

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

Interim       Final

Date of Report    September 21, 2020

### Auditor Information

Name: Bruce Kuennen	Email: bruce@preaauditing.com
Company Name: PREA Auditors of America (PAOA)	
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Telephone: Auditor: 360.515.1134; PAOA: 713.818.9098	Dates of Facility Visit: February 12-14, 2020

### Agency Information

Name of Agency:		Governing Authority or Parent Agency (If Applicable):	
Texas Department of Criminal Justice		State of Texas	
Physical Address: 861-B I-45 North		City, State, Zip: Huntsville, Texas 77320	
Mailing Address: P. O. Box 99		City, State, Zip: Huntsville, Texas 77342	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Agency Website with PREA Information: <a href="https://www.tdcj.texas.gov/divisions/arrm/rev_stan_prea.html">https://www.tdcj.texas.gov/divisions/arrm/rev_stan_prea.html</a>			

### Agency Chief Executive Officer

Name: Bryan Collier	
Email: Bryan.Collier@tdcj.texas.gov	Telephone: 936.437.2101

### Agency-Wide PREA Coordinator

Name: Lynne Sharp	
Email: Lynne.Sharp@tdcj.texas.gov	Telephone: 936.437.2170
PREA Coordinator Reports to: Honorable Patrick O'Daniel, Chairman of the Texas Board of Criminal Justice	Number of Compliance Managers who report to the PREA Coordinator 6

## Facility Information

**Name of Facility:** Marshall Formby / J. B. Wheeler Complex

**Physical Address:** 998 Country Road AA

**City, State, Zip:** Plainview, TX 79072

**Mailing Address (if different from above):**  
N/A

**City, State, Zip:** N/A

**The Facility Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Facility Type:**

Prison

Jail

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

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

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

ACA

NCCHC

CALEA

Other (please name or describe: [Click or tap here to enter text.](#))

N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**  
A Division Level Operational Review was conducted at the unit in August 2019. These reviews are conducted by each functional area proponent at least every three years.

### Warden/Jail Administrator/Sheriff/Director

**Name:** Gregory David

**Email:** Gregory.David@tdcj.texas.gov

**Telephone:** 806.296.2448 ext. 7100

### Facility PREA Compliance Manager

**Name:** Christopher Robles (Formby); Susan Griffith (Wheeler); Stella Guerra-Flores (Formby)

**Email:** Christopher.Robles@tdcj.texas.gov;  
Susan.Griffith@tdcj.texas.gov;  
Stella.Guerraflores@tdcj.texas.gov

**Telephone:** 806.292.2448

**Facility Health Service Administrator**  N/A

**Name:** Shaline Gillette

**Email:** Shaline.Gillette@ttuhs.edu

**Telephone:** 806.296.2448 ext. 7237

### Facility Characteristics

<b>Designated Facility Capacity:</b>	Formby – 1,100 / Wheeler – 576 – Total 1,676
<b>Current Population of Facility:</b>	955 / 551 – Total 1,506
<b>Average daily population for the past 12 months:</b>	961 / 562 – Total 1,523
<b>Has the facility been over capacity at any point in the past 12 months?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Which population(s) does the facility hold?</b>	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males
<b>Age range of population:</b>	18 – 69 / 18-72
<b>Average length of stay or time under supervision:</b>	Formby - ID - 7 Months; SJ – 3 Months / Wheeler – ID - 6 Months; SJ – 3 Months
<b>Facility security levels/inmate custody levels:</b>	G1, G2, J1, J2, J4, J5, PJ, F, R/G1, G2, J1, J2
<b>Number of inmates admitted to facility during the past 12 months:</b>	2,651/1,006 – Total 3,657
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>	2,124/985 – Total 3,109
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>	1,602/810 – Total 2,412
<b>Does the facility hold youthful inmates?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)</b>	Click or tap here to enter text. <input checked="" type="checkbox"/> N/A
<b>Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):</b>	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input checked="" type="checkbox"/> N/A
<b>Number of staff currently employed by the facility who may have contact with inmates:</b>	248/110 – Total 358

Number of staff hired by the facility during the past 12 months who may have contact with inmates:	71 / 19 – Total 90
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	2
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	Medical – 21/5 Windham Contract Staff – 11/4
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	203
<b>Physical Plant</b>	
<p><b>Number of buildings:</b></p> <p>Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	24 / 10 – Total 34
<p><b>Number of inmate housing units:</b></p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	40 / 13 – Total 53
Number of single cell housing units:	2 / 1 – Total 3
Number of multiple occupancy cell housing units:	19 / 0 – Total 19
Number of open bay/dorm housing units:	19 / 9 – Total 28
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	30 / 3 – Total 33
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Medical and Mental Health Services and Forensic Medical Exams</b>		
Are medical services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Are mental health services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> )	
<b>Investigations</b>		
<b>Criminal Investigations</b>		
Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	143	
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity	
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input checked="" type="checkbox"/> Other (please name or describe: <b>Office of Inspector General (OIG)</b> ) <input type="checkbox"/> N/A	
<b>Administrative Investigations</b>		
Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	35	
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity	
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input checked="" type="checkbox"/> Other (please name or describe: <b>Office of Inspector General (OIG) conducts Administrative Investigations on staff</b> )	

## Audit Findings

### Audit Narrative

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

#### Process

This audit of the Formby / Wheeler Complex (FW) of the Texas Department of Criminal Justice (TDCJ) was conducted in 2019-20 to determine the facility's compliance with the standards of the Prison Rape Elimination Act (PREA). The facility chose to use the paper audit instruments rather than the On-line Audit System (OAS). The audit methodology strictly followed the guidance of the PREA Auditor Handbook, issued August 2017.

The lead auditor and primary author of this report is Bruce Kuennen. He received his Department of Justice (DOJ) certification to conduct audits on July 11, 2016 and was re-certified on December 31, 2019. No other auditors or support staff participated in the conduct of this audit.

A contract between the TDCJ and PREA Auditors of America (PAOA) to conduct this audit was approved on August 16, 2019. The PAOA contracted with Mr. Kuennen on September 7, 2019.

The four phases of the audit were conducted between the following dates:

- Pre-onsite – December 20, 2019 – February 11, 2020
- Onsite – February 12 – 14, 2020
- Post-onsite February 15 – April 14, 2020
- Corrective action - April 15 – September 18 2020

A kickoff meeting was conducted via a telephone conference bridge on December 20, 2019. The auditor discussed the following points with the agency's primary point of contact (POC), Brenda German and other key agency and facility staff:

- Logistics
- Facility size and population
- Shift Schedules
- Posting deadlines

#### Audit - Pre-onsite Phase

Logistics for the audit were handled by the auditor. The primary point of contact (POC) for the facility was originally Brenda German, an administrative assistant based in Huntsville, but Warden Gregory David assumed that role on January 7.

The required Notice of Audit was posted in all housing units and common areas of the facility, in English and Spanish, on January 2, 2020, six weeks before the onsite audit. The notice was printed on orange paper, to stand

out from the other posted notices, which were primarily white. It contained the audit purpose, the dates of the on-site review, and contact information for confidential communication with the auditor. Photographic, date-stamped evidence of these notices was provided to auditor, who further verified the postings on February 12 onsite. Two letters were received from inmates, and these two inmates were interviewed on-site.

The facility provided information related to compliance with each of the standards by providing a thumb-drive to the auditor in the first week of January 2020. The responses included documents such as policies, procedures, forms, examples of completed forms and computer printouts, and statistical reports.

The thumb-drive materials were reviewed by the auditor, who initiated a series of emails with requests for further documentation, questions and comments regarding the facility's response. Supplemental information was requested on the use of video cameras, classification categories, acronyms, incident reporting, and the following standards:

- 115.12 Contracting
- 115.13 Staffing plan methodology
- 115.17 Hiring standards
- 115.22 Policies to ensure referrals
- 115.401 Access to auditor communications

Supplemental information received in response to these requests was reviewed by the PREA auditor prior to the onsite portion of the audit.

The facility was asked to produce the following lists to allow audit verification via random sampling in interviews and document reviews:

- Complete inmate roster
- Inmates with disabilities
- Inmates who have Limited English Proficiency (LEP)
- LGBTI Inmates
- Inmates in segregated housing or isolation
- Inmates who reported sexual abuse
- Inmates who reported sexual victimization during risk screening
- Complete staff roster
- All volunteers and contractors who have contact with inmates
- All grievances/allegations made in the 36 months preceding the audit
- All incident reports from the 36 months preceding the audit
- All allegations of sexual abuse and sexual harassment reported in the 36 months preceding the audit
- All hotline calls made during the 36 months preceding the audit

The facility was also asked to compile a list of sexual abuse and harassment allegations, broken down as follows:

- Total
  - Substantiated
  - Unsubstantiated
  - Unfounded
  - In progress
- Number of criminal cases
  - Referred to the OIG

- Referred for prosecution
- Indictments
- Convictions
- Acquittals
- Pending
- Number of in-house administrative case investigations

The original statistical information on sexual abuse and harassment allegations included a total of only two cases to review, so the auditor requested data for a total of three years of sexual abuse and harassment allegations.

The facility submitted the data represented in the table below. During the past four years, there were 11 total incidents or allegations of PREA-related misconduct at the facility. These numbers include allegations, incidents, and grievances. The table below summarizes the number and type of incidents/allegations:

Year	Sexual Abuse Staff on Inmate	Sexual Abuse Inmate on Inmate	Sexual Harassment Staff on Inmate	Sexual Harassment Inmate on Inmate
2016	2	1		
2017	2	2	2	
2018	3		1	
2019			1	
<b>Total (4 years)</b>	7	3	1	
<b>Claims / Incidents Referred for Criminal Prosecution (4 years)</b>	0	0	0	NA
<b>Substantiated Claims / Incidents (4 years)</b>	0	0	0	NA

During the pre-onsite phase, the following advocacy organizations were identified

- Trans Pride Initiative - Texas office - 614 W Davis St, Suite 207, Dallas, TX 75208, Phone: (214) 449-1439, President: Nell Gaither, 214.394.9835, [nell@tpride.org](mailto:nell@tpride.org)
- Texas Association Against Sexual Assault (TAASA); Phone: (512) 474-7190; Address: 7700 Chevy Chase Dr Ste 230 Austin, TX, 78752, [info@taasa.org](mailto:info@taasa.org)
- Crisis Center of the Plains, P.O. Box 326, Plainview 79073; Phone: 806-293-9772, Hotline: 806-293-7273.

Of these, the auditor identified the Crisis Center of the Plains as the most likely “community support agency responsible for education, intervention and outreach.” Further investigation indicated that the nearest SAFE/SANE provider was employed by Covenant Hospital of Plainview.

The three advocacy groups were contacted via email on January 14, 2020. No response was received from TAASA, but the auditor determined that he received adequate information from the other two organizations. Telephone interviews were conducted on January 21 and 22. The director of the Crisis Center of the Plains provided anecdotal information concerning advocacy for inmates at FW in the 3-year period since the last PREA



audit. She also provided information concerning efforts to establish an MOU for advocacy and hotline services for FW.

An Internet search and an open Google Alert on “Formby-Wheeler Prison” during the first two phases of the audit yielded no information concerning FW operations and no news articles related to sexual safety. A review of the TDCJ’s website, conducted January 23, 2020, revealed a link to PREA information.

The linked page contained general information about the purposes of the federal law, and contact information for the PREA Coordinator but no information which would lead a third-party reporter to an outside advocacy agency, such as the Crisis Center of the Plains. Also included on the TDCJ website was a copy of the most recent prior PREA audit, dated March 29, 2017.

The PREA Library contains a report fully titled “I Don't Believe You, So You Might as Well Get Used to It - The Myth of PREA Zero Tolerance in Texas Prisons”, authored by the Trans Pride Initiative as Report Number 1 of their Texas Prison Abuse Series (July 2018) The library notes that this report is “Informed by correspondence with incarcerated individuals, the Trans Pride Initiative's publication highlights compliance concerns, specific concerns for LGBTQI persons, and concludes with concrete policy and practice recommendations.”

The auditor reviewed this report in detail prior to his call to the director, who was also the author of the report. She reported that no complaints of sexual abuse or harassment have been received from FW in the past five years.

The facility reported that there were no recent or current lawsuits pending, or judicial orders applicable to the prison at the time of the pre-audit questionnaire.

On February 11, the day before the on-site review, the facility provided a 3-ring binder with responses to the Pre-Audit Questionnaire (PAQ) and additional information. They also provided lists of staff to interview; however, these lists were not used. The auditor provided a methodology for choosing which inmates and staff would be interviewed.

The auditor’s basic randomization method began with a random number generator in an Excel spreadsheet – specifically, =RANDBETWEEN(1,26). Letters were chosen for each category to correspond to the number generated. 1=A, 2=B, etc. A letter is applied to each given list in this manner. For example, the facility was asked to provide the first 5 records for inmates whose last name begins with the letter P. If there were not 5 inmates whose last name began with P, they were asked to go on to Q, and so on. The letters and methodology for most categories were provided to facility staff on the last day before the on-site audit. This same method was used during the on-site audit as additional names needed to be generated.

To ensure “geographic coverage” for randomly chosen inmate interviews – i.e., to ensure that as many residential housing units as possible were represented – the auditor asked for the first two inmates from each dormitory or cell block whose last name began with the (randomly chosen) letter A.

### **On-site Audit Phase**

All housing and common buildings were toured during the onsite audit. The auditor had unrestricted access to view and enter every area of the facility.

During the site review (tour), the auditor observed privacy barriers in shower and toilet areas, camera placements, possible blind spots, posted information, and staff monitoring of video camera feeds. The primary subject of informal questions to facility staff was the adequacy of the minimum shift coverage of each housing,

work, and program area. A number of pictures were taken at the auditor's request and provided to him following the on-site visit.

Inmate interviews began on day one, with inmates chosen by the method noted above. The following inmate interviews were conducted:

- 20 Random, representing 20 different dormitory / housing units
- 1 inmate in restrictive housing
- 1 Transgender
- 2 other LGBTQI
- 1 LEP – Spanish interpreter provided by facility
- 3 disabilities
- 5 inmates who had disclosed prior sexual abuse during risk screening
- 2 inmates who had written the auditor during the pre-onsite review period

The facility reported that there were no inmates in residence who had reported sexual abuse at the facility. The auditor checked the inmate roster against the names of those who had made such reports, allegations, or grievances reported previously by the TDCJ. None were still housed at FW.

Day Two of the onsite audit began at 5:00 a.m. The auditor interviewed randomly chosen staff whose shift ended at 6:00 a.m. that morning. Their numbers are included in the summary below.

Staff interviews included the following. All were chosen randomly from lists of staff in each category (or they were the only person in the role described).

- 12 randomly chosen correctional officers (all were also first responders)
- 1 Lieutenant who was assigned to investigate incidents and allegations of sexual abuse or harassment
- 1 Major (chose the Major assigned to Wheeler, because the Major assigned to Formby had provided significant information in response to informal interviewing during the site review)
- 1 correctional officer who was assigned to work in the restrictive housing unit
- 1 representative of the classification staff (she also served as the inmate interpreter noted above)
- Mail room staff - regarding the confidentiality of correspondence to the Office of the Inspector General (OIG), to the PREA Ombudsman Office, and to the auditor.
- Both Safe Prisons Program Managers
- 1 contract program staff – education
- 1 contract medical staff
- The Regional PREA Coordinator
- Warden David Gregory

One randomly chosen volunteer was interviewed.

Documents reviewed included:

- Documents verifying initial screening and provision of educational materials to inmates
- Documents verifying subsequent education and screening
- Unit logs for the month of June for two randomly chosen dormitory units (unannounced rounds)
- Detailed investigation reports of the two most recent allegations of sexual abuse and harassment
- Criminal background checks for staff
- Staff training records

Staff interviews indicated that intake for both facilities was conducted at Formby on every weekday. Inmate interviews confirmed that all had been screened on their first day on the unit. Document review confirmed the screening for all of the records reviewed.

Document review indicated that the TDCJ screening form was completed for each inmate. The form includes a question for each required element of the standard, as well as areas for intake staff to enter objective information based on their observation of the inmate. Targeted interview with classification staff and inmate interviews indicated that inmates appeared to be housed in appropriate units.

Approximately once per week, and always within 30 days of arrival, the Safe Prisons Program Manager from Formby provides a classroom training and orientation to PREA rights, responsibilities, and reporting procedures. This class includes watching a comprehensive training and education video produced by the TDCJ Prison Ombudsman's Office.

The auditor reviewed printed materials, including the inmate handbook, pamphlets, and posted signs prior to the onsite visit. He confirmed that these materials were continuously available to inmates while on-site.

The facility has posted signs throughout the facility which list the address of the Texas Association Against Sexual Assault (TAASA). TAASA is not an agency which provides emotional support services related to sexual abuse; rather, it is an agency which maintains a directory of agencies which do provide such services. It is appropriate for the agency to provide contact information to TAASA, for inmates who wish to contact such agencies in other parts of the state where they may reside upon release.

Inmates may report incidents of sexual abuse and harassment by a variety of methods, to include 1) notify a correctional officer orally, 2) notify a correctional officer or higher ranking staff person via an inmate communication form called an "I-60", 3) notify the Safe Prisons Program Manager, 4) write the Office of Inspector General (OIG), or 5) write the PREA Ombudsman Office. The telephone system can be used to notify a family member or other approved contact to call the Warden, the OIG, or the PREA Ombudsman, but it cannot be used to call these persons or agencies directly. Interviewed inmates demonstrated a good understanding of these alternatives.

During the site review (tour) female staff announced their presence every time they entered a housing unit. While inmate answers to this interview question ranged from "sometimes" to "yes, always", it appears that gender announcement by female staff is in regular practice.

As information appeared to indicate that standard 115.53 would likely be found to not be compliant, the auditor engaged the Warden and other staff in a discussion of a corrective action plan. The final corrective action plan reflected their input.

The on-site phase of the audit concluded with an out-briefing for administrative staff and a discussion of the intent and interpretation of standard 115.53 and other related standards.

### **Post On-site Audit Phase**

The auditor conducted one telephone interview in the week following the on-site visit, verifying information concerning staff background checks with a human resources department representative at the TDCJ Headquarters office. He reviewed the training and educational video. He then began the process of triangulating the evidence to arrive at the standards compliance findings below.

The interim report was completed and provided to the facility on April 15, 2020. One standard was found to exceed the requirements of the standard – 115.13; 43 standards were met; and one standard - 115.53 - was found to be non-compliant. The corrective action period began on that date.

This corrective action plan was included in the interim report:

Corrective Action: The facility should 1) complete a Memorandum of Understanding with the Crisis Center of the Plains (or other qualifying organization) by no later than two months following receipt of this Interim Report; 2) communicate the address and telephone number of the center to all inmates housed at the facility by the same date; 3) establish a means to communicate this information to inmates received at the facility after this date; 4) if technically feasible, add the center's hotline number to all inmates' "approved call list"; if not feasible, provide other means by which an inmate could access emotional support services via a hot line telephone call; and 5) collect and provide 3 months of documentation to include a) a copy of the MOA, b) a copy of the new posted signs and/or inmate handbook / PREA flyers by which inmates are notified of their means of accessing these services, c) data regarding inmates' use of the advocacy center, to include the number and nature of the calls made to the hot line, for a period of at least three months.

### **Corrective Action**

The agency provided documentation of compliance with the first milestone on July 7, 2020. All details of the required steps were adequately addressed, as follows: 1) an MOU with the Crisis Center of the Plains was completed; 2) & 3) posters listing the phone number of the crisis center and summarizing the services available there were posted in all living units; 4) the agency's information technology division set up the phone lines on the facility for offenders to access the crisis center. A special pin number was created which allows the caller to remain anonymous; calls are not monitored. In addition, the calls are free - they are not charged to an offender's telephone account.

The second and final milestone was reviewed on September 18, 2020. The agency reported that the hotline had been used twice in the three-month period following its initiation. The auditor interviewed one inmate who had, at the auditor's request, tested the phone line the previous day. The inmate indicated that the line worked and that the person who answered the phone correctly advised him of the services available to inmates from the crisis center.

## **Facility Characteristics**

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

The Formby / Wheeler Complex is located at 998 County Road AA, Plainview, Texas and is operated by the Texas Department of Criminal Justice. The Formby and Wheeler Units operate as separate adult correctional facilities but are overseen by a single warden and deputy warden. Together they have a designated capacity of 1,676 beds, housing 1,506 adult male inmates at the time the Pre-Audit Questionnaire was completed in December 2019. On the first day of the onsite audit, the population of the Formby Unit was 1,017 and the Wheeler Unit was 520, for a total of 1,537.

The facility houses State Jail (SJ) inmates, who come directly from county jails with sentences of up to two years, and "ID" inmates whose sentences exceed two years. With the exception of the restrictive housing unit at Formby all inmates are classified minimum security and assigned to general population (G1 or G2). The restrictive housing unit at Formby houses offenders in security detention, pre-hearing detention, protective custody, temporary detention, and transient status.

Housing at both Formby and Wheeler is primarily dormitory style. There is a restrictive housing unit, with single cells at Formby, which serves both Formby and Wheeler. A small restrictive housing unit at Wheeler has been closed for over three years. Separate buildings house dining, laundry, chapel, medical, and educational programming functions.

Educational program services are provided under contract with the Windham School District. Medical and Mental Health services are provided under contract with Texas Tech University. A large number of volunteers serve the facility, notably chaplaincy services, which is overseen by the TDCJ Chaplaincy Department.

## Summary of Audit Findings

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

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

### Standards Exceeded

**Number of Standards Exceeded:** One  
**List of Standards Exceeded:** 115.13

### Standards Met

**Number of Standards Met:** 44  
**List of Standards Met:** 115.11, 115.12, 115.14, 115.15, 115.16, 115.17, 115.18, 115.21, 115.22, 115.31, 115.32, 115.33, 115.34, 115.35, 115.41, 115.42, 115.43, 115.51, 115.52, 115.53, 115.54, 115.61, 115.62, 115.63, 115.64, 115.65, 115.66, 115.67, 115.68, 115.71, 115.72, 115.73, 115.76, 115.77, 115.78, 115.81, 115.82, 115.83, 115.86, 115.87, 115.88, 115.89, 115.401, 115.403

### Standards Not Met

**Number of Standards Not Met:** None  
**List of Standards Not Met:** Click or tap here to enter text.

## PREVENTION PLANNING

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

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

#### 115.11 (a)

- Does the agency have a written policy mandating zero tolerance toward all forms of sexual

abuse and sexual harassment?  Yes  No

- Does the written policy outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment?  Yes  No

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance decision for this standard:

#### Documents

- TDCJ Correctional Institutions Division Safe Prisons Plan
- TDCJ Executive Directive ED-03.03 (rev. 4), dated September 17, 2019
- Agency Organizational Chart
- Facility Organizational Chart
- Posted signs

- Inmate handbooks
- PREA information packets

### **Interviews**

- Interviews with Safe Prisons Program Managers (Serve as Facility PREA Coordinators)
- Interview with Regional PREA Coordinator
- Inmate interviews
- Staff interviews

### **Site Review Observations**

- Interactions between staff and inmates
- Posted signs
- Discussions of staffing levels
- Observations of camera placement
- Observations of video monitoring

### **External Research and Interviews**

- Interview with Director of Trans Pride Initiative

### **Video**

- Safe Prisons / PREA Offender Training, dated March 2018

The agency's primary document which outlines its commitment to zero tolerance and its policies, procedures, and approach to prevent, detect, and respond to sexual abuse and sexual harassment is the Safe Prisons Plan. The current version is dated February 2019.

The agency's PREA Coordinator is the PREA Ombudsman. Her position is full-time, dedicated to overseeing the agency's efforts to comply with PREA standards. She oversees six regional PREA managers whose primary role is to support PREA compliance at each of the prisons within their regions. The agency PREA Ombudsman reports to the Texas Board of Criminal Justice, not the Executive Director of the TDCJ.

The facility has two PREA coordinators, whose titles are Safe Prisons/PREA Program Managers. Although one is primarily assigned to Formby and one to Wheeler, they work together to support PREA compliance throughout the complex. They estimated that they devote 75 to 90% of their time to PREA-related activities; both indicated that they have sufficient time, resources, and authority to complete their assigned roles.

The primary evidence that the PREA coordinators have sufficient time and authority to complete their jobs is the high percentage of standards found to meet or exceed the applicable standards. The response from 100% of the interviewed inmates and staff that they felt safe being housed or working at Formby Wheeler is further evidence that the purpose and intent of the standards is being met.

The interview with the Director of the Trans Pride Initiative indicated that her agency had received only one letter from Formby Wheeler in the last five years and that the letter was from an inmate requesting assistance in employment upon release. No complaints about Formby Wheeler were received in this five-year period.

The most compelling comments regarding the effectiveness of the facility's implementation of its zero-tolerance mandate came from inmates who have been incarcerated in the Texas prison system before and from staff who had worked within the system for a long time. Uniformly, these inmates and staff described a climate and culture before PREA implementation where sexual abuse and sexual

harassment of inmates was tolerated or ignored. Uniformly, these inmates and staff who had experienced conditions before PREA implementation reported that the current climate is one of safety where sexual abuse and harassment is not tolerated, and complaints and incidents, if any, are dealt with effectively.

The reported statistic of zero substantiated complaints in the past year also supports the finding that the facility meets this standard. The auditor found no indication that complaints are low because of fear of retaliation or other reasons why complaints might be suppressed.

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

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

#### 115.12 (a)

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

#### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- Contract documents



- List of contacts for the “Private Facility Contract Oversight and Monitoring Division”
- Independently generated list of state contracts (Internet search February 14, 2020)

## Interviews

- Interview with Formby Wheeler Warden

The agency provided contract documents for 10 correctional centers, 1 multi-use facility, 8 residential reentry centers, and 19 transitional treatment centers (residential substance abuse facilities), which are operated by private agencies and companies under contract to the TDCJ. Each specified that PREA compliance was required and that compliance was to be reported to the TDCJ.

The agency also provided a list of contacts for the Private Facility Contract Monitoring and Oversight Division which included 15 office addresses and telephone numbers. Warden Gregory assisted the auditor in generating a publicly available list of current contract facilities. The auditor matched the names and numbers of these contract facilities; the relevant language of the current, compliant contract was provided for each.

## Standard 115.13: Supervision and monitoring

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

#### 115.13 (a)

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: All components of the facility’s physical plant (including “blind-spots” or areas where staff or inmates may be isolated)?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the inmate population?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the

staffing plan take into consideration: The number and placement of supervisory staff?  Yes  
 No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The institution programs occurring on a particular shift?  
 Yes  No  NA
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any applicable State or local laws, regulations, or standards?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors?  Yes  No

#### 115.13 (b)

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

#### 115.13 (c)

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

#### 115.13 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- TDCJ Safe Prisons Plan
- TDCJ Formby State Jail Staffing Plan – System III – 1,100 Bed State Jail
- TDCJ Wheeler State Jail Staffing Plan – System III – 500 Bed State Jail
- Statement of Participation – Annual Staffing Plan Reviews for 2017, 2018, and 2019
- Examples of Shift Building Turnout Rosters
- Email correspondence with PREA Ombudsman Administrative Staff

#### Interviews

- Interview with Agency PREA Coordinator
- Interviews with both Facility Safe Prisons Program Managers
- Interview with Warden
- Interviews with both Majors
- Staff interviews

#### Site Review Observations

- Observations of staff on duty in housing units, program and workspaces, pickets, and other assignments
- Discussion with Majors and other staff on the units of minimum staffing at each location

The facility provided a detailed staffing plan that outlines the minimum staffing levels for both line and supervisory staff. Upon questioning by the auditor, an agency representative outlined how each of the requirements – (a) (1) through (11) was met in setting the minimum staffing levels. In addition, the facility provided documentation of an annual meeting in which the staffing plan was reviewed for each of the required 11 factors in a meeting which in 2019 was attended by the following administrative staff: Regional Director, Warden, “Warden, Security Operations”, PREA Ombudsman, and the “Staffing Coordinator, Security Operations”.

The auditor confirmed the minimum staffing levels of each housing unit during the site review. At each housing unit, he questioned facility staff as to the minimum level of staff that was always present on each unit. In the opinion of the auditor, each housing unit was generously staffed – i.e., it exceeded the minimum necessary to prevent, detect, and respond to incidents of sexual abuse and sexual harassment.

In the Formby Unit, each housing dormitory and cell block supplemented this already generous staff coverage with video cameras monitored in the “picket” or control room of each housing area and in a separate post external to the units. The feeds from these cameras are recorded, and the recordings are stored for seven days before they are overwritten. (There is no audio recording.)

The auditor viewed the camera feeds for several housing areas. There are no significant blind spots, except for toilet and shower areas, which are uniformly not observed via video camera. This includes an area where the auditor suspected that a fencing material between the cameras and the inmate bunks might block the camera view; the auditor confirmed that it did not do so. All cameras and monitors were in working order on the days of the on-site visit.

The Wheeler Unit is not equipped with cameras, but the staffing levels are similarly generous. The absence of reports of sexual abuse or harassment indicates that cameras may not be necessary at Wheeler.

The auditor also reviewed the adequacy of security staffing in work, program, and chapel areas. Here also the staffing levels appeared to be at least adequate, and in some critical areas – specifically the kitchen and laundry areas – appeared to exceed minimally adequate levels.

Supervisory staff levels are similarly generous. The full complement of staff includes a Warden, Deputy Warden, 2 Majors (one each for Formby and Wheeler), 3 Captains, 13 Lieutenants, 22 Sergeants, and 260 correctional officers. At the time of the on-site review over 95% of all positions were filled. These numbers yield overall average span of control ratios between 1:2, and 1:11, as shown on the following table.

Position	Number	Span of Control
Warden	1	1:1
Deputy Warden	1	1:2
Major	2	1:1.5
Captain	3	1:4.3
Lieutenant	13	1:1.7
Sergeant	22	1:10.9
Correctional Officer	260	--

These ratios are shown for illustration of the adequacy of the supervisory security staff. Other non-security staff, volunteers, and contractors report to the Warden, Deputy Warden, and others. Actual span of control numbers vary by shift, program, and post assignments.

Further evidence of the adequacy of supervisory staff is the very large number of unannounced supervisory rounds. The auditor chose two housing units at random, one from Formby and one from Wheeler, and a random week (in June 2019). The logs indicated over 29 unannounced visits in one week at the housing unit in Wheeler, and 40 unannounced visits at the unit in Formby. These visits covered all shifts and each day of the week. Interviews of supervisory staff indicated that staff are not forewarned of upcoming unannounced visits. As the standard does not specify a minimum number of such visits, these numbers indicate that the facility exceeds standard 115.13 (d).

The total absence of substantiated reports of sexual abuse and sexual harassment for the one-year period prior to the on-site visit is further evidence of the adequacy of the staffing levels. Likewise, inmate interviews that uncovered zero incidents of sexual abuse or harassment and a 100% reporting level of inmates feeling safe is evidence that the facility meets or exceeds this standard.

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

#### 115.14 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- TDCJ Safe Prisons Plan
- Statement of Fact memorandum

## Interviews

- Inmate interviews – Random
- Inmate interviews – Targeted
- Staff interviews

## Site Review Observations

- Observation of apparent age of inmates

The facility provided a memorandum Statement of Fact signed by the Warden that the facility does not house youthful inmates. This fact was confirmed by inmate and staff interviews.

On the site review (tour) the auditor observed no inmates whose youthful appearance required him to ask for verification of age. One inmate chosen for an interview did appear to be young. The auditor verified his inmate record; he was over 18 years of age.

Twelve inmate records, chosen at random, were reviewed. None of these records indicated that an inmate was under the age of 18.

The agency and facility have policy and procedures in place if a youthful offender is housed, but all evidence reviewed indicated that they are not housed at this facility.

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

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

#### 115.15 (a)

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

#### 115.15 (b)

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

#### 115.15 (c)

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

### 115.15 (d)

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

### 115.15 (e)

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

### 115.15 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

#### **Documents**

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Statement of Fact signed by Warden, November 18, 2019
- Training curricula – Preservice and In-service

#### **Interviews**

- Staff interviews
- Inmate interviews

#### **Site Review Observations**

- Observations of staff performing pat searches
- Observations of staff performing wellness checks

Statements of facts, staff interviews, and auditor observations consistently indicated that the facility does not conduct cross-gender visual body searches. One hundred percent of inmate interviews indicated that the interviewed inmates had not been subject to such searches.

The TDCJ Safe Prisons Plan requires that correctional officers make their best efforts to allow offenders to shower, perform bodily functions, and change clothing without staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. The auditor observed physical barriers including painted windows, fences, and curtains in every toilet and shower facility and in areas where searches are conducted. Interviews indicated that shower curtains had been installed just two weeks prior to the audit; however, the auditor confirmed that the barriers to viewing were sufficient before the curtains were installed.

The TDCJ Safe Prisons Plan also requires that staff of the opposite gender announce their presence when entering an offender housing area. The auditor verified that this occurred consistently during the site review. Staff interviews also indicated that this was the practice every time. Inmate answers to this interview question ranged from “sometimes” to “every time”. In the auditor’s judgment, the facility substantially complies with this aspect of the standard.

The auditor confirmed that proper means of conducting inmate pat searches were a part of both pre-service and in-service training. All interviewed staff confirmed that they had received this training.

The auditor observed the conduct of two pat searches of male inmates by female staff. Both appeared to be conducted in compliance with the standard.

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

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

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

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect,



and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing?  Yes  No

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

## 115.16 (b)

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

### 115.16 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- List of Spanish language interpreters
- Spanish version of Inmate Handbook
- Spanish version of PREA Pamphlets

#### Interviews

- Staff interviews
- Inmate interviews

#### Site Review Observations

- Observations of Spanish versions of posted signs

#### Research Observations

- Spanish version of TDCJ PREA Video

The TDCJ Safe Prisons plan outlines the department's requirements to effectively communicate with inmates with disabilities. Targeted inmate interviews with each of these groups – blind or low vision, deaf or hard of hearing, and intellectual or psychiatric limitations – indicated that the interviewed inmates understood their rights and the means of reporting abuse or harassment.

The facility provided a list of 33 Spanish-speaking inmates, and a list of 49 staff who are qualified Spanish interpreters. One of these interpreters assisted the auditor in the interview of a Spanish-speaking inmate who did not appear to understand the auditor's questions in English. The assisted interview went well; the inmate appeared to understand and respond appropriately to the interpreter. Interviews indicated that the facility does not use inmate interpreters.

The following materials are available in Spanish: Inmate Handbook, PREA Pamphlets, posted signs, PREA Video. Staff interviews indicated that the facility does not rely solely on printed materials to communicate with inmates; intake, education, acceptance of complaints and reports of abuse or harassment, and investigations all involve face-to-face staff/inmate contact so that an assessment can be made of the inmate's understanding of the communication.

## Standard 115.17: Hiring and promotion decisions

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

#### 115.17 (a)

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Statement of Fact signed by Warden
- Copy of Electronic Correspondence from TDCJ Headquarters Human Resources
- Full listings of all staff, including dates of hire
- New Hires Lists
- Full listing of all volunteers and contractors
- Email Correspondence from TDCJ Headquarters Human Resources
- Employee Acknowledgment Forms

#### Interviews

- Telephone interview with TDCJ Human Resources representative
- Staff interviews

Review of documents and staff interviews indicate that the facility ensures that it does not hire or promote anyone who will have contact with inmates who has engaged in prior sexual abuse or harassment at a correctional facility by the following means:

- Criminal background checks by the Texas Department of Public Safety
- Signed staff acknowledgment of affirmative duty to disclose such behavior
- Ongoing monthly criminal background checks of all such staff

These same procedures are followed for volunteers and contractors who have contact with inmates.

In addition to the multiple examples provided by the TDCJ, the auditor chose 10 names at random to verify that these procedures had been followed. An email response from the TDCJ Headquarters

Human Resources office verified that they had. A follow-up interview with the Headquarters representative confirmed the monthly checks by the Texas Department of Public Safety.

This centralized process ensures that sexual misconduct by an employee, volunteer, or contractor at one TDCJ facility does not go unreported to another TDCJ facility that intends to hire someone. Likewise, policies indicate that requests from other facilities are directed to the headquarters office.

## Standard 115.18: Upgrades to facilities and technologies

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

#### 115.18 (a)

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

#### 115.18 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan

- Agency responses to PREA Pre-Audit Questionnaire

#### Interviews

- Warden interview

#### Site Review Observations

- Observation of current camera system

The interview with Warden Gregory David indicated that there has not been any substantial expansion or modification of facilities or video monitoring equipment since the last PREA audit, approximately three years ago. Because the facility has a process in place to consider factors related to the prevention of sexual abuse when undertaking such expansion or modification, the facility complies with this standard.

## RESPONSIVE PLANNING

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

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

#### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

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

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

#### 115.21 (d)

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

#### Auditor Overall Compliance Determination

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



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

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

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

#### **Documents**

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Completed Sexual Abuse Investigation Checklists
- Copies of electronic database information concerning investigations
- Completed Injury Treatment Reports (Health Care Staff)
- Completed Referral to Medical / Mental Health Services forms
- Completed Administrative Review Checklists (Regional Office)

#### **Interviews**

- Staff interviews

#### **External Interviews**

- Interview with Director of the Crisis Center of the Plains

The TDCJ provides a form that lays out the procedural steps required for an investigation. When followed, the form documents the steps required by this standard –

- Access to forensic medical examinations
- Examination by SAFE or SANE practitioners where available
- Access to a victim advocate where available

Only two allegations of sexual abuse were reported and investigated by the facility administrative staff in the past year. The auditor reviewed the documentation of these investigations in detail. In both cases, the documentation indicated that the inmate was offered access to a forensic medical examination. In one of the two cases, the documentation indicated that the examination was requested and performed by a SAFE / SANE practitioner in the community, at Covenant Hospital.

The interview with the Director of the Crisis Center of the Plains indicated that she accompanied the inmate as his victim advocate at the request of Covenant Hospital. She indicated that she did so on two other occasions in the past three years.

The agency corresponded with the Crisis Center of the Plains via email in June 2018 to secure an MOU. It advised the facility of these efforts by letter in February 2019. The crisis center director advised the auditor of her willingness to sign an MOU to this effect but admitted that she had not followed through with specific actions to complete the agreement in the past year.

Neither inmate was still housed at the prison at the time of the onsite visit, so the auditor was unable to obtain verbal confirmation, but the information reviewed indicated that the standard requirements were met.

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

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

#### 115.22 (a)

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

#### 115.22 (b)

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

#### 115.22 (c)

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- TDCJ Board Policy BP-01.07 (rev 7)
- TDCJ Safe Prisons Plan
- TDCJ Administrative Directive AD-02.15 (rev 12) & 16.20 (rev 5)
- TDCJ Safe Prisons / PREA Operations Manual 5.01 & 5.05
- TDCJ Office of the Inspector General Operational Procedures Manual OIG -04.05
- TDCJ Executive Directive PD-29 (rev 5)
- Agency responses to PREA Pre-Audit Questionnaire
- Email correspondence with OIG representative
- TDCJ OIG Website, [https://oig.tdcj.texas.gov/divisions/oig/about\\_oig\\_depts.html](https://oig.tdcj.texas.gov/divisions/oig/about_oig_depts.html), accessed March 15, 2020
- Lists of allegations for previous four years
- Documentation of investigations for three most recent allegations

#### Interviews

- Interview with lieutenant assigned to investigations
- Interview with Warden Gregory David

The agency has an array of policy statements by the Texas Board of Criminal Justice, the executives of the department, and the OIG which require both administrative and criminal investigations in the event of inmate or third-party allegations of sexual abuse or harassment. The facility provided documentation of such allegations made over the past four-year period. The auditor verified in documents and interviews that the three most recent allegations were thoroughly investigated.

The policies clearly delineate the responsibilities of facility administrative staff and that of the investigative agency, the Office of the Inspector General. Interviews indicated that all incidents are investigated.

The role of the OIG is specified on its website, where it is available to the public. The auditor verified that the link works during the post-onsite phase of the audit.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

#### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No

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

#### 115.31 (b)

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

#### 115.31 (c)

- Have all current employees who may have contact with inmates received such training?  Yes  No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures?  Yes  No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies?  Yes  No

## 115.31 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Safe Prisons / PREA Operations Manual 6.01 – Unit Safe Prisons / PREA Program Awareness Training
- TDCJ Administrative Directive 12.20, Implementation and Operation of TDCJ In-service and Staff Survivor Training
- TDCJ Executive Directive 12.10, Training Records and Database
- TDCJ Executive Directive PD-97, Training and Staff Development
- TDCJ Executive Directive PD-29 (rev 5), Sexual Misconduct with Offenders
- Employee Training Acknowledgment Forms
- Training lesson plans – Preservice and in-service
- Video Script – “Safe Prisons / PREA in Texas”

### Interviews

- Staff interviews

TDCJ policies and directives require that all staff who have contact with inmates receive PREA training upon hire (before being assigned to work on a unit), and annually thereafter. The training includes

- Zero tolerance
- Prevention, detection, reporting, and response
- Inmates' rights
- Retaliation
- Sexual abuse and harassment in confinement
- Common reactions of victims
- Detection and response to threatened or actual abuse
- Inappropriate relationships with inmates
- Communication with LGBTI inmates

- Mandatory reporting

TDCJ policies require, and auditor interviews and document review indicate that all staff receive this training and understand its content.

## Standard 115.32: Volunteer and contractor training

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

#### 115.32 (a)

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

#### 115.32 (b)

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

#### 115.32 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Contract Employee or Intern Training Acknowledgment Forms

- Acknowledgment of Volunteer Training / Orientations

## Interviews

- Volunteer interview

TDCJ policies and directives require that all volunteers, contractors, and interns who have contact with inmates receive PREA training upon acceptance (and before being assigned to have contact with inmates). The training includes, but is not limited to

- Zero tolerance
- Prevention, detection, reporting, and response
- Inmates' rights
- Reporting

TDCJ policies require, and auditor interviews and document review indicate, that all volunteers, contractors, and interns receive this training and understand its content.

## Standard 115.33: Inmate education

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

#### 115.33 (a)

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

#### 115.33 (b)

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

#### 115.33 (c)

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

### 115.33 (d)

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

### 115.33 (e)

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

### 115.33 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Inmate Handbook
- PREA Information Pamphlets
- Randomly chosen forms documenting inmate receipt of information



- Randomly chosen forms documenting inmate viewing of video

### **Interviews**

- Inmate interviews
- Staff interviews
- Interviews with Facility Safe Prisons Staff

### **Site Review Observations**

- Posted signs
- Televisions showing PREA video in dayrooms

### **Video**

- Safe Prisons / PREA Offender Training, dated March 2018

Inmates are received at the complex five days per week, Monday through Friday; this includes State Jail inmates transferred directly from county jails and inmates transferred from other TDCJ facilities. All incoming inmates are screened and provided written materials related to PREA at the Formby Unit on the day of their arrival. Approximately once per week, and always within 30 days of arrival, the Safe Prisons staff person from Formby provides a classroom orientation to PREA rights, responsibilities, and reporting procedures. This class includes watching a comprehensive training video produced by the TDCJ Prison Ombudsman's Office.

The auditor interviewed 20 inmates chosen at random; approximately 60% indicated that they remembered receiving the required information upon intake. Ninety percent indicated that they remembered the subsequent education sometime within the ensuing 30 days, with a typical response of "within a few weeks". Staff interviews also indicated that this is the normal process.

Documentation review of the same randomly chosen inmates indicated that 100% of the randomly chosen inmates initialed a form indicating that they had received the educational materials upon intake. Documentation further indicated that 100% of the randomly chosen inmates had received the subsequent education within 30 days.

Staff interviews indicated that the subsequent education is provided by the Formby Unit Safe Prisons staff; inmates watch a comprehensive 30-minute video and have an opportunity to ask questions. This same video is played several times each day in each of the housing areas. In the absence of the Formby Unit Safe Prisons officer, these classes are provided by the Wheeler Unit Safe Prisons officer.

All inmates come to Formby Wheeler from another institution, either another TDCJ facility or a county jail. Each of the interviewed inmates was able to articulate differences between Formby Wheeler policies, procedures, and practices and those of the facility from which they had been transferred.

Education materials and notices of inmates rights and means of reporting sexual abuse and harassment are provided in these formats, in both English and Spanish: inmate handbook, pamphlets, postings, and the video. Inmates who are unable to understand the materials for reasons of limited English proficiency or disability can have an interpreter or other assistance to help them understand the facility's policies and procedures.

Targeted inmate interviews included one inmate whose English skills were insufficient to understand all of the auditor's questions. A staff interpreter was provided for this interview and the inmate indicated that he received and understood the education materials provided him at intake and in the subsequent 30-day period.

Targeted inmate interviews also included one inmate who was partially blind, one who was hard of hearing (but not deaf), and one who had a physical disability. All were able to understand the auditor's questions without additional assistance and all verified that they had received the required educational materials. No other disabled inmates were available to interview.

## Standard 115.34: Specialized training: Investigations

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

#### 115.34 (a)

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

#### 115.34 (b)

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- TDCJ Board Policy BP-01.07 (rev 7)
- TDCJ Safe Prisons Plan
- TDCJ Lesson Plan and PowerPoint Presentation – “Conducting a Thorough Investigation”
- Administrative Directive AD-02.15 (rev 12) & 16.03 (rev 5)
- TDCJ Office of the Inspector General Operational Procedures Manual OIG 04.05
- TDCJ OIG Lesson Plan 3201 – Sexual Assault Investigations
- TDCJ OIG Lesson Plan 2029 - Interview and Interrogation
- TDCJ Executive Directive PD-97 (rev 7) – Training and Staff Development
- TDCJ Executive Directive 12.10 (rev 2) – Training Records and Database
- Correctional Managed Health Care Policy Manual C-25.1– Orientation for Health Services Staff
- Training Records

#### Interviews

- Interview with lieutenant assigned to investigations
- Other staff interviews

The agency has an array of policy statements by the Board of Corrections, the executives of the department, and the OIG which require specialized training of administrative staff in the conduct of sexual abuse investigations. The facility provided documentation for administrative staff, sergeants and above, that had completed this training in the last year.

The lesson plans and PowerPoint presentations covered the following topics:

- Interviewing sexual abuse victims
- Proper use of Miranda and Garrity warnings
- Sexual abuse evidence collections
- Criteria and evidence required to substantiate a case for administrative action or prosecution

The targeted interview with a staff person assigned to investigations and other staff interviews indicated that administrators who were or could be assigned to investigative teams had received this training and understood its content.

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

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

### 115.35 (a)

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

### 115.35 (b)

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

### 115.35 (c)

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

### 115.35 (d)

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

does not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Texas Tech University Health Sciences Center Operating Policy and Procedure
- TDCJ PREA Training Video - "Safe Prisons / PREA in Texas"
- Administrative Directive AD-16.03 (rev 5), Evidence Handling
- Correctional Managed Health Care Policy Manual C-19.1, Continuing Education / Staff Development
- Correctional Managed Health Care Policy Manual C-25.1, Orientation Training for Health Services Staff
- TTUHSC Managed Care / PREA Annual Training Packet
- Safe Prison / Sexual Assault Lesson Plans
- TTUHSC employee training files

### Interviews

- TTUHSC employee interview

Medical care is provided to Formby Wheeler inmates through a contract with the Texas Tech University Health Sciences Center (TTUHSC). TDCJ and TTUHSC policies and procedures require that this specific training is mandated and provided to all employees at both New Employee Orientation and quarterly in-service training. The training includes:

- How to detect and assess signs of sexual abuse and harassment
- How to preserve physical evidence
- How to respond effectively and professionally
- How and to whom to report allegations or suspicions of sexual abuse or harassment

Additionally, medical and mental health staff are required to view the TDCJ PREA Video once annually.

Documentation of this training is contained in TTUHSC employees' files. An interview with a randomly chosen health care employee and a review of documentation indicated that this training was received and understood.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

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

#### 115.41 (a)

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

#### 115.41 (b)

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

#### 115.41 (c)

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

#### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  
 Yes  No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a referral?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a request?  Yes  No

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

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Correctional Institutions Division Intake Procedures Number 5.06
- Safe Prisons / PREA Operations Manual, Appendix E, Offender Assessment Screening
- Completed inmate screening forms
- Completed Sexual Abuse Investigation Checklists

#### Interviews

- Staff interviews
- Inmate interviews

The Formby Unit accepts new inmates every weekday for both the Formby and Wheeler Units. The TDCJ Safe Prisons Plan requires that all inmates received at the facility be screened within 72 hours of arrival. This screening is done at Formby on the day of arrival, i.e. within 24 hours of arrival.



The auditor reviewed 12 completed inmate screening forms; the form requires that the intake officer ask specific questions and make his or her observations of the presence of risk factors. In the auditor's opinion, these criteria are objective in nature, and they are applied objectively. The criteria include:

- Whether the inmate has a mental, physical, or developmental disability
- The age and physical build of the inmate
- Whether the inmate has previously been incarcerated
- Whether the inmate's criminal history is exclusively nonviolent
- Whether the inmate has prior convictions for sex offenses
- Whether the inmate identifies or appears to the intake officer as LGBTQI or otherwise gender nonconforming
- Previous sexual victimization
- The inmate's own perception of vulnerability
- Whether the inmate is detained solely for civil immigration purposes (Note: the facility does not house inmates solely for these purposes.)

In addition to screening inmates for their vulnerability and risk factors for victimization, the form and intake process are used to assess inmates' risk for being sexually abusive. Prior acts of sexual abuse, prior convictions for violent offenses, and prior history of institutional violence are considered.

Interviewed inmates consistently reported that they had been asked these questions on the first day of their arrival. Staff interviews also supported that the practice conforms with department policy and the standard.

TDCJ policy and procedure require that inmates be reassessed between day 15 and day 30 of their time at the facility. The facility complies with this requirement by a review conducted by the Safe Prisons PREA Program Manager (SPPPM) at the same time as he or she provides inmate education concerning PREA. Document review and inmate and staff interviews indicated that this practice is consistently followed.

An inmate's risk level can be reassessed by three different means, if warranted:

- Referral to the SPPPM
- Classification Review
- A formal investigation following a report or allegation of sexual abuse or harassment

Interviews with the SPPPMs, classification staff, and a lieutenant involved in investigations all indicated that these means can be and are used. The review of the last three formal investigations indicated that risk was re-evaluated in each case.

TDCJ policy prohibits discipline of inmates for refusing to answer screening questions, or for not disclosing complete information in response to screening inquiries. No examples of such discipline were uncovered in inmate or staff interviews. Likewise, the auditor found no instances of inappropriate dissemination of screening information.

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

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

#### **115.42 (a)**

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

### 115.42 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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### Documents

- TDCJ Safe Prisons Plan
- TDCJ Classification Plan
- Agency responses to PREA Pre-Audit Questionnaire

- Safe Prisons / PREA Operations Manual 03.01 Offender Assessment Screening
- Safe Prisons / PREA Operations Manual 03.02 Special Population Review
- Safe Prisons / PREA Operations Manual, Appendix E - Offender Assessment Screening Form
- TDCJ Administrative Directive 04-17 (rev 4) – Offender Housing
- TDCJ Administrative Directive 04-18 (rev 6) – Offender Jobs
- Correctional Managed Health Care Policy Manual G51.11 Treatment of Offenders with Intersex Conditions
- Correctional Managed Health Care Policy Manual G35.1 Mental Health Appraisal for Incoming Offenders
- TDCJ Unit Classification Procedure 4.00
- Completed Offender Screening Forms
- Offender Files
- Electronic Information System Records

### Interviews

- Staff interviews
- Inmate interviews

TDCJ policies and procedures govern the use of screening information in making housing, bed, work, education, and other program assignments. All describe an individualized process designed to ensure the safety of inmates, staff, and the overall facility. Staff and inmate interviews consistently indicated that the process is followed and unanimously indicated that inmates feel safe at this facility. Completed Offender Screening Forms records and other inmate indicated referrals to various assignments were made on an individualized, case-by-case basis.

Only one transgender inmate was housed at the facility at the time of the on-site audit. His interview indicated that the process was followed and that he felt safe in his current housing and program assignments. He indicated that his own opinion of his safety was considered in making the assignment to his current housing. His placement had been reviewed within the last six months. He is allowed to shower separately from other inmates.

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

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

#### 115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible?  Yes  No

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

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

**Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

### Instructions for Overall Compliance Determination Narrative

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#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Protective Safekeeping Plan
- Offender Protection Investigation Form
- TDCJ Restrictive Housing Plan
- TDCJ Restrictive Housing Log
- TDCJ Restrictive Housing Confinement Record
- TDCJ Restrictive Housing Review
- TDCJ Daily Activity Log
- TDCJ Administrative Directive 04.63 (rev 5) Transient Status Offenders

#### Interviews

- Staff interviews
- Inmate interviews

#### Site Review Observations

- Observation of restrictive housing unit at Formby
- Observation of closed restrictive housing unit at Wheeler

A review of applicable TDCJ policies, plans, and procedures indicates that alternatives are considered for all at risk offenders, not just those at risk of sexual victimization, prior to involuntary placement in restrictive housing. Likewise, all inmates in segregation have access to programs to the extent that programs can be brought to them. Restrictive housing logs and daily activity logs document the degree to which opportunities are limited and the duration of the limitation. The restrictive housing review process is conducted no less frequently than monthly.

The Offender Protection Investigation Form documents the basis for the facility's concern for the inmate's safety and the reasons why alternative means of separation cannot be arranged. Targeted staff and inmate interviews indicated that these procedures are followed in actual practice.

## REPORTING

### Standard 115.51: Inmate reporting

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

### 115.51 (a)

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

### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the inmate to remain anonymous upon request?  Yes  No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes)  Yes  No  NA

### 115.51 (c)

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

### 115.51 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Texas Government Code § 493.019
- TDCJ Board Policy 03.91 (rev 3) Uniform Offender Correspondence Rules
- TDCJ Executive Directive 02.10 (rev 2) PREA Complaints and Inquiries
- TDCJ Administrative Directive 14.09 Postage and Correspondence Supplies
- TDCJ Executive Directive PD-29 (rev 5) Sexual Misconduct with Offenders
- TDCJ General Information Guide for Families of Offenders
- Email correspondence with representative of the Office of the Inspector General
- Posted signs
- Inmate handbooks
- Texas Board of Criminal Justice PREA Brochure
- PREA Pamphlets
- TDCJ Safe Prisons / PREA Video
- Forms signed by inmates acknowledging receipt of handbook and other materials

### Interviews

- Staff interviews
- Inmate interviews
- Warden interview

### Site Review Observations

- Posted signs
- Mailboxes

Inmates learn of the multiple ways they can report sexual abuse or harassment in multiple ways. The ways they learn include:

- Inmate handbook
- Posted signs
- PREA Video
- Brochures and pamphlets

The internal ways include:

- Verbal report to a correctional officer or other staff
- Written report via inmate communication form (I-60) to any facility staff person
- Verbal or written report to the Safe Prisons PREA Manager for the unit

The external ways include:

- Letter to the PREA Ombudsman



- Letter to the Office of the Inspector General (OIG)
- Telephone call to the Ombudsman or OIG by a family member or other external contact

In the auditor’s judgment, the PREA Ombudsman and the OIG can both be considered external because the ombudsman reports to the Board of Criminal Justice, not to the Executive Director of the TDCJ. Board policy states “. . . the Office of the Inspector General (OIG) is the primary investigative and law enforcement entity of the TBCJ. The OIG reports directly and only to the TBCJ.” To verify the independence of the OIG, the auditor corresponded via email with a representative of that agency and discussed the issue with Warden Gregory David. Based on these discussions, the auditor believes that the OIG operates independently in its investigative role.

An I-60 form can be submitted anonymously; an anonymous report is accepted and investigated. A letter to a “special correspondent”, which includes the ombudsman’s office by policy, can be submitted sealed and without the inmate’s name.

Inmate interviews consistently verified that inmates know of the various internal and external ways of reporting. Staff interviews confirmed that they understand the importance of documenting verbal reports and the requirement to promptly pass all reports up the chain of command to be addressed. Staff interviews also verified their knowledge of policy regarding their own methods of privately reporting sexual abuse and harassment of inmates.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

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

#### 115.52 (b)

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

#### 115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  Yes  No  NA

- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (d)

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

#### 115.52 (e)

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

#### 115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)  
 Yes  No  NA

- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.52 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- TBCJ Board Policy 03.77 (rev 9) Offender Grievances
- TDCJ Safe Prisons
- TDCJ Administrative Directive Plan 03.82 Management of Offender Grievances
- Agency responses to PREA Pre-Audit Questionnaire
- Offender Grievance Operations Manual

### Interviews

- Staff interviews
- Inmate interviews

The auditor's review of Board Policy, TDCJ Plans, and the Offender Grievance Operations Manual indicates that the facility has plans and procedures in place to ensure the following:

- No time limit is imposed on when an inmate may submit a grievance regarding an instance of sexual abuse
- Inmates are not required to use an informal grievance process to resolve an alleged incident of sexual abuse
- Inmates are not required to submit a grievance to a staff member who is the subject of a complaint
- Such grievances are not referred to a staff member who is the subject of a complaint
- The agency issues a final decision within 90 days of the initial filing of the grievance, such 90-day period not including the inmate's time preparing an administrative appeal
- If the agency claims an extension of time to respond, it will notify the inmate in writing of the extension and provide a date by which a decision will be made
- Third parties are permitted to assist inmates in filing requests for administrative remedies, and to file such requests on behalf of inmates
- The agency will document an inmate's decision to decline assistance
- Emergency grievances may be filed if an inmate alleges that he is at substantial risk of imminent sexual abuse
- Emergency grievances are immediately forwarded to a level of review at which corrective action can be taken, a response is provided within 48 hours, and a final agency decision is issued within 5 calendar days.
- The determination of substantial risk and the action taken are documented

Although there were no cases to review to test these plans and procedures in practice, interviews with responsible administrative staff indicated that such procedures would be followed. In the auditor's judgment, the facility complies in all material ways with this standard.

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

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

### 115.53 (a)

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

- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible?  Yes  No

#### 115.53 (b)

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

#### 115.53 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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#### Documents

- TDCJ Safe Prisons Plan
- Emails between TDCJ staff and Crisis Center for the Plains Director dated June 11 & 18, 2018
- Letter from TDCJ dated February 5, 2019
- Sample MOU – attachment to June 11, 2018 email
- Inmate Handbook
- PREA Information Pamphlets
- Posted signs
- MOU between TDCJ and the Crisis Center for the Plains, dated June 16, 2020
- Contract Modification form effective June 26, 2020
- Signs describing new access and services of the Crisis Center for the Plains, English and Spanish
- Email from PREA Coordinator / Safe Prisons staff dated September 18, 2020

## Interviews

- Telephone interview with Center for the Plains director conducted January 21, 2020
- Inmate interviews – Random
- Inmate interviews – Inmates who had reported prior sexual abuse
- Staff interviews
- Interview and discussion with Warden
- Interview and discussion with Regional PREA Manager
- Telephone discussion with state Prison Ombudsman
- Telephone inmate interview September 18, 2020

## Site Review Observations

- Posted signs
- PREA Hotline number painted on wall near inmate telephones
- Informal conversations with staff concerning use of the telephones

## Photos

- Posted signs re: crisis center hotline (English and Spanish)

## External Research

- Test calls to painted PREA hot line number
- Web site of Texas Association Against Sexual Abuse

The facility has posted signs throughout the facility which list the address of the Texas Association Against Sexual Assault (TAASA). TAASA is not an agency which provides emotional support services related to sexual abuse; rather, it is an agency which maintains a directory of agencies which do provide such services. It is appropriate for the agency to provide contact information to TAASA, for inmates who wish to contact such agencies in other parts of the state where they may reside upon release, but TAASA itself is not a direct service provider.

The signs also include a toll-free phone number to contact this agency. However, the phone number is not a current, accurate number to reach TAASA. When the auditor attempted to call this number on day 3 of the on-site audit, he reached an automated service attempting to sell medical equipment.

This same inaccurate number was painted on the wall above or near the telephones in all the units (except restricted housing), with the notation "PREA HOT LINE 888-XXX-XXXX". Staff and inmate interviews indicated that inmates could not use the provided telephones to dial this number; policy, procedure, and practice only allows inmates to call numbers on their approved list. Interviewed inmates believed that they could at least give this number to a family member. Staff and inmates acknowledged that not all inmates have family or other outside contacts to make this call for them.

During the pre-onsite phase of the audit the auditor interviewed the Executive Director of the Crisis Center of the Plains, an outside victim advocacy organization located in the same town as the facility, Plainview, TX, The director indicated that her agency is willing to provide emotional support services related to sexual abuse to inmates of the prison, including an existing hotline service with 24-hour / 7-day-per-week bi-lingual (Spanish / English) trained staff. She reported that she had read and was willing to sign a Memorandum of Understanding (MOU) which had been sent to her in 2019, but that she had not done her part to follow-up on last year's TDCJ request. (She indicated that she went to the facility twice in 2017 for a scheduled appointment with the warden. On the first attempt, she reported that she was told that he could not meet with her due to a lockdown. On the second attempt she reported that the warden was not available, but she was not given a reason.)

On the second day of the on-site review, the facility posted the P.O. Box address for the Crisis Center of the Plains on bulletin boards in inmate housing areas, replacing the notices that the auditor had observed the day before. However, they did not post the hotline or other phone number for the Crisis Center for the Plains. On day 2, they also painted over the PREA hot line notations on the walls near the telephones.

The auditor originally found that the facility was not compliant with this standard because it had not provided meaningful access to an outside victim advocacy organization where one was readily available. Further, he found that it did not provide hotline access to this or any advocacy organization even though one was available.

The TDCJ provided documentation that they wrote to the Crisis Center of the Plains in February 2019 and provided them with a draft MOU. They did not provide documentation that further efforts had been made to complete this agreement prior to the on-site visit.

Corrective Action: The following recommended corrective action plan was included in the interim report. The facility should 1) complete a Memorandum of Understanding with the Crisis Center of the Plains (or other qualifying organization) by no later than two months following receipt of this Interim Report; 2) communicate the address and telephone number of the center to all inmates housed at the facility by the same date; 3) establish a means to communicate this information to inmates received at the facility after this date; 4) if technically feasible, add the center's hotline number to all inmates' "approved call list"; if not feasible, provide other means by which an inmate could access emotional support services via a hot line telephone call; and 5) collect and provide 3 months of documentation to include a) a copy of the MOA, b) a copy of the new posted signs and/or inmate handbook / PREA flyers by which inmates are notified of their means of accessing these services, c) data regarding inmates' use of the advocacy center, to include the number and nature of the calls made to the hot line, for a period of at least three months.

### **Corrective Action**

The agency provided documentation of compliance with the first milestone on July 7, 2020. All details of the required steps were adequately addressed, as follows: 1) an MOU with the Crisis Center of the Plains was completed; 2) & 3) posters listing the phone number of the crisis center and summarizing the services available there were posted in all living units; 4) the agency's information technology division set up the phone lines on the facility for offenders to access the crisis center. A special pin number was created which allows the caller to remain anonymous; calls are not monitored. In addition, the calls are free - they are not charged to an offender's telephone account.

The second and final milestone was reviewed on September 18, 2020. The agency reported that the hotline had been used twice in the three-month period following its initiation. The auditor interviewed one inmate who had, at the auditor's request, tested the phone line the previous day. The inmate indicated that the line worked and that the person who answered the phone correctly advised him of the services available to inmates from the crisis center.

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

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

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

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Safe Prisons / PREA Operations Manual 04.02, Receiving Allegations of Sexual Abuse from an Outside Agency
- TDCJ Offender Orientation Handbook
- TDCJ Executive Directive 02.10, PREA Complaints and Inquiries
- TDCJ General Information Guide for Families of Offenders, accessed at [https://www.tdcj.texas.gov/documents/General\\_Information\\_Guide\\_for\\_Families\\_of\\_Offenders.pdf](https://www.tdcj.texas.gov/documents/General_Information_Guide_for_Families_of_Offenders.pdf)
- TDCJ Board Policy 02.09, PREA Ombudsman Policy Statement
- TDCJ Executive Directive 02.03, Ombudsman Program
- Grievance Reports – Formby & Wheeler

#### Interviews

- Staff interviews

Board and Executive Policy Directives require that the facility receive reports of sexual abuse and harassment from third parties, including other agencies, public officials, family members, or a member of the public. This policy is communicated to inmates by way of the inmate handbook and to these groups by way of a general information guide, which can be easily accessed on the TDCJ website.

Of four grievances reported by the facility for the last year, one was received from a third party, and it was handled in compliance with this standard. Staff interviews confirmed that this is the normal practice.



# OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

## Standard 115.61: Staff and agency reporting duties

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

### 115.61 (a)

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

### 115.61 (b)

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

### 115.61 (c)

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

### 115.61 (d)

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

### 115.61 (e)

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

### Auditor Overall Compliance Determination

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

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

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

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### **Documents**

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Office of the Inspector General Operations Manual 04.05
- Correctional Managed Health Care Policy Manual E-35.2 Mental Health Evaluation
- Correctional Managed Health Care Policy Manual G-57.1 Sexual Assault / Sexual Abuse
- Challenge Opportunity Understanding Respect Acceptance Growth Education (COURAGE) Program Operational Manual 02.05, Requirement to Contact Department of Family Protective Services
- TDCJ Administrative Directive 16.20 (rev 4) Reporting Incidents / Crimes to the Office of the Inspector General
- TDCJ Executive Directive PD-29 (rev 5), Sexual Misconduct with Offenders
- TDCJ Safe Prisons / PREA Operations Manual 5.01
- Employee Acknowledgement Forms
- Contract Employee or Intern Training Acknowledgment Forms

### **Interviews**

- Staff interviews
- Contract staff interview (medical)

Board policy, executive and administrative directives, and staff training require immediate reporting of circumstances placing an inmate in immediate risk of sexual abuse, and action to protect the inmate in danger. These same policies clarify that such reporting is limited to the extent necessary to allow administrators to make treatment, investigation, and other management decisions. Staff interviews and signed Employee Acknowledgement Forms consistently demonstrated an understanding of these requirements.

Likewise, medical and mental health providers are required by policy, procedure, and initial training to report such circumstances, and to inform inmates of this duty and the limits of confidentiality. The targeted medical staff interview and signed Contract Employee or Intern Training Acknowledgment Forms demonstrated an understanding of these requirements.

Policy and procedure dictate the requirement that if the alleged victim is under the age of 18 or considered a vulnerable adult, the agency shall report the allegation to the Texas Department of Family and Protective Services, Child Protective Services. The facility does not house persons under 18 years of age.

Policy and procedure require the facility to report all allegations of sexual abuse and harassment to the Office of the Inspector General (OIG). Staff interviews demonstrated an understanding of this requirement.

## Standard 115.62: Agency protection duties

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

### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Safe Prisons / PREA Operations Manual 5.01 Sexual Abuse Response and Investigation
- TDCJ Safe Prisons / PREA Operations Manual 5.03
- 

### Interviews

- Staff interviews

Board policy, executive and administrative directives, and staff training require immediate response to circumstances placing an inmate in immediate risk of sexual abuse, including action to protect the inmate in danger. Staff interviews and signed Employee Acknowledgement Forms consistently demonstrated an understanding of these requirements.

## Standard 115.63: Reporting to other confinement facilities

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

### 115.63 (a)

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

### 115.63 (b)

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

### 115.63 (c)

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

### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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### Documents

- TDCJ Board Policy BP-01.07 (rev 7) Inspector General Policy Statement
- TDCJ Safe Prisons Plan
- TDCJ Administrative Directive 16.20 (rev 4) Reporting Incidents / Crimes to the OIG
- TDCJ Safe Prisons / PREA Operations Manual 4.02 Receiving Allegations of Sexual Abuse from an Outside Agency
- TDCJ Office of the Inspector General Operational Procedures Manual OIG -04.05
- Agency responses to PREA Pre-Audit Questionnaire
- Emergency Action Center System (Electronic) Incident Report Form

### Interviews

- Staff interviews
- Demonstration of use of Emergency Action Center System

The auditor's review of Board Policy, TDCJ Plans, and the electronic Emergency Action Center (EAC) System indicates that the facility has plans and procedures in place to ensure the following:

- Reports to and from other facilities within the department are communicated immediately within the agency via the EAC. The report can be initiated in the system by the facility receiving the allegation, transmitted instantaneously to the facility where the abuse is alleged to have taken place and then completed by the investigative staff there.
- Allegations of abuse at facilities outside the TDCJ are telephonically reported to the head of that facility, no later than 72 hours after the receipt of the allegation.
- The EAC is used to document such notifications.

Staff interviews and the EAC System demonstration verified that these policies are carried out in practice.

## Standard 115.64: Staff first responder duties

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

### 115.64 (a)

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

### 115.64 (b)

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

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Administrative Directive AD-16.03 (rev 5), Evidence Handling
- TDCJ Safe Prisons / PREA Operations Manual 5.01 Sexual Abuse Response and Investigation

#### Interviews

- Staff interviews
- Contract staff interviews

Board policy, executive and administrative directives, and staff training require separation of the alleged victim and abuser by the first responder, and actions to preserve the crime scene and preserve evidence. Policies also require these actions of non-security staff if they are the first responders to the incident. Staff and contract staff interviews and signed employee and contract staff acknowledgement forms consistently demonstrated an understanding of these requirements.

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Safe Prisons / PREA Operations Manual 5.01 Sexual Abuse Response and Investigation
- Interoffice Communications designating staff responsible for each role in the response process
- TDCJ Staff Information Card
- Completed Offender Protection Investigation Forms and Attachments

### Interviews

- Staff interviews
- Medical staff interview

TDCJ Safe Prisons / PREA Operations Manual 5.01 outlines the plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership taken in response to an incident of sexual abuse. The Offender Investigation Form documents each step in the coordinated process, with each relevant actor's actions, decisions, and reviews documented on a single form, with attachments for the original complaint, medical documentation, photographs, electronic records system reports, and documents from outside agencies such as the local hospital and the OIG.

The auditor reviewed the documentation of the last three incidents which required this formal process. In his opinion, the process appears to be smoothly coordinated and well-documented. Staff interviews confirmed this opinion.

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

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

#### 115.66 (a)

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

#### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Executive Directive PD-22 (rev 15) General Rules of Conduct and Disciplinary Action Guidelines for Employees
- TDCJ Executive Directive PD-29 (rev 5) Sexual Misconduct with Offenders
- TDCJ Executive Directive PD-35 (rev 3) Independent Dismissal Mediation and Dispute Resolution

#### Interviews

- Staff interviews

The auditor's review of the above-listed executive directives found no evidence of a collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. In fact, the directives require this separation and prohibit retaliation by accused staff against inmates bringing such complaints. Staff interviews confirmed that this is the policy and procedure that is followed in the event of an inmate complaint of sexual abuse by staff.

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

#### 115.67 (b)



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

#### 115.67 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff?  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?  Yes  No

#### 115.67 (d)

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

### 115.67 (e)

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

### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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#### Documents

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- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Executive Directive PD-22 (rev 15) General Rules of Conduct and Disciplinary Action Guidelines for Employees
- TDCJ Executive Directive PD-29 (rev 5) Sexual Misconduct with Offenders
- Safe Prisons / PREA Operations Manual 2.04 Intervention Practices
- Safe Prisons / PREA Operations Manual 5.08 90-day Monitoring for Retaliation
- Interoffice Communication
- Completed Offender Protection Investigation Forms and Attachments
- Completed Offender 90-day Monitoring Forms

#### Interviews

- Staff interviews
- Interview with Warden

Safe Prisons / PREA Operations Manual 5.08 outlines the plan to monitor an inmate's housing, program, and disciplinary status for 90 days following the investigation of an incident of sexual abuse. A separate Offender 90-day Monitoring Form now appears to have been incorporated into the Offender Investigation Form. An Interoffice Communication designates who is responsible for such reviews. Policies dictate the prohibitions against retaliation and the disciplinary consequences for those who do so.

The auditor reviewed the documentation of the last three incidents which were investigated. While retaliation review was only documented for one of the three incidents, none of the three allegations were determined to have been founded, so retaliation review was not required by this standard. Staff and the Warden interviews confirmed that 90-day retaliation review is conducted when allegations are determined to be founded.

## Standard 115.68: Post-allegation protective custody

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

#### 115.68 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Protective Safekeeping Plan
- Offender Protection Investigation Form
- TDCJ Restrictive Housing Plan
- TDCJ Restrictive Housing Log
- TDCJ Restrictive Housing Confinement Record
- TDCJ Restrictive Housing Review
- TDCJ Daily Activity Log
- TDCJ Administrative Directive 04.63 (rev 5) Transient Status Offenders

#### Interviews

- Staff interviews
- Inmate interviews

#### Site Review Observations

- Observation of restrictive housing unit at Formby
- Observation of closed restrictive housing unit at Wheeler

A review of applicable TDCJ policies, plans, and procedures indicates that alternatives are considered for all at risk offenders, not just those at risk of sexual victimization, prior to involuntary placement in restrictive housing. Likewise, all inmates in segregation have access to programs to the extent that programs can be brought to them. Restrictive housing logs and daily activity logs document the degree to which opportunities are limited and the duration of the limitation. The restrictive housing review process is conducted no less frequently than monthly.

The Offender Protection Investigation Form documents the basis for the facility's concern for the inmate's safety and the reasons why alternative means of separation cannot be arranged. Targeted staff and inmate interviews indicated that these procedures are followed in actual practice.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

##### 115.71 (a)

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

##### 115.71 (b)

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

##### 115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data?  Yes  No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses?  
 Yes  No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator?  Yes  No

##### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Safe Prisons / PREA Operations Manual 5.05 Completing the Offender Protection Investigation
- TDCJ OIG Operational Procedures Manual OIG 04.05 Offender Sexual Assault Investigations
- TDCJ Administrative Directive AD-02.15 (rev 12) Operations of the Emergency Action Center
- TDCJ Administrative Directive AD-16.03 (rev 5) Evidence Handling
- TDCJ Executive Directive 16.41 (rev 4) Use of Polygraph in Administrative Investigations
- TDCJ Records Retention Schedule
- TDCJ OIG Operational Procedures Manual OIG 3.72 Record Retention – PREA
- Email correspondence with OIG representative
- Training record of staff investigator
- Review of three most recent investigation reports and supporting documentation

### Interviews

- Staff interviews

TDCJ policies and directives require the following:

- Prompt, thorough, and objective investigations
- Investigation of all allegations, including those from third parties
- Use of available physical and DNA evidence and available electronic monitoring data (video)
  - Interviews of alleged victims, suspected perpetrators, and witnesses
- Review of prior reports and complaints of sexual abuse involving the suspected perpetrator
- Assessment of the credibility of an alleged victim, suspect, or witness on an individual basis
- Efforts to determine whether staff actions or failures to act contributed to the abuse

Further, TDCJ policies and directives require

- Investigations performed by persons who have received specialized training to conduct such investigations

- Written reports which contain a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings
- That the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation

Records retention policies require that such records “must be retained for as long as the alleged abuser(s) is incarcerated within the Texas Department of Criminal Justice (TDCJ) or employed by the TDCJ, plus five years.”

TDCJ Executive Directive 16.41 states that “An offender who alleges sexual abuse shall not be required to submit to a polygraph examination as a condition for proceeding with the investigation of such an allegation.”

Staff interviews, email correspondence with the OIG, training records, and a review of recent investigations indicate that these policies and procedures are consistently followed.

## Standard 115.72: Evidentiary standard for administrative investigations

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

#### 115.72 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Safe Prisons / PREA Operations Manual 5.05 Completing the Offender Protection Investigation
- TDCJ Correctional Training and Staff Development Lesson Plan – FY 2020 Sergeant’s Academy
- TDCJ PREA Ombudsman PowerPoint Presentation – Conducting a Thorough Investigation

## Interviews

- Staff interviews

TDCJ policies, training materials, and staff interviews indicate that the standard determining whether allegations of sexual abuse or sexual harassment are substantiated is a preponderance of the evidence.

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

#### 115.73 (b)

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

#### 115.73 (c)

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

#### 115.73 (d)



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

### 115.73 (e)

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

### 115.73 (f)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Safe Prisons / PREA Operations Manual 5.05 Attachment M, UCC Notification of OPI Outcome
- TDCJ Safe Prisons / PREA Operations Manual 5.10 Reporting Sexual Abuse Criminal Case Status to Offenders
- TDCJ Safe Prisons / PREA Operations Manual 5.11 Attachment F, Staff-on-Offender Sexual Abuse Investigative Worksheet
- TDCJ Safe Prisons / PREA Operations Manual 5.05 Attachment J Offender Protection Investigation
- Examples of completed “Offender Notification Brochures”

### Interviews

- Staff interviews

TDCJ policies and directives require notification of the reporting inmate of the results of administrative investigations, investigations by the OIG, and investigations referred for criminal prosecution. Following an inmate's allegation that a staff member has committed sexual abuse against him these same policies require that the agency subsequently inform the inmate

- When the staff member is no longer posted within the inmate's unit
- When the staff member is no longer employed at the facility
- When the agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility
- When the agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility

unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody.

Further, TDCJ policies and directives require notification of the reporting inmate following his allegation that he or she has been sexually abused by another inmate, that the agency subsequently inform the alleged victim

- When the agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility
- When the agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility

These notifications are documented by one or more of the following forms:

- Attachment M, UCC Notification of OPI Outcome
- Attachment F, Staff-on-Offender Sexual Abuse Investigative Worksheet
- Attachment J, Offender Protection Investigation
- Offender Notification Brochures

Staff interviews, examples of completed documentation of notification, and a review of recent investigations indicate that these policies and procedures are consistently followed.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

**115.76 (d)**

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

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

**Documents**

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Administrative Directive 16.20 (rev 4)
- TDCJ Executive Directives PD-22 (rev 15) and PD-29 (rev 5)

**Interviews**

- Staff interviews

The language of the standard is repeated as TDCJ Policy in the Safe Prisons Plan. TDCJ Administrative and Executive Directives support these policies and provide procedural guidelines to implement them. Staff interviews indicate that these policies and procedures are consistently followed within the agency and would be followed in the event of these occurrences at Formby Wheeler.

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

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

### 115.77 (a)

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

### 115.77 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Executive Directive PD-29 (rev 5)
- TDCJ Volunteer Services Plan
- Windham School District Board Policies 7.15 and 7.44
- Email correspondence from Texas Tech Medical
- Email correspondence from TDCJ Chaplaincy Department
- Email correspondence from Windham School District
- TDCJ Chaplaincy Manual 13.03 (rev 2) Ecclesiastical Endorsement
- TDCJ Rehabilitation Programs Division Lesson Plan – Volunteer Training Facilitators Guide
- Acknowledgment of Volunteer Training / Orientation Form

### Interviews

- Staff interviews

- Contract staff and volunteer interviews

TDCJ policies, plans, and directives all require that contractors and volunteers who have been found to engage in sexual abuse be prohibited from contact with inmates. Likewise, they require that incidents of sexual abuse be reported to law enforcement and the appropriate licensing agencies. In the case of medical staff, the contractor, Texas Tech University follows the requirements of the appropriate licensing agencies – the Texas Board of Nursing, the Texas Department of Aging and Disability Services, and the Texas Board of Medicine. In the case of educational program staff, the Windham School District reports such incidents to the State Board for Educator Certification.

In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, policy requires that the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates

Email correspondence and staff, contractor, and volunteer interviews indicate that these policies are followed in practice.

## Standard 115.78: Disciplinary sanctions for inmates

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

#### 115.78 (a)

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

#### 115.78 (b)

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

#### 115.78 (c)

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

#### 115.78 (d)

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

#### 115.78 (e)

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

### 115.78 (f)

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

### 115.78 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Developmentally Disabled Plan
- TDCJ Correctional Managed Health Care Policy Manual A-08.1, Decision Making – Mental Health Patients
- TDCJ Policy SOTP 01.04, Sex Offender Rehabilitation Programs

### Interviews

- Staff interviews

TDCJ policies, plans, and directives all require that

- Offenders are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse, sexual harassment, extortion, substantiated acts of violence, or following a criminal finding of guilt for offender-on-offender sexual abuse.
- Sanctions are appropriate to the nature of abuse committed, the offender's disciplinary history, and the sanction imposed for comparable offenses by other offenders with similar histories.
- The disciplinary process considers whether an offender's mental disabilities or mental illness contributed to his behavior when determining what type of sanction, if any, should be imposed.

- The unit offers therapy, counseling, or other interventions designed to address and correct possible underlying reasons or motivations for the abuse, and consideration is made to determine if participation should be a requirement for access to programming or other benefits.
- An offender may be disciplined for sexual contact with staff only if it is determined the staff member did not consent to the contact.
- Disciplinary actions related to staff-on-offender sexual abuse or sexual harassment violations are handled in accordance with TDCJ Policy 22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees.”
- Sexual misconduct between offenders is prohibited and when discovered, it results in disciplinary sanctions in accordance with the TDCJ Disciplinary Rules and Procedures for Offenders. However, sexual misconduct between offenders is not considered sexual abuse if it is determined the activity is consensual.
- Engaging in consensual sexual acts with others, defined as “intentional contact between the genitals of one person and the genitals, mouth, anus, or hands of another person with the consent of both participants” is considered a lesser disciplinary violation.
- A report of sexual abuse made in good faith, based on a reasonable belief that the alleged conduct occurred, does not in itself constitute falsely reporting an incident of lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- When the preponderance of evidence exists supporting a false allegation, the offender involved in the false allegation shall be disciplined in accordance with the TDCJ Disciplinary Rules and Procedures for Offenders.

Special considerations are required for offenders charged with or suspected of a disciplinary infraction who are developmentally disabled or psychiatric patients. The applicable procedures are specified in the Developmentally Disabled Plan and the Correctional Managed Health Care Policy Manual. These procedures are followed when dealing with developmentally disabled offenders or psychiatric patients.

Email correspondence and staff, contractor, and volunteer interviews indicate that these policies are followed in practice.

## MEDICAL AND MENTAL CARE

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

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

#### 115.81 (a)

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

#### 115.81 (b)

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

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

#### 115.81 (c)

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

#### 115.81 (d)

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

#### 115.81 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Safe Prisons / PREA Operations Manual 03.01 Offender Assessment Screening
- Correctional Managed Health Care Policy Manual G35.1 Mental Health Appraisal for Incoming Offenders
- Correctional Managed Health Care Policy Manual G35.2 Mental Health Evaluation
- Correctional Managed Health Care Policy Manual G57.1 Sexual Assault / Sexual Abuse
- Correctional Managed Health Care Policy Manual H61.1 Confidentiality and Release of Protected Health Information



- Review of completed Offender Assessment Screening forms

### Interviews

- Staff interviews
- Contact medical staff interview
- Targeted inmate interviews with four inmates who had reported previous sexual abuse

TDCJ policies require that if the screening pursuant to this section indicates an offender has experienced prior sexual victimization or previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the offender is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. The screening forms included in these policies (as attachments) are used daily at the facility. Four targeted inmate interviews confirmed that this referral was made.

TDCJ policy requires that the use of 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, who are assisting with making treatment plans and other management decisions, including those related to housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law.

TDCJ policy requires medical staff to obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting.

Review of inmate records and staff, contractor, and inmate interviews indicated that these policies are followed in practice.

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

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

#### 115.82 (a)

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

#### 115.82 (b)

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

#### 115.82 (c)

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

#### 115.82 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Correctional Managed Health Care Policy Manual A-01.1 Access to Care
- TDCJ Safe Prisons / PREA Operations Manual 5.01 Sexual Abuse Response and Investigation
- Correctional Managed Health Care Policy Manual G-57.1 Sexual Assault / Sexual Abuse
- I-214 Form, Referral to Medical / Mental Health Services

#### Interviews

- Staff interviews
- Inmate interviews

#### TDCJ Policies require

- That offender victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment in accordance with CMHC policies.
- That if no qualified medical or mental health practitioners are on duty at the time a report of abuse is made, staff first responders take preliminary steps to protect the victim and immediately notify the appropriate on-call medical and mental health practitioners.
- That offenders who become victims of sexual abuse while incarcerated shall be offered timely information about and access to emergency sexually transmitted infections prophylaxis,

according to professionally accepted standards of care, where medically appropriate, in accordance with CMHC policies.

- That treatment services are provided to the offender victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident.

Review of inmate records and staff, contractor, and inmate interviews indicated that these policies are followed in practice.

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

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

#### 115.83 (a)

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

#### 115.83 (b)

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

#### 115.83 (c)

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

#### 115.83 (d)

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

#### 115.83 (e)

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

#### 115.83 (f)

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

### 115.83 (g)

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

### 115.83 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Correctional Managed Health Care Policy Manual G-57.1 Sexual Assault / Sexual Abuse
- Correctional Managed Health Care Policy Manual E-44.1 Continuity of Care

### Interviews

- Staff interviews
- Contract medical care staff interview
- Inmate interviews

### TDCJ Policies require

- All offenders who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile unit are offered medical and mental health evaluation and treatment, as appropriate.
- The evaluation and treatment of such offender victims include follow-up services, treatment plans, and, when necessary,

- Referrals for continued care following transfer to, or placement in other units in accordance with CMHC policies or their release from custody.
- Offender victims are provided medical and mental health services consistent with the community level of care.
- Offenders who become victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.
- A mental health evaluation of all known offender-on-offender abusers is attempted within 60 days of learning of the abuse and initial treatment.

Review of inmate records and staff, contractor, and inmate interviews indicated that these policies are followed in practice.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

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

- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

### 115.86 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Administrative Directive AD-02.15 (rev 12) Operations of the Emergency Action Center
- Safe Prisons / PREA Operations Manual 02.01 Role of the Unit Investigation Team
- Memo naming members of Unit Investigation Team
- Documentation of review of three most recent allegations / incidents

### Interviews

- Staff interviews

TDCJ policies require an administrative review of all alleged sexual abuse and staff sexual harassment incidents, unless determined unfounded. The warden is required to obtain input from security supervisors, investigators, and medical or mental health practitioners when completing the review. The review team includes upper-level management, with input from line supervisors, investigators, and medical or mental health practitioners. The facility is required to implement recommendations that result from the review, or to document the reasons for not doing so.

TDCJ Administrative Directive 02.15 requires, the warden or supervisor to conduct a prompt, thorough investigation, after reporting a serious or unusual incident and to complete an Administrative Incident Review. The review is required to include:

- A review of the circumstances of the incident
- The name(s) of the person(s) involved
- Events leading up to and following the incident
- A consideration of whether the actions taken were consistent with TDCJ policies and procedures
- A review of whether lesser alternative means of managing the situation were available
- An identification of actions, if any, that could be taken to avoid future incidents of a similar nature and identification of training needs
- A determination of whether Incident Command System levels or response levels were used during the incident
- A determination of whether employee action or inaction was a factor
- Corrective action taken

The review is required to be submitted with 20 days of notification of the Emergency Action Center. The current listing of the Unit Investigative Team members includes sergeants, captains, and both majors.

Although not specifically required by the policies cited, the reviews reviewed by the auditor included:

- Consideration of whether the allegation or investigation indicated a need to change policy or practice to better prevent, detect, or respond to sexual abuse
- Consideration of whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility
- Examination of the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse
- An assessment of the adequacy of staffing levels in that area
- An assessment of whether monitoring technology should be deployed or augmented to supplement supervision by staff

The auditor's review of incident review records and staff interviews indicates that these policies and the other requirements of the standard are followed in practice.

## Standard 115.87: Data collection

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

#### 115.87 (a)

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

#### 115.87 (b)

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

#### 115.87 (c)

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

#### 115.87 (d)

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

#### 115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.)  Yes  No  NA

#### 115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Board Policy 02.09 (rev 2) PREA Ombudsman Policy Statement
- TDCJ Administrative Directive 02.15 (rev 12) Operations of the Emergency Action Center
- Safe Prisons / PREA Operations Manual 01.01 Safe Prisons / PREA Management Office
- TDCJ Safe Prisons / PREA Operations Manual 8.01 Monthly Safe Prisons / PREA Report
- TDCJ Safe Prisons / PREA Operations Manual 8.01 Attachment S
- TDCJ Office of the Inspector General Operational Procedures Manual OIG -04.05
- Surveys of Sexual Victimization, 2014 – 2017
- TDCJ Safe Prisons / PREA Program – Calendar Year 2018, dated November 2019
- Contract documents – private facilities
- List of contacts for the “Private Facility Contract Oversight and Monitoring Division”



TDCJ Board Policy, administrative directives, plans, and operational manual require these statistics to be collected in accordance with Bureau of Justice Statistics (BJS) guidelines. The most recent annual report is for calendar year 2018, accessed on-line at

[https://www.tdcj.texas.gov/documents/PREA\\_SPP\\_Report\\_2018.pdf](https://www.tdcj.texas.gov/documents/PREA_SPP_Report_2018.pdf)

The agency reports that it gathers data from its contract facilities; this data is excluded from the BJS solicitation of data and is not reported in the TDCJ annual report, but it is monitored by the Private Facility Contract Monitoring and Oversight Division.

In the auditor's judgment, this documentation demonstrates that the agency complies in all material ways with the standard for the relevant review period.

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

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

#### 115.88 (b)

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

#### 115.88 (c)

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

#### 115.88 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Board Policy 02.09 (rev 2) PREA Ombudsman Policy Statement
- TDCJ Administrative Directive 02.15 (rev 12) Operations of the Emergency Action Center
- Safe Prisons / PREA Operations Manual 01.01 Safe Prisons / PREA Management Office
- TDCJ Safe Prisons / PREA Operations Manual 8.01 Monthly Safe Prisons / PREA Report
- TDCJ Safe Prisons / PREA Operations Manual 8.01 Attachment S
- TDCJ Office of the Inspector General Operational Procedures Manual OIG -04.05
- Surveys of Sexual Victimization, 2014 – 2017
- TDCJ Safe Prisons / PREA Program – Calendar Year 2018, dated November 2019

TDCJ Board Policy, administrative directives, plans, and operational manual require these statistics to be used to evaluate and improve operations to enhance inmate safety. The most recent annual report, for calendar year 2018, was accessed on-line at

[https://www.tdcj.texas.gov/documents/PREA\\_SPP\\_Report\\_2018.pdf](https://www.tdcj.texas.gov/documents/PREA_SPP_Report_2018.pdf)

The report includes:

- Facility by facility comparisons from the previous year's reports
- Descriptions and statistical information of training programs designed to improve staff performance and inmate safety
- Description of the development of an "employee information card", which includes:
  - the agency's zero tolerance policy
  - steps to take if a sexual abuse occurs
  - definitions
  - sexual assault/abuse red flags providing staff with cues regarding victim, predator and staff behaviors
- Periodic updates to the "evolving" Safe Prisons / PREA plan
- Description and locations of newly installed security cameras
- Description of the Emergency Action Center role in documenting and addressing the causes of incidents

- Description of the administrative review process, including the statement “Any findings requiring recommendations or corrective action must have a follow-up report submitted within 90 days to the deputy director of Prison and Jail Operations.”
- A section entitled “New Initiatives” which outlines:
  - A new TDCJ sexual predator and victim computer system application and database
  - An analysis of all alleged offender-on-offender sexual abuse incidents which identifies trends related to the time of day allegations are more likely to be made, physical location, and custody classes with a higher rate of alleged sexual abuse. (The report states that “This information is passed on to the units to enable them to make decisions related to their staffing plans, building schedules, physical plants, and housing assignments.”)
  - The hiring at the Headquarters level of a sexual assault examination coordinator, who is a licensed registered nurse and a certified sexual assault nurse examiner (SANE)
  - The coordinator is responsible for planning and implementing training for unit level nurses, mid-level practitioners, physicians, and mental health care practitioners

No material is noted as redacted from the annual report.

In the auditor’s judgment, this documentation demonstrates that the agency complies in all material ways with the standard for the relevant review period.

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

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

#### 115.89 (a)

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

#### 115.89 (b)

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

#### 115.89 (c)

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

#### 115.89 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Board Policy 02.09 (rev 2) PREA Ombudsman Policy Statement
- TDCJ Executive Directive 02.29 Records Management
- TDCJ Records Retention Schedule
- Safe Prisons / PREA Operations Manual 01.01 Safe Prisons / PREA Management Office
- TDCJ Safe Prisons / PREA Operations Manual 8.01 Monthly Safe Prisons / PREA Report
- TDCJ Office of the Inspector General Operational Procedures Manual OIG 04.05
- Surveys of Sexual Victimization, 2014 – 2017
- TDCJ Safe Prisons / PREA Program – Calendar Year 2018, dated November 2019
- Contract documents
- List of Correctional Facilities monitored by the TDCJ Private Facility Contract Oversight and Monitoring Division

TDCJ Board Policy, administrative directives, plans, and operational manual require the maintenance of a retention schedule. That schedule requires PREA related data to be maintained for 10 years. No personally identifiable data is included in the information made available to the public.

The most recent annual report, for calendar year 2018, is available to the public on-line at

[https://www.tdcj.texas.gov/documents/PREA\\_SPP\\_Report\\_2018.pdf](https://www.tdcj.texas.gov/documents/PREA_SPP_Report_2018.pdf)

It includes all aggregated sexual abuse data, from facilities under its direct control. It does not include data from the private facilities with which the department contracts, but this information is readily available to the public at the contracting agency's websites or other means.

TDCJ contract monitors ensure that its contracting agencies follow all PREA standards, including this one. The list of correctional facilities monitored by the TDCJ Private Facility Contract Monitoring and Oversight Division, accessed at [https://www.tdcj.texas.gov/divisions/pf/pf\\_unit\\_list.html](https://www.tdcj.texas.gov/divisions/pf/pf_unit_list.html), shows that all eleven facilities are operated by the Management and Training Corporation (MTC). The MTC's website includes an annual report, accessed at [https://www.mtctrains.com/wp-content/uploads/2019/08/2018\\_MTC\\_Annual\\_PREA\\_Report.pdf](https://www.mtctrains.com/wp-content/uploads/2019/08/2018_MTC_Annual_PREA_Report.pdf), which contains the statistical and other information required by these standards.

In the auditor's judgment, this documentation demonstrates that the agency complies in all material ways with the standard for the relevant review period.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

#### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*)  Yes  No

#### 115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*)  Yes  No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.)  Yes  No  NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.)  Yes  No  NA

#### 115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility?  Yes  No

#### 115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)?  Yes  No

#### 115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees?  Yes  No

#### 115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- TDCJ Safe Prisons Plan
- Email correspondence between the auditor and agency and headquarters staff
- Email attachments, notably
  - Time-stamped photographs of signs posted prior to audit
  - Photographs taken during site review
- Diagrams of facility layouts
- Google Maps print outs of aerial views of facility
- Prior audit report, dated March 29, 2017
- Two letters received by auditor prior to on-site visit
- Inmate handbook

#### Interviews

- Staff interviews
- Mail room staff interview
- Inmate interviews

#### Site Review Observations

- Auditor notes taken during the on-site review

The previous audit report for this facility, dated March 29, 2017, approximately three years ago, can be accessed at

[https://www.tdcj.texas.gov/documents/prea\\_report/Formby\\_Wheeler\\_Units\\_2017-02-17.pdf](https://www.tdcj.texas.gov/documents/prea_report/Formby_Wheeler_Units_2017-02-17.pdf)

The auditor had access to, and the ability to observe, all areas of the audited facility. At his request, facility staff took photographs of certain posted signs and facility features for the auditor's benefit.

The auditor access to and copies of all requested relevant documents (including electronically stored information). Private interviews were conducted with over 50 inmates.

Inmates were permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel. Mail room staff confirmed that these letters were considered “special mail” in compliance with TDCJ policy. Signs were posted for six weeks prior to the on-site portion of the audit. Two letters were received.

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports. The review period is for prior audits completed during the past three years PRECEDING THIS AUDIT. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Documents

- Prior audit report, dated March 29, 2017, accessed at

[https://www.tdcj.texas.gov/documents/prea\\_report/Formby\\_Wheeler\\_Units\\_2017-02-17.pdf](https://www.tdcj.texas.gov/documents/prea_report/Formby_Wheeler_Units_2017-02-17.pdf)

The previous PREA audit report was issued approximately three years ago, and it is available on the TDCJ website

# AUDITOR CERTIFICATION

I certify that:

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

## Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.<sup>1</sup> Auditors are not permitted to submit audit reports that have been scanned.<sup>2</sup> See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Bruce Kuennen

September 21, 2020

**Auditor Signature**

**Date**

<sup>1</sup> See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.