropriate staff. According to interviews with transgender inmates staff asked them about their safety with housing and programmatic decisions of when and where education, work and exercise would occur.

Review of: SPPOM 03.02 P: 1; PREA Plan P: 19; confirm TDCJ policies ensure placement and programming assignments for each transgender or intersex inmate be reassessed at least twice each year to review any threats to safety experienced by the inmate. Interviews with PREA Compliant Manager and staff responsible for screening inmates, placement and programming assignments for each transgender or intersex inmate is reassessed to review any threat to safety quarterly with classification and offender rehabilitation coordinator and staff responsible for screening inmates.

Review of: SPPOM 03.02 P: 1-2; I-5.06 P: 1; confirm a transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration. Interviews with PREA Compliance Manager and staff responsible for screening inmates, transgender and intersex inmates' views of his safety are given serious consideration in placement and programming assignments.

Review of PREA Plan P: 7 confirm a policy is in place and enforced to ensure transgender and intersex inmates are given the opportunity to shower separately from other inmates. According to interviews with medical/mental health staff, PREA Compliance Manager and staff responsible for screening inmates, transgender and intersex inmates are given the opportunity to shower separately from other inmates by requesting separate shower time.

Review of: PREA Plan P: 19; Offender Housing Assignments P:2; policies are in place and enforced to ensure the agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such 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 such inmates. Interviews with the Warden and PREA Compliance Manager confirm the agency does not have any dedicated facilities, units, or wings solely for lesbian, gay, bisexual, transgender, or intersex inmates.

In conclusion, based on; review of policies and procedures; interviews with PREA Compliance Manager and staff responsible for screening inmates; the Formby/Wheeler Complex is compliant with Standard 115.42 Use of Screening Information.

### Standard 115.43 Protective custody

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

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

Review of: PREA Plan P: 18; SPPOM-05.05 P: 5; Ad Seg Plan P: 1, 2, 4; and I-169 Form; I-203 Placement Restriction; confirm the agency has a policy in place and enforced to ensure inmates at high risk for sexual victimization are not placed 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. If a facility cannot conduct such an assessment immediately, the facility holds the inmate in involuntary segregated housing for less than 24 hours while completing the assessment. According to interview with the Warden agency policy prohibits placing inmates at high risk for sexual victimization or has alleged sexual abuse in involuntary segregated housing in lieu of other housing areas, unless an assessment has determined there are no available alternative means of separation from potential abusers (last resort). During the last 12 months zero inmates at risk of sexual victimization were held in involuntary segregated housing.

Review of: PREA Plan P:18; SPPOM-05.05 P:5; Ad Seg Plan P:1,2,4; confirm the agency has a policy to ensure inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If

the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: 1) The opportunities that have been limited; 2) The duration of the limitation; and 3) The reasons for such limitations. Interviews with staff who supervises inmates in segregated housing for protection from sexual abuse or after having alleged sexual abuse they would have access to: programs; privileges; and education. They do not have access to work opportunities. The auditor observed and confirmed no inmates were in protective custody for protection from sexual abuse during the tour of the housing units. The facility has not placed an inmate in involuntary or voluntary protective custody due to being high risk for sexual victimization during the last 12 months. Since no inmates were placed in protective custody due to being high risk for sexual victimization the auditor was not able to interview an inmate.

Review of: PREA Plan P: 19; Ad Seg Plan P:11; I-204; and Guidelines for a ASC Members P: 2; confirm the agency has a policy ensuring the facility assigns such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days. Interviews with the Warden and staff supervising inmates in segregated housing, inmates at high risk for sexual victimization or who have alleged sexual abuse are placed in involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged and is used as a last resort and for a time of less than 30 days. Since no inmates were assigned to segregate housing for high risk for sexual victimization up to 30 days the auditor was not able to interview an inmate.

Review of: PREA Plan P: 18; Ad Seg Plan P:11; I-204; and Guidelines for a ASC Members P: 2; confirm the agency has a policy ensuring if an involuntary segregated housing assignment is made pursuant to the first paragraph of this section, the facility shall clearly document: 1) The basis for the facility's concern for the inmate's safety; and 2) The reason why no alternative means of separation can be arranged. Interviews with the Warden, PREA Compliance Manager and staff supervising inmates in segregated housing policies are in place to identify and document the basis for the facility's concern for the inmate's safety and the reason why no alternative means of separation can be arranged. However, since zero inmates at risk of sexual victimization were held in involuntary segregated housing in the past 12 months there were no inmate files to review.

Review of: Guidelines for Administrative Segregation Committee Members; AD Seg Plan; PREA Plan P: 19; documentation confirm the agency has a policy ensuring every 30 days, the facility affords such inmate a review to determine whether there is a continuing need for separation from the general population. Interviews with the Warden, PREA Compliance Manager and staff supervising inmates in segregated housing policies are in place to ensure review of the inmate every 30 days to determine whether there is a continuing need for separation from the general population. However, since zero inmates at risk of sexual victimization were held in involuntary segregated housing in the past 12 months there were no inmates to interview.

Formby/Wheeler Complex has not placed an inmate in involuntary or voluntary Protective Custody solely due to being a high risk for sexual victimization. In conclusion, based on interviews with the Warden, PREA Compliance Manager and staff supervising inmates in segregated housing; observations during tour of housing units the Complex is compliant with Standard 115.43 Protective Custody.

### Standard 115.51 Inmate reporting

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

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

Review of: PREA Plan P: 20; BP-03.91 P:3.8; Immigration Statement of fact, 7/26/2014; SPPOM Attachment A; SPPOM Attachment AS; and TDCJ PREA Brochure; confirm the agency has policies in place and enforced ensuring multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. Interviews with random sample of staff and inmates, found an inmate may report an incident of sexual abuse, sexual threats or any act of retaliation verbally or in writing, anonymously and from third parties. Verbal reports are promptly documented. Interviews with random sample of inmates confirm that they are very aware of the many ways they can report sexual abuse and how to do so privately. Observations and answers to questions during the tour showed complete inmate knowledge of PREA and reporting opportunities available to them.

Review of: AD-14.09 P: 1, 8-9; BP-03.91 P8; ED-02.10 P: 1; PREA Plan P: 23; confirm the agency has policies in place that ensures the agency provides at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Inmates are not detained solely for civil immigration purposes so this part of the standard is non-applicable. Interviews with PREA Compliance Manager and random sample of inmates and review of documentation advising inmates can contact the State PREA Ombudsman Office or the Texas Board of Criminal Justice (TBCJ) to privately report sexual abuse and sexual harassment to agency officials. Inmates can send sealed and uninspected letters to special and media correspondents. Special correspondents include: member of Texas Board of Criminal Justice; TDCJ Executive Director; Deputy Executive Director; any Division Director; Deputy Director; PREA Ombudsman; or Warden. Observations during facility tour found posters strategically posted throughout the facility and responses to questions during tour of the Complex confirm staff and inmates understand how to report abuse or harassment to a public or private entity or office that is not part of the agency. Review of the Statement of fact confirms TDCJ does not detain offenders solely for civil immigration purposes.

Review of: TDCJ PREA Plan P: 21; SPPOM-05.05 P: Attachment J; SPPOM-Attachment A; General Information Guide for Families of Offenders; confirm the agency has policies directing staff accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document a verbal reports. According to interviews with random sample of staff when an inmate alleges sexual abuse or sexual harassment he can do so verbally, in writing, anonymously, and from third parties. Verbal reports are documented immediately. Interviews with random sample of inmates confirm they have received, read and understand the pamphlet on PREA and are aware of these opportunities to report sexual abuse or sexual harassment.

Review of PREA Plan P: 23 advising staff contact the PREA Ombudsman and the Office of the Inspector General confirm TDCJ has policies in place and enforced to ensure and provide a method for staff to privately report sexual abuse and sexual harassment of inmates. Interviews with random samples of staff, employees may privately report any suspicion of sexual abuse or sexual harassment of an inmate by contacting the Office of Special Investigation directly. Staff is informed of this reporting procedure by policy and Sexual Abuse Prevention and Response training.

In conclusion, based on: development, implementation and monitoring of policies and procedures, interviews with random sample of staff and inmates; observations and answers to questions regarding inmate reporting during tour of housing units; and the distribution of a new updated PREA pamphlet the auditor finds the Formby/Wheeler Complex is compliant with Standard 115.51 Inmate Reporting.

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

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

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

Review of: AD-03.77 Offender Grievances P: 1; PREA Plan P: 21; and AD-03.82 Management of Offender Grievances; confirm policies are in place and enforced to ensure the agency has an administrative procedure for dealing with inmate grievances regarding sexual abuse. Interview with: staff handling inmate grievances; random selection of staff; inmates; and PREA Compliance Manager confirm administrative policies are in place for dealing with inmate grievances regarding sexual abuse.

Review of: AD-03.77 P: 1; AD-03.82 P: 7; AD-03.82 Appendix B; PREA Plan P: 21; confirm policies are in place and enforced to ensure: 1) The agency does not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse; 2) the agency applies otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse; 3) the agency does not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse; 4) nothing in this section shall restrict the agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired. Interview with: staff handling inmate grievances; random selection of staff; inmates; and PREA Compliance Manager report the policies are in place and enforced for 1-4 per the policies and this standard.

Review of: AD-03.82 P: 8; PREA Plan P: 22; confirm policies are in place and enforced to ensure that: 1) an inmate who alleges sexual  
PREA Audit Report

abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and 2) such grievance is not referred to a staff member who is the subject of the complaint. Interview with: staff handling inmate grievances; random selection of staff; inmates; and PREA Compliance Manager report inmates can submit a grievance without submitting it to a staff member who is the subject of the complaint and the grievance is not referred to such staff member.

Review of: Texas Government Code 501.008; AD-03.82 P:9; OGOM section 4.00 P:1; PREA Plan P: 22; confirm policies are in place and enforced to ensure: the agency issues 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; 2) computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal; 3) the agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the inmate in writing of any such extension and provide a date by which a decision will be made; 4) at any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level. Interview with: staff handling inmate grievances; random selection of staff; inmates; and PREA Compliance Manager confirm: decision on merits of grievance or portion of a grievance are made within 90 days of the filing; in past 12 months there was three grievance filed at Formby and zero grievances filed at Wheeler; no grievances extensions were requested; no extensions requested so no notifications to inmates were required. The grievances filed at Formby has resulted in being unsubstantiated.

Review of: AD-03.82 P:4; OGOM section 9 P:1-2 Appendix U; PREA Plan: 21; confirm policies are in place and enforced to ensure: 1) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, are permitted to assist inmates in filing request for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates; 2) if a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process; 3) if the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision; Interview with: staff handling inmate grievances; random selection of staff; inmates; PREA Compliance Manager confirm; third parties assist inmates in filing request; such request may require a condition that victim agree to pursue subsequent steps and if inmate declines the request it is documented.

Review of: AD-03.82 P:5; OGOM section 1.04 P:2, 7.00 P:1; PREA Plan P:22; confirm policies are in place and enforced to ensure: 1) the agency shall establish procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse; 2) after receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the agency immediately forwards the grievance (or a portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, provides an initial response within 48 hours, and issues a final agency decision within 5 calendar days. The initial response and final agency decision documents the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance; Interview with: staff handling inmate grievances; random selection of staff; inmates; and PREA Compliance Manager reported policies are in place for: emergency grievance for inmates subject to a substantial risk of imminent sexual abuse; grievance is immediately forwarded to a level of review at which immediate corrective action is taken within 48 hours; issues a final agency decision within 5 calendar days.

Review of: OGOM section 1.01 P:4; PREA Plan P: 22; confirm policy is in place and enforced to ensure the agency may discipline an inmate for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith. Interview with: staff handling inmate grievances; random selection of staff; inmates; and PREA Compliance Manager found policy is in place and there were no inmates disciplined for filing a grievance in bad faith during the last 12 months.

In conclusion, based on: development, implementation and monitoring of policies and procedures; interview with staff handling inmate grievances; random selection of staff, inmates, and PREA Compliance Manager; and observations and answers to questions regarding inmate grievances during tour of housing units; the auditors finds the Formby/Wheeler Complex is compliant with Standard 115.52 Exhaustion of administrative remedies.

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

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

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion**

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

Review of: Safe Prison PREA Plan; P:13; SPPOM-02.02 P:1; BP-03.91 P:1,9; Offender Orientation Handbook; confirm policies are in place and enforced to provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility enables reasonable communication between inmates and these organizations and agencies in as confidential a manner as possible. Interviews with random sample of inmates they are aware of and have access to victim advocates for emotional support services available outside the facility for dealing with sexual abuse, if needed. The inmates confirmed the facility gives those mailing addresses and telephone numbers for the outside services. The auditor was not able to interview an inmate who reported a sexual abuse since there was not one in the facility at the time of the audit.

Review of: BP-03.91 P: 1; Offender Video Instructions P: 1; PREA Plan P: 13; SPPOM-06.02 P: 1; confirm the facility informs inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. According to interviews with random sample of inmates they are aware the facility informs them prior to giving them access to outside support services, the extent to which communications will be monitored and the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law. The auditor was not able to interview an inmate who reported a sexual abuse since there was not one in the facility at the time of the audit.

Review of the PREA Plan and interviews with the PREA Compliance Manager and documentation of the agency's attempt to enter into MOU's confirms the agency maintains or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. The agency maintains copies of agreements or documentation showing attempts to enter into such agreements. According to interview with PREA Compliance Manager, TDCJ has a contract with an organization to provide services. The agency is working on agreements and provided documentation of the extension request. Inmates are furnished with name, address and telephone number for victim advocate service through Just Detention International offices available locally and nationally.

In conclusion, based on: policies and procedures providing inmates with access to outside victim advocates for emotional support services; informing inmates, prior to giving them access, of the extent to which such communications will be monitored; and documented attempts to seek agreement with agencies to provide inmates with confidential emotional support services; the Formby/Wheeler Complex is compliant with Standard 115.53 Inmate Access to Outside Confidential Support Services.

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

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

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

Review of: SPPOM-04.02; ED-02.03 P1, 2, 8, 9; ED-02.10 P: 1, 3; General Information for Families of Offenders Brochure P: 32-33; and Safe Prison PREA Plan P: 23; confirm the agency has established a method to receive third-party reports of sexual abuse and sexual harassment and distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate. According to interviews with the PREA Compliance Manager and Warden the agency has established a Webpage that gives a link to process a third-party report of sexual abuse and sexual harassment. The auditor reviewed the Website for TDCJ and found the information available by clicking on the appropriate link. Formby/Wheeler Complex has not had a third party PREA report during the last twelve months.

In conclusion, based on: review of policies; interviews with staff and viewing the TDCJ website; the facility is compliance with Standard 115.54 – Third-party Reporting.

## Standard 115.61 Staff and agency reporting duties

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

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

Review of: AD-16.20 P: 1-9; CMHC-G-57.01P: 2-3; Safe Prisons PREA Plan P:23; PD-29 P:3-4; confirms policies are in place and enforced to ensure 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; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. According to interviews with random sample of staff the agency requires all staff, regardless of title, to report immediately any knowledge, suspicion, or information regarding and incident of sexual abuse or sexual harassment that occurred in a facility; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Staff is required to immediately notify his or her immediate supervisor, Warden or Department Head. The employee is required to report the specific details, in writing, to the Watch Commander immediately after verbal notification.

Review of: CMHC g 35.2 p: 1-2; CMHC G-57.01 P: 1-3; Safe Prisons PREA Plan P: 22-23; SPPOM-05.01 P:4; confirms policies are in place and enforced to ensure apart from reporting to designated supervisors or officials, staff does not reveal 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. According to interviews with the facility PREA Compliance Manager and random sample of staff the agency requires all employees be aware of the sensitive nature of a situation where an inmate reports sexual abuse or sexual threats and reports are confidential and information, including but not limited to the identity of the victim is only to be shared with essential employees involved in the reporting investigation, discipline and treatment process, or as otherwise required by law.

Review of: CMHC G-57.1 P: 1; PREA Plan P: 22-23; SPPOM-05.01 P: 4; confirms policy is in place and enforced to ensure unless otherwise precluded by Federal, State, or local law, medical mental health practitioners are required to report sexual abuse pursuant to the first paragraph of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services. Interviews with the facility medical and mental health staff at the initiation of services to an inmate they confirm disclosure and the limitations of confidentiality and their duty to report. Staff reported they are required, and have reported, to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to a designated supervisor or official immediately upon learning of it. The auditor reviewed medical and mental health files for inmates and confirm documentation of incidents and activity are per policy and standard.

If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws. Formby/Wheeler Complex does not house any inmates under the age of 18. Therefore, this part of Standard 115.61 is non-applicable.

Review of: Safe Prisons PREA Plan P:22-23; SPPOM-05.01 P:4; confirm policies are in place and enforced to ensure the facility reports all allegation of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators. According to interviews with the Warden and PREA Compliance Manager all allegations of sexual abuse and sexual harassment including those from third-party and anonymous sources are reported directly to designated facility investigators. The auditor reviewed inmate files with investigators and confirm all allegations are investigated.

In conclusion, based on review of policies and procedures; interviews with the facility Warden, PREA Compliance Manager, medical and mental health staff and random sample of staff the facility is compliant with Standard 115.61 Staff and Agency Reporting Duties.

## Standard 115.62 Agency protection duties

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

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

Review of: SPPOM-05.01 P: 1, 3; SPPOM-05.03 P:1; AD-02.15 P: 1, 6; and Administrative Review/Investigation; confirm policy is in place and enforced to ensure when the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the inmate.

According to interviews with: the Executive Director; Warden; and random sample of staff, when learning that an inmate is subject to a substantial risk of imminent sexual abuse each case is evaluated by the facility or Office of Special Investigations based upon the nature of the report and the potential harm. Supervisory rounds are increased as appropriate; inmate at risk or potential predator may be moved to another housing unit or transferred. If no other options are available temporarily protective custody until other steps can be taken may be considered. During the past 12 months there were zero times the facility determined that an inmate was subject to a substantial risk of imminent sexual abuse.

In conclusion, based on review of policies; interviews with Executive Director, Warden and random sample of staff; and observations and answers to questions when touring the facility, Formby/Wheeler Complex is compliant with Standard 115.62 Agency Protection Duties.

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

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

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

Review of: BP-01.07 P: 2; AD-16.20 P: 5; PREA Plan P: 24; SPPOM-04.01 P: 1-3; confirm policy is in place and enforced to ensure where upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.

According to interview with PREA Compliance Manager upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation notifies the head of the facility or appropriate office of the agency or facility where the sexual abuse is alleged to have occurred. Formby/Wheeler Complex received two notification during the last 12 months of an allegation of sexual abuse the facility received from another facility. Notification was per policy and this standard.

Review of: AD-16.20 P:5,7; SPPOM-04.01 P:1-2; confirm policy is in place and enforced to ensure showing such notification provided as soon as possible, but no later than 72 hours after receiving the allegation. According to interviews with the Warden and PREA Compliance Manager upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation must notify the head of the facility or appropriate office of the agency or facility where the sexual abuse is alleged to have occurred no later than 72 hours after receiving the allegation.

Review of PREA Plan P: 24 confirm policy is in place and enforced to ensure that the facility document that it has provided such notification. According to interviews with the Warden and PREA Compliance Manager, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Warden that received the allegation notifies the head of the Warden or appropriate office of the agency or facility where the alleged sexual abuse occurred and the notification is documented.

Review of: SPPOM-04.02 P: 1; SPPOM-05.05 P: 1; AD-16.20 P: 6; SPPOM-05.01 P:1-2; confirm policies are in place and enforced to ensure the agency office that receives such notification ensures that the allegation is investigated in accordance with these standards. According to interviews with Executive Director allegations received at one facility involving a different facility are forwarded to the Safe Prisons/PREA Managers Office (SPPMO), Warden of the facility where the abuse allegedly occurred, with a copy of the notification to the Office of Inspector General. Allegations from other agencies are typically received by the Office of Inspector General or the Safe Prisons/PREA Managers Office. The two notifications received were processed per TDCJ policy and this standard.

In conclusion, based on: review of policies; interviews with Executive Director, Warden and PREA Compliance Manager and review of documentation; the Formby/Wheeler Complex is compliant with Standard 115.63 Reporting to other Confinement Facilities.

### Standard 115.64 Staff first responder duties

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

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

Review of: SPPOM-05.01 P:2-3; AD-16.03 P:1-3; OIG OPM-04.05 P:4-5; confirm policies are in place and enforced to ensure upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to: 1) separate the alleged victim and abuser; 2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; 3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any action that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and 4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating defecating, smoking, drinking or eating.

According to interviews with: Warden; PREA Compliance Manager; random selection of security and non-security staff; the agency has policies in a place and enforced to ensure a first responder policy for allegations of sexual abuse and first responders requiring staff to follow 1-4 in the first paragraph. In the past 12 months there were 2 allegations of sexual abuse and sexual harassment at Formby and 0 allegations at Wheeler. Of these allegations the number times security staff member was able to perform first responder action was 0 at Formby. Interviewing random sample of security and non-security staff found they were very informed about their requirements in being a first responder and were trained to perform first responder duties if required.

Review of: SPPOM-04.02 P: 1; SPPOM-05.01 P:2-3; SPPOM-05.05 P: 1; AD-16:03 P:1; confirm policies are in place and enforced to ensure if the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff. According to interviews with PREA Compliance Manager and random sample of staff, the agency has a first responder policy (security and non-security staff) for allegations of sexual abuse and first responders are required to follow 1-4 in the first paragraph. In the past 12 months there were 2 Formby and 0 Wheeler allegations of sexual abuse and sexual harassment. Of these allegations the number times security or non-security staff member was able to perform first responder action was zero. Interviews with random sample of staff and review of the curriculum for first responder training provided for staff confirmed the agency and facility consider this standard a priority and are all staff are prepared, by policy to respond per the requirements of this standard.

The agency and the facility have further emphasized first responder duties by distributing cards and handouts on sexual assault/harassment to include steps to take if a sexual assault/harassment occurs. Each employee carries a card that has the PREA Compliance Means Safe and Secure Prisons on one side and First Responder instructions on the other side.

In conclusion, based on: review of policies; interviews with PREA Compliance Manager; random sample of staff; and observations and questions answered during tour of facility; the Formby/Wheeler Complex substantially exceeds requirements of Standard 115.64 Staff First Responder Duties.

### Standard 115.65 Coordinated response

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

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

Review of: PREA Plan P:26; SPPOM-05.01 P:1-2; confirms policies are in place and enforced to ensure the facility develops a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners investigators, and facility leadership.

According to interviews with: Warden; PREA Compliance Manager; random selection of staff; the facility has established and set forth clear facility-specific guidelines to coordinate actions taken in response to incidents of inmate sexual abuse among facility leadership, staff first responders, investigators, and facility medical and mental health practitioners. The facility plan dictates responding to an allegation of sexual abuse requires a coordinated effort between Executive Staff; security staff, the Office of the inspector General, medical and mental health services and victim advocates or victim offender representatives. This plan is per TDCJ Safe Prison/PREA Operation Manual and this policy.

In conclusion, based on review of Formby/Wheeler Complex’s specific Coordinated Response Plan to an Incident of Inmate Sexual Abuse; interviews with the facility Warden and the PREA Compliance Manager; and observations and questions answered when touring the facility the auditor finds the Formby/Wheeler Complex meets the requirements of Standard 115.65 Coordinated Response.

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

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

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

According to Standard 115.66 Preservation of ability to protect inmates from contact with abusers the agency or any other governmental entity responsible for collective bargaining on the agency's behalf enters into or renew any collective bargaining agreement or other agreement since August 20, 2012, or since the last PREA audit, whichever is later. The TDCJ is not responsible for collective bargaining on the agency’s behalf. Texas is a “right to work state” and does not have collective bargaining that would interfere with the preservation of the agency’s ability to protect inmates from contact with abusers. Therefore, this standard is non-applicable.

## Standard 115.67 Agency protection against retaliation

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

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

Review of: PD-22 P: 1-2, 4-5, 8-9, 19, 27, 32-33, 43, 50, 53-54, Attachment B; PD29 P:1-3; PD-31 P:1; PD-13 P: 1,4,5; SPPOM-05.08 P:1; confirm policy is in place and enforced to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate which staff members or departments are charged with monitoring retaliation. According to interview with: Warden; facility retaliation managers; and random sample of staff; the agency Retaliation Policy is in place and enforced and the PREA Compliance Manager at has been designated the Retaliation Monitoring Manager reporting directly to the Warden in PREA retaliation issues.

Review of: PD-22 P:41-42, 51, 53, Addendum PL5; PD-29 P:1-3; PD-31 P:1; PD-13 P: 1,4,5; SPPOM-05.08 P:1; confirm policies are in place and enforced to ensure the agency employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. According to interview with the Executive Director, inmates and staff are protected from retaliation from sexual abuse or sexual harassment allegations based on decisions on protective measures made on a case-by-case basis. Both the facility administration and the Office of Inspector General consider whether the present inmate housing placement is appropriate and, if no, consider whether a move to another housing unit or a transfer to another facility is appropriate. With respect to access to emotional support services, information canon a list of services is provided. Interview with PREA Compliance Manager advises as the retaliation monitor multiple protection measures are considered: housing changes; transfers for inmate victims or abusers; removal of alleged staff or inmate abusers from contact with victims; and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

Review of: PREA Plan P:24; SPPOM-02.4 P:1, 2,3; SPPOM-05.8 P:1,2; confirm policies are in place and enforced to enable the facility monitors the conduct or treatment of inmates or staff who report sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation by inmates or staff for at least 90 days following a report of sexual abuse if the initial monitoring indicates a continuing need. Interviews with Warden and PREA Compliance Manager confirm the facility for at least 90 days following a report of sexual abuse or sexual harassment monitors the conduct and treatment of: an inmate or employee who reported an incident; and an inmate who was reported to have suffered sexual abuse or sexual harassment. Monitoring will be for all areas in previous paragraph and will continue beyond 90 days is needed. The number of times an incident of retaliation occurred in the past 12 months was zero.

Review of: PREA Plan P: 24; and SPPOM-05.08 P:4 confirm policies are in place and enforced to insure in the case of inmates, such monitoring also include periodic status checks. Interviews with retaliation manger and random sample of staff confirms in case of inmates monitoring includes periodic in-person status checks approximately every 30 days. In-person status checks are also encouraged for any staff who reported an incident of sexual abuse or sexual harassment.

Review of: PREA Plan P: 24 confirm policy is in place and enforced to ensure if any other individual who cooperates with an investigation expresses a fear of retaliation, the agency takes appropriate measures to protect that individual against retaliation. According to interview with the Executive Director, all inmates and staff who report sexual abuse or sexual harassment, or who cooperate with sexual abuse or sexual harassment investigations are protected from retaliation by other inmates or staff. Retaliation monitoring includes review of any inmate disciplinary reports, housing or program changes, or any negative performance reviews or reassignments of staff. The Department's protocols for retaliation monitoring are initiated for any individual who cooperates with an investigation and expresses a fear of retaliation.

Review of PREA Plan P: 24 confirm a policy is in place ensuring the agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

In conclusion, based on: review of policies; interviews with the Executive Director, complex Warden, retaliation managers and random PREA Audit Report

sample of staff; and observations and questions answered during tour; the Formby/Wheeler Complex is compliant with Standard 115.67 Agency Protection against Retaliation.

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

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

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

Review of: Ad Seg Plan P:2, 4, 11; AD-04.63 P:2, 4; AD-03.50; PREA Plan P:26; Guidelines for ASC P:1 Attachment 12 00B; confirm policy is in place and enforced to ensure any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse is subject to the requirements of 115.43.

Interviews with the facility Warden and staff who supervise inmates in segregated housing found the policies are in place to allow use of segregated housing to protect an inmate. However, it is a last resort and if use it will be for less than 30 days. The number of inmates who allege to have suffered sexual abuse who were held in involuntary segregated housing in the past 12 month for either 24 hours or 30 days was zero.

In conclusion, the Formby/Wheeler Complex is compliant with this standard, based on: review of policies; interviews with complex Warden and staff who supervise inmates in segregated housing; observations and questions answered when visiting segregated housing. The Formby/Wheeler Complex is found compliant with Standard 115.68 Post-allegation Protective Custody.

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

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

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

Review of: Review of: AD-02.15 P: 1,7-8; AD-16.03 P: 2-3; AD-16.20 P:2-3,7; BP-01.07 P: 1-2; CTSD Specialized Investigator Training; OIG-OPM-03.72 P: 1;OIG-OPM-04.05 P:1-6; OIG-OPM-05.10 P:1-6; OIG-OPM-05.15 P:1-6; PREA Plan P: 25; SPPOM-05.05 P: 6-7; SPPOM-05.11 P: 2; confirm: when the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it does so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports; the credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as offender or staff; agency not require an offender who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation; substantiated allegations of conduct that appears to be criminal are referred for prosecution; when the quality of evidence appears to support criminal prosecution, the agency conducts compelled interview only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. The investigators interviewed reported they investigate immediately and they judge the credibility determinations of an alleged victim, suspect, or witness are based on: the individual – how they present during interviews; past dealings with them; how the evidence obtained matches up with their

version of events; the motives they may have to lie and other verbal and nonverbal cues. Investigators reported: they refer cases for prosecution any time there appears to be evidence that an incident of sexual abuse occurred; they judge the credibility determinations of an alleged victim, suspect, or witness are based on: the individual – how they present during interviews; past dealings with them; how the evidence obtained matches up with their version of events; the motives they may have to lie and other verbal and nonverbal cues; they would not under any circumstances, require an inmate who alleges sexual abuse to submit to a polygraph examination or truth-telling device as a condition for proceeding with an investigation as it is against state law to ask a victim of sexual abuse to take a polygraph. There were no substantiated allegations of conduct that appeared to be criminal that was referred for prosecution since August 20, 2012.

Review of PREA Plan confirm policies are in place to ensure administrative investigations: 1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and 2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Interviews with investigators reported the efforts they make during an administrative investigation to determine whether staff actions or failures to act contributed to sexual abuse included, during the investigation they follow-up on any statements or documentary evidence that shows a staff member may have been on notice of the abuse and failed to act, took some action to facilitate the abuse, or otherwise violated Department policy in connection with the incident.

Review of PB-01.07 P:2,6; confirm polices are in place to ensure criminal investigations are documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. According to the investigators criminal investigations are documented and their reports contain a description of the allegation; description of victim; witness and perpetrator interviews; description of DNA; physical, documentary and other evidence; and the cases closing summary. The file contains copies of all the witness statements, documents, reports and other evidence.

Review of: BP-01.07 P: 2, 6; OIG- 04.05 P: 1-6; PD-29 P: 1-6; confirm policies are in place to ensure substantiated allegation of conduct that appears to be criminal shall be referred for prosecution. Interviews with investigators reported they refer cases for prosecution any time there appears to be evidence that an incident of sexual abuse occurred. There were no substantiated allegations of conduct that appeared to be criminal that was referred for prosecution since August 20, 2012.

Review of: PREA Plan P: 28; PD-29 P: 1, 5; confirms policy is in place to ensure the departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. Interviews with investigators report they continue their investigations when a staff member alleged to have committed sexual abuse terminates employment prior to a completed investigation into his/her conduct and, if there is sufficient evidence to prosecute, they present the case for possible prosecution. Also they continue the investigation when a victim who alleges sexual abuse or sexual harassment or an alleged abuser leaves the facility prior to a completed investigation into the incident. Sometimes one of the other area investigators will assist with interviews if the inmate is a considerable distance away.

Review of: BP-01.07 P:1, 2, 3, 4, 6; confirm policy is in place to ensure any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. The TDCJ is responsible for all administrative investigations and criminal investigations are the responsibility of OIG. All investigations follow TDCJ policies and the requirements of this Standard. There is no Department of Justice involvement. This part of the standard is non-applicable.

When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. The TDCJ investigates all sexual abuse allegations. This part of the Standard is non-applicable.

In conclusion, based on: review of policies and procedures; interviews with Warden, PREA Coordinator, PREA Compliance Manager and Investigative Staff; observations and questions answered during tour of facility the Formby/Wheeler Complex is compliant with the requirements for Standard 115.71 Criminal and Administrative Agency Investigations.

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

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

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These**

**recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Review of: PREA Plan P: 28; SPPO,-05.05 P:9-10; CTSD Special Investigator Training P:6; confirm policies are in place and enforced to ensure the agency imposes no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. Interviews with investigators that responded to the standard of evidence they require to substantiate allegations of sexual abuse or sexual harassment is a preponderance of the evidence, that is, when the weight of the evidence indicates that the allegation is more likely to be true than not true.

In conclusion, the Formby/Wheeler Complex is compliant with this standard, based on: review of policies; interviews with investigators and staff. The facility is compliant with Standard 115.72 Evidentiary Standards for Administrative.

**Standard 115.73 Reporting to inmates**

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

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

Review of: PREA Plan P: 30; SPPOM-05.05 Attachment J P:5; SPPOM-05.05 Attachment M; SPPOM-05.11 Attachment F P:6; confirm policies are in place and enforced to ensure following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the agency informs the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. Interviews with facility Warden and investigative staff confirm agency procedures require that an inmate who makes an allegation of sexual abuse must be informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigations. The number of criminal and/administrative investigations of alleged inmate sexual abuse that were completed by the agency/facility in the past 12 months were 2 at Formby and 0 at Wheeler and all of the inmates received notification verbally with documentation or in writing of the results of the investigation.

If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate. The agency is responsible for conducting administrative and criminal investigations. Therefore, this part of Standard 115.73 is non-applicable.

Review of: PREA Plan P: 27; SPPOM-05.11 Attachment F P:5-6; confirm policies are in place and enforced to ensure following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency subsequently informs the inmate (unless the agency has determined that the allegation is unfounded) whenever: 1) The staff member is no longer posted within the inmate's unit; 2) The staff member is no longer employed at the facility; 3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or 4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. Interview with PREA Compliance Manager confirms the agency informs the inmate (unless the agency has determined that the allegation is unfounded) whenever the staff member: is no longer posted within the inmate's unit; no longer employed by the facility; agency learns staff member indicted on a charge related to sexual abuse within the facility; or agency learns staff member has been convicted on a charge related to sexual abuse within the facility. Interviews with inmates confirm they were notified per policy.

Review of: PREA Plan P: 27; SPPOM-05.10 P: 1, 6; SPPOM-05.11 Attachment F P: 5-6; confirm policies are in place to ensure following an inmate's allegation that he or she has been sexually abused by another inmate, the agency subsequently informs the alleged victim whenever: 1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or 2) The agency learns that the alleged abuser has been convicted on charge related to sexual abuse within the facility. Interview with PREA Compliance Manager confirmed that following an inmate's allegation that he or she has been sexually abused by another inmate, the agency informs the alleged victim whenever: agency learns alleged abuser has been indicted on a charge related to sexual abuse within the facility or the agency learns the alleged abuser has been convicted on charge related sexual abuse in the facility.

Review of: PREA Plan P: 27; SPPOM-05.11 P:5-6; SPPOM-05.05 Attachment J, Attachment M; confirms policies are in place to ensure all PREA Audit Report

such notifications or attempted notifications are documented. Interview with the Warden and PREA Compliance Manager confirm all notifications or attempted notification are documents showing the date and time of the notification in case chronology. If the inmate refused to discuss the outcome, it is noted the date and time of the attempted notification and the fact that the inmate refused. During the last 12 months 2 inmates at Formby and 0 at Wheeler were provided notifications that were documented.

Review of: SPPOM-05.11 P:5-6; and SPPOM-05.05; confirm policies are in place and enforced to ensure the agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody. Interviews with facility Warden and PREA Compliance Manager confirmed that there is no obligation to report the case outcome to the reported victim inmate after he or she is released from the Department's custody however doing so may be appropriate depending on the circumstances of the case.

In conclusion, the facility is compliant with this standard, based on: review of policy, procedures and forms; interviews with Formby/Wheeler Complex Warden and PREA Compliance Manager and observations and questions answered during tour. The Formby/Wheeler Complex is compliant with Standard 115.73 Reporting to Inmates.

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

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

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

Review of: PD-13 P: 1, 3-5; PD-22 P: 1, 41-42, 48. Addendum P:5; PD-29 Addendum P:5; WBP-0715 P: 1,4; WBP-07.44 P: 1, 3, 7-8; confirms policies are in place and enforced to ensure staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Interviews with PREA Compliance Manager and Human Resource Manager confirm staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Formby/Wheeler Complex has not had an employee terminated due to an incident of sexual harassment or sexual misconduct incident during the last 12 months.

Review of: PD-22 P: 25-26 confirms policies are in place and enforced to ensure termination is the presumptive disciplinary sanction for staff who has engaged in sexual abuse. Interviews with PREA Compliance Manager and Human Resource Manager confirm that termination is the presumptive disciplinary sanction for staff who has engaged in sexual abuse of an inmate. The facility has not had an employee terminated due to an incident of sexual harassment or sexual misconduct incident.

Review of: PD-29; PD-22 P: 19, 41-42, 48, 51, 53, 54; confirm policies are in place to ensure disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are 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. Interviews with PREA Compliance Manager and Human Resource Manager confirms disciplinary sanctions for violations of agency policies related to sexual abuse or sexual harassment are commensurate with the nature and circumstances of the act committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. In the past 12 months zero staff have been disciplined, short of termination for violation of agency sexual abuse or sexual harassment policies.

Review of: PD-29 P: 6; PD-29 Definitions; AD-16.20 P:3-4 ,7, 9; confirm policies are in place to ensure 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. Interviews with PREA Compliance Manager and Human Resource Manager confirm 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. Formby/Wheeler Complex in the last 12 months had zero staff from the facility that have been reported to law enforcement or licensing boards following their termination (or resignation prior to termination) for violating agency sexual abuse or sexual harassment policies.

In conclusion, the Formby/Wheeler Complex is compliant with this standard, based on: review of policies, forms and files; interviews with PREA Compliance Manager and Human Resource Manager; and observations and questions answered during tour. The complex is compliant with Standard 115.76 Disciplinary Sanctions for Staff.

### Standard 115.77 Corrective action for contractors and volunteers

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

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

Review of: Volunteer Service Plan P: 11-13, 23; Acknowledgement of Volunteer Training Orientation; 2014 Volunteer Services Training; Video Script P: 21-24; PD-29 P:5-6; Safe Prisons PREA Plan P: 39; confirms policies are in place and enforced to ensure any contractor or volunteer, who engages in sexual abuse is prohibited from contact with inmates and is reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. Interviews with PREA Compliance Manager confirms an offender is incapable of consent to any sexual act with an employee where that employee performs duties in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to inmates. The law also applies to any contract employee or volunteer who regularly provides services to inmates. Any contractor or volunteer, who engages in sexual abuse is prohibited from contact with inmates and is reported to law enforcement agencies, unless the activity was not criminal, and to relevant licensing bodies. In the past 12 months zero contractors or volunteers were reported to law enforcement for engaging in sexual abuse of inmates.

Review of: Volunteer Service Plan P; 11-13, 23; Acknowledgement of Volunteer Training Orientation; 2014 Volunteer Services Training; Video Script P:21-24; PD-29 P:5-6; PREA Plan P: 39; confirms policies are in place and enforced to ensure the facility takes appropriate remedial measures, and considers whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer. Interviews with PREA Compliance Manager confirms the facility takes appropriate remedial measures, and considers whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

Interviews with volunteers and contractors confirm they have been trained in their responsibilities regarding sexual abuse and sexual harassment prevention, detection, and response, per agency policy and procedure. They confirmed they have: attended PREA training; received written material; viewed video; understand the agency's zero tolerance policy; and signed forms saying they have received and understand the PREA training.

In conclusion, based on: review of policies, procedures and forms; interviews with PREA Compliance Manager, and volunteers and contractors; and observation and questions answered during tour; the Formby/Wheeler Complex is compliant with Standard 115.77 Corrective Action for Contractors and Volunteers.

### Standard 115.78 Disciplinary sanctions for inmates

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

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion**

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

Review of: PREA Plan P: 30; GR-106 P:18-21, 26, Attachment A-2; Email of New Offense 20.4; confirm policies are in place and enforced to ensure inmates are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse. Interviews with the Warden and PREA Compliance Manager confirms having a consistent, fair and reasonable disciplinary process is the Department's most valuable tool to address inmate misconduct, while ensuring the safety of all employees and inmates and the security of the facility. In the past 12 months the numbers of administrative findings of inmate-on inmate sexual abuse that have occurred at the complex were zero. During the last 12 months there have been zero findings of guilt for inmate-on-inmate sexual abuse that have occurred at the complex.

Review of: TDCJ Disciplinary Rules for Offenders P:25-26; confirm policies are in place and enforced to ensure sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. Interviews with Warden and PREA Compliance Manager confirm that policies are in place and enforced to ensure the disciplinary sanctions inmates are subject to following an administrative or criminal finding that the inmate engaged in inmate-on-inmate sexual abuse are progressive disciplinary system based on guidelines. The sanctions are to be proportionate to the nature and circumstances of the abuses committed, the inmates' disciplinary histories, and the sanctions imposed for similar offenses by other inmates with similar histories.

Review of: PREA Plan P: 30; TDCJ Disciplinary Rules for Offenders P:25-26; CMHC E-35.1 P:1, 2; confirm policies are in place and enforced to ensure the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. Interviews with the Warden and PREA Compliance Manager confirm mental disability and mental illness are considered when determining sanctions.

Review of: PREA Plan P: 30; CMHC E-35.1 P: 1-2, SOTP-01.01 P:1; TDCJ Disciplinary Rules for Offenders P:25-26; confirm policies are in place to ensure if the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility considers whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits. Interviews with PREA Compliance Manager and medical and mental health staff confirm the facility offers therapy, counseling and other intervention services designed to address and correct the underlying reasons or motivations for sexual abuse and offers these services to the offending inmate. The facility does not require an inmate's participation as a condition of access to programming or other benefits.

Review of PREA Plan P: 31 confirm policies are in place to ensure the agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact. An interview with PREA Compliance Manager confirms an inmate may be disciplined for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

Review of: GR-106 P: 18-21, 26; PREA Plan P: 31; confirm the policies are in place and enforced to ensure for the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred does not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. An interview with PREA Compliance Manager confirms no reprisals of any kind are taken against an inmate or employee for good faith reporting of sexual abuse or sexual threats.

Review of: GR-106 P:18-21 Attachment B-2-1; PREA Plan:31; TDCJ Disciplinary Rules for Offenders P:25-26; confirm policies are in place to ensure that the agency may, in its discretion, prohibit all sexual activity between inmates and may discipline inmates for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced. Interviews with Warden and PREA Compliance Manager confirm the agency: prohibits all sexual activity between inmates; disciplines inmates for such activity; and the agency deem such activity to constitute sexual abuse only if it determines that the activity is coerced.

In conclusion, the based on: review of policies, procedures and forms; interviews with the Warden and PREA Compliance Manager; and observation and questions answered during tour; the Formby/Wheeler Complex is compliant with Standard 115.78 Disciplinary Sanctions for Inmates.

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

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

- Does Not Meet Standard (requires corrective action)

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

Review of: PREA Plan P:17; SPPOM-03.01 Attachment E; CMHC E-35.1 P:1; CMHC E-35.2 P:1; CMHC G-57.1 P:1-2; confirm that policies are in place and enforced to ensure if the screening pursuant to 115.41 indicates that a prison/jail inmate has experienced prior sexual victimization, whether it occurred in an instructional setting or in the community, staff ensures that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. Interview with staff who is responsible for risk screening confirm that if a screening indicates that an inmate previously perpetrated sexual abuse, the facility offer a follow-up meeting with a mental health practitioner. The auditor interviewed medical and mental health staff who confirmed that the follow-up meeting is offered within 7 days.

Review of: CMHC E-35.2; Mental Health Evaluation P: 1; CMHC G-57.1 Sexual Assault/Sexual Abuse P:1-2; confirm that policies are in place and enforced to ensure if the screening pursuant to 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff ensures that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening. Interview with staff who is responsible for risk screening confirm if a screening indicates that an inmate previously perpetrated sexual abuse they are offered a follow-up meeting with a medical health practitioner to be held immediately. In the past 12 months, 100 percent of inmates who have previously perpetrated sexual abuse, as indicated during the screening, were offered a follow up with a mental health practitioner. Mental health staff maintain secondary materials (e.g. form, log) documenting compliance with the requirements of this standard. The auditor reviewed inmate files in the medical and mental health departments and found follow-up meetings were held, documented, logged and completed per agency policy.

Review of: SPPOM-05.05 P:2-3; CMHC A-09.01 P:1; CMHC A-61.1 P:1-3; confirm that policies are in place to ensure any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, program assignments, or as otherwise required by Federal, State, or local law. Interviews with staff who is responsible for risk screening, medical and mental health staff and PREA Compliance Manager confirms information related to sexual victimization or abusiveness that occurred in an institutional setting is not strictly limited to medical and mental health practitioners. The information shared with other staff is strictly limited to informing security and management decisions, including treatment plans, housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law.

Review of: CMHC G-57.1 P:1-2; CMHC 1-70.1 P:1; CMHC-02.05 P:1; CMHC H-61.1 P:4; confirm policies are in place and enforced to ensure medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. Interview with PREA Compliance Manager and medical and mental health staff confirm medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. The auditor reviewed inmate files in medical and mental health that had copies of the signed consent forms.

In conclusion, based on: review of policies, procedures, forms and inmate files; interviews with PREA Compliance Manager and medical and mental health staff; and observations and questions answered during tour of intake/screening and medical and mental health department, the Formby/Wheeler Complex is compliant with 115.81 Medical and Mental Health Screenings: History of Sexual Abuse.

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

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

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

### **corrective actions taken by the facility.**

Review of: CMHC A-01.1 P:1; CMHC G-57.1 P:1; SPPOM-05.01 P:1-2; confirm that policies are in place and enforced to ensure inmate victims of sexual abuse receive timely unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Interviews with medical and mental health staff and PREA Compliance Manager confirm inmates' victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. Medical and mental health staff maintain secondary materials (e.g., form, log) documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis. The auditor reviewed inmate files in medical and mental health and found meetings were documented per policy and this standard.

Review of: CMHC A-01.1 P: 1; CMHC G-57.1 P: 1; SPPOM-05.01 P:1-2; confirms policies are in place and enforced to ensure if no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to 115.62 and immediately notify the appropriate medical and mental health practitioners. Interviews with security staff and non-security staff first responders found during the past 12 months there was no activity requiring first responder activity. However, security staff and non-security staff are all prepared to act as a first responder if required. Interviews with security and non-security staff carry a card with instructions on being a first responder and are very prepared.

Review of: CMHC G-57.1 Sexual Assault/Sexual Abuse P: 2; CMHC G-57.1 Attachment B Rights to Crime Victims P: 2; PREA Plan P: 13; confirm policies are in place and enforced to ensure inmate victims of sexual abuse while incarcerated are 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. Interviews with medical and mental health staff confirm that inmate victims of sexual abuse while incarcerated are 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. Medical and mental health staff maintain secondary materials (e.g. form, log) documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis. The auditor reviewed files in the medical and mental health departments and found the services were offered, documented and per agency policy and this standard.

Review of: CMHC G-57.1 P:2; confirm policies are in place to ensure treatment services are 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. Interview with PREA Compliance Manager and medical and mental health staff confirm that treatment services are provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

In conclusion, based on: review of policies, procedures, forms and files; interviews with PREA Compliance Manager, security and non-security staff and medical and mental health staff; and observations and questions answered during tour; find the Formby/Wheeler Complex compliant with Standard 115.82 Access to Emergency Medical and Mental Health Services.

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

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

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

Review of: PREA Plan P:14; SPPOM-05.01 P1-2, 4; SPPOM-05.05 Attachment J P:1; CMHC G-57.1 P:1-2; confirm policies are in place and enforced to enable offering medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. Interviews with PREA Compliance Manager and medical and mental health staff confirm the facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized

by sexual abuse in any prison, jail, lockup, or juvenile facility.

Review of: CMHC G- 57.1 P:1; CMHC E-32.1 P:1,3; CMHC E-44 P:1; PREA Plan P: 14; confirm policies are in place and enforced that ensure 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. Interviews with PREA Compliance Manager and medical and mental health staff confirm evaluation and treatment of inmates who have victimized includes treatment services including: follow-up services; treatment plans; treatment groups; and when necessary referrals for continued care after leaving the facility. The auditor reviewed inmate files in medical and mental health and found documentation of treatment plans for inmates that have victimized.

Review of: CMHC G- 57.1 P:1; CMHC E-32.1 P:1,3; CMHC E-44 P:1; confirm policies are in place and enforced to ensure the facility provides such victims with medical and mental health services consistent with the community level of care. Interviews with PREA Compliance Manager and medical and mental health staff confirm the medical and mental health services offered at the facility are consistent with community level of care.

Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. Formby/Wheeler Complex is an all-male complex. Therefore, this part of Standard 115.83 is non-applicable

If pregnancy results from the conduct described in paragraph of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. Formby/Wheeler Complex is an all-male complex. Therefore, this part of Standard 115.83 is non-applicable.

Review of: CMHC 57.1 P:2; confirm policies are in place to ensure inmate victims of sexual abuse while incarcerated are offered test for sexually transmitted infections as medically appropriate. Interviews with PREA Compliance Manager and medical and mental health staff confirm inmate victims of sexual abuse while incarcerated are offered test for sexually transmitted infections as medically appropriate. The auditor reviewed files of inmates that were victims of sexual abuse while incarcerated and were offered treatment. The treatments were as per policy and documented.

Review of: CMHC 57.1 P:2; confirm policies are in place to ensure treatment services are 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. Interviews with PREA Compliance Manager and medical and mental health staff confirm treatment services are 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.

Review of: CMHC 57.1 P:2; confirm policies are in place and enforced to ensure all prisons attempt to conduct a mental health evaluation of all know inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners. Interviews with PREA Compliance Manager and medical and mental health staff confirm mental health conducts a mental health evaluation of all known inmate-on inmate abusers and offer treatment if appropriate. This mental health evaluation is conducted within 60 days of learning of such abuse history.

In conclusion, based on: review of policies, procedures, forms and files; interviews with PREA Compliance Manager, and medical and mental health staff; and observations and questions answered during tour; the Formby/Wheeler Complex is compliant with Standard 115.83 Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers.

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

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

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

Review of: PREA Plan P:31; SPPOM-08.01 P: 1; AD-02.15 P: 7-9; Administrative Review/Investigation; confirm policies are in place and PREA Audit Report

enforced to ensure the facility conducts 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. Interviews with the Warden and PREA Compliance Manager the facility conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. In the past 12 months there were two allegation at Formby Unit of criminal and/or administrative investigations of alleged sexual abuse completed at the facility, excluding only “unfound.”

Review of: AD-02.15 P: 7, 8, 9; confirm polices are in place and enforced to ensure such review shall ordinarily occur within 30 days of the conclusion of the investigation. An interview with PREA Compliance Manager confirms the facility ordinarily conducts a sexual abuse incident review within 30 days, excluding “unfounded” incidents. In the past 12 months there have been two criminal and/or administrative investigations of alleged sexual abuse completed at the facility that were followed by a sexual abuse incident review within 30 days, excluding only “unfounded” incidents. Interviews with the Warden and members of the incident review team confirm the review team meets per TDCJ policy and this standard.

Review of: AD-02.15 P:7, 8, 9; confirm policy is in place and enforced that ensures the review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioner. Interviews with: Warden; PREA Compliance Manager; members of the incident review team; confirm the sexual abuse incident review team includes upper-level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners.

Review of: AD-02.15 P:7-9; Instructions for submitting reports of alleged sexual abuse and sexual harassment; SPPOM-08.01 P: 1-6; confirms policies are in place and enforced to ensure the review team: 1) Considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; 2) Considers whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; 3) Examines the area in the facility where the incident allegedly offered to assess whether physical barriers in the area may enable abuse; 4) Assess the adequacy of staffing levels in that area during different shifts; 5) assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and 6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager. Interviews with Warden and PREA Compliance Manager confirms the facility prepares a report of its findings from sexual abuse incident reviews, including but not necessarily limited to determinations made pursuant to 1-6 of this section and any recommendations for improvement, and submits such report to the complex Warden and PREA Compliance Manager.

Review of: AD-02.15 P: 7, 8, 9; PREA Plan P: 31; confirms policies are in place and enforced to ensure the facility shall implement the recommendations for improvement, or shall document its reasons for not doing so. Interviews with Warden and PREA Compliance Manager confirm that the facility implements the recommendations for improvement or documents its reasons for not doing so. The review is intended to identify any gaps in policy, practice, or protocol, and recommend improvements when appropriate. The review examines whether policies were followed and whether they need to be changed; whether physical plant and staffing are appropriate to minimize the risk of sexual abuse; whether gang and other group dynamics were a factor in the reported incident, as well as other factors. A form has been developed to capture the review and any recommendations of the review team and includes documentation as to reasons for not enforcing the recommendations.

In conclusion, based on: review of policies, procedures, forms and files; interviews with Warden and PREA Compliance Manager; and observations and questions answered during tour; find the Formby/Wheeler Complex compliant with Standard 115.86 Sexual Abuse Incident Reviews.

### Standard 115.87 Data collection

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

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

Review of: BP-02.09 P: 3; AD-02.15 P:1-12; OIG OPM-04.05 P:5-6; PREA Plan P: 2-5, 35; SPPOM-01.01-1A1; Survey of Sexual Violence, 2012; confirm the policies are in place and enforced to ensure the agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. Interviews with: Executive Director; Warden; PREA Compliance Manager and review of the TDCJ Annual Report On Sexual Victimization 2009-2014 (6 reports) Annual Reports confirm the agency collects accurate uniform data using a standardized instrument and set of definitions. The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Bureau of Justice Statistics.

Review of: AD-02.15 P:1; AD-01.01 P:1-2; PREA Plan P: 35; confirm policies are in place and enforced to ensure the agency aggregates the incident-based sexual abuse data at least annually. Interviews with the Executive Director and PREA Compliance Manager and review of the aggregated data confirm the agency aggregates the incident-based sexual abuse data at least annually. All confidential information is securely retained by TDCJ.

Review of: AD-02.15 P:1; AD-01.01 P:1-2; PREA Plan P: 35; confirm policies are in place to ensure the agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. Interviews with Executive Director, PREA Coordinator and PREA Compliance Manager confirms the agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files and sexual abuse incident reviews. As a result of comprehensive data collection and review, the TDCJ maintains separate incident based data from all available incident-based documents,

Review of: AD-02.15 P: 1-17; PREA P: 36; confirm TDCJ obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates. Interviews with: Executive Director, PREA Coordinator; Warden; PREA Compliance Manager; confirm that TDCJ request and receives incident-based and aggregated data from each of the private facility per TDCJ policies and this standard.

Review of: AD-02.15 P:1; AD-01.01 P:1-2; Department of Justice Report; confirm policies are in place and enforced to ensure upon request, the agency provides all such data from the previous calendar year to the Department of Justice no later than June 30. Interview with PREA Compliance Manager and review of sample of incident-based and aggregated data confirms the agency provided data from the previous calendar year, as requested, to the Department of Justice.

In conclusion, based on: review of policies, procedures, forms and files; interviews with Executive Director; PREA Coordinator; Warden; PREA Compliance Manager; and observations and questions answered during tour; find the Formby/Wheeler Complex Complex compliant with Standard 115.87 Data Collection and Review.

### Standard 115.88 Data review for corrective action

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

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

Review of: TDCJ Safe Prison FY 2014; BP-02.09 P:1-7; TBCJ PREA Ombudsman Annual Report P:1-2; confirm policies are in place to ensure the agency reviews 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: 1) Identifying problem areas; 2) Taking corrective action on an ongoing basis; and 3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole. Interview with the PREA Coordinator finds the agency reviews data collected and aggregated pursuant to 115.87. The PREA Ombudsman, Safe Prison/PREA Office, and the Office of the Inspector General collaborate to compile an Annual Report. The data collected through the Emergency action center reporting process and independent reports submitted directly to the OIG is sent monthly/annually as well. The data is reviewed by agency leadership and Safe Prisons/PREA Managers office. Data is used to: determine appropriate interventions; enhancements to staff and offender training; assessment of appropriate housing for victims/predators; policy

updates; and revisions to enhance operational aspects designed to provide safer prisons. Annual staffing plan reviews, assessment of current use of monitoring/surveillance equipment, and facility infrastructure modifications as well as leading indicators in data that may assist TDCJ in making determinations. The data is used to ensure that appropriate action is taken at every level of the organization. Interviews with Warden and PREA Compliance Manager confirms the agency reviews data collected and aggregated pursuant to Standard 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies and training, including: identifying problem areas; taking corrective action on an ongoing basis; and preparing an annual report of its findings from its data review and any corrective actions for each facility, as well as the agency as a whole.

Review of: TDCJ Safe Prison FY 2014; BP-02.09 P:1-7; TBCJ PREA Ombudsman Annual Report P:1-2; confirm policies are in place to ensure such report include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse. Interviews with PREA Coordinator, PREA Compliance Manager confirms the annual report includes a comparison of the current year's data and corrective actions with those from prior years and the annual report provides an assessment of the agency's progress in addressing sexual abuse. The PREA Coordinator reported the information is assessed. Interventions such as training of staff, upgrades to offender training, assessment of appropriate housing for predators, policy updates and revisions to enhance operational aspects designed to provide safer environments. Assessment of current use of monitoring/surveillance equipment and facility infrastructure modifications are conducted. The auditors reviewed the annual reports for six years, 2009-2014.

Review of: TDCJ Safe Prison FY 2013; BP-02.09 P:1-7; TBCJ PREA Ombudsman Annual Report P:1-2; confirm policies are in place to ensure the agency's report is 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. Interviews with the PREA Coordinator, Executive Director, and PREA Compliance Manager confirm the Executive Director approves the agency's report and the agency makes its annual report readily available to the public at least annually through its website. The auditor visited the website and found the information as promised.

Review of: TDCJ Safe Prison FY 2013; BP-02.09 P:1-7; TBCJ PREA Ombudsman Annual Report P:1-2; confirm policies are in place to ensure the agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted. Interview with the PREA Coordinator found TDCJ does not include personal identifiers in the annual reports and therefore it does not contain information that warrants redaction.

In conclusion, based on: review of policies, procedures, forms and files; interviews with the Executive Director, PREA Coordinator and PREA Compliance Manager; and observations and questions answered during tour; find the Formby/Wheeler Complex compliant with Standard 115.88 Data Review for Corrective Action.

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

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

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

Review of: PREA Plan P: 36; TDCJ Annual Report; BP 02.09; confirm policy is in place and enforced to ensure that data collected pursuant to 115.87 are securely retained. An interview with the PREA Coordinator confirms the Safe Prison/PREA Office maintains a stand-alone access database system that only allows office staff access to enter and query data. The manager is the only authorized agent to delete information. Mainframe data reported through the Emergency Action center is stored on a server. Employees must have a user account to access the EAC system. There is a 2<sup>nd</sup> level of security where specific access is granted only to certain individuals based on their security profile. Access to this system is approved only through the EAC administrator.

Review of PREA Plan P: 36 and interview with PREA Coordinator and PREA Compliance Manager confirms the agency policy requires that aggregated sexual abuse data from facilities under its direct control are made readily available to the public annually through its website. Interview with PREA Coordinator finds the TDCJ Annual PREA report is posted on the agency website. Records Retention schedule is followed for all Safe Prison/PREA documents. The average range is Death/Discharge plus 10 years. Offender Classification files are 30 years. Some OIG files are permanent records.

Review of : ED-02.29 P: 1; PREA Plan P: 36 ; Records Retention Schedule P: 52,59; The TDCJ PREA Annual Report: confirm policy is in place and enforced to ensure before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers. Interview with the PREA Coordinator found TDCJ does not include personal identifiers in the annual reports and therefore it does not contain information that warrants redaction.

Review of PREA Plan P: 36 confirms policy is in place and enforced to ensure the agency maintains 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. Interview with the PREA Coordinator finds Records Retention schedule is followed for all Safe Prison/PREA documents. The average range is Death/Discharge plus 10 years. Offender Classification files is 30 years. Some OIG files are permanent records.

In conclusion, the Complex is compliant with this standard, based on: review of policies, procedures, forms and files; interviews with PREA Coordinator; PREA Compliance Manager; and observations and questions answered during tour; find the Formby/Wheeler Complex compliant with Standard 115.89 Data Storage, Publication, and Destruction.

**AUDITOR CERTIFICATION**

I certify that:

- The contents of this report are accurate to the best of my knowledge.
- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

*Marilyn McAuley* \_\_\_\_\_

March 29, 2017 \_\_\_\_\_

Auditor Signature

Date