

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

Interim       Final

Date of Report    September 6, 2018

## Auditor Information

Name: Sharon R. Shaver	Email: sharonrshaver@gmail.com
Company Name: SRS Professional Services LLC (American Correctional Association Consultant)	
Mailing Address: P.O. Box 1183	City, State, Zip: Mableton, GA 30126
Telephone: 478-454-7433	Date of Facility Visit: July 11-13, 2018

## Agency Information

Name of Agency: Texas Department of Criminal Justice	Governing Authority or Parent Agency (If Applicable): State of Texas		
Physical Address: 861-B I-45 North	City, State, Zip: Huntsville, TX 77320		
Mailing Address: P.O. Box 99	City, State, Zip: Huntsville, TX 77342		
Telephone: 936-295-6371	Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Agency mission:</b> To provide public safety, promote positive change in offender behavior, reintegrate offenders into society and assist victims of crime.			
<b>Agency Website with PREA Information:</b> <a href="http://tdcj.texas.gov/tbcj_prea.html">http://tdcj.texas.gov/tbcj_prea.html</a>			

## Agency Chief Executive Officer

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

## Agency-Wide PREA Coordinator

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

<b>PREA Coordinator Reports to:</b> Bryan Collier, Executive Director	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 91
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### Facility Information

<b>Name of Facility:</b>	Thomas R. Havins		
<b>Physical Address:</b>	500 FM 45 E Brownwood, TX 76801		
<b>Mailing Address (if different than above):</b>	Click or tap here to enter text.		
<b>Telephone Number:</b>	325-643-5575		
<b>The Facility Is:</b>	<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
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
<b>Facility Mission:</b> Maintain a positive public image by providing a safe, efficient and effective working environment for all staff and encouraging the successful reintegration of offenders into society through rehabilitative programs. Staff and offender needs will be addressed promptly ensuring the highest degree of moral and the most productive future for our facility.			
<b>Facility Website with PREA Information:</b>	<a href="http://tdcj.texas.gov/tbcj_prea.html">http://tdcj.texas.gov/tbcj_prea.html</a>		

### Warden/Superintendent

<b>Name:</b> Phonso Rayford	<b>Title:</b> Senior Warden
<b>Email:</b> Phonso.Rayford@tdcj.texas.gov	<b>Telephone:</b> 631-319-0731

### Facility PREA Compliance Manager

<b>Name:</b> Brady Burt	<b>Title:</b> Unit Safe Prisons PREA Manager
<b>Email:</b> Brady.Burt@tdcj.texas.gov	<b>Telephone:</b> 352-643-5575 ext.6328

### Facility Health Service Administrator

<b>Name:</b> Terre Harris	<b>Title:</b> Nurse Manager/Healthcare Administrator
<b>Email:</b> Terre.Harris@TTUHSC.edu	<b>Telephone:</b> 325-643-5575 ext.6343

### Facility Characteristics

<b>Designated Facility Capacity:</b> 596	<b>Current Population of Facility:</b> 566
<b>Number of inmates admitted to facility during the past 12 months</b>	1137
<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>	998

Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		1107	
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		0	
Age Range of Population:	Youthful Inmates Under 18: 0	Adults: 19-68	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input checked="" type="checkbox"/> NA	
Number of youthful inmates housed at this facility during the past 12 months:		0	
Average length of stay or time under supervision:		0 YRS/7MOS	
Facility security level/inmate custody levels:		Transient/IPTC	
Number of staff currently employed by the facility who may have contact with inmates:		145	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		6	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		1	
<b>Physical Plant</b>			
Number of Buildings: 14		Number of Single Cell Housing Units: 1	
Number of Multiple Occupancy Cell Housing Units:		1	
Number of Open Bay/Dorm Housing Units:		3	
Number of Segregation Cells (Administrative and Disciplinary):		8	
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.): Thomas R. Havins has no electronic monitoring equipment.			
<b>Medical</b>			
Type of Medical Facility:		Ambulatory medical and dental services. All services on a single level, including medical showers.	
Forensic sexual assault medical exams are conducted at:		Nearest hospital emergency department	
<b>Other</b>			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		23,288 State/51 Unit Volunteers; 37 Contractors	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		136 OIG/11 Unit	

## Audit Findings

### Audit Narrative

The Prison Rape Elimination Act (PREA) audit of Thomas R. Havins, a prison within the Texas Department of Criminal Justice (TDCJ) state system, was conducted on July 11-13, 2018 by Sharon R. Shaver, a DOJ certified PREA auditor for adult facilities, and consultant for the American Correctional Association (ACA). The auditor assignment was made by ACA staff

based on this auditor's availability to accept the assignment and locked in on April 11, 2018. TDCJ was notified by ACA of the auditor assignment on April 23, and TDCJ Safe Prisons/PREA Management Office notified the warden at Thomas R. Havins on April 27, 2018. Thomas R. Havins is located at 500 FM 45 E Brownwood, Texas, approximately an hour and a half drive Southeast of Abilene Regional Airport. This is the second PREA audit for Thomas R. Havins, date of initial audit was July 14-16, 2015.

This auditor found Warden Rayford and participating prison staff and contractors to be forthcoming, hospitable, and transparent about the activities and operations at Thomas R. Havins. All information requested was promptly provided and this auditor experienced no barriers to completing the audit. Warden Rayford was highly engaged in the audit process prior to the visit and during the onsite phase which made collection of and access to information go very smoothly. The Warden and all staff encountered during the visit were very knowledgeable about Thomas R. Havins and PREA.

### **Pre-Onsite Audit Phase**

**Kick-off Meeting:** The audit process began with communication between the auditor and Warden Rayford by telephone on April 27, 2018. During this conversation the auditor explained the audit process, discussed some of the documentation that will be reviewed prior to arrival and during onsite visit, and logistics. Other topics discussed included the requirement of unimpeded access to facility, documents, and staff; auditor's role in working with the facility to achieve compliance and how the corrective action process works; and auditor's intentions to conduct practice-based assessment through observation of a variety of operations and interactions. A tentative agenda for the onsite phase and a list of specific information needed upon arrival and prior to was provided to warden by e-mail correspondence on May 30, 2018. Also included in this correspondence was the Pre-Audit Questionnaire, PREA Audits Process Map, Prisons & Jails Checklist of Documentation and corresponding instructions for each. Additional communication was welcomed and encouraged.

**Notice of PREA Audit:** The Audit Posting was sent to TDCJ PREA Management Office by the American Correctional Association (ACA) who then forwarded to Thomas R. Havins. ACA Notices did not provide the auditor information, instead indicated American Correctional Association as the contact for correspondence. To ensure the auditor information was included on the Audit Notification, this auditor sent additional Audit Notifications to be posted that included the name and mailing address of this auditor and a confidentiality statement for any correspondence received. The confidentiality clause states that all correspondence and disclosures between the auditor will not be disclosed unless required by law. These exceptions include: 1) if the person is an immediate danger to her/himself or others; 2) allegations of suspected child abuse, neglect or maltreatment; 3) legal proceedings where information has been subpoenaed. These notices were provided in both English and Spanish. The facility acknowledged receipt of both sets of Audit Notices and indicated postings were placed throughout the facility as per the instructions provided by auditor. ACA PREA Notices were posted on May 29, 2018 and Auditor's Notices were posted on June 26, 2018 as indicated on the notices and as attested by the warden. No letters were received by the auditor prior to the onsite visit, nor during the post audit phase. Posting of notices was verified by the auditor

through personal observation and during interviews with staff and inmates. Auditor observed notices posted in both English and Spanish in all housing units and in all common areas used by inmates and staff, to include entry points and visitation area. ACA PREA Notices were legibly printed on 8½" x 11" orange paper and auditor's PREA Notices were legibly printed on 8 ½" x 11" canary yellow paper – both notices in a font size that was easy to read. Auditor verified during interview with mailroom supervisor that correspondence with auditor will be treated as special correspondence which means that the envelope may be sealed in the presence of the mailroom staff by the inmate prior to mailing.

**Pre-Audit Questionnaire and Documentation Review:** The Pre-Audit Questionnaire was received on a secure thumb drive approximately 4-weeks prior to the on-site audit at which time a thorough review of the report and the documentation provided was conducted. A sampling of documents was provided for all questions on the PAQ where required. Policies related to the questions in the PAQ were scanned and highlighted to indicate the specific applicable section to match the corresponding standards. Other supporting documents included Physical Plant Schematic, Unit Population Reports, and the TDCJ Safe Prisons/PREA Plan. As this auditor reviewed each file containing documents, notes were recorded as they related to corresponding standards and a log maintained for additional information required. On May 30 and again on June 25 a request was sent to the warden for additional information and documentation that should be prepared and available upon auditor's arrival at facility. Documents requested, provided by facility, and subsequently reviewed by auditor includes these listed below but may not be exhaustive:

- Complete inmate roster, by name (alphabetized)
- Current inmate roster printed by housing unit
- Lists of incoming chains (new arrival inmates) for last 90 days
- Lists of targeted populations
  - Youthful inmates (none available)
  - Inmates with disabilities (i.e., physical disabilities, blind, deaf, hard of hearing, cognitive disabilities)
  - Inmates who are Limited English Proficient (LEP)
  - Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Inmates (identified by category)
  - Inmates in segregated housing
  - Inmates who reported sexual abuse
  - Inmates who reported sexual victimization during risk screening
- Complete staff roster (indicating title, shift, and post assignment)
- List of all staff, by position title/responsibility
- Roster(s) of security staff for all shifts and specialized post assignments
- Specialized staff which includes at a minimum:
  - Agency contract administrator
  - Intermediate- or higher-level facility staff responsible for conducting and documenting unannounced rounds to identify and deter staff sexual abuse and sexual harassment
  - Health Services Administrator/Director

- Mental health Director/Counselor(s)
- Human Resources manager
- Volunteers who have contact with inmates
- Contractors who have contact with inmates
- Facility investigators and OIG investigators who conduct sexual abuse/harassment investigations
- Staff who perform screening for risk of victimization and abusiveness
- Staff who supervise inmates in segregated housing
- Staff on the sexual abuse incident review team
- Designated staff member charged with monitoring retaliation
- Training officer
- Intake staff
- List of Windham School District staff and position
- List of Texas Tech University Health staff and positions
- List of MTC staff and positions
- Training records, rosters, and certificates for employees, contractors, and volunteers
- Language assistant services and list of qualified interpreters for Unit
- Coordinated Response Plan specifically for the Unit
- Warden's annual review of deployment of video monitoring systems (where applicable)
- Facility Staffing Plan
- Incidents of cross-gender strip searches
- List of designated Offender Victim Representatives for facility
- Sexual abuse, sexual harassment, sexual misconduct, voyeurism, etc. incidents reported for investigation for the prior 12 months
- List of grievances filed in the prior 12 months
- Grievances in prior 12 months with all sexual misconduct codes
- Name and contact information for outside victim advocates for emotional support services
- Safe Prisons/PREA Plan
- Offender Handbook
- Protective Safekeeping Plan
- Classification Plan
- Policies and administrative directives (various)
- Diagram of physical plant

Allegations: There was one (1) sexual abuse allegation and zero (0) sexual harassment allegations reported during the prior 12 months. The one (1) allegation reported was initiated by the alleged victim in the form of a Grievance and was investigated according to the TDCJ investigation protocols and processed according to the agency Grievance protocols. The allegation involved staff on inmate voyeurism and was deemed Unfounded after a thorough administrative investigation by a trained facility investigator. The investigation revealed no criminal actions and was closed based on the investigation results with no further action required. This alleged victim was released from TDCJ custody earlier this year and not available for interview. The alleged perpetrator is still employed and was interviewed by auditor during the onsite visit.

External Contacts and Research: Auditor conducted research of the TDCJ website ([https://www.tdcj.state.tx.us/divisions/arm/rev\\_stan\\_prea.html](https://www.tdcj.state.tx.us/divisions/arm/rev_stan_prea.html)) prior to the on-site visit. The auditor reviewed general website information, PREA annual reports, and the facility's last PREA final report which was conducted on May 14-16, 2015. The website provides general information on PREA, final audit reports for agency, links to the National PRC website, and links to the TDCJ Safe Prisons/PREA Management Office and TBCJ PREA Ombudsman page. An internet search was conducted and found no relevant information pertaining to Thomas R. Havins related to recent litigation, DOJ involvement, federal consent decrees, or local oversight. One news article published in June 2018 was found but was unrelated to sexual abuse or sexual harassment. Interviews with Warden and Safe Prisons/PREA Manager confirmed that no federal consent decrees or oversight exists.

The Office of Inspector General (hereinafter referred to as OIG) is designated as the primary investigative organization within the TDCJ and is considered an independent investigative body separate from the TDCJ and reporting directly to the Texas Board of Criminal Justice. The OIG has primary jurisdiction for the investigation of criminal offenses occurring on TDCJ property. BP-01.07 (rev.6) establishes the mission of the OIG to serve as an independent office to conduct investigations in accordance with professional standards that relate to the fields of investigation in a government environment and certain regulations and policies of the Texas Board of Criminal Justice and Texas Department of Criminal Justice, laws of State of Texas, and the Constitution and laws of the United States, as they are applicable. Auditor interviewed OIG Investigator George Robinson, a 28-year veteran investigator who confirmed there have been no sexual abuse investigations conducted by their office for the audit period, April 1, 2015 to present.

Auditor made an inquiry to Just Detention International (JDI), Family in Crisis, Inc., The ARK Domestic Violence & Sexual Assault Shelter (ARK), and Texas Association Against Sexual Assault (TAASA) about any correspondence they may have received during the past 12 months from offenders at Thomas R. Havins or from anyone about concerns at the facility. JDI, ARK, and Family in Crisis, Inc. all responded that their database indicates no correspondence has been received; TAASA indicated receiving correspondence from one (1) inmate housed at Thomas R. Havins in February 2017, but was not related to any incident occurring at Thomas R. Havins.

Forensic examinations are conducted at the nearest hospital emergency room that can accommodate the emergency at time of an incident and no contract or MOU exists between Thomas R. Havins and a given hospital for these services. Brownwood Regional Medical Center located at 1501 Burnet Drive, Brownwood, Texas is the nearest hospital that would receive an offender in the event a forensic exam is necessary. Auditor contacted the provider and confirmed they provide services and have SANE/SAFE staff at the hospital who are responsible for conducting forensic medical examinations for inmates at Thomas R. Havins and that no forensic examination has been conducted within the past 12 months. An internet search by auditor confirmed Texas State Law (SB-1191) requires a health care facility with an emergency room have specialized staff trained to complete forensic examinations.

An internet search revealed Texas has two relevant mandatory reporting laws applicable to TDCJ: Abuse of Children and Abuse of Elderly/Disabled. Since Thomas R. Havins has no offenders under the age of 18, the Abuse of Children provision is not applicable for this facility. Elder abuse involves any abuse, to include sexual abuse, of a person age 65 or older. A Disabled person means anyone with a mental, physical, intellectual or developmental disability that substantially impairs the person's ability to provide adequately for his/her own care and is 18 years of age or older.

### **Onsite Audit Phase**

This auditor utilized Instructions for the PREA Audit Tour, Interview Protocols, Process Map, Auditor Compliance Tool, and the PREA Auditor Handbook obtained from the National PREA Resource Center for guidance during the audit process.

Entrance Briefing: Auditor participated in a formal facility briefing on Monday, July 9, 2018 with Warden Rayford, department heads and members of Thomas R. Havins staff, representatives from TDCJ headquarters, and the ACA Visiting Committee Members prior to the site inspection. Before the site inspection, a schedule of the week's activities was discussed. It was established that information obtained by the PREA auditor during the ACA portion of the visit may be used in making determinations for PREA compliance. In addition, the warden agreed to have auditor conduct various interviews as time permitted, after ACA audit activities concluded on each day. At the end of each day a briefing was held with warden to discuss the onsite visit status and planning for the next day's activities.

Site Inspection/Facility Tour: Thomas R. Havins is a 596-bed male facility with 562 inmates assigned on day one of the audit. The average daily population for the last 12 months is 571. Auditor participated in a full site inspection as part of the American Correctional Association (ACA) Accreditation Audit on Monday, July 9. The comprehensive facility inspection began with a walk through the Administration Building followed by a tour through Education Building, Laundry, Food Service, Medical, Line Building, Special Management Area, 3 Building, 2 Building, 1 Building, Commissary, Supply, Boiler Room, Maintenance Department, Paint Shed, Back Gate, and Groundskeeper Shed. On Tuesday, July 10 this auditor inspected the Armory and Central Control and re-visited the Special Management Area. Second Shift 2 Card Shift Turnout was attended, and briefing was observed followed by another visit to the Education Building where volunteer interviews were conducted. Auditor revisited 1 Building, 2 Building, 3 Building, Medical, Education, and Line Building again on Friday, July 13 to conduct interviews and observe interactions with staff from a different Card on post.

Site Review Observations: PREA Posters in both English and Spanish were placed throughout the facility and posted on bulletin boards in living units. Area logs were reviewed at various posts to observe that rounds are being conducted and documented. Formal and informal interviews were conducted throughout the inspection and tour over the course of the week and will be discussed below in interviews section. All areas of the facility were well supervised by a combination of security and non-security staff. Visual observations of all areas included line-of-sight by staff, cross-gender viewing potential, searches, general communication between staff and inmates, between staff and staff, and between inmates and inmates. This auditor

observed warden and other ranking staff communicating with offenders and staff throughout the week during the site visit. All communications observed were respectful and professional. All movement (in buildings and on walk) was orderly and structured. Inmate behavior was respectful. Auditor found the facility to be exceptional with regard to cleanliness, sanitation, and general orderliness of every area of the facility, to include out of the way areas, storage closets, and boiler room. Auditor observed inmates orderly but relaxed, and engaged in programming, work, or recreation activities. Morale among employees appeared to be high. Security practices were strict, yet there was no tension sensed by auditor during any of the areas visited throughout the onsite.

Food service areas were sectioned off into controlled areas by functions and lists of inmates authorized to be in each area were posted at the access gates. Commissary occupies a small area located off the main walk and was well organized and neat. Laundry services were operating during the inspection. Inmate workers were present in the supply side and in the laundry side. The area was supervised by two (2) corrections officers. This area was clean and orderly and inmate interactions were responsive and respectful. Warehouse was well organized, clean and orderly. All areas allow inmate workers as assigned by Classification Committee and are properly trained to work their assigned areas. Adequate mirrors were observed to have been installed in all these areas to eliminate any blind spots. No line-of-sight concerns were observed. Privacy barriers have been installed in the dining room, detail turnout area, and recreation yard to eliminate cross-gender viewing during strip searches.

1, 2, 3 Buildings are identical in design and consist of three (3) dorm housing areas identified as A, B, C Dorms; a center Picket identified as officers' station; a staff breakroom; ten (10) offices, a staff restroom, inmate barbershop; and a front porch. Each dorm contains a large dayroom that is used for programming and recreation and equipped with open shower and restroom area. Each dorm can house up to 64 inmates for a total of 192 per building. To eliminate cross-gender viewing, privacy screens have been installed in the showers and by each toilet. At various times during the site visit, this auditor observed inmate group activities held in the programming areas and on the front porch, one-on-one sessions with case managers, and inmate workers performing a variety of duties in the area. No line-of-sight concerns were observed. Office doors were open while occupied and local policy dictates they must remain so and be closed and secured when not in use.

While touring the facility random informal interviews (approximately 12 staff and 12 offenders), were conducted which were not counted toward formal interview requirements. Questions posed by auditor to staff and offenders were related to training received, awareness of responsibilities, procedures and responsibilities for reporting sexual abuse, sexual harassment, and/or retaliation. Everyone interviewed acknowledged receiving training related to their responsibilities and awareness of the zero-tolerance policy.

Processes Observations: New arrivals (called incoming chains) are generally received on Wednesdays and Fridays. On Wednesday, July 11 a visit was made to the Special Management Area (SMA) to observe the incoming chain procedures. Nine (9) newly assigned offenders arrived Thomas R. Havins on this date. Each inmate was provided a handout that included information on Suicide Awareness, Heat & Hydration Warnings, and Zero Tolerance

Policy. Strip searches are conducted by male officers and in a sectioned off area that provides separation from cross-gender viewing. Interview with staff, supervisors, and Warden indicates practice of Thomas R. Havins is for transgender and intersex offenders to be discretely placed at the end of the search line. This is to ensure the other searches are completed and the offenders are removed from the area prior to conducting strip search of the transgender/intersex inmate. After property is processed and identification is verified each inmate is then taken individually into a private office with Safe Prisons/PREA Manager Officer Burt for the Safe Prisons Interview. This auditor observed the Safe Prisons interview conducted by Unit Safe Prisons/PREA Manager Burt for one (1) of the nine (9) new arrival inmates, which is inclusive of the Zero Tolerance notification, how and to whom to make a report of sexual abuse/harassment, and risk screening. The inmate was offered a PREA Information Brochure. After this interview the auditor observed the Classification Committee Hearing for this same inmate at which time another reminder was given about the Zero Tolerance Policy. After classification the inmates were collectively shown the Safe Prisons video prior to moving to their housing assignment. The risk screening instruments are copied with the original going to the Classification Committee Chair and placed in the inmate's file and a copy retained in the Unit Safe Prisons/PREA Manager's office in a locked filing cabinet. Classification Committee members are the only employees with access to information collected on the risk screening instrument.

Grievance Boxes are placed throughout the facility, in easily accessible locations for inmates to access. Grievances are collected daily. Grievance training is conducted during orientation and found in handbook. Auditor observed cross-gender announcements being made every time a housing unit was entered, and any area where inmates may be in various stages of undress was entered.

PREA posters and information for access to the PREA Ombudsman office is well posted throughout the facility. TDCJ does not provide a direct dial PREA hotline. 1, 2, 3 Buildings and Special Management Area bulletin boards contained contact information posted for Family in Crisis Centers, an outside advocacy group with an MOU with TDCJ Region 6. These notices are posted in both English and Spanish. In addition, notice explains a complete list of all Texas Rape Crisis Center is available in the Law Library and Safe Prisons/PREA Office. An inmate may write the outside advocate, or a telephone call will be facilitated with assistance of the local Offender Victim Representative.

A list of qualified Spanish interpreters is maintained at Thomas R. Havins and currently lists seven (7) staff. For interpretation services for languages other than Spanish, a contract is maintained by TDCJ with Language Line Solutions and Pacific Interpreters. This auditor placed calls to both service providers and verified that the accounts are active and available for interpreting multiple languages. William Hancock is the Unit Language Coordinator and facilitates communications when a need is identified. No outside interpreter service has been required in the past 12 months. Central Control contains emergency contact for Mr. Hancock in the event service is required after hours.

## **Interviews**

**Staff/Volunteer/Contractor Interviews:** Auditor conducted interviews throughout the week and based on the availability of certain staff due to scheduling. Interviews were conducted in different locations throughout the facility, but auditor was provided access to either a private office, private classroom, or private conference room for each interview. Thomas R. Havins reports 192 employees assigned to Unit: 146 TDCJ (19 Non-Security and 127 Security), 7 Windham School District, 29 Management & Training Corporation (MTC), and 10 (6 full-time/4 part-time) Texas Tech University Health Sciences Center. Windham, MTC, and Texas Tech employees work for the contracted entity but were interviewed as employees for purposes of this audit due to the nature of their duties and their contact with offenders. These full-time contract employees receive the same training as TDCJ employees. The TDCJ employee body is comprised of a high number of service years, average employee age is approximately 48 and gender split is approximately 62% male and 38% female. There are no other contractors who have contact with offenders at Thomas R. Havins. Of the 23,288 TDCJ approved volunteers, 51 are assigned to Thomas R. Havins. All persons interviewed were selected by this auditor based on a random selection from the list provided. PREA Resource Center interview protocols were used as guides for the interviews.

Staff, volunteer, and contractor interviews were based on the requirements from auditor handbook pages 54-57. Per auditor request, the facility provided printed list of all employees and separate security shift rosters. A computer printout of Windham School District, MTC, and Texas Tech staff rosters plus a list of approved volunteers were also provided. A facility Welcome Book was provided to auditor that identified key personnel with their specialized duty assignments. Interview selections were made based on auditor's analysis of all combined lists. Selections were made for specialized interviews based on staff identified in the Welcome Book and as determined from interviews with warden and auditor's observations during facility inspection. Security employees were selected from both shifts and both rotations and from line and supervisory staff ensuring a balanced perspective. Race, gender, and age was also considered when selecting random security staff for interviews.

A total of 47 formal staff interviews were conducted (20 random and 24 specialized) and are broken down in the table below. Note that most of the specialized staff were asked random staff questions in addition to the specialized area questions for which they have duties. Additionally, some staff are responsible for multiple roles within the specialized areas and were interviewed for those responsibilities, but each person interviewed is only counted once for reporting purposes. Auditor used questions from protocols as a base-line for interviews and probed for additional information as necessary to obtain a comprehensive view of Thomas R. Havins operations and culture. Employees interviewed were aware of the zero-tolerance policy and were well versed in their First Responder responsibilities and the coordinated response plan. Specialized interviews indicated well trained staff in their areas of responsibility. Officers and supervisors understand that visibility and making frequent, irregular rounds is important for preventing sexual abuse. Employees acknowledged ways to avoid inappropriate relationships with inmates and were able to discuss possible signs of abuse. Interviews conveyed that inmate's perception of safety is taken seriously by staff. Any concerns for safety reported to

staff is immediately passed along to shift supervisors and a Protection Investigation follows. Everyone interviewed confirmed they received PREA training upon hire and at additional intervals, at least monthly during turn-out and annually during in-service. Auditor concludes staff promote a sexually safe environment and Havins has a well-established Zero Tolerance culture.

Thomas R. Havins does not house youthful offender, therefore no staff were interviewed for the categories of: line staff who supervise youthful inmates, education staff who work with youthful inmates, and program staff who work with youthful inmates. Also, there are no SAFE or SANE staff, services are provided by the local emergency room. Thomas R. Havins is not a designated mental health services facility, therefore no mental health practitioners are staffed at this facility; the Health Services Administrator provided information related to mental health services during her interview.

Auditor conducted interviews with the following Leadership staff that are not counted in totals in the table below: Lorie Davis, Director, Correctional Institutions Division, Agency Head (Designee) and PREA Coordinator; Phonso Rayford, Warden; Lorena Steinbecker, Safe Prisons/PREA Manager; Leslie Busemi, Safe Prisons/PREA Regional Coordinator, Region 6; Officer Brady Burt, Unit Safe Prisons/PREA Manager.

Category of Staff	Number of Interviews Conducted
Random Staff (Total)	20
Specialized Staff* (Total):	24
Total Staff Interviewed	47
Breakdown of Specialized Staff Interviews:	
▪ Agency contract administrator (reviewed from prior interview by this auditor)	1
▪ Intermediate- or higher-level facility staff responsible for conducting and documenting unannounced rounds to identify and deter staff sexual abuse and sexual harassment	4
▪ Line staff who supervise youthful inmates - N/A	0
▪ Education staff who work with youthful inmates, if any – N/A	0
▪ Program staff who work with youthful inmates, if any – N/A	0
▪ Medical staff	2
▪ Mental health staff (services not available at this unit)	0
▪ Non-Medical staff involved in cross-gender strip or visual searches - N/A	0
▪ Administrative (human resources) staff	1
▪ SAFE and/or SANE staff - N/A	0
▪ Volunteers who have contact with inmates	3
▪ Contractors who have contact with inmates	4
▪ Investigative staff – agency level	1
▪ Investigative staff – facility level	6
▪ Staff who perform screening for risk of victimization and abusiveness	1
▪ Staff who supervise inmates in segregated housing	2
▪ Staff on the sexual abuse incident review team	2
▪ Designated staff member charged with monitoring retaliation	1
▪ First responders, security staff	3
▪ First responders, non-security staff	10
▪ Intake staff	2
Total Specialized Staff Interviews*	43

**Inmate Interviews:** The number of interviews required for offenders was calculated based on the auditor handbook formulas. This auditor requested a current roster of all inmates and

individual lists of inmates for specific categories to be printed and available on day one of onsite. A current Master Assignment Roster by name and an individual Row Inmate Locator Report for each Housing Unit was provided. The roster reflected a total of 562 offenders assigned on the first day of audit. A computer random number generator was used to randomly select two offenders from each of the nine (9) dorms. Additional inmates were selected based on work assignments and auditor observations during site inspection for a total of 41 randomly selected inmates. Targeted populations were selected using the same random selection method, but from the targeted lists provided by the facility. Several targeted inmate interview categories were unable to be satisfied as there were no inmates at the facility meeting the criteria. A review of agency policy, interviews with warden, agency's PREA Coordinator, and Safe Prisons/PREA Manager and a review of the housing indicator sheet confirms that once an inmate completes the initial intake process, an appropriate housing assignment will be made based on the *Health Services Liaison Facility Types List* and to ensure that the receiving facility is equipped to meet the needs of each individual offender. Inmates with disabilities requiring services other than LEP will be housed at facilities with those services. Inmates with speech, hearing, visual, intellectual, or psychiatric disabilities are not housed at Thomas R. Havins. This constitutes where there were limited numbers of inmates with disabilities to select for interviews. There were no transgender or intersex inmates, inmates segregated for high risk of sexual victimization, or inmates who reported a sexual abuse housed at the facility during the on-site visit.

Thomas R. Havins houses no youthful offenders, nor any inmate with a serious medical or mental health condition as the required services cannot be provided. At the time of the audit, there were no transgender or intersex inmates housed at facility, however, the unit did house one (1) transgender within the past 12 months which allowed this auditor opportunity to interview staff within context of managing this targeted population. A zero (0) is placed in the number of inmates available column for targeted populations that were not represented at the facility during the audit. The table below provides a breakdown of inmate interviews. One of the designated interpreters was used during the interview with the inmate with limited English proficiency (LEP).

Interviews were conducted using the PREA Resource Center interview protocols for offenders. Auditor used questions from protocols as a base-line for interviews and probed for additional information as necessary to obtain a comprehensive view of Thomas R. Havins operations and culture. All inmates interviewed were selected by this auditor. Interviews were conducted one at a time, and in a private setting. An empty classroom in education was designated for conducting inmate interviews. All inmates were advised by this auditor prior to the interview that the information discussed would be kept private and confidential, with the exception of any disclosure that falls within the auditor's requirement to report. All inmates agreed to participate with no refusals.

Of the 41 inmates interviewed, all but one acknowledged receiving PREA education by video or through Peer Education at either their intake facility or at Thomas R. Havins. In addition, each inmate stated he received a PREA handout upon arrival and went through the risk screening in a private setting with Officer Burt. All inmates were able to explain the zero-tolerance policy and how to make a report. All interviewed offenders expressed receiving

information about the zero-tolerance policy and how to make a report during their incoming chain interview. Offenders were able to explain where they can access more information about PREA (handbook, posters) and the different methods that can be used. More than half (approximately 30) were aware of outside support services, although most said they were not familiar because they haven't needed the service. All offenders are aware they can write the PREA Ombudsman Office or that they can tell a family/friend outside who can contact the office by phone or email. All inmates but two stated they would feel comfortable making a report of sexual abuse or sexual harassment to any staff member and believed that the allegation would be taken seriously and acted upon promptly. Inmates conveyed an overwhelming belief that any sexual behavior will not be tolerated. All inmates interviewed but one expressed feeling safer at this institution than any other they have been and that the culture is different from any other due to the therapeutic community environment. Inmates expressed a strong focus on preparing for release and the need to display socially acceptable behaviors. Auditor concludes inmate culture is one of Zero Tolerance for sexual abuse and harassment at this facility.

Category of Inmates	Number of Interviews Required	Number of Inmates Available	Number of Interviews Conducted
Random Inmates (Total)	15		26
Targeted Inmates* (Total)	15		15
Inmates Interviewed	30		41
Breakdown of Targeted Inmate Interviews:			
Youthful Inmates	3	0	0
Inmates with a Physical disability, Blind, Deaf, or Hard of Hearing	1	1	1
Inmates who are LEP	1	1	1
Inmates with a Cognitive Disability	1	0	0
Inmates who identify as Lesbian, Gay, or Bisexual	1	8	8
Inmates who identify as Transgender or Intersex	2	0	0
Inmates in Segregated Housing for High Risk of Sexual Victimization	1	0	0
Inmates who reported sexual abuse	3	0	0
Inmates who reported sexual victimization during risk screening	2	7	5
Total Targeted Inmate Interviews	15	17	15

### **Documentation Sampling and Review:**

Auditor reviewed a large volume of documentation during the pre-onsite visit, during the onsite visit, and during the post-onsite visit during report preparation. This list of documentation reviewed is not exhaustive and may not reflect every document reviewed but is included to illustrate the types of documents that were available: incoming chain rosters, offender files/classification reviews/training records, offender training rosters, OPI reports, Retaliation Monitoring Forms, Incident Review Team Minutes, Cross-gender Search Log, Grievance Report, Turn-out Rosters, employee and contractor personnel documents, specific training documentation from employee and contractor files, employee and contractor training rosters, medical/mental health referrals, volunteer training records, PREA Training Acknowledgement Forms/statement verifications of prior prohibited activity, Grievances, Risk Screening Instruments, Employee/Visitor Logs, Incident Report/Case File. Note that all documents reviewed were selected by the auditor and were based on either dates or random selection of

names from lists provided. The auditor handbook recommends that facilities with 20 or fewer sexual abuse and sexual harassment allegations in the past 12 months, auditors should review at least 10 records that document the facility's response, including but not limited to inmate grievances, risk screening records (including re-screening) housing and programming information, first response records, investigative referrals (if appropriate), investigative files, pertinent medical and mental health records, retaliation monitoring records, sexual abuse incident review records, and records of notification to inmates. As per documented records provided by the facility and the Safe Prisons/PREA Management Office, and further supported through interviews with headquarters and prison staff, interviews with prison investigators and Office of Inspector General Thomas R. Havins has had one sexual abuse allegation investigation between the period of April 1, 2015 through July 11, 2018. The one investigative file was reviewed by this auditor and all related documents which are discussed in more detail throughout this report, for 100% review of these documents. A thorough review of all other related documents as required by the Auditor's Handbook was conducted by this auditor containing well over the required sampling size of ten. The auditor's review of these random selected, both current and historical, documents provided no indication of other potential sexual abuse or sexual harassment activity.

**Personnel and Training Files:** Thomas R. Havins reports 192 employees assigned to Unit: 148 TDCJ (28 Non-Security and 120 Security), 7 Windham School District, 29 Management & Training Corporation (MTC), and 10 (6 full-time/4 part-time) Texas Tech University Health Sciences Center. Windham, MTC, and Texas Tech. This auditor reviewed 34 personnel records that included eight (8) individuals hired within the past 12 months, three (3) recent internal promotions, and three (3) volunteers. The remaining 20 were randomly selected by this auditor from the employee lists provided. The sample included a variety of job functions and post assignments, including both supervisory and line staff. Additionally, this auditor reviewed training records for the eleven facility investigators and the specialized training roster for the 136 OIG investigators.

**Inmate Files:** On the first day of the onsite phase of the audit, the inmate population was 562. Eight inmate records were sampled across all housing units in the facility; additionally, the auditor reviewed the records for twelve inmates that were interviewed.

**Grievances:** The grievance database was reviewed, and this auditor requested a printed list of all grievances filed within the past 12 months using the 12 designated Sexual Abuse Codes. There was only (1) qualifying grievance which was reviewed by this auditor.

**Investigative Reports:** There was one sexual abuse incident report filed within the past 12 months and it was related to the grievance mentioned above. This investigative file was reviewed to include all accompanying documents, incident review, and three (3) staff retaliation monitoring forms; six (6) inmate retaliation monitoring forms. In addition, this auditor randomly selected two (2) Offender Protection Investigations (OPI) for review. These OPIs were non-sexual abuse related.

**Other Documents:** This auditor reviewed a minimum of 34 turnout rosters selected by a random choice of dates from a calendar over the past 6 months; at least 71 visitor log entries

at various locations including varied hours and days of the week; eleven (11) rosters of PREA awareness training for 152 new arrivals selected from new arrival chain reports randomly selected based on dates of arrival.

**Onsite Visit Closeout:** Upon conclusion of the onsite visit a close out meeting was conducted with the warden and key staff. Auditor thanked the staff for a positive visit and for the work they are doing at Thomas R. Havins. Staff was commended for the sanitation, discipline and orderliness of the facility, and the cooperative attitude shown by all during the onsite visit. All information requested and access to areas, inmates, and staff was promptly and efficiently handled. They were advised that as of the onsite visit closeout this auditor anticipates at a minimum the facility will meet all standards based on the interviews, site visit, and document review. However, they were advised that the audit does not conclude until the final report is issued, and that additional documentation or information may be required when this auditor begins putting the report together. Auditor was assured by warden any additional items needed would be made available promptly.

**Post Site Visit Activity:** As auditor began analysis of all information collected after the site visit in preparation to write the report some clarification was necessary and additional documentation was requested. Auditor requested additional information from warden by email on 07/22/18, 07/30/18, 08/02/18, 08/09/18. All requests were responded to thoroughly and promptly and requested information/documentation was provided. The 2018 Staffing Plan Review was provided on 08/07/18.

## Facility Characteristics

The Thomas R. Havins opened in July 1994, is located at 500 FM 45 East in Brownwood, Brown County, Texas on 297 acres, and is a part of the Texas Department of Criminal Justice state system. This facility houses up to 596 offenders from various counties in Texas. Thomas R. Havins is an In-Prison Therapeutic Community (IPTC) intended to rehabilitate offenders classified at risk for substance abuse to become a productive and successful part of society through their treatment while assigned to the facility. IPTC is managed by Management and Training Corporation (MTC) and the contract became effective in September 2017. Gateway Foundation had the prior contract.

**Physical Plant Description/Security:** There are seven (7) buildings located within a single fence compound topped with razor wire. The site plan consists of a central walk surrounded by unit buildings. A mobile perimeter patrol officer provides 24-hour armed security. There are two perimeter entrances into the unit. One entrance is located within the Administration Building, on the north side of the compound, which serves as the primary means of ingress, and the second at the Back Gate, on the east side of the compound, where transports and deliveries arrive and depart. High mast vapor lights surrounding the outer perimeter and within the unit provide exterior lighting for the facility. Thomas R. Havins is not equipped with video monitoring or other electronic monitoring. Thomas R. Havins security operations runs two (day and night) twelve-hour shifts on two cards. In addition, administrative security functions are assigned to one of three overlapping shifts Monday-Friday/Monday-Thursday/Tuesday-Friday.

Population: Thomas R. Havins is designed to house custody levels ranging from G1 and G2 offenders to Transient and IPTC. Offenders are over 18 years of age, with an average age of 40. Thomas R. Havins houses male offenders and the population on first day of audit was 566 with a racial demographics of 36% white, 36% Hispanic, 25% black. The average length of stay is seven months. Offenders are assigned to the unit from other TDCJ facilities. The average daily population for the last twelve months has been 571. Population on day one of the onsite visit was 566. Upon completion of the treatment program, the offenders are released to a Transitional Treatment Center (Halfway House) or to their homes as part of their parole. Buildings 1, 2, and 3 are each composed of three dormitory style housing areas (A, B, and C Dorms). Each dorm can house up to 64 offenders for a maximum capacity of 192 per building. The Special Management Area (SMA) is used for Treatment Separation and has four holding dorms, each housing five offenders and eight single separation cells.

Thomas R. Havins employs 192 staff including 148 fulltime employees (29 Non-Security and 120 Security), 7 Windham School District employees, 29 Management & Training Corporation (MTC) employees, and 10 (6 full-time/4 part-time) Texas Tech University Health Sciences Center employees.

Religious and volunteer services are planned, directed, and coordinated by one full-time chaplain. The chaplain is nearing his retirement and was not present during the audit. Two chaplains at nearby facilities are supporting services until a new chaplain can be hired. One offender clerk is assigned to assist the chaplain and there are 51 approved and active volunteers. Major faiths include Catholic, Muslim, Protestant, Islamic, and Pagan Worship. There is one faith-based dormitory.

Health Services: The medical department at the Thomas R. Havins Unit provides comprehensive outpatient health care services including routine and emergent medical, chronic, dental, and mental health care. The medical department is managed by a registered nurse (RN) who also serves as the Health Services Administrator (HSA). In addition to the HSA, there is another full-time RN, who is the Infection Control Coordinator, and four Licensed Vocational Nurses (LVN). These nurses are employed by the Hendrick Medical Center in Abilene, via a subcontract with Texas Tech University Health Sciences Center (TTHSC). Texas Tech is contracted by the Texas Department of Criminal Justice to provide medical services to Thomas R. Havins. A part-time physician, physician assistant, and two dentists are employed by Texas Tech to provide services on-site. The physician or physician assistant is on-site Mondays and Fridays. On-call provider coverage is provided through Texas Tech.

The clinic is staffed seven days a week from 7:30 a.m. – 4:00 p.m. The medical unit consists of a small waiting area with benches that can seat about twenty offenders and a bathroom. Like the rest of the institution, the health care unit was very clean, secure, and well-organized. Also, located in this area is an emergency/triage room, dental suite with two dental chairs, two examination rooms, nurses' station, five offices, room for blood draws, medical records, supply room, utility room, telemedicine area, medication room with pill window, staff break room, bathrooms, and storage area. No line-of-site concerns were observed in this area and inmates are under constant supervision when present.

Mental health services are provided by a Licensed Professional Counselor who is employed by Texas Tech. This service is via telemedicine every Thursday. Offenders with diagnosed mental health issues are not assigned to this facility. If mental health services are needed, offenders are transferred to an appropriate facility that can meet their needs. If there is a mental health emergency, TDCJ's Montford/West Texas Hospital in Lubbock is called.

Recreation: The property officer is assigned to oversee the recreation program assisted by the Safe Prisons and STG officer when needed. Offenders have access to exercise opportunities outdoors when weather permits and is scheduled between 7:30 a.m. and 10:30 p.m. around the offenders' programming.

Contract Agencies: The medical services are provided through a contractual agreement with the Texas Tech University Health Sciences Center (TTHSC). The Windham School District (WSD) provides educational opportunities at all levels for the offender population. The offenders are assigned treatment programs, education goals and jobs according to their skills, program needs, substance abuse screening and assessment, re-entry planning, and the Windham School District CHANGES-Pre-release program.

## Summary of Audit Findings

The PREA Audit of Thomas R. Havins found 45 standards compliant with 7 of those exceeding the requirements of the standard.

**Number of Standards Exceeded:** 7

115.11, 115.15, 115.17, 115.31, 115.32, 115.41, 115.86

**Number of Standards Met:** 38

115.12, 115.13, 115.14, 115.16, 115.18, 115.21, 115.22, 115.33, 115.34, 115.35, 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, 115.87, 115.88, 115.89, 115.401, 115.403.

**Number of Standards Not Met:** 0

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## Summary of Corrective Action (if any)

As of the date of auditor's site visit, the most recent annual review titled *Annual Staffing Plan/Turnout Roster Review – 2017*, was conducted and approved on July 27, 2017. While this review is within the audit period, the review indicated several required elements missing. This was communicated to the warden and Safe Prisons/PREA Manager. Auditor was advised the

review is scheduled and once completed documentation will be provided post on-site. An updated document was provided to this auditor on 08/07/18 providing evidence of an annual staffing plan review conducted on 07/26/18. This review indicates all elements of standard are met by this document. This satisfies all outstanding requirements for compliance with this standard. More information is included in the narrative for standard 115.13.

## PREVENTION PLANNING

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

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

**115.11(a):** TDCJ has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment (Executive Directive ED-03.03) and the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment is outlined by the *Safe Prisons/PREA Plan* Publication March 2018. The policy states the TDCJ shall be vigilant in establishing a safe environment for staff and offenders at all secure correctional facilities. Every attempt shall be made to protect offenders who are at increased risk of harm by others, to take a proactive approach to prevent, detect, and respond to incidents of sexual abuse and sexual harassment of offenders, to reduce incidents of extortion, and to address the needs of offenders who have been victimized. Violators shall be subject to criminal charges and civil liability in state or federal court, as well as Texas Department of Criminal Justice disciplinary action. PD-29 (rev.5) directs reporting for Sexual Misconduct with Offenders. The policy requires a zero tolerance for sexual misconduct, sexual abuse, and sexual harassment of offenders; and prohibits employees from subjecting another employee, offender, or other individual to harassment or retaliation for reporting or cooperating with an investigation of alleged sexual misconduct with offenders. Immediate reporting of any above known behavior or action is required by all written related directives reviewed by auditor.

**115.11(b):** The agency has a designated agency-wide PREA Coordinator, established by Executive Directive ED-03.03 (rev.3), dated March 31, 2015. This directive establishes the Director of the Correctional Institutions Division (CID) as the PREA coordinator for the agency who holds the responsibility for establishing the *Safe Prisons/PREA Plan*. The CID Director reports directly to the Executive Director/Deputy Executive Director and is an upper level position in the agency and possesses sufficient authority to develop and implement policy. The *Safe Prisons/PREA Plan* outlines measures to implement the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment and is created to ensure every effort is made to maintain a safe and secure environment for staff and offenders, and to oversee endeavors to comply with PREA standards. *Safe Prisons/PREA Plan* establishes additional positions that oversee the implementation and operation of the plan and allows the agency-wide PREA Coordinator sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all its facilities. The Safe Prisons/PREA Management Office (SPPMO) falls under the Management Operations Deputy Director reporting to the CID Director in the organization structure. Auditor's interview with Deputy Director Davis concluded Ms. Davis has sufficient time and authority to complete her duties as Agency PREA Coordinator and she manages these efforts through the designated statewide staff assigned to these positions at headquarters, regionally, and in the facilities.

The Agency Safe Prisons/PREA Manager is a dedicated position currently held by Lorena Steinbecker, who is tasked with development, implementation, and oversight of agency efforts to comply with the PREA standards in all TDCJ facilities. Interview with Ms. Steinbecker conveyed sufficient time and authority for implementation, oversight, and management of efforts to implement and comply with PREA standards. Also responsible for oversight at Thomas R. Havins is the Safe Prisons/PREA Regional Coordinator, Region IV, Leslie

Buscemi. She oversees and supports Thomas R. Havins in its efforts to implement and comply with PREA standards. Sergeant Buscemi has 18 facilities within her area of responsibility and provides direct support to the Unit Safe Prisons/PREA Managers. Due to Sergeant Buscemi's scope of responsibilities, this auditor used the Compliance Manager protocol questions during the interview. Sergeant Buscemi conveyed sufficient time and authority to implement, develop, and provide oversight of compliance with PREA standards.

**115.11(c):** Thomas R. Havins employs a designated PREA compliance manager as required by this standard and is designated by the position of Unit Safe Prisons/PREA Manager. These job duties are outlined in its associated Post Order and is created by policy PO-07.150. This is a multi-tasked position identified by the TDCJ to perform unit-based initiatives identified through the Safe Prisons/PREA Management Office. The Unit Safe Prisons/PREA Manager is responsible for monitoring of the *Safe Prisons/PREA Plan*, to manage compliance with PREA standards at the unit level, and to work directly for the warden or designee responsible for the safety and security of the unit. Officer Brady Burt is the designated Safe Prisons/PREA Manager for Thomas R. Havins, equivalent to the PREA Compliance Manager, and was interviewed using the compliance manager interview protocol questions. Officer Burt stated he has sufficient time for overseeing the PREA related efforts at Thomas R. Havins and is given support and authority to carry out the requirements of his position. He conveyed having strong support from the warden and other management staff to carry out his Safe Prison duties and is provided additional help if, and when, needed. Officer Burt was knowledgeable and forthcoming and provided auditor with timely and accurate information upon request. Posters are visible throughout the facility, at intake and on dorm bulletin boards with Officer Burt's photograph, identification as the Safe Prison/PREA Manager, and ways to contact him. Interview with warden, staff, and inmates indicated a facility-wide awareness and support for Officer Burt's authority and oversight with PREA related operations at the facility.

Based on auditor's analysis of related policy, review of job descriptions and post orders, review of agency and facility organizational charts, and formal staff interviews it is determined that TDCJ/Thomas R. Havins exceeds the minimum requirement of having a designated PREA Coordinator and Compliance Manager by funding multiple positions across the agency with responsibility for oversight and implementation of Safe Prisons/PREA Plan.

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

### **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 OR the response to 115.12(a)-1 is "NO".)  Yes  No  NA

### Auditor Overall Compliance Determination

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

**115.12(a)(b):** TDCJ contracts for confinement of inmates at eleven (11) facilities. A review by auditor of the contracts for these facilities revealed language is included in current contracts to obligate the contracting agency to comply with PREA standards. Each contract requires the contractor to comply with the PREA Standards for Adult Prisons and Jails and to report any offender sexual assault or sexual harassment to the TDCJ. According to agency policy and verified by interview with Agency Contract Administrator Cody Ginsel, the TDCJ designated contract monitor assigned to each contract facility ensures the contractor is compliant with the PREA Standards on a regular and on-going basis and each facility is required to provide a copy of a PREA final report according to the standard requirements. A website review conducted by auditor verifies that all contract facilities have provided TDCJ with PREA final report either in the prior audit cycle and/or current audit cycle. As confirmed during interview with Mr. Ginsel, those facilities due audits during the current cycle are scheduled to be completed prior to August 2019. Review of the contracts for confinement of inmates, interview with agency Safe Prisons/PREA Manager, agency website review and interview with the agency Contract Administrator indicates TDCJ complies with provisions (a) and (b) and meets the requirements of this standard.

### Standard 115.13: Supervision and monitoring

#### 115.13 (a)

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

determining the need for video monitoring?  Yes  No

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

### 115.13 (b)

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

### 115.13 (c)

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

### 115.13 (d)

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

### Auditor Overall Compliance Determination

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

**115.13(a):** Thomas R. Havins has developed a staffing plan that provides for adequate levels of staffing to protect offenders against sexual abuse. This auditor has reviewed the Thomas R. Havins staffing plan and found that it documents the consideration of all requirements delineated in 115.13(a)1-11. The staffing plan is predicated on the standard TDCJ formula for a prison with the bed capacity of 596 and the average daily population for the past 12 months of 571. Interviews with Safe Prisons/PREA Manager and warden confirm that the warden, regional supervisors, and Safe Prisons/PREA staff regularly monitors staffing levels. *Safe Prisons PREA Plan* requires all the agency's facilities to develop, document, and comply with a staffing plan meeting all provisions of this standard, at least annually, in conjunction with the CID Security Operation Department and in accordance with AD-11.52 (rev.6) and Security Operations Procedure 08.06 (rev.1). Security Operations Procedures, Number 07.02 (rev.4)

directs the Surveillance Systems Coordinator coordinates with the agency safe prison/PREA compliance manager to collect any relevant information containing the prevalence of substantiated and unsubstantiated incidents of sexual abuse from the previous year for that unit prior to the new installation of video surveillance equipment. Security Operations updates and maintains the Equipment Status Report and includes electronic monitoring equipment allocation and placement for protecting offenders against sexual abuse, in conjunction with the Safe Prisons PREA Plan. Thomas R. Havins has no electronic monitoring equipment currently. According to interview with Warden Rayford and Safe Prisons/PREA Manager Steinbecker and further confirmed by the staffing plan annual review documentation, considerations are given each year of the need for adding electronic video monitoring. Current review indicates there will be no change in the current status of use of electronic video monitoring.

Development of the current staffing plan is documented by publication of *Thomas R. Havins Unit Staffing Plan*, dated August 5, 2016. As of the date of this auditor's site visit, the most recent annual review titled *Annual Staffing Plan/Turnout Roster Review – 2017*, was conducted and approved with no changes to the original staffing plan, on July 27, 2017. While this review is within the audit period, the review indicated several required elements missing. This was communicated to the warden and Safe Prisons/PREA Manager. Auditor was advised the review is scheduled and once completed documentation will be provided post on-site. An updated document was provided to this auditor on 08/07/18 providing evidence of an annual staffing plan review conducted on 07/26/18. This review indicates all elements of standard are met by this document. This satisfies all outstanding requirements for compliance with this standard.

**115.13(b):** In circumstances where the staffing plan is not complied with Thomas R. Havins documents and justifies all deviations on the Daily Shift Turnout Roster in accordance with *Safe Prisons/PREA Plan* and AD-11.52 (rev.6). The Roster contains a section for the shift supervisor to document staffing notations. Auditor reviewed a random selection of Turnout Rosters (34) between November 2017 and July 2018 for all shifts and cards and found the appropriate documentation for any staffing adjustments made during the shift. While staffing adjustments were made to accommodate offender transports, hospital security, constant direct observation, commissary, and maintenance (6 most common reasons), at no time did the facility fall below the mandatory (Priority I) posting requirement. Auditor interviews with shift lieutenants, captain, major, and warden supports this requirement to document deviations from the staffing plan occurs regularly and systematically. Staff plan deviations for priority one posts are reported to the regional director (according to Security Operations Procedures 08.01 (rev.3). Thomas R. Havins has had no Priority 1 post deviations during the past 12 months according to interview with warden and based on auditor observations of random document review.

115.13(c): In the past 12 months the facility has assessed the staffing plan for a need for deployment of video monitoring systems and other monitoring technologies, and the resources the facility has available to commit to ensure adherence to the staffing plan. This assessment has been conducted in coordination with the agency Safe Prisons/PREA manager, through delegated authority by the PREA Coordinator (verified by interview with CID Director Davis). The staffing plan review conducted on July 27, 2017 confirms review was conducted by the

following participants: Regional Director, Warden, Security Warden, Safe Prisons/PREA Manager, Staffing Coordinator for Security Operations. While this review is within the audit period, the auditor's analysis of this review indicated several required elements missing. Interviews with Safe Prisons/PREA management and Warden Rayford indicated that all elements required of this standard are taken under consideration, however, the documentation did not specify this language. The specific language that was not addressed in the original reviews included consideration of 1) generally accepted detention and correctional practices; 2) any judicial findings of inadequacy; 3) any findings of inadequacy from federal investigative agencies; 4) any findings of inadequacy from internal or external oversight agencies; 5) all components of the unit's physical plant, including "blind spots"; 6) the composition of the offender population; 7) the number and placement of supervisory staff; 8) institutional programs occurring on a particular shift; 9) any applicable state or local laws, regulations, or standards; 10) the prevalence of substantiated and unsubstantiated incidents of sexual abuse. This was communicated to the warden and Safe Prisons/PREA Manager. An updated document was provided to this auditor on August 7, 2018 providing evidence of an annual staffing plan review being conducted on July 26, 2018. This review was conducted by Regional Director, Warden, Warden, Security Operations, Operations Manager of Security Operations, Safe Prisons PREA Manager, Staffing Coordinator of Security Operations, and Surveillance System Coordinator. The annual review concluded that no changes were necessary to the unit's staffing plan or shift turnout rosters; additional video surveillance equipment was not required; and the unit is utilizing all resources available to ensure adequate security staff is available to meet the requirements of the staffing plan. The auditor observed all elements of this standard were taken into consideration with the annual review. Consideration was given to whether adjustments are needed to the staffing plan pursuant to all elements found in 115.13(a)1-11. Interview with warden and Safe Prisons/PREA Manager, and PREA Coordinator indicated to the auditor necessary steps for a thorough staffing plan review are in place and the considerations observed during the document review are a part of a regular review.

115.13(d): Thomas R. Havins has a well-established practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. The *Safe Prisons PREA Plan* directs security supervisors at each unit to conduct and document unannounced rounds to identify and deter sexual abuse and sexual harassment. These rounds are conducted during all shifts and on weekends and holidays. Staff is prohibited from alerting other staff members when these rounds are occurring, unless the announcement is related to the legitimate operational functions of the unit. TDCJ prohibits employees alerting other staff members when supervisor rounds are being conducted through PD.22 (rev. 14) which provides for disciplinary action (charge of misconduct, a Level 4 violation) for those found in violation. Frequent unannounced rounds are required and outlined in post orders: PO-07.005 (rev.7) for Sergeants in all areas where staff are assigned; PO-07.004 (rev.8) for Lieutenants in all areas where staff are assigned; PO-07.003 (rev.9) for Captains in all buildings on the unit, perimeter pickets, mobile patrol, back gate, offender housing, and offender work areas; PO-07.002 (rev.9) for Majors of all buildings on the unit, perimeter pickets, mobile patrol, back gate, offender housing, and offender work areas.

Interviews with warden, major, captain, and lieutenants confirm unannounced rounds are made by them on all shift and at various times during the ay/week. Each person said they stagger their route to further ensure notifications to other staff do not occur. These rounds are not announced and are documented on the Employee and Visitor Logs located at each area post. The auditor analyzed the dates/times/frequency of these rounds on a random sampling of logs and found no discernable pattern. Informal and formal interviews with officers and shift supervisors indicate regular and irregular rounds by warden, major, and captain occur. All staff interviewed were aware that alerting other staff of these rounds is prohibited and attested that alerting of these rounds does not occur. PREA rounds made by shift supervisors are documented on the Daily Turnout Roster. A random sample of rosters was reviewed for the period of November 17 through July 18 confirming rounds are consistently documented as required. Auditor's interviews with offenders indicated that shift supervisors, captain and major regularly make rounds in the housing units and other areas occupied by offenders. Inmates indicated they see the warden on a regular basis and at various times.

All related agency policy referenced in this narrative was reviewed by auditor and found to contain elements of standard. Based on document review, interviews, and practice explained in above narrative combined with no deviations from Priority 1 posts, Thomas R. Havins maintains the ability to provide more than the minimum required supervision to inmates assigned to the facility. Inmate interviews indicated that staff at all levels, to include warden, major, captain, lieutenants, and other department heads, make frequent rounds and provide high visibility at all times, including weekends and holidays. Auditor's analysis of information noted within this narrative indicates Thomas R. Havins meets the requirements of this standard.

## Standard 115.14: Youthful inmates

### 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*)

**115.14(a):** TDCJ policy CPOM 01.02 (rev.2) requires that youthful offenders be housed separately from adult offender population. *Safe Prisons/PREA Plan*, TDCJ Classification Plan, and the TDCJ Unit Classification Procedures Manual 16.15 all direct that youthful offenders will be kept separated by sight, sound, and physical contact with adult offenders within housing units, dayroom, shower areas;

**115.14(b):** The same policies cited above require in areas outside housing units direct staff supervision be maintained when youthful offenders cannot be separated by sight and sound.

**115.14(c):** Agency policy is to make best efforts to avoid placing youthful offenders in isolation to keep them separated from adults and will not deny large muscle exercise and any legally required special education services, except under exigent circumstances. According to the Administrative Segregation Plan, written authorization is required prior to placing youthful offenders in administrative segregation, a non-punitive, maximum custody status for purpose of protective custody. PO-07.140 (rev.4) directs the Youthful Offender Program officer to provide direct supervision when youthful offenders and adult offenders are within range of sight, sound, or physical reach of each other.

Thomas R. Havins houses no youthful offenders therefore this standard is not-applicable for this unit however, a review of agency policy indicates TDCJ policy meets requirements of this standard.

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

#### 115.15 (a)

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

#### 115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20,2017.)  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 here for facilities with less than 50 inmates before August 20, 2017.)  Yes  No  NA

#### 115.15 (c)

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

#### 115.15 (d)

- Does the facility implement a policy and practice 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*)

**115.15(a):** Thomas R. Havins always refrains from conducting any cross-gender strip or cross-gender visual body cavity searches, except in exigent circumstances or by medical practitioners. Thomas R. Havins is a male facility and strip searches are only conducted by male officers. Transgender and intersex inmates are placed in line last for strip searches so that other inmates will be out of the area prior to the search. These practices were confirmed during interviews with staff, supervisors, and inmates. There was no documentation to review, as there have been no incidents of cross-gender strip searches. During warden's interview we discussed search practices at Thomas R. Havins. Warden Rayford confirmed that no cross-gender or same gender visual body cavity searches have been conducted in the last 12 months. He further stated that should a visual body cavity search be necessary, it would be conducted by medical. Interviews with medical staff indicated they would conduct the visual body cavity search, should one be necessary; however, none have been conducted within the audit period. Security supervisors and security staff interviewed are aware of the policy requirements with this standard.

**115.15(b)** is not applicable because Thomas R. Havins is a male facility.

**115.15(c):** TDCJ policy requires that all cross-gender strip searches and cross-gender visual body cavity searches be prior approved and documented by the shift security supervisor by Inter-Office Communication (IOC) in accordance with *Safe Prisons/PREA Operations Manual Number 02.05, July 2014* and AD-03.22 (rev.11) and filed in the Safe Prisons/PREA manager's office. Auditor reviewed the Emergency Action Center Log for the audit period confirming no incident occurred indicating cross-gender strip search or body cavity search. Security supervisors interviewed are aware of the policy requirements with this standard and confirmed there have been no cross-gender strip searches or visual body cavity searches in the past 12 months.

**115.15(d):** The facility maintains a practice that enables inmates to shower, perform bodily functions, and change clothing without staff of the opposite gender viewing as per the *Safe*

*Prisons PREA Plan.* Physical plant efforts have been made to provide privacy barriers while maintaining security measures. Toilets and urinals are in an open area surrounded by a partial block wall. Modesty barriers have been placed in showers and at toilets to block viewing. Canvas barriers have been installed on bathroom windows to eliminate cross-gender viewing while toilets are in use. Modesty barriers have been constructed in the dining room, on the recreation yards, and at the rear gate to eliminate cross-gender viewing during strip searches. All inmates interviewed confirmed the modesty barriers are providing a barrier to cross-gender viewing.

The facility requires staff of the opposite gender to announce their presence when entering an inmate housing unit. This auditor observed a constant and well-established practice in place. Interviews with officers, supervisors and inmates indicate this is a regular practice and not just occurring because the facility is undergoing an audit. Auditor reviewed Officer Post Orders for housing areas and found sufficient language requiring female officers to announce their presence at the beginning of each shift and any time the status quo of the gender-supervision of a housing area changes from exclusively same gender to mixed or opposite gender supervision. Female staff at Thomas R. Havins make the announcement every time they enter the unit, regardless of a gender change for post according to interviews with both male and female officers, supervisors and inmates.

**115.15(e):** The facility always refrains from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status. Thomas R. Havins staff interviews are aware of this policy and validate that this practice does not happen. Staff are trained on universal pat-searches and consistently conduct searches according to their training. The auditor found no evidence of allegations of this practice through grievance review and sexual abuse allegation review related to the one identified transgender offender who was housed at Thomas R. Havins over the past 12 months.

There are currently no transgender or intersex inmates housed at Thomas R. Havins. Within the past 12 months the facility housed one (1) transgender inmate who has since released from custody according to population records and interview with staff and Warden. Staff confirmed during interviews that determining an inmate's genital status is prohibited and will only occur through conversations with the inmate, by reviewing medical records, or as a result of a broader medical examination, in private, by a medical practitioner (in accordance with *Safe Prisons/PREA Plan*). At no time would an inmate be searched or examined for the sole purpose of determining genital status. The agency documents the inmate record through the State Classification Committee process once an inmate identifies as transgender or intersex.

**115.15(f):** Correctional Training and Staff Development Pre-Service Block 1 includes *Constitutional Protections Module: Contraband and Searches*. Auditor's review of this lesson plan indicates staff are trained in accordance with AD-03.22, (rev.11) Offender Searches and requirements of the *Safe Prisons/PREA Plan*. AD-03.22 (rev.11) directs searches of all offenders, including transgender and intersex, to be conducted in a professional and respectful manner and in the least intrusive manner as possible while maintaining consistency with security needs. All security staff interviewed were knowledgeable about the search requirements and confirmed they have received the training indicated in this narrative. Staff

confirmed that male and female staff conduct pat searches, and should a transgender offender be more comfortable being searched by a female officer this practice will be accommodated barring any serious security concerns. Auditor's review of employee training records indicate training for searches is conducted annually and the auditor's review of shift turn-out rosters indicate periodic training on searches occurs during shift turn-outs. Inmates selected for interviews indicated cross-gender and same-gender pat down searches are conducted professionally and respectfully.

Training for searches is conducted annually during in-service, but Thomas R. Havins conducts refresher training in shift turnouts and documents this training on the shift roster. Auditor's review of random sample of shift turnout rosters and interviews with staff indicate regular training on search procedures. The standard requires training but sets no time or recurrence. The extensive level of knowledge conveyed from non-security employees regarding search protocols provides an extra level of oversight for compliance with search protocols. The frequency of documented training on search procedures exceeds the requirements of this standard.

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

### **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*)

**115.16(a):** TDCJ takes 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; who are blind or have low vision; who have intellectual disabilities; who have psychiatric disabilities; who have speech disabilities. To accomplish this, TDCJ has an extensive intake process when inmates come into the system. Any of the above disabilities indicated above will be addressed in the appropriate manner and in the steps provided in TDCJ policies: Intake Procedures, Number 1.10, Initial Orientation; AD-06.25 (rev.4), Qualified Interpreter Services – American Sign Language; G.51.1, Offenders with Special Needs; *Safe Prisons/PREA Plan*; SPPOM 02.03, Safe Prisons/PREA Program Postings and Brochures; SM-05.50, Qualified Spanish Interpreter Guidelines; G-51.5, Certified American Sign Language (ASL) Interpreter Services; AD-04.25 (rev.5), Language Assistance Services to Offenders Identified as Monolingual Spanish Speaking; Intake 6.05, Intake Processing of Offenders in Need of an Interpreter; UTMB/CMC E-37.5, Interpreter Services; SPPOM 03.01, Offender Assessment Screening; PO-07.105 (rev.4), Psychiatric and Developmental Disabilities Program Officer.

Once an inmate completes the initial intake process, an appropriate housing assignment will be made based on the *Health Services Liaison Facility Types List* and to ensure that the receiving facility is equipped to meet the needs of each individual offender. Inmates with disabilities requiring services other than LEP will be housed at facilities with those services. Inmates with speech, hearing, visual, intellectual, or psychiatric disabilities are not housed at Thomas R. Havins. This auditor confirmed this through review of related policies and through interviews with agency's PREA Coordinator, Safe Prisons/PREA Manager, and warden.

**115.16(b):** The agency takes 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. During the initial intake process inmates requiring interpreter services will be identified and appropriate measures will be taken to ensure interpreter services are made available in accordance with agency policy. Spanish is the most common language spoken requiring services within TDCJ which is acknowledged through the establishment of SM-05.50 (rev.3), Qualified Spanish Interpreter Guidelines. Language assistance is provided to eligible offenders. A list of qualified interpreters for other languages is maintained at TDCJ Headquarters for use when needed.

Thomas R. Havins maintains a list of qualified Spanish interpreters with seven (7) currently authorized. Qualified interpreters are identified after passing a proficiency test in the given language and are trained/directed to treat language assistance services as confidential and to not disclose information gained through the interpretation service unless a breach in security has occurred. Auditor observed interpreter service performed effectively, accurately and impartially. One inmate was identified as LEP eligible at Thomas R. Havins. This auditor selected one interpreter from the qualified interpreter list to interpret during the interview. In a separate interview, this interpreter was also questioned about the interpreter protocols and confirmed policy requirements are in practice at Thomas R. Havins.

The Inmate Handbook, PREA pamphlets and handouts, are available in both English and Spanish. All offenders are provided viewing of an orientation video, and 5-hours of peer education that includes sexual assault awareness and is available in both English and Spanish (in accordance with *Safe Prisons/PREA Plan*. Safe Prison/PREA Posters are continuously displayed in English and Spanish throughout housing units, staff and offender work areas, and other areas throughout the facility about the agency's Zero Tolerance for Sexual Abuse policy. The Offender Assessment Screening form indicates if an inmate is LEP and if an interpreter is used in dissemination of the local PREA training information. These forms were reviewed and clearly document that interpreters are used in the screening process where required and to deliver the zero-tolerance message to new arrivals. PREA pamphlets, handouts and posters are all published in both English and Spanish.

Thomas R. Havins has a designated language coordinator, Mr. William Hancock, Chief of Classification. All shift supervisors and management staff are aware to contact Mr. Hancock for further guidance should they have an interpreter need they are unable to resolve with their available resources. Mr. Hancock can authorize use of telephonic interpreters, should onsite interpreters not be available, through Language Line Solutions and Pacific Interpreters (E-37.5). This auditor placed calls to both service providers and verified that the accounts are active and available for interpreting multiple languages.

**115.16(c):** The agency always refrains 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. Thomas R. Havins prohibits the use of inmate interpreters and has had no documented incident in the last 12 months where an inmate has been used to interpret.

After analysis of document review, results from interviews, personal observations, and policy review, auditor finds TDCJ/ Thomas R. Havins meets requirements of this standard.

## Standard 115.17: Hiring and promotion decisions

### 115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with 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, or 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*)

**115.17(a):** The agency prohibits the hiring or promotion of anyone (prospective employee, employee, or contractor) who may have contact with inmates who has: 1) engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; 2) been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or 3) been civilly or administratively adjudicated to have engaged 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 (*Safe Prisons/PREA Plan* and Executive Directive PD-75, rev.8). No hires are made without clearance from TDCJ Human Resources Headquarters. Conditions of Employment as stated on the Employment Application Supplement include: applicant must not be on probation for any criminal offense, must not have pending charges for any criminal offense or have an outstanding warrant, and must not have committed any activity delineated in first line of this paragraph.

**115.17(b):** Any incidents of sexual harassment will be considered in determining whether to hire an individual or to enlist the services of a contractor who may have contact with offenders

(Executive Directive, PD-75 (rev.8), Applicants with Pending Criminal Charges or Prior Criminal Conviction). Any reference of prior incidents of sexual harassment may make the applicant ineligible for employment.

**115.17(c):** Executive Directive, PD-71 (rev.12) designates the Employment Section to perform a criminal record background check on all newly hired employees and contractors during the clearance process and prior to hire. PD-71(rev.12) outlines procedure for prior employment reference checks. Employment and Promotion Application Supplement Form includes questions sufficient to obtain the required information from prospective candidates.

**115.17(e):** Executive Directive, PD-27 (rev.6) provides that Employee Relations shall conduct an annual criminal offense check during the employee's birth month, and six months after for each employee and contractor who have contact with inmates. Upon hire, employees are fingerprinted and submitted to the Criminal Justice Information System, Texas Department of Public Safety (DPS) Automatic Arrest Notification System, which provides automatic notification to TDCJ if the employee is arrested. Employees have a duty to report arrests or when they become the subject of a criminal charge for a misdemeanor or felony offense to their immediate supervisor within 48 hours of the event and before reporting for duty.

**115.17(f):** Employment Application Supplement (new employees) and Employment Application Supplement for Agency Applicants (promotions) include three individual questions the new applicant or an existing employee for promotion must answer to obtain whether the applicant has: 1) engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; 2) 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; 3) been civilly or administratively adjudicated to have engaged 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, as required by *Safe Prisons/PREA Plan* and Executive Directive PD-75 (rev.8). Any applicant having engaged in the above activity is not eligible for employment with the agency. In addition, current employees must sign the Employee Acknowledgement Form (PERS 632) indicating they have received the annual PREA training. The PERS 632 also includes an attestation to the same information delineated above for new hires and promotions, to be captured as an annual review. TDCJ imposes a continuing affirmative duty to disclose knowledge of any such misconduct noted above.

**115.17(g):** Material omissions regarding misconduct of this nature, or the provision of materially false information, shall be grounds for termination. Employment Application Supplement (PERS 282) addresses false information as grounds for refusing employment or terminating employment if already employed.

**115.17(h):** Executive Directive, PD-56 (rev.7) directs the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee after receiving a request from an institutional employer for whom such employee has applied to work, unless release of said information is prohibited by law. Requests made by potential employers for substantiated allegations of sexual abuse or sexual harassment involving a

former employee is provided by the Office of the Inspector General and in accordance with PD-56.

Auditor reviewed personnel records for each of the six (6) employees hired between April 1, 2017 and March 31, 2018, three (3) employees promoted within the last six (6) months, and two (2) contractors hired within the last six (6) months. Every file contained signed applications affirming appropriate answers to the questions asked in section 115.17(a) above and clearance of a background check. Of the six new employees hired, four (4) indicated prior employment in an institutional setting and Employer Reference checks were provided for each. Eleven (11) additional random employee files were reviewed and were found to be complete with the required information. Interview with Warden Rayford and Human Resources Manager Donna Henry confirmed that a background check is conducted on each employee and contractor prior to employment, promotion, and transfer in accordance with TDCJ policy with an annual review on their birth month and then every six months. The local facility does not track this information as it is generated from the TDCJ database automatically and the facility is only notified if any adverse information is detected when the check is conducted. Promotion candidates are submitted for background clearance and not processed until clearance is provided by Human Resources Headquarters to the local unit. Contractors (MTC, Texas Tech, and Windham School District) who have regular contact with offenders are subject to the same requirements of employees.

Auditor's analysis of agency policy, employment records, combined with information obtained during interviews with Human Resources Manager and Warden determines Thomas R. Havins exceeds requirements of this standard. The systematic and centralized process for conducting background checks and the automatic notification of warrants and arrests on all employees and contractors provides for a very efficient process which prevents oversight or delayed checks. The frequency for which the checks are done is every six months when only required to be done every five years. The agency also has an established system for collecting the self-disclosure of sexual abuse or harassment history from employees and contractors at least annually during PREA training which is above the requirement of the standard.

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

### **115.18 (a)**

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect 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*)

**115.18(a):** Thomas R. Havins has not acquired a new facility or made a substantial expansion to the facility since August 20, 2012, or since the last PREA audit.

**115.18(b):** Thomas R. Havins has no video monitoring system, electronic surveillance system, or other monitoring technology installed at this time.

This information was obtained by auditor's personal observation, interview with warden, and interview with Safe Prisons/PREA Manager.

## RESPONSIVE PLANNING

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

#### 115.21 (a)

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

#### 115.21 (b)

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

comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA

#### 115.21 (c)

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

#### 115.21 (d)

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

#### Auditor Overall Compliance Determination

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

**115.21(a):** The agency is responsible for investigating allegations of sexual abuse and follows uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions, as directed by AD16.03(rev.4) and in accordance with provision (a). OIG-04.05 establishes policy to assist sexual assault victims in a supportive manner and to conduct timely and diligent investigations, enhancing probability of a successful prosecution. Healthcare policy G-57.1 also supports investigative policy and outlines responsibilities of healthcare provider that meets requirements of provision (a). Uniform evidence handling protocol is outlined in the written policy (SPPOM-05.01 and OIG-04.05).

**115.21(b):** TDCJ policy follows evidence protocols that are developmentally appropriate for youth and are based on the USDOJ Office on Violence against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations Adults/Adolescents," 2<sup>nd</sup> edition referenced in provision (b) in this standard.

**115.21(c):** OIG-04.05 requires offering a forensic medical examination to potential sexual assault victims for up to 96 hours after the alleged incident. In accordance with *Safe Prisons/PREA Plan*, all offender victims of sexual abuse will be offered access to forensic medical examinations, where evidentiary or medically appropriate and will be performed by a SAFE or SANE when possible. Offender victims will not be charged for services rendered. No incident occurred at Thomas R. Havins in the past 12 months requiring a forensic exam based on the auditor's review of incident log and case file. Interview with Health Services Administrator (HSA) Terri Harris supported agency procedures and processes as outlined in policy and corroborated implementation of the Coordinated Response Plan at Thomas R. Havins. HSA Harris explained the OIG investigator authorizes the forensic examination and victims of sexual assault will be taken to the nearest hospital emergency department for completion of the forensic exam. The nearest hospital emergency room is Brownwood

Regional Medical Center located at 1501 Burnet Drive, Brownwood, Texas. Auditor contacted the provider and confirmed they provide services for inmates at Thomas R. Havins and that no forensic examination has been conducted within the past 12 months. An internet search by auditor confirmed Texas State Law (SB-1191) requires a health care facility with an emergency room have specialized staff trained to complete forensic examinations.

**115.21(d):** *Safe Prisons/PREA Plan* directs attempts shall be made to provide a victim advocate from a rape crisis center to the offender victim. If one is not able to be provided, a qualified staff member from a community-based organization will be contacted. As a last resort, a qualified TDCJ staff member (OVR) will be made available to provide the offender with victim advocate services. An MOU for outside victim support services has not been secured for Thomas R. Havins, but diligent efforts have been documented. An MOU has been sent from the agency to The ARK Domestic Violence and Sexual Assault Shelter, but according to auditor's telephone conversation with the advocacy center's director, she has not decided to enter into the agreement yet and is seeking additional information for consideration. The Safe Prisons/PREA Management Office has secured services for some of the TDCJ facilities and continues to identify and create more alliances. Safe Prisons/PREA Manager Steinbecker is working to expand the outside support system for offender victims and provided copies of recent email communication with six (6) separate center representatives indicating they are working to secure agreements. Auditor's interview with Erica Gammill, the Prisoner Advocate, Incarcerated Survivor Program, Texas Association Against Sexual Assault (TAASA) substantiated that TAASA is positioned to begin offering services to incarcerated offenders and she plans to assist local centers and individual prisons toward creating agreements where services can be provided.

While Thomas R. Havins does not have an active MOU with an outside entity for these services, Region VI Safe Prisons/PREA Coordinator Leslie Busemi has communicated with Families in Crisis, Inc. who has agreed to communicate with offender victims from Region VI. Posters containing the mailing address and toll-free number for Families in Crisis, Inc. is posted on bulletin boards in inmate living areas. Auditor reviewed the Memorandum of Understanding between TDCJ and Families in Crisis, Inc. for term 09/01/2016-08/31/2019 to provide services at six (6) TDCJ female facilities. Auditor received email confirmation from Families in Crisis that no inmates have corresponded with them in the past 12 months from Thomas R. Havins.

**115.21(e):** The Offender Victim Representative (OVR) will accompany and support the victim through the forensic medical exam process and investigatory interviews and to provide emotional support, crisis intervention, information, and referrals as requested by offender (SPPOM-02.02). This procedure was verified by policy review, interview with OVR Hancock, and review of responsibilities identified in the Offender Victim Representative Training Lesson Plan. This practice will be in place until and to supplement and future agreement between the facility and an outside advocacy is secured.

**115.21(f):** The Office of Inspector General is responsible for conducting sexual abuse investigations and follows requirements of provisions (a)-(e) of this standard (SPPOM-05.01

and OIG-04.05). This procedure was verified by policy review, interview with OIG Investigator Robinson, and review of OIG PREA Investigator Training Lesson Plan.

**115.21(h):** The agency uses qualified agency staff members for purposes of victim advocate when an outside advocate is not available and until an MOU can be obtained. Directive 0.02 establishes the Offender Victim Representative to be made available in lieu of community support services and policy requires each unit have at least two designated offender victim representatives (OVR) who must complete the Sexual Assault Offender Victim Representative training. Auditor’s review of the OVR curriculum finds it adequately covers role and responsibilities of the facility OVR and identifies the role as “to not investigate or assess the merits of an allegation, but to support the victim.” A list was provided by Thomas R. Havins indicating two (2) designated OVRs. Matthew Hancock, Chief of Classification is one of the two designated Offender Victim Representatives (OVR). Mr. Hancock was interviewed for this role and verified that he has had no incident where his services as OVR has been required for the past 12 months. Mr. Hancock provided a copy of his specialized OVR training.

Based on policy review, interviews with warden, Safe Prisons/PREA staff, OIG Investigator, facility investigators, outside advocates, ER Nurse, and OVR combined with document review as noted in narrative above, auditor finds Thomas R. Havins meets requirements of this standard.

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

### **115.22 (a)**

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

### **115.22 (b)**

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

### **115.22 (c)**

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

**115.22(a):** TDCJ has several policies that ensure ensures an investigation is completed for all allegations of sexual abuse. (BP-01.07, AD-02.15, AD-16,20, PD-29, and *Safe Prisons/PREA Plan*. This auditor reviewed all related policies. *Safe Prisons/PREA Plan* directs an administrative and criminal investigation, as appropriate, be completed for allegations of sexual abuse and sexual harassment and referred to the OIG for investigation. Administrative Investigations are conducted on all allegations of sexual harassment. The warden or supervisor is responsible for conducting a prompt, thorough investigation, and completing an Administrative Incident Review of each allegation.

**115.22(b):** Texas Government Code 493.019 designates the Office of Inspector General (OIG) as the primary investigative and law enforcement entity of the TDCJ. BP-01.07 (rev.6) requires each investigation to be professional, thorough, complete, and unbiased and that all available techniques and resources be employed by investigator. The OIG reports directly to the Texas Board of Criminal Justice and is considered external to TDCJ. Interview with warden confirmed that all allegations of sexual abuse and sexual harassment are referred to the OIG through the Emergency Action Center (EAC). Criminal cases or administrative cases with serious personnel involvement will be worked by the OIG. Cases that do not meet criminal criteria will be returned to the facility for a disposition. The Unit is responsible for providing a disposition on their administrative investigation. If a case is investigated criminally by OIG, the local unit will continue the administrative investigation concurrent with the criminal investigation. A final disposition will be determined for both investigations upon completion. Interview with the OIG investigator further confirmed this procedure.

This auditor was able to access the TDCJ policy for referral of allegations of sexual abuse or sexual harassment for criminal investigations and the sexual assault investigative process on

its public website: [https://www.tdcj.state.tx.us/documents/PREA\\_SPP\\_Report\\_2016.pdf](https://www.tdcj.state.tx.us/documents/PREA_SPP_Report_2016.pdf). Additional information related to PREA reporting and referrals can be found on the PREA Ombudsman page of TDCJ public website at <https://www.tdcj.state.tx.us/tbcj/prea.html>.

Policy AD-02.15 (rev.12) directs notification of a sexual abuse incident to the Emergency Action Center which officially documents the referral to OIG. This notification is to be made as soon as possible but at least within 3 hours of becoming aware of the reportable incident and then followed-up with a written report. Interviews with shift supervisors and unit Safe Prisons/PREA manager confirmed that all incidents are reported to the EAC and the practice is well established at Thomas R. Havins.

**115.22(c):** A coordinated response is expected by all parties and Directive 05.01 directs the responsibilities of unit security staff, the OIG, medical and mental health services, and victim advocates. AD-16.20 identifies the OIG as the primary investigative organization within the TDCJ, who have full law enforcement authority and statewide jurisdiction in criminal matters affecting the TDCJ. OIG-04.05 outlines the policy and procedures for investigating and documenting incidents of sexual assault. Auditor's review of related policies finds TDCJ/Thomas R. Havins meets requirements of this element.

Auditor's analysis of policy review, related documents, interviews, and personal observations indicate Thomas R. Havins is compliant with provisions of this standard.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

#### 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*)

**115.31(a):** TDCJ trains all employees who may have contact with inmates on 1) its zero-tolerance policy for sexual abuse and sexual harassment; 2) on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; 3) on inmates' right to be free from sexual abuse and sexual harassment; 4) on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment; 5) the dynamics of sexual abuse and sexual harassment in confinement; 6) on the common reactions of sexual abuse and sexual harassment victims; 7) on how to detect and respond to signs of threatened and actual sexual abuse; 8) on how to avoid inappropriate relationships with inmates; 9) on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and 10) on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. This auditor reviewed the CTSD curriculum for Pre-Service Training Blocks 1 & 2; Safe prisons PREA Program In-service; Non-Supervisor in-service training Safe Prisons/PREA Plan; Supervisor In-Service Training- Safe Prisons PREA Program; Safe Prisons PREA in Texas- Video Script SPPOM 06/01. Collectively, these modules cover all ten (10) required elements of this standard. All unit assigned employees, contractors, and interns receive Safe Prisons/PREA training initially, then annually thereafter.

**115.31(b):** Correctional employees assigned to female offenders housing areas must complete a 16-hour gender specific training course. Thomas R. Havins is a male facility and training material is appropriate to employees working at a male facility. Employees transferring from one unit to another who have not previously received the appropriate training for their facility type must complete the training prior to being assigned to a shift in the designated area (SM-02.25, rev.4). Interview with warden and major confirm that employees transferring from another facility receive site specific training before assuming post.

**115.31(c):** The agency provides PREA refresher annually during in-service where the standard only requires a refresher every two years. Employees are kept updated on these policies through shift turnouts and annual in-service. All staff, and not just those who may have contact with inmates, were knowledgeable about all 10 elements enumerated in section (a) as discovered by this auditor during staff interviews. Non-security staff were as well versed in explaining these elements as were the security staff. The facility created a pocket PREA Reference Card for employees to keep with them and use when necessary. This auditor found that some of the employees pulled their reference card out to show they had it in their possession yet none of them relied on its reference when providing answers during interviews.

In addition to the formal annual training required by the agency, the Safe Prisons/PREA Region VI Coordinator publishes and distributes a Safe Prisons/PREA Monthly Training Agenda listing a specific topic related to Safe Prisons each month that is to be trained in shift turn-outs. These trainings are documented on the shift turnout rosters in the training section of the form. This auditor discovered through interviews with the unit Safe Prisons/PREA manager, shift supervisors, and line staff that these topics are covered monthly. This auditor

reviewed thirteen (13) randomly selected employee training records, and thirty-four (34) shift turnout rosters, and found supporting evidence that the training discussed during interviews is conducted and documented. Auditor observations, interviews, and document review supports the facility has substantially exceeded these requirements.

**115.31(d):** Employees who complete the Safe Prisons/PREA in Texas training completes and sign Form PERS 632 which becomes a part of the employee's master human resources file. This satisfies documentation of the training requirement (PD-97, rev.7).

TDCJ has an ample body of policies to ensure staff are educated on PREA Awareness and all other provisions of this standard (SPPOM 06.01, PD-29(rev.5), PD-97(rev.7), AD-12.20(rev.6), *Safe Prisons/PREA Plan*). which were reviewed by auditor. Based on substantial knowledge of staff throughout the facility, document review, and interviews, it is evident staff have received meaningful training and understand their responsibilities as custodians and put the procedures into practice. Analysis of the information cited in the narrative and the observation that Thomas R. Havins trains on PREA monthly when the standard only requires training every two years, support that requirements of this standard have been exceeded.

## Standard 115.32: Volunteer and contractor training

### 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*)

**115.32(a):** TDCJ ensures 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. Contractors who have regular contact with offenders (MTC, Texas Tech, and Windham School District) are subject to the same training as employees (as outlined in standard 115.31 above) and received training annually during in-service. Volunteer training includes prevention, detection, and response policies and requirements.

**115.32(b):** The Volunteer Handbook is provided and published on TDCJ website. Volunteer training covers zero-tolerance for sexual misconduct and consequences for participating in this activity. Volunteers are trained take the offender directly to a security staff and report any incident promptly when witnessed or known, and inmates' and their right to be free from harassment, retaliation, intimidation, or coercion for reporting an incident of sexual misconduct. Volunteer refresher training is conducted every two years.

**115.32(c):** Contract employees and volunteers sign the acknowledgement form PERS 631 as evidence they received and understand the training received. Auditor's review of training records for contract staff and volunteers found compliance with all provisions of this standard.

The seven (7) contract employees interviewed were extremely knowledgeable about all elements required and acknowledged having received the initial and annual training as required by policy. Twelve (12) contract employee training records were reviewed to provide evidence of the training discussed during interviews. The three (3) volunteers interviewed were knowledgeable about the agency's zero tolerance policy and on their responsibilities with reporting and how to detect and respond to signs of sexual abuse. They were able to explain how to maintain professional relationships with inmates. Auditor reviewed the training records for these volunteers and confirmed training was well documented.

After review of the related policies, interviews with contract employees and volunteers, and observation of the training records and training curriculum, this auditor finds Thomas R. Havins exceeds the requirements of this standard. The standard does not set a recurring training requirement and allows for a more limited scope of training. Contractors at this facility are trained at the same level as employees and on the annual interval.

## **Standard 115.33: Inmate education**

### **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 such education?  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*)

**115.33(a):** During intake inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and explaining how to report incidents or suspicions of sexual abuse or sexual harassment. TDCJ Intake Procedure #1.10, July 2014 outlines Initial Orientation Procedures to ensure comprehensive orientation for every newly received offender. Every offender receives orientation within 7 calendar days of arrival at an intake facility according to Unit Classification Procedure 5.00. Interview with the statewide Safe Prisons/PREA Manager provided the auditor with an understanding of the comprehensive process afforded at the intake facilities. Of the forty-one (41) inmates interviewed, all but one recalled receiving the comprehensive training at his intake facility. The one that did not was admitted to the TDCJ prior to PREA becoming law. He did recall receiving the training at his prior facility. Thomas R. Havins is not an intake facility, however, when an inmate arrives he is provided a handout explaining the zero-tolerance policy that includes information on how to make a report of sexual abuse or sexual harassment. During the Safe Prisons interview each inmate is offered a PREA Pamphlet and Officer Burt covers the Zero Tolerance policy verbally and tells the inmate how to make a report. This process was observed by auditor during the site visit and further validated through inmate interviews.

**115.33(b):** Peer education (5 hours) is provided addressing PREA awareness and health education. Offenders are provided comprehensive education on their right to be free from sexual abuse and sexual harassment and retaliation and how to report an incident within 30 days of arriving a unit and thereafter, every two years (SPPOM 06.02). Thomas R. Havins is not an intake facility. The Unit Safe Prisons/PREA manager asks each new arrival if he has watched the Safe Prisons Video and received the comprehensive training AND verifies this information with a review of the inmate's record. He then records this on the Safe Prisons interview sheet. If it is determined that the inmate has not had the training within the last two years his name is added to a list to attend the next scheduled comprehensive training session. All new arrivals are shown the Safe Prisons video while they wait to be processed. This procedure was observed by auditor during the onsite visit and confirm through inmate interviews.

**115.33(c):** Auditor's review of 12 randomly selected inmate records from the interview list supports that the training has been delivered as described by both policy and by interview with warden and unit Safe Prisons/PREA manager. *Safe Prison/PREA Plan* protocols and reporting procedures are the same at all TDCJ facilities, only the names of staff change. According to

TDCJ policy, the comprehensive training will not be conducted at non-intake facilities for offenders who transfer between facilities, except every two years as required. Offenders receive the comprehensive training every two years after the initial. The date of the comprehensive training is documented in each offender's file. All inmates interviewed indicated they have received PREA education upon arrival and information about the procedures at Thomas R. Havins. The only difference according to the inmates interviewed is name of the Safe Prisons/PREA manager. Every inmate interviewed named Officer Burt as the Safe Prisons/PREA manager for Thomas R. Havins.

**115.33(d):** The agency provides inmate education in formats accessible to all inmates including those who are limited English proficient, those who are deaf, those who are visually impaired, those who are visually impaired, those who are otherwise disabled, and those who have limited reading skills. This is provided in both English and Spanish, and ASL when required. Qualified Spanish and American Sign Language interpreters (AD-06.25 rev.4) are provided, and Language Line Solutions and Pacific Interpreters (E-37.5) for telephonic interpreters available to offenders who are in need. Auditor placed call to both service providers and verified that the accounts are active and available for interpreting multiple languages. A list of qualified Spanish interpreters is kept updated at the facility. Mr. Hancock is the LEP Coordinator for the facility and his number is readily accessible in the main control room should a need arise that cannot be satisfied with the authorized interpreters on staff. The agency also maintains a list of employees who speak languages other than English and Spanish for use when needed. PREA educational brochures are available in both English and Spanish and are enclosed with the Offender Orientation Packet during intake and in the new chain arrival packet for transfers. See additional narrative regarding placement of inmates with special accessibility requirements in related standard 115.16.

**115.33(e):** The agency maintains documentation of inmate participation in this training by signature on the Safe Prisons Interview sheet and by signature on the orientation sign-in sheet, form SSP-117, that the orientation packet has been received which includes training materials stated above. Samples of this documentation was observed by this auditor which satisfies recording of the inmate's attendance and receipt of training (UCP-5.00).

**115.33(f):** In addition to providing such education, the agency ensures that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats as directed through policy SPPOM 06.02. Offenders are provided an Inmate Handbook containing PREA information and providing instructions on reporting methods, and what to do if an offender feels threats to his/her safety. Handbooks are available in English and Spanish. Zero-Tolerance Policy posters (English and Spanish) are placed throughout unit in office of warden, employee break rooms, offender and employee dining areas, law library, general library, offender housing areas, offender work and educational areas, and multi-purpose areas and visitation. Sexual Abuse, Sexual Harassment, and Extortion Awareness Posters (English and Spanish) are displayed throughout the unit in locations accessible and visible to offenders. Inmate Handbook in both English and Spanish is available in the Law Library. Auditor observed a thorough display of posters and accessibility of the Inmate Handbook.

Inmates were well versed on the zero-tolerance policy and knew how to access help. Inmates were able to explain their right to be free from sexual abuse and sexual harassment, and their right to be free from retaliation for making a report. Inmates were aware they could make a report on behalf of another offender and were aware that a report could be made on their behalf by a 3<sup>rd</sup> party. Inmates were aware of the PREA Ombudsman and how to make contact. Some inmates referenced being able to look in the handbook or get information from the posters displayed throughout the facility. All offenders said they would be able to talk directly to staff if they needed to tell someone. The inmates interviewed expressed feeling safe at Thomas R. Havins and denied being aware of any sexual activity at the facility. More than half of the inmates interviewed said they knew about the outside advocacy services, but most said they really hadn't paid attention to it because they haven't had a need.

Based on personal observations, facility tour, documentation review, review of handbook and pamphlets, inmate education curriculum review, inmate interviews, and interviews with Safe Prisons staff, Thomas R. Havins meets requirements of this standard

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

### **115.34 (a)**

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

### **115.34 (b)**

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

### 115.34 (c)

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

### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

**115.34(a):** In addition to the general training provided to all employees and discussed in 115.31, the agency ensures its investigators receive training in conducting sexual abuse investigations in confinement settings through policy BP-01.07. OIG-02.15 directs the OIG to establish and administer a comprehensive training program for OIG investigators that includes specialized training in investigating sexual assaults within the prison facilities and PREA standards and to complete the Investigator Training Academy and Investigator Field Training Program. CTSD Safe Prisons/PREA Investigation Training: *Conducting a Thorough Investigation* is a 3-hour lesson plan designed for correctional security staff who conduct administrative investigations. This training is delivered through a 3-hour lesson plan entitled *Sexual Assault Investigative Topics* that includes all elements required to meet this standard. Facility Investigators and OIG Investigators complete this training course. OIG investigators also receive *Interview and Interrogation* training, a 32-hour lesson plan on interviewing techniques. A roster was provided for all 136 OIG Investigators providing evidence of completion of the NIC Training Course, PREA Investigations.

**115.34(b):** Auditor's review of the curriculum indicates inclusion of the following topics: 1) conducting sexual abuse investigations in confinement settings; 2) techniques for interviewing sexual abuse victims; 3) proper use of Miranda and Garrity warnings; 4) sexual abuse evidence collection in confinement settings; 5) criteria and evidence required to substantiate a case for administrative action or prosecution referral. All supervisors at level of sergeant and above receive this training (*Safe Prisons/PREA Plan*).

**115.34(c):** The agency maintains documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations through participation rosters and hours entered into the training database upon completion. Training records are maintained by the CTSD Training. Auditor interviewed OIG investigator Robinson

by telephone found him experienced in the field, very knowledgeable about PREA, and competent in investigations. This investigator reviewed agency policy and procedures and confirmed having received the specialized training. We discussed the procedures for evidence handling and conducting interviews. The investigator and warden both cited having a positive working relationship between the two departments. Auditor reviewed records for the designated investigators at Thomas R. Havins and the OIG Investigator interviewed.

There are ten (11) designated investigators at Thomas R. Havins. Five of the listed investigators were interviewed by this auditor and they were all found to be very knowledgeable and well trained in conducting investigations. They were all able to articulate the required steps covered in the training material, further explaining that all cases are presented for review by OIG who makes the final disposition on assigning for a criminal investigation. Training records were provided for all ten (11) unit investigators to provide evidence of the general and specialized training. Based on analysis of information obtained from interviews, document review, and policy review, Thomas R. Havins meets requirements of this standard.

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

#### **115.35 (a)**

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

#### **115.35 (b)**

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

#### **115.35 (c)**

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

#### 115.35 (d)

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

#### Auditor Overall Compliance Determination

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

**115.35(a):** The agency ensures 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, in how to preserve physical evidence of sexual abuse, in how to respond effectively and professionally to victims of sexual abuse and sexual harassment, and in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment through policy Correctional Managed Health Care policy C-25.1 and PD-97(rev.7). Auditor's interviews with medical staff, review of training records, and review of curriculum indicate agency compliance with this provision.

**115.35(b):** Facility medical staff does not perform forensic examination, offenders are taken to nearest hospital for this service, as supported by agency policy and interviews with HSA and warden.

**115.35(c):** Documentation of training is filed in the employee's personnel file in accordance with CMHC policy C-25.1. Form PERS 631 is signed each time general training is received and rosters are maintained by the facility trainer. Training documentation for medical employees was reviewed by auditor.

**115.35(d):** Medical and mental health practitioners contract employees employed by Texas Tech University Health Services Center and are required to attend the *Safe Prisons/PREA Plan* pre-service and in-service training equivalent to that of TDCJ employees (as noted in 115.31 and 115.32). In addition, medical and mental health care practitioners have been trained in Communicating Effectively with offenders to include LGBTI. Auditor interviews and review of training records confirm training has been received and understood.

This auditor interviewed four (4) of the ten (10) health care employees about the training they've received and they all confirmed having received the general and specialized training upon hire and then annually at in-service. A review of their training documentation provides evidence the training has been delivered. Auditor's review of training curriculum indicates all elements required are covered in the lesson. Based on interviews, training and personnel documentation and policy review, Thomas R. Havins meets requirements of this standard.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

#### 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, when 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, when 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, when known to the agency: history of prior institutional violence or sexual abuse?  Yes  No

#### 115.41 (f)

- Within a set time period not more than 30 days from the 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 a: Incident of sexual abuse?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: 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*)

115.41(a): All inmates are assessed during an intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates and again upon transfer to another facility in accordance with procedures established by TDCJ Safe Prisons Manual 03.01, December 2017, and utilizing the Offender Assessment Screening form. This auditor observed the new chain arrival and interviewed the inmates arriving that date confirming that a risk screening was conducted. Documentation of the completed and signed risk screening instrument was reviewed by this auditor. Facility Safe Prisons/PREA Manager, Warden, and

Classification Chief confirmed during interviews that the risk screening is conducted on day one for every arrival. Evidence of the initial screening at intake is documented in the offender's record in the TDCJ database, as observed by this auditor for 12 inmate records reviewed.

115.41(b): The risk screening is to be conducted no later than 72 hours according to policy, however, *Safe Prisons/PREA Plan* requires completion within 24 hours. Auditor's review of a random sample of screening instruments compared with the inmate's date of arrival and personal observation of the intake process while onsite finds that Thomas R. Havins has a well-established practice of completing these screenings within 24 hours of arrival. Every inmate interviewed confirmed the risk screening instrument was completed on the date of arrival at this facility and all but one of them recalled having the screening conducted upon entry into TDCJ at intake. Officer Burt and Classification Chief Hancock confirmed the risk screening instrument is completed in person in a private setting on the date of arrival for each new arrival.

115.41(c): TDCJ uses an objective screening instrument, Attachment E, Offender Assessment Screening to assess the inmate's risk for sexual victimization or perpetration. Policy (PREA Operations number 03.01) directs the screening interviewer to ask each question in a manner and method so the questions are understood by the offender. This auditor reviewed the standardized instrument that is used Statewide throughout TDCJ. The screening instrument contains information that is collected by a face to face interview with the inmate, and information that is collected by a review of the inmate's TDCJ records. This instrument is a well-designed document that provides instructional information to the staff conducting the interview and prompts suggested dialogue with the offender. This instrument contains all information required by the risk screening standard. According to interview with Officer Burt and Classification Chief Hancock, information is gathered through a combined effort of interview with inmate and a review of the offender's TDCJ records. Review of the historical screening instruments indicate language interpreters are used when needed to ensure inmate understood the information gathering process. This auditor observed Officer Burt explain to the inmate prior to beginning the survey that the questions asked were to assess the risk and needs of the individual and to ensure proper housing assignment. During the auditor's interview with Officer Burt, he confirmed that he conducts the interview process the same way for every offender. Auditor's interviews with inmates indicated they understood the risk assessment interview process and purpose for it being conducted.

115.41(d): The instrument (Attachment E) is completed for each offender and includes 1-9 of the elements stated in this provision of the standard to be considered during screening. This auditor observed Officer Burt ask the interviewed inmate every question listed on the instrument note the corresponding response. During the auditor's interview with Officer Burt, he confirmed that he conducts the interview process the same way for every offender. Auditor's interviews with inmates indicated Officer Burt conducted the risk assessment interview upon arrival to Thomas R. Havins. Element 10 is not applicable because TDCJ does not house offenders solely for civil immigration purposes, so it is not included as part of the screening instrument as per interview with PREA Coordinator. Auditor's review of related policy and screening instrument review finds it meets provisions of this standard.

115.41(e): The auditor's review of the screening instrument indicates that in addition to the above criteria (a-d), the instrument contains collection of: a) prior acts of sexual abuse; b) prior convictions for violent offenses; c) history of prior institutional violence or sexual abuse which is obtained through combination of interview and inmate's record review by the screener. Interviews with Officer Burt and Classification Chief Hancock confirmed this practice.

115.41(f): In accordance with *Safe Prisons/PREA Plan* and *Safe Prisons/PREA Operations Manual 03.01*, within a set time not more than 30 days from the inmate's arrival at the facility, 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. The unit Safe Prisons/PREA manager interview and classification chief interview and a review of inmate screening instruments revealed Thomas R. Havins conducts a reassessment of an inmate's vulnerability or aggressiveness for sexual abuse between 15 and 30 calendar days from offender's arrival at a unit. Twelve inmates were randomly selected from the list of interviews conducted to review for the screening process. Documentation revealed all twelve were screened on day one and then again between 15-30 days after their initial screening. In accordance with *Safe Prisons/PREA Plan* and supported by interviews with Officer Burt, Classification Chief Hancock, practice at Thomas R. Havins includes a review of the inmate's institutional record and observations of his behavior to determine if any previously unknown information has become available that may affect the screening results; this practice occurs at a minimum, each time an inmate comes before the classification committee.

115.41(g): In accordance with *Safe Prisons/PREA Plan* and *Safe Prisons/PREA Operations Manual 03.01*, reassessments are conducted based on referrals or requests by other staff, and after incidents of sexual abuse or an Offender Protection Investigation (OPI). When additional information becomes available that could bear on an offender's risk for victimization or abusiveness a referral is made for reassessment. These assessments are documented through the UCC process and in the offender's record. After the initial assessment and reassessment, all other referrals, requests, incidents, or receipt of additional information are promptly investigated, and a risk screening is conducting through the classification process. Officer Burt, Classification Chief Hancock, Warden Rayford, and investigative staff indicated these protocols are in place and observed. The UCC documents that the review has been conducted in the investigative packet. Auditor reviewed two OPI packets and found documentation that both inmates were reassessed for risk by the UCC following the investigation. There were no incidents to review for referrals for reassessment. These procedures are incorporated into the classification hearing procedures according to interview with Warden Rayford, UCC Manager Hancock and Safe Prisons/PREA Manager Burt.

115.41(h): Through a policy review of SPPOM 3.01, and interviews with risk-screening staff and disciplinary hearing officer, offenders are not disciplined for refusing to answer questions during the risk screening interview Interviews with disciplinary clerk and disciplinary hearing officers confirms that no inmate has received disciplinary action for refusing to answer questions during the risk screening interview.

115.41(i): Auditor confirmed through interview with Officer Burt and Classification Chief Hancock that the screening information is provided by Officer Burt to the unit classification

committee in accordance with Safe Prisons 03.01. The original Risk Screening instruments containing responses to the questions asked are securely filed in locked metal filing cabinets in the Safe Prisons/PREA Office. Only Safe Prisons/PREA manager, Officer Burt, is issued a key to this filing cabinet. This auditor observed these documents in the secured cabinet. A copy of the screening instrument is provided to the UCC, and access to the UCC file is restricted to members of the committee.

A random selection of twelve (12) inmates interviewed by auditor were identified to review their risk screening instrument. Auditor's review of these documents indicates the procedures described in the narrative is well-implemented at Thomas R. Havins. The regular and consistent practice of screening inmates for risk of being sexually abused by other inmates or sexually abusive toward other inmates within 24 hours and prior to making a housing/bed assignment exceeds the 72-hour requirement of this standard. Interviews with inmates, Safe Prisons/PREA staff, warden, UCC members, review of documentation and screening records, and policy review indicate Thomas R. Havins exceeds requirements of this standard.

## Standard 115.42: Use of screening information

### 115.42 (a)

- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those 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?  Yes  No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex 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?  Yes  No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex 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?  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*)

**115.42(a):** Auditor's review of policy finds the intent of the TDCJ (AD-04.17 rev.4) to ensure the safety, security, and treatment needs of all offenders. Offenders identified by classification committee as being too assaultive or too vulnerable to be safely housed with another offender will be housed in a cell alone (AD-04.68). The Safe Prisons/PREA Assessment information is used, in conjunction with other information, to determine housing assignments. Emergency housing changes are reported to the chief of unit classification. AD-04.18 (rev.5) provides that Unit Classification Committee (UCC) has authority to make changes in an offender's job assignment that affects other areas of the Individualized Treatment Plan. Job assignments are made based on consideration of the offender's total record. Thomas R. Havins Classification Committee controls housing assignments. Warden Rayford regularly participates in the UCC process. Interviews with classification committee members indicated a systematic and consistent approach to making housing, programming, and work assignment decisions based on the offender's risk and other relevant security information. Auditor's review of the housing board identified location of all inmates assigned to Thomas R. Havins and found no offenders at risk for victimization housed near inmates with high risk sexual aggression as per Unit Classification Procedure 4.00, Offender Housing Assignment.

**115.42(b):** As per *Safe Prisons/PREA Plan*, the UCC makes individualized determinations regarding how to ensure the safety of each offender. Policy review and auditor's observation of the initial classification hearing indicate compliance with provision. AD-04.17(rev.4) Offender Housing Assignment Criteria and Procedures dictates offender housing to ensure safety, security, and treatment needs of all offenders are met, and to maintain the safety and security of the public, staff, and the unit. Criteria set forth in this policy are to be strictly followed when making housing assignments. Offender classification is a comprehensive evaluation system designed to evaluate and accurately group offenders based on various characteristics. Facility assignments, including whether to assign a transgender or intersex inmate to a facility for male or female inmates, are determined after an inmate completes the intake process in accordance with the Classification Plan, April 2018 regulated by Classification and Records Office. As per SPPOM 03.02, Special Population Review, and Unit Classification Procedures 1.04, the classification review considers the offender's views on his/her safety. All inmates, including transgender and intersex, receive an individualized assessment when these decisions are made to ensure the inmate's health and safety, and in consideration of management or security concerns. This policy procedure was also confirmed during interviews with PREA Coordinator and agency Safe Prisons/PREA Manager. There were no identified transgender or intersex inmate housed at Thomas R. Havins during the onsite visit to interview.

**115.42(d):** Transgender and intersex offender placement and programming assignments are reassessed twice each year to review any threats to safety experienced by the offender in accordance with Safe Prisons/PREA Operations Manual #03.02, Special Population Review. Safe Prisons/PREA manager and unit classification manager are both aware of this policy. The mission of Thomas R. Havins provides that the time of stay is generally no more than six (6) months, therefore no inmate is at facility long enough to have the review, however, should they be the facility is aware the review is to be completed. Within the past 12 months the facility housed one (1) transgender inmate who arrived in July 2017 and was released in January 2018, indicating inmate released prior to housing review requirement being necessary.

**115.42(e):** Unit Safe Prisons/PREA Manager and Unit Classification Committee discusses with all offenders his/her own views with respect to safety for consideration in making housing, programming, and work assignments. This was observed by auditor during initial classification hearing for new arrival observed, and further confirmed during interviews with warden and classification chief.

**115.42(f):** *Safe Prisons/PREA Plan* provides that transgender or intersex offenders be given opportunity to shower separately from other inmates. Thomas R. Havins accomplishes this by allowing these offenders to shower in the individual shower in the Special Management Area (SMA). Auditor confirmed housing for the one (1) transgender inmate housed within the past year was in general population, not in the SMA. This practice was confirmed during interviews with SMA officers, unit Safe Prisons/PREA manager, classification chief, and warden.

**115.42(g):** Thomas R. Havins does not house gay, bisexual, transgender or intersex offenders in a dedicated wing as per *Safe Prisons/PREA Plan*. A review of the complete housing roster indicates inmates are housed in all three buildings and no dedicated wing is used to housing any categories of population. Auditor compared the list of inmates who are identified as gay, bisexual, transgender or intersex to the housing assignments and found no discernable pattern indicating these inmates are not assigned to a designated housing unit.

Thomas R. Havins maintains a very comprehensive UCC that involves participation from facility leadership on a regular basis. Interviews indicate management staff (Majors and above) are highly engaged with monitoring safety of offenders. No housing movements are made without UCC approval. Based on review of offender file records, housing rosters, agency policy, and interviews with staff and offenders, Thomas R. Havins meets requirements of this standard.

## Standard 115.43: Protective Custody

### 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 access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations?  Yes  No

#### 115.43 (c)

- Does the facility assign 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*)

**115.43(a):** Agency policy (*Protective Safekeeping Plan, Administrative Segregation Plan, Safe Prisons/PREA, SPPOM 05.05, Offender Protection Investigation*) provides procedures for regulating inmates who are segregated because of being at high risk for victimization. The Unit Classification Committee (UCC) and State Classification Committee (SCC), and Administrative Segregation Committee (ASC) holds the reviews for placement, custody changes, and restrictions for offenders in segregated housing. The policy provides for a comprehensive review and monitoring of offenders in status. Offenders are reviewed by the UCC initially, and in accordance with agency policy offenders at high risk for sexual victimization are not placed in protective custody unless an assessment of all available alternatives has been made and it is determined there is no available alternative means of separation from likely abusers. If assessment is not immediate, offender will be held for no more than 24 hours, while the assessment is completed. No inmates have been placed in involuntary segregated housing for high risk for sexual victimization for the past 12 months, as indicated by interview with warden and classification chief.

**115.43(b):** Offenders placed in segregated housing will be provided access to programs, general population privileges, work, and education to the extent possible. Any restrictions and reason for limitations to access is documented. Administrative Segregation Plan, Attachment A, indicates offenders are allowed group recreation, television, commissary, property, programming, in-cell correspondence course materials.

**115.43(c):** Offender Protection Investigations (OPI) are conducted within a 72-hour transient period, and can be extended an additional 72 hours, if needed, to complete the investigation. The safety of the offender is priority. Once the investigation is completed housing decisions will be determined, to include housing changes or transfers to ensure the safety of the offender. Policy provides that every 30 days a review will be conducted, if there is a continuing need for separation from GP. Work and proctored educational programs are restricted while in this status and the Form I-203sv will be documented why the restriction is imposed and the duration of the restriction. In these cases, the facility is required to clearly document the need for an inmate to remain in segregated housing. Thomas R. Havins may house offenders to SMA for completion of an Offender Protection Investigation (OPI). These offenders are

assigned to transient status for completion of an OPI which are normally completed within 72 hours, with one 72-hour extension allowed if needed to complete the investigation. Thomas R. Havins has not assign inmates to involuntary segregated housing for high risk of sexual victimization as per interview with warden and classification chief.

**115.43(d):** If an involuntary segregated housing assignment is made to protection for high risk for victimization, the facility clearly documents the basis for the concern for inmate's safety and the reason why no alternative means of separation can be arranged per agency policy.

**115.43(e):** Agency policy provides that an offender should be in protective custody for no more than 30 days, and offenders initially placed in administrative segregation shall be afforded an initial hearing within seven days and a subsequent paper review by the ASC every seven days for the first 60 days, and at least every 30 days thereafter. All reviews shall be documented. As per warden and due to the mission of this facility as a therapeutic community, Thomas R. Havins does not utilize protective custody as a housing status.

Thomas R. Havins assigned no offender to involuntary segregated housing for high risk of sexual victimization within the past 12 months. Interviews with all levels of staff indicate the Offender Protection Investigation procedures are well known and instituted at the facility. Should an offender be identified at high risk for victimization to the extent that Thomas R. Havins is no longer a suitable housing option, a transfer to a more suitable facility will be initiated promptly. Interview with warden indicated that if an aggressor is identified from and OPI then the aggressor would be removed from the facility not the victim. Based on no qualifying incidents and policy review that provides procedures within the standards, Thomas R. Havins meets requirements of this standard.

## REPORTING

### Standard 115.51: Inmate reporting

#### 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?  Yes  No

#### 115.51 (c)

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

#### 115.51 (d)

- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of 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*)

**115.51(a):** *Safe Prisons/PREA Plan* provides multiple ways for offenders to report an allegation of sexual abuse or sexual harassment, or retaliation, or staff neglect or violation of responsibility that may have contributed to such incidents: 1) directly to the major; 2) directly to OIG; 3) privately to PREA ombudsman; 4) to any staff verbally, in writing, anonymously; 5) through grievance process; and 6) through family members or other individuals verbally or in writing. Inmates may also make an internal private report by using a sick call form. Posters are provided throughout facility and offender handbooks, and brochures are provided to offenders at intake and initial interview during transfers that includes the multiple ways a report can be made. Offenders interviewed indicated their awareness of the different methods available to them to use for reporting.

**115.51(b):** The PREA Ombudsman serves as an independent office to review or conduct administrative investigations of allegations of sexual abuse and sexual harassment, as well as to provide a point of contact for elected officials, the public, and offenders to report allegations of sexual abuse and sexual harassment. This position is appointed by the Texas Board of

Criminal Justice, reports directly to its chairman and is the external public entity designated to receive reports. This office produces an informational brochure for use by staff, offenders, family & friends and contact information to include General Information Guide for Families of Offenders includes information on when and how to access the PREA Ombudsman. Upon receipt of an allegation, the PREA Ombudsman immediately initiates an investigation. The reporting offender can remain anonymous. BP-03.91 (rev.3) provides that offender correspondence with PREA ombudsman is considered "Special Correspondence" and may be sealed and inspected only in the presence of offender. PD-29 (rev.5) Sexual Misconduct with Offenders. ED-02.10 (rev.1) establishes the PREA Ombudsman Office.

The TDCJ detains no offenders solely for civil immigration purposes so this element of the provision is not applicable.

**115.51(c):** Informal and formal interviews with all levels of staff indicate that reports are accepted verbally, in writing, anonymously, and from third parties. Verbal reports are immediately documented on an EAC Incident Report and Sexual Abuse Checklist. No anonymous or third-party reports have been made to review.

**115.51(d):** Employees may anonymously report employee corruption and PREA/Safe Prisons violations directly to the warden, Office of Inspector General, or PREA Ombudsman in accordance with SPPOM 05.05. Employees interviewed are aware that they may use these avenues to make a report.

The facility has received one reported allegation in the past 12 months which was made through the grievance process. Auditor's review of the grievance and subsequent investigation indicates the report was processed according to stated procedures in above narrative. Policy review and interviews with PREA Ombudsman, Safe Prisons/PREA staff, warden, auditor's observations during tour, interviews with offenders, interviews with staff, review of handbook and other available literature indicates Thomas R. Havins meets requirements of this standard.

## Standard 115.52: Exhaustion of administrative remedies

### 115.52 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address 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  NA

### 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*)

**115.52(a):** The agency has administrative procedures to address inmate grievances regarding sexual abuse. BP-03.77 (rev.9) establishes policy for Offender Grievances and directs publication of *Offender Grievance Operations Manual*. Grievance forms are available from the

law library, housing area, shift supervisors, or by contacting the unit grievance office. A completed grievance may be placed in a grievance box or hand-delivered to the grievance investigator. Locked grievance boxes are located throughout the facility in areas easily accessible by inmates. Access to these boxes is limited to authorized grievance staff and the warden. Grievances are collected daily by authorized grievance staff. Security officers are not authorized to collect grievances from the collection boxes unless serving as alternate grievance staff. Inmates are provided information on the grievance process at intake and through inmate handbook.

**115.52(b):** TDCJ does not impose a time limit for submitting a grievance alleging sexual abuse, nor are inmates required to use an informal resolution process. A grievance may be submitted without submitting to a staff member who is the subject of the complaint. All sexual abuse/harassment grievances shall be reported in accordance with the *Safe Prisons/PREA Plan* and are promptly followed by an Offender Protection Investigation (OPI), with a response to the action taken within five days.

**115.52(c):** The grievance will not be referred to a staff member who is the subject of the complaint. A completed grievance may be placed in a grievance box or hand-delivered to the grievance investigator (Offender Grievance Operations Manual, Appendix B).

**115.52(d):** A final decision shall be made within 90 days of the initial filing, with a potential for 70 days extension, should it be needed to make an appropriate decision. The inmate will be notified in writing of this extension.

**115.52(e):** Third parties (fellow offenders, staff members, family members, attorneys, and advocates) shall be permitted to assist offenders with filing a grievance relating to an allegation of sexual abuse and may file on behalf of an alleged victim. *Third Party Preliminary Investigation Form* is used for grievances initiated by a 3<sup>rd</sup> party (OGOM 9.00 and Appendix U). The alleged offender victim may be required to personally pursue any subsequent steps in the process in accordance with the TDCJ *Offender Grievance Operations Manual*. A decision by the alleged victim to decline processing of the request will be documented by the facility. There were no documented 3<sup>rd</sup> party grievances filed.

**115.52(f):** OGOM 1.04 establishes procedures for immediate investigations of allegations of sexual abuse/sexual harassment made through the grievance procedure. Emergency grievances will be forwarded for immediate corrective action with an initial response provided within 48 hours of receipt and a final decision within 5 calendar days. If an offender is in substantial risk of imminent sexual abuse, this must be documented, along with the action taken. The one sexual abuse grievance reviewed for the period indicated it was received on 11/28/2017, investigation began on 11/28/2017 and concluded on 12/03/2017.

**115.52(g):** Any offender filing a grievance alleging sexual abuse in bad faith may be disciplined (OGOM 1.01). For the one sexual abuse allegation grievance filed and disposed as unfounded, this auditor was not able to interview the inmate as he is no longer at TDCJ but there was no evidence the inmate received discipline for making the allegation based on interview with the disciplinary clerk.

Auditor interviewed the grievance coordinator and obtained a listing of grievance codes along with the process for regular grievances and emergency grievances. Ms. Kerby-Taylor was knowledgeable about the process and confirmed the procedures at Thomas R. Havins are in accordance with the TDCJ policy and subsequently meet the provisions of this standard. A computer-generated report was requested by and provided to this auditor from the facility which resulted in one (1) Sexual Abuse Related Grievance, coded Voyeurism. The outcome was unfounded. Complete PREA protocols were enacted resulting with documentation of a thorough and prompt investigation. Inmate is no longer at TDCJ and there was no evidence the inmate received discipline for making the allegation. Officer was present during audit and was interviewed by auditor. Inmates interviewed are aware of the grievance procedures and understand they may submit allegations or threats of sexual abuse and that they may assist or file on behalf of another offender. Based on policy review, grievance review, and interviews, Thomas R. Havins meets requirements of this standard.

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

### **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?  Yes  No
- 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*)

**115.53(a):** Thomas R. Havins provides inmates with access to outside victim advocates for emotional support services related to sexual abuse. Safe Prisons/PREA Manager Burt provides offenders notification of availability and access to the Texas Association Against Sexual Assault (TAASA) service directory which is also available in the Law Library. All new arrivals are advised this directory is available and can be accessed through written correspondence (I-60) to Officer Burt. Posters on bulletin boards provide notification to inmates they can contact Family in Crisis Inc. PO Box 25 Killeen Texas 76540 888-799-7233 for emotional support services related to sexual abuse. These posters are in both English and Spanish. Safe Prisons/PREA Plan establishes that reasonable communication between offenders and these organizations and agencies will be allowed in as confidential a manner as possible.

The TDCJ detains no offenders solely for civil immigration purposes so this element in this provision is not applicable.

**115.53(b):** The facility informs inmates 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. As per interview with Safe Prisons/PREA Manager, once an MOU is in place with a specific outside advocacy group, confidentiality will be observed in accordance with the agreement defined in the MOU and offenders will be notified of any limitations. Currently there is no MOU in place between Thomas R. Havins and a victim advocacy center. A web search revealed that Texas has two relevant mandatory reporting laws applicable to TDCJ: Abuse of Children and Abuse of Elderly/Disabled. Elder abuse involves any abuse, to include sexual abuse, of a person age 65 or older. A Disabled person means anyone with a mental, physical, intellectual or developmental disability that substantially impairs the person's ability to provide adequately for his/her own care and is 18 years of age or older.

**115.53(c):** Auditor reviewed copies of correspondence from State Safe Prisons/PREA Manager Steinbecker confirming her attempts to initiate MOUs with victim advocacy groups. An MOU for outside victim support services has not been secured for Thomas R. Havins at this time, but diligent efforts have been documented. The Safe Prisons/PREA Management Office has secured services for some of the TDCJ facilities and continues to identify and create more alliances (i.e. Families in Crisis, Inc., for period of 09/01/2016-08/31/2019) and they have agreed to accept written correspondence from inmates housed in facilities within Region VI, per regional coordinator. Auditor's interview with Erica Gammill, the Prisoner Advocate,

Incarcerated Survivor Program, Texas Association Against Sexual Assault (TAASA) advised that TAASA is willing to work with TDCJ to develop a working relationship. She confirmed she has corresponded with one inmate housed at Thomas R. Havins in February 2017. Ms. Gammill identified The ARK Domestic Violence and Sexual Assault Shelter in Brownwood Texas as the local provider for this area. This auditor called ARK and spoke with Terri Densman who confirmed she has received an MOU from Thomas R. Havins for consideration, but she has not signed the agreement yet; she plans to seek legal advice before entering into agreement. She confirmed that she has received no correspondence from anyone related to sexual abuse or harassment problems at Thomas R. Havins nor from any inmates housed at Thomas R. Havins. The Director of Programs at Family in Crisis was contacted by email to confirm that no correspondence has been received from anyone at Thomas R. Havins in the past 12 months.

Services are available for emotional and mental professional assistance at any time through contact with the facility health services; emotional support can also be accessed through the Chaplain, their case manager, or the Offender Victim Representative (OVR). Offenders are notified of these services in the offender training and at orientation; it is provided in the offender Safe Prisons/PREA brochure and in the offender handbook.

Based on policy review, interviews with inmates, interviews with Safe Prisons/PREA staff, PREA Ombudsman, review of correspondence between TDCJ and community rape crisis centers, and conversation with TAASA and ARK advocates, Thomas R. Havins meets requirements of this standard.

## Standard 115.54: Third-party reporting

### 115.54 (a)

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

**115.54(a):** ED-02.03 (rev.6) and ED-02.10 (rev.1) establishes the Ombudsman Program to respond to complaints or inquiries from inmates, staff, public, elected officials, and any 3<sup>rd</sup> party reporter within 10 workdays, unless an extension is warranted. Reports received alleging

sexual abuse are forwarded by the PREA ombudsman to the unit administration, and OIG immediately on the same day received. ED-02.10 (rev.1) establishes and designates the PREA ombudsman's office to investigate and process PREA complaints. Contact information is available in the inmate handbook, informational guide provided to families, and posted on units and available on the public website. *Safe Prisons/PREA Plan* provides that allegations for protection may be reported by the offender in need of protection, other offenders, the offender's family, TDCJ staff, or others.

The Offender Orientation Handbook, Safe Prisons/PREA Plan, and Offender Grievance Program pamphlet are posted on the public website, PREA Ombudsman page at <https://www.tdcj.state.tx.us/tbcj/prea.html>.

Based on website review, documentation review, and interview with PREA Ombudsman, and other Safe Prisons/PREA staff, TDCJ/Thomas R. Havins meets requirements of this standard.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

#### 115.61 (a)

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

**115.61(a):** All staff are required to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment, retaliation against anyone for making a report, and any violation or neglect of responsibilities that may have contributed to an incident that occurred in a facility. AD-16.20 (rev.2) and BP-01.07 directs administrative violations and criminal offenses, to include knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment or retaliation, to be reported to OIG who is responsible for investigating these incidents occurring on TDCJ property or affecting TDCJ property or pecuniary interest. Reports may be made directly to the OIG or through the employee's supervisor. Supervisory staff shall ensure that incidents reported to them are also reported to the OIG. PD-29 (rev.5) requires an employee who becomes aware of alleged sexual misconduct to immediately report incident to: 1) employee's immediate supervisor, warden, or department head; 2) employee's 2<sup>nd</sup> level supervisor if the person allegedly conducting such misconduct is the employee's immediate supervisor; 3) a unit OIG investigator; 4) the Records Management Office, OIG Investigations Division; or 5) PREA Ombudsman Office. Supervisors who receive such notifications or who become aware of sexual misconduct otherwise, shall immediately report incident to: 1) warden or department head; 2) unit OIG investigator; 3) the Records Management Office, OIG Investigations Division; or 4) PREA Ombudsman Office. Wardens, department head, or PREA Ombudsman must contact the OIG in accordance with AD-16.20 upon receiving a report from

an employee, an employee's supervisor, other individual, an offender, or an offender's family of any alleged sexual misconduct.

**115.61(b):** *Safe Prisons/PREA Plan* and SPPOM 05.10 directs staff shall not reveal any information related to a sexual abuse report to anyone other than designated supervisors or officials, and only to the extent necessary to make informed treatment, investigative, security, and management decisions. The *Plan* further requires mandatory reporting of staff incidents of sexual abuse or sexual harassment or staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Offenders and staff who report sexual abuse or sexual harassment or cooperate with a subsequent investigation shall be protected from retaliation by other offenders or staff. All staff interviewed (investigative and non-investigative) indicated awareness and observance of the need to keep information of sexual abuse reports confidential, to be shared only as part of the investigation or to serve health or safety needs.

**115.61(c):** *Safe Prisons/PREA Plan* requires medical and mental health practitioners to report sexual abuse and to inform offenders of the duty to report, and limitations of confidentiality, unless otherwise precluded by federal, state, or local law. Healthcare policy E-35.2 directs offenders will be apprised of the limits of confidentiality before a mental health evaluation, clinical interview, or mental status examination and asked to consent to the interview, which is then documented in the health record.

**115.61(d):** Healthcare policy G-57.1 states healthcare staff are required to report any incident of sexual assault to the OIG whether it occurred in a correctional setting or in the community for offenders under the age of 18 and patient consent is not required. Healthcare staff must obtain consent from offenders age 18 or older to report a prior assault/abuse in the interest of initiating an investigation into the incident whether in a correctional setting or in the community. Healthcare staff may report such incidents without consent only in the interest of treatment, security, or management issues. CPOM-02.05 (rev.1) directs abuse, exploitation, neglect of an offender under 18 be reported to the Department of Family Protective Services where TDCJ investigation finds sufficient grounds to believe wrongful activity has occurred.

**115.61(e):** The facility reports all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators. All reports indicated in provision (a) above are forwarded to the facility investigator immediately and Attachment G, Sexual Abuse Investigation Checklist protocols are initiated. The local investigator works with the OIG to provide investigative information and referral when necessary, and according to TDCJ policy (SPPOM 05.01).

Interviews with random and specialized staff conveyed a high level of understanding for mandatory reporting of all sexual abuse incidents of which they are made aware. They clearly articulated the urgency of initiating the coordinated response plan and acting immediately upon notification. Based on policy review, review of incident documentation, interviews with staff at all levels, interviews with Safe Prisons/PREA staff, and interviews with investigative staff this auditor finds Thomas R. Havins meets requirements of this standard.

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

### 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*)

**115.62(a):** *Safe Prisons/PREA Plan* provides that an Offender Protection Investigation (OPI) may be requested by anyone who has information that an offender may need protection. *Safe Prisons/PREA Operations Manual 05.03* establishes that the unit major or highest-ranking security supervisor on duty shall determine the type of housing required for the alleged offender victim pending completion of the investigation. A timely OPI will be conducted and documented on the tracking log. Timeframes correspond with the type of housing determined: 1) general population, within 12 hours; 2) transient status, within 72 hours; 3) administrative segregation and solitary confinement, within 72 hours. The OPI is then forwarded to the chief of classification for committee review upon completion.

Interviews with warden and management staff indicate safety of inmates and staff takes a high priority at Thomas R. Havins. All efforts are made to ensure the safety of inmates when a substantial risk of imminent sexual abuse is indicated. Should it be necessary for the offender to be moved to another facility for safety, a request for transfer will be initiated through the Unit Classification Committee and then approved by the State Classification Committee. Thomas R. Havins has had no qualifying incidents in the past 12 months to review. Interview with PREA Coordinator, warden, OIG investigator, facility investigators, and Safe Prisons/PREA staff, review of related documents and policies provide evidence Thomas R. Havins meets requirements of this standard.

### Standard 115.63: Reporting to other confinement facilities

#### 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*)

**115.63(a):** SPPOM 04.01, 04.02, and *Safe Prisons/PREA Plan* establishes guidelines for processing offender reports of sexual abuse alleged to have occurred while incarcerated at a confinement facility outside of TDCJ. The Safe Prisons/PREA Management Office will notify the head of the facility or appropriate office of the agency where the alleged incident occurred as soon as possible, but no later than 72 hours after receiving the allegation.

**115.63(b)(c):** *Safe Prisons/PREA Plan* requires the individual taking an initial report of sexual abuse during confinement at another facility to immediately notify the unit Safe Prisons/PREA manager who will provide the Safe Prisons/PREA Management Office with the details of the incident. The Safe Prisons/PREA Management Office will initiate notification to the appropriate office of the outside agency within 72 hours after receiving the allegation and document such notification. Thomas R. Havins has received no allegations of sexual abuse while confined at another facility in the past 12 months.

**115.63(d):** SPPOM 04.02 establishes guidelines for processing reports of offender sexual abuse allegations received from another confinement facility or agency outside of the TDCJ. The individual receiving such notification shall provide notification to the unit warden who will report and provide a copy of the notification to the OIG, PREA Ombudsman, and unit Safe Prisons/PREA manager using the Sexual Abuse Investigation Checklist (SPPOM 05.01). The allegation will be investigated according to the agency protocol for investigations.

Copies of notifications were requested by this auditor, but no allegations have been made against another facility or received for Thomas R. Havins within the last 12 months. Documentation was provided by the SPPMO showing examples of notifications processed for other facilities within TDCJ. This auditor's review of documentation indicates the practice is well-established and notifications received have been processed in accordance with the above

stated procedures. Document review, policy review, and interviews with PREA Coordinator, warden, unit Safe Prisons/PREA manager and Statewide Safe Prisons/PREA Manager provide evidence Thomas R. Havins meets requirements of this standard.

## Standard 115.64: Staff first responder duties

### 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*)

**115.64(a):** Policies SPPOM 05.01, AD-16.03(rev.4), OIG-04.05, and *Safe Prisons/PREA Plan* collectively provide direction and outline first responder responsibilities requiring the first correctional officer to be made aware of an incident of sexual abuse to separate the victim and assailant AND preserve and protect the crime scene until steps can be taken to collect any

evidence AND monitor victim and assailant to ensure physical evidence is not destroyed if the incident occurred within a time period that still allows for collection of physical evidence AND take preliminary steps to protect the victim until seen by medical and mental health AND refer victim and assailant to medical and mental health services for examination and evaluation. Formal and informal staff interviews provided clear evidence employees are well trained knowledgeable of these responsibilities.

**115.64(b):** If the first staff responder is not a correctional officer, the responder shall monitor the victim to ensure physical evidence is not destroyed and immediately notify a correctional officer. All non-security staff, to include contractors, and volunteers were able to explain the steps to take as a first responder.

There were no case files for the auditor to review which met the criteria for first responder duties. Every interview with staff (formal and informal) indicates thorough knowledge of the expected protocols by all staff, security and non-security. Every employee, to include full-time contractors are educated in first responder duties and basic evidence handling. Employees at Thomas R. Havins are provided a PREA reference card that explains their duties related to PREA, some told me about their cards, but it was not necessary to refer to as they were all proficient in their responsibilities. Based on policy review, interviews with staff, Safe Prison/PREA staff, investigators, and warden, Thomas R. Havins meets requirements of this standard.

## Standard 115.65: Coordinated response

### 115.65 (a)

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

### Auditor Overall Compliance Determination

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

115.65(a): *Safe Prisons/PREA Plan* and *Safe Prisons/PREA Operations Manual* direct development of the local facility Coordinated Response Plan. Policy SPPOM 05.01 directs the use of Attachment G, Sexual Abuse Investigation Checklist for all sexual abuse allegations to document completion of each part of the notification and response process and specifically outlines the responsibilities of each section for a coordinated response to incidents of sexual

abuse and specifies the body of TDCJ policies that shall be followed. Immediately upon notification of an alleged sexual abuse of an offender, the first security officer to respond to the report shall immediately separate the alleged victim from the alleged assailant(s) to eliminate the potential for additional violence. A security supervisor shall conduct an initial interview with the offender victim to determine the nature of the abuse, the location of the incident, identity of assailant(s), and date/time the incident occurred. If the abuse occurred within 96 hours preceding the allegation, security staff shall request that the alleged victim and assailant(s) not take actions that could destroy physical evidence such as washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating. The assailant may be placed into a dry cell to preserve evidence if directed by OIG investigator. The security supervisor shall identify the location of the alleged assault and consult with the OIT regarding protection and isolation of the crime scene. Security staff shall take escort the alleged victim to the medical department for a medical examination. Following the interview or medical examination (as appropriate) the security supervisor shall provide the alleged offender victim with the *Sexual Assault Awareness Brochure*. Security staff shall follow evidence protocols for collecting the alleged victim and assailant(s) clothing. The Unit Safe Prisons/PREA Manager shall provide the offender victim with contact information for outside advocacy center.

Immediately upon receiving knowledge of an alleged sexual abuse of an offender, the security supervisor responsible for notifications shall initiate the following notifications: 1) Major or highest-ranking security supervisor on duty; 2) Duty Warden; 3) Office of Inspector General (OIG); 4) Health Services/Mental Health; 5) Victim Advocate/Offender Victim Representative (OVR), as applicable; 6) Emergency Action Center; 7) Unit Safe Prisons/PREA Manager. The Major or highest-ranking security supervisor on duty shall promptly report the incident to the duty warden with the specifics of the allegation and assign a security supervisor to lead the notification and response process. The medical personnel shall initiate medical assessment of the offender. The OIG investigator will determine whether a forensic medical examination is required, in addition to other elements of the investigation, such as crime scene preservation. Following the authorization of a forensic exam, the security supervisor shall offer the offender a victim advocate, where available, or an OVR to accompany and provide the offender with emotional support services during the forensic examination. If the offender accepts the services, the security supervisor shall immediately contact the advocacy center or OVR with information regarding the location of the impending exam.

This auditor reviewed the Thomas R. Havins Sexual Abuse Coordinated Response Plan and found it to include all elements delineated in the policy for a planned coordinated response between first responders, medical and mental health practitioners, investigators, and facility leadership. The plan outlines coordinated action required between first responders, medical and mental health practitioners, investigators, and facility leadership in accordance with the outline listed above directed by the *Safe Prisons/PREA Plan* and *Safe Prisons/PREA Operations Manual*. Contact numbers and names/positions are listed for notifications, and use of Attachment G, Sexual Abuse Investigation Checklist is required. Auditor's random staff interviews of both security and non-security staff indicate a broad and extensive protocols expressed in the Coordinated Response Plan. All staff were able to walk this auditor through the procedures at least up to the point that the initiation of the investigation. Security supervisors, designated facility investigators, medical staff, classification staff, Unit Safe

Prisons/PREA Managers, Warden, Retaliation Monitor, and OIG Investigator interviews provided the auditor with clear evidence that they have extensive awareness of the Thomas R. Havins Coordinated Response Plan as published. Thomas R. Havins meets requirements of this standard.

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

#### **115.66 (a)**

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

The TDCJ PD-22 (rev.14) directs employees are expected to adhere to the highest standards of conduct while on-duty or off-duty, including adherence with rules of conduct. Employees who commit a rule violation will be subject to disciplinary action in accordance TDCJ procedures. The agency may remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation with no restrictions and as determined necessary. Employees may be reassigned to other duties to limit contact with offenders or other employees pending the completion of an EEO investigation. Thomas R. Havins meets requirements of this standard. Per interview with Lorie Davis, Correctional Institutions Division Director, Agency Head Designee, the agency has no collective bargaining agreements in place that would limit the agency’s ability to remove a staff from contact with inmates.

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

#### **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 residents 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*)

**115.67(a):** The agency establishes a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperates with subsequent investigation through PD-22 (rev.14) by directing that harassing or retaliating against an offender or another individual for participating in an official investigation or inquiry or for pursuing legal activities as a Level One Violation for disciplinary purpose, punishable by dismissal. PD-29 (rev.5) establishes the zero tolerance for sexual misconduct, sexual abuse, and sexual harassment of offenders and prohibits an employee from subjecting another employee, offender, or other individual to harassment or retaliation for reporting or cooperating with an investigation of sexual misconduct with offenders. And Executive Directive PD-13 (rev.6) establishes zero tolerance for all forms of gender discrimination, to include sexual harassment and retaliation for opposing or reporting discrimination, or for associating someone who has opposed or reported discrimination. Employees who violate this directive will be subject to disciplinary action, up to and including termination. Major Clayton is the designee for monitoring incidents of retaliation at Thomas R. Havins. This policy review meets requirements.

**115.67(b):** *Safe Prisons/PREA Plan* establishes protection for offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations. Multiple protective measures are taken such as: housing changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offender or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. Appropriate measures are taken to protect any individual against retaliation. When other alternatives have been exhausted, assignment to Safekeeping Status or Protective Custody, housing moves, or transfers may be initiated by the unit Safe Prisons/PREA manager or warden and processed through the Classification Committee (SPPOM 02.04).

**115.67(c)(d):** Offenders or staff will be monitored for at least 90 days following a report of sexual abuse for changes that may indicate possible retaliation by offenders or staff and prompt action will be taken to address any retaliation. Conduct and treatment will be documented on the monitoring form, attachment N.O. for offenders and attachment N.S. for staff. Monitoring will be discontinued if the allegation is deemed unfounded.

Monitoring includes periodic status checks of offenders and will be extended beyond 90 days if warranted. A minimum of three status checks must be completed during the 90-day monitoring period. Offender monitoring includes review of: documented disciplinary reports; offender requests for housing changes or refusal to accept housing assignments; offender request for job or program changes and refusing to work offenses. Retaliation monitor conducts face to face interviews in a private setting. Auditor review of offender training reveals curriculum includes notification of the right to be free from retaliation. Emotional services may be accessed through methods discussed in standard 115.53 or by contacting the OVR, chaplain, or case manager.

Staff monitoring shall include review for any negative performance reviews and conduct violations; review for job or shift reassignments. Face-to-face interviews in a private setting with the involved staff member are conducted by the monitor. Monitoring continues if an employee is relocated up to the 90-day cycle. Auditor's review of training reveals curriculum includes zero-tolerance for retaliation against anyone reporting an allegation or participating with an investigation.

**115.67(e):** *Safe Prisons/PREA Plan* provides that any individual who cooperates with an investigation expresses a fear of retaliation, the TDCJ shall take appropriate measures to protect that individual against retaliation. There is no reported incident of this nature at Thomas R. Havins in the past 12 months.

Auditor interviewed facility Retaliation Monitor and found him to be knowledgeable on all elements of this standard. Only one incident was reported in the past 12 months. Upon receiving notification of the allegation on 11/29/2017, the Retaliation Monitor Major Nick Clay, initiated retaliation monitoring for the alleged victim, 3 staff witnesses, 5 inmate witnesses. At conclusion of the investigation (12/03/2017) the case was determined unfounded and the retaliation monitoring was closed out on 12/04/2017. Policy review, document review, and interviews with PREA Coordinator, warden, classification chief, retaliation monitor, and unit

Safe Prisons/PREA manager, provides sufficient evidence Thomas R. Havins meets requirements of this standard.

### Standard 115.68: Post-allegation protective custody

#### 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*)

**115.68(a):** AD-03.50 (rev.13) establishes the policy of TDCJ to provide a non-punitive status involving separation of an offender from general population for the purpose of maintaining safety, security, and order among general population offenders and staff. Regulation of administrative segregation is pursuant to terms of Administrative Segregation Plan previously explained and subsequently meeting the requirements of standard 115.43. Additional policies regulating this standard include *Safe Prisons/PREA Plan, AD-04.63(rev.5), Guidelines for Administrative Segregation Committee Members, and the Protective Safekeeping Plan*. No inmates suffered sexual abuse at Thomas R. Havins during this audit period per incident review and interviews with warden and classification chief. Thomas R. Havins meets requirements of this standard.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

#### 115.71 (a)

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

#### 115.71 (b)

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

#### 115.71 (c)

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

#### 115.71 (d)

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

#### 115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as 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*)

**115.71(a):** In accordance with OIG-04.05 and *Safe Prisons/PREA Plan*, objective, thorough, and timely investigations are conducted by trained investigators and as evidenced by this auditor's review of the case file at Thomas R. Havins during the audit period. Auditor interviews with facility investigators and the file review indicated investigators conduct prompt, thorough, and objective investigations. In the file case reviewed, an investigation was initiated on the same date as the allegation was reported by the Grievance Coordinator to the Captain. The investigative summary includes factual information on both the alleged victim and alleged perpetrator, and a narrative explaining the interviews with both parties conducted by the investigator. A shift roster for the date and time of the allegation was included in the case file. Two staff witnesses and three inmate witnesses were listed on the worksheet and statements were included in the files along with a narrative of interviews by the investigator with each witness. The investigator indicated a preponderance of evidence, in this case witness statements and interviews with alleged victim and alleged perpetrator and concluded the

investigation within five days. Policy review and interviews with investigative staff indicate investigations will be conducted for allegations of sexual abuse and sexual harassment received from third-party and anonymous sources. This auditor also interviewed one of the designated OIG Investigators for Thomas R. Havins who talked through a simulated investigative process and related protocols, indicating a prompt, thorough, and objective investigation is conducted. The OIG Investigator further confirmed there have been no sexual abuse investigations conducted by their office within the audit period. D-16.20 (rev.2) through BP-01.07 authorizes the Office of Inspector General's investigative responsibilities and designates the Office of Inspector General (hereinafter referred to as OIG) as the primary investigative organization within the TDCJ. The OIG has primary jurisdiction for the investigation of criminal offenses occurring on TDCJ property. BP-01.07 (rev.6) establishes the mission of the OIG to serve as an independent office to conduct investigations in accordance with professional standards that relate to the fields of investigation in a government environment and certain regulations and policies of the Texas Board of Criminal Justice and Texas Department of Criminal Justice, laws of State of Texas, and the Constitution and laws of the United States, as they are applicable.

**115.71(b):** There are 136 OIG investigators and ten (10) designated investigators at Thomas R. Havins. Five of the listed unit investigators were interviewed by this auditor and they were all found to be very knowledgeable and well trained in conducting investigations. According to agency policy and interviews, only trained investigators are allowed to conduct investigations. Training records were provided for all ten (10) unit investigators to provide evidence of the general and specialized training. Documentation was provided to this auditor to indicate the 136 OIG investigators have received the specialized investigator's training. Refer to narrative in standard 115.34 for more discussion on specialized investigator training. The investigator of the case reviewed was confirmed to be on the list of approved investigators.

**115.71(c):** Auditor's review of agency policies on investigations and interviews with investigative staff indicates the agency follows a uniform evidence protocol to investigate allegations of sexual abuse and sexual harassment including 3<sup>rd</sup> party and anonymous reports. Evidence protocols include gathering and preserving direct and circumstantial evidence, physical and DNA evidence (when obtainable), and electronic monitoring data (where available) in accordance with OIG-05.15, AD-16.03 (rev.3), OIG-04.05. Evidence of witness, victim, and perpetrator interviews are captured in written statements and attached to the case files according to policy requirements and as observed by this auditor during case file review. TCCP Article 38.22 and Texas Family Code, Chapter 51, Sections 51.09 and 51.095 regulate statements and confessions taken for criminal investigations. SPPOM 05.11 requires investigations to contain: 1) an interview the alleged offender victim; 2) identifying, interviewing, and obtaining witness statements from staff, volunteers, contractors assigned to the vicinity on the date and time in question; 3) interviews with alleged assailant and offender witnesses; 4) review of electronic monitoring data, where available; 5) review of prior complaints and reports of sexual abuse, sexual harassment, and voyeurism involving the alleged staff assailant; and 6) individual credibility assessments of the offender victim, the alleged staff assailant, and witnesses. The investigation form required for investigations includes a section where all prior reports and complaints of sexual abuse involving the perpetrator are to be recorded. The case reviewed had no physical evidence to review, but

witness statements were obtained from everyone identified to have been in the area at the time of the alleged incident. In addition to the case file review, this auditor confirmed procedures through interviews with OIG investigator, facility investigators, and warden.

**115.71(d):** Policy OIG-05.15 directs Statements and Confessions procedures within the TDCJ. Miranda warning will be administered prior to any statement of accused or suspect, and then only after a knowing, willing, and voluntary documented waiver. Statements taken for administrative cases employ Garrity Warning right, which warns the employee that failure to full disclose information that is related to an administrative investigation may result in disciplinary action up to and including dismissal. Miranda and Garrity Warnings are only issued under direction of OIG investigators. Compelled interviews are conducted only after consulting with prosecutors to ensure interviews do not impede criminal prosecution. Interview with OIG Investigator provided this auditor with the same explanation as auditor discovered through policy review as stated above in this section (d); Unit investigative staff indicated during their interviews that they are not authorized to administer Miranda and Garrity warnings, only OIG investigators.

**115.71(e):** Policy review indicates the credibility of an alleged victim, assailant, or witness shall be assessed on an individual basis and not on the status as an offender or staff member. An offender who alleges sexual abuse shall not be required to submit to a polygraph examination as a condition for proceeding with the investigation. Credibility of an offender or staff is based on an assessment of the individual's history of institutional behavior, prior allegations, any disciplinary history, and any other factors relevant to the investigation according to the interviews conducted with OIG investigator and five (5) facility investigators. This auditor's case file review indicated no truth-telling device was used during the investigation. In addition to the case file review, this auditor confirmed through interviews with OIG investigator, facility investigators, and warden that an inmate who alleges sexual abuse shall not be required to submit to a polygraph examination as a condition for proceeding with the investigation.

115.71(f): Auditor's review of related policy indicates information regarding staff action or inaction that may have contributed to the alleged abuse shall be included in the investigative report and is also a part of the Administrative Review conducted by the warden or warden's designee. Case file reviewed by auditor documents this consideration is evaluated; no staff action or inaction contributed to the incident. The administrative review required to be conducted by warden at conclusion of all case investigations includes this consideration per interview with warden. The auditor's review of the administrative review for the previously referenced case file indicated consideration was evaluated by the investigator and the warden as to whether staff action or inaction could have contributed to the allegation.

115.71(g): Auditor's review of related investigative policies requires a written report with investigation findings is completed for every allegation reported for both criminal and administrative investigations. The report contains the person involved, a thorough summary of the incident, description of physical evidence and testimonial evidence collected, reasoning behind credibility assessments, and investigative facts and findings. The one case file

reviewed indicated an administrative investigation was conducted. This auditor found the file contained a thorough summary of the incident, a description of testimonial evidence collected, the reasoning behind credibility assessments, and investigative facts and findings. No criminal case was investigated at the facility in the past 12 months; OIG investigator confirmed this requirement is met for every criminal investigation in accordance with agency policy.

**115.71(h):** Substantiated allegations of conduct that appears to be criminal are referred for prosecution. The OIG has the authority and responsibility to refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies. Auditor's interview with OIG Investigator Robinson supported the information reviewed in policy that cases with sufficient evidence to substantiate criminal charges are presented to the District Attorney for prosecution, in accordance with agency policy.

**115.71(i):** Written reports are retained in accordance with OIG-03.72–Records Retention–PREA, which sets requirements for preserving documents related to criminal and administrative investigations and provides for retention for as long as the alleged abuser is incarcerated within the agency or employed by the TDCJ, plus five years for all criminal and administrative investigative reports involving any sexual assault related offenses. Records Department maintains CRIMES RMS records for at least 10 years, in accordance with OIG-04.05. State of Texas Records Retention Schedule classifies OPI documents, Sexual Abuse Investigation Checklist and Subsequent Offender Interview records to be retained permanently.

**115.71(j):** Agency policy and interview with OIG investigator indicate that all administrative and criminal investigations will be completed on all allegations even if the victim or abuser transfers to another unit or releases from confinement or terminates employment with the agency.

**115.71(l):** When an outside entity investigates sexual abuse, the facility cooperates with these investigators and maintains collaborative and effective communication about the progress of the investigation (BP-01.07, rev.6). Local, state, and federal law enforcement agencies have concurrent investigative and law enforcement authority with the OIG. Generally, outside law enforcement agencies defer criminal jurisdiction to the OIG with regard to matters relating to the TDCJ (AD-16.20, rev.2). Interview with OIG investigator indicated that very rarely an external law enforcement agency will be involved with an investigation inside the TDCJ, but should it become necessary, full cooperation would be granted. Interviews with both Warden Rayford and OIG Investigator Robinson indicated a very positive working relationship between the Thomas R. Havins unit and the Office of Inspector General. While there have been no sexual abuse cases to evaluate at this facility, interactions and communications between the two entities has been forthcoming and cooperative.

Auditor requested interview with alleged inmate victim noted in case file, but offender was released earlier this year. This auditor conducted a review of the agency's investigation policies and find they meet provisions in this standard. Based on this and the above narrative, to include noted interviews and document reviews, Thomas R. Havins meets requirements of this standard.

## Standard 115.72: Evidentiary standard for administrative investigations

### 115.72 (a)

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

### Auditor Overall Compliance Determination

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

115.72(a): *Safe Prisons/PREA Plan* and SPPOM 05.05 establishes preponderance of evidence as the standard for determining sexual abuse and sexual harassment dispositions. *Safe Prisons/PREA Investigations Training: Conducting a Thorough Investigation* curriculum teaches the staff they are to impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated, meaning more than 50% of the evidence supports the allegation.

Of the case file reviewed, this auditor observed a thorough, prompt administrative investigation using preponderance of evidence as the standard. An interview was conducted with one OIG investigator, with five (5) facility investigators, and the warden. These interviews revealed that no standard higher than preponderance of evidence is necessary to substantiate allegations of sexual abuse/sexual harassment. Based on policy review, investigative file review, and interviews, Thomas R. Havins meets requirements of this standard.

## Standard 115.73: Reporting to inmates

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

### 115.73 (d)

- Following an 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*)

**115.73 (a):** *Safe Prisons/PREA Plan* and SPPOM 05.10 establishes that the offender shall be informed as to whether the investigative finding was substantiated, unsubstantiated, or unfounded following an investigation that he or she suffered sexual abuse on Attachment J. The case file reviewed indicate inmate was notified of disposition following the investigation by the classification committee. Interviews with classification chief and warden confirms knowledge of this requirement.

**115.73(b):** In accordance with *Safe Prisons/PREA Plan* and SPPOM 05.1 notifications to inmates of disposition of cases investigated by OIG will be made by the *Safe Prisons/PREA Management Office (SPPMO)* directly to the inmate. Thomas R. Havins had no cases investigated by OIG to review, but examples were provided to this auditor by SPPMO to provide evidence this process is in place.

**115.73(c):** Following an inmate's allegation that a staff member has committed sexual abuse against the inmate the inmate is notified when the staff is no longer posted within the unit, no longer employed at the facility, indicted or convicted on a sexual abuse charge related to that incident. Investigation updates in criminal cases are provided in writing by the SPPMO or in direction communication from the OIG to the inmate. Notification is not made if the allegation is unfounded. Thomas R. Havins had no cases investigated by OIG to review, but examples were provided to this auditor by SPPMO to provide evidence this process is in place. Auditor's interview with OIG investigator confirmed this policy requirement is in practice.

**115.73(d):** Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency informs the victim whenever the agency learns the abuser has been indicted or convicted on a charge related to the sexual abuse incident. These investigation updates are provided in writing by the SPPMO. Notification is not made if the allegation is deemed unfounded. Thomas R. Havins had no cases investigated by OIG to review, but examples were provided to this auditor by SPPMO to provide evidence this process is in place. Auditor's interview with OIG investigator confirmed this policy requirement is in practice.

**115.73(e):** Documentation of the notifications referenced in the above paragraphs is retained by the agency's *Safe Prisons/PREA Management Office*. The *Safe Prisons/PREA Manager* also notifies an offender victim when a criminal case has been closed with no prosecution. A log is maintained in the *Safe Prisons/PREA Management Office* and each notification and attempted notification is documented.

Interviews with classification chief, warden, *Safe Prisons/PREA manager* and OIG investigator and documentation of notifications viewed by auditor provides evidence TDCJ/Thomas R. Havins meets requirements of this standard.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

#### Auditor Overall Compliance Determination

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

**115.76(a):** Staff are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies which is well established through AD-16.20 (rev.2) and PD-22 (rev.14) directing general rules of conduct and disciplinary guidelines for employees with PD-29 providing definitions of prohibited activity.

**115.76(b):** Agency disciplinary guidelines categorize sexual misconduct with offenders as a level I violation punishable by termination (PD-22, PD-29).

**115.76(c):** Harassment and retaliation may be level I or II depending on the severity and disciplinary action will be commensurate with violation (PD-22, PD-29).

**115.76(d):** *Safe Prisons/PREA Plan* directs all terminations for violations of TDCJ sexual abuse or sexual harassment policies, or resignations in lieu of termination, be reported to the OIG, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Thomas R. Havins had no staff violations of agency sexual abuse or sexual harassment policies within the past 12 months to review. Procedure implementation was confirmed by interview with OIT investigator, warden, PREA Coordinator, and Safe Prisons/PREA Manager. These interviews combined with policy review find Thomas R. Havins meets requirements of this standard.

## Standard 115.77: Corrective action for contractors and volunteers

### 115.77 (a)

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

**115.77(a)(b):** *Safe Prisons/PREA Plan* establishes any contractor or volunteer who engages in sexual abuse is prohibited from contact with offenders and shall be reported to law

enforcement agencies, where applicable and the unit will take appropriate remedial measures and consider whether to prohibit further contact with offenders, in the case of any other violation of TDCJ sexual abuse or sexual harassment policies. Individuals who commit an act of sexual misconduct with an offender will not be allowed to continue to perform services for the TDCJ and will be denied access to TDCJ premises (PD-29, rev. 5). Volunteers who violate the policy shall not be allowed to continue to perform services for the agency and may be subject to criminal prosecution.

Thomas R. Havins has had no contractor or volunteer who has violated these policies in the past 12 months. Based on policy review and interviews with warden, OIG investigator, and Safe Prisons/PREA Manager, Thomas R. Havins meets requirements of this standard.

## Standard 115.78: Disciplinary sanctions for inmates

### 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)

- 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*)

**115.78(a):** *Safe Prisons/PREA Plan* directs offenders will be subject to disciplinary sanctions by formal disciplinary process following an administrative finding that the offender engaged in sexual abuse, sexual harassment, or a criminal finding of guilt for sexual abuse toward another offender.

**115.78(b):** Sanctions will be appropriate to the nature of the abuse committed, offender's disciplinary history, and sanction imposed for comparable offenses by other offenders with same histories. Interview with warden and disciplinary hearing officer confirmed that the disciplinary sanction would be adjusted according to the severity of the infraction.

**115.78(c):** An offender's mental disabilities or mental illness and whether this contributed to the behavior shall be considered in the assessing of sanctions. *Disciplinary Rules and Procedures for Offenders* establishes special consideration requirement for offenders charged with or suspected of a disciplinary infraction who are developmentally disabled or psychiatric patients.

**115.78(d):** An offender determined to have perpetrated abuse will be subject to consideration of participation in interventions to address and correct underlying motivations. *Safe Prisons/PREA Plan* establishes if the unit offers this therapy, counseling, or other interventions, consideration shall be made to determine if participation should be a requirement for access to programming or other benefits. SOTP-01.01 establishes Sex Offender Rehabilitation Programs which are available at designated facilities. Interview with warden indicated an inmate will be transferred to a more appropriate facility where services are available should the classification committee or mental health professional determines that the offender can benefit from these interventions. Due to the mission of Thomas R. Havins,

offenders found to have engaged in sexual abuse at the facility will no longer qualify to remain at the facility and will be transferred to a more appropriate unit.

**115.78(e):** *Safe Prisons/PREA Plan* establishes that an offender may be disciplined for sexual contact with staff only if it is determined the staff member did not consent to the contact.

**115.78(f):** A report made in good faith shall not constitute falsely reporting an incident or lying even if the investigation reveals no evidence to substantiate. Allegations made in bad faith will be addressed through the disciplinary process.

**115.78(g):** Sexual misconduct between offenders is prohibited and shall result in disciplinary sanction, unless the contact is determined to be consensual. Consensual sex acts between inmates is prohibited and will be addressed through the disciplinary process as per the *CID Disciplinary Rules and Procedures for Inmates*.

Thomas R. Havins had no inmate on inmate allegations the past 12 months to review. Based on policy review and interviews with disciplinary hearing staff, and warden, Thomas R. Havins meets requirements of this standard.

## MEDICAL AND MENTAL CARE

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

#### 115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison 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*)

**115.81(a):** CMHC policy E-35.1 establishes a Qualified Mental Health Professional (QMHP) completes the mental health appraisal process on all incoming offenders upon admission within 14 days to an intake facility. E-35.2 establishes offenders with potential mental health needs will receive a comprehensive mental health evaluation completed by a QMHP within 14 days of the referral, request, and/or identification date. Thomas R. Havins is not an intake facility. This facility does not offer on-site mental health services, but services are available as needed via telehealth

*Safe Prisons/PREA Plan* establishes that offenders who disclose prior sexual victimization during the screening process will be offered a referral to a mental health practitioner to be seen within 14 days of the intake screening. This includes incidents that occurred in an institutional setting or in the community. This auditor's review of the Safe Prisons/PREA Interview forms confirmed any inmate indicating prior victimization will be noted on the form and referred to medical to schedule a mental health follow-up meeting. Interview with Officer Burt, Safe Prisons/PREA Manager and Health Services Administrator (HSA) Harris indicates this procedure is well-implemented.

Of the twenty-one (21) offenders who reported experiencing prior sexual victimization during screening in the past 12 months, two (2) accepted the referral. Neither inmate was available for interview as both have released from the facility. Because these inmates are released, Thomas R. Havins no longer has access to these records. This auditor interviewed three (3) inmates who reported prior sexual victimization during screening and they all said Officer Burt offered them a mental health referral during screening but each of them declined.

**115.81(b):** *Safe Prisons/PREA Plan* establishes that offenders who disclose previously perpetrated sexual abuse in an institutional setting or in the community be referred to a mental health practitioner within 14 days of the intake screening. No inmates currently housed at Thomas R. Havins are indicated to have previously perpetrated sexual abuse.

**115.81(c):** Thomas R. Havins is not an intake facility and will not receive offenders directly from jail. All incoming chains are transfers from another TDCJ facility. Jail inmates will be referred to mental health at intake within 14 days of the screening according to TDCJ policy and same indication as (b) above.

**115.81(d):** Health care H-61.1 establishes the confidentiality and release of protected health information. Information obtained related to sexual victimization or abusiveness that occurred in an institutional setting is considered protected health information that is to be limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions. Exceptions to the privilege of confidentiality exists in the following circumstances: 1) written authorization granted by the offender; 2) when state or federal laws permit or require release without patient authorization; 3) when a valid subpoena or court order is issued requiring release. I-70.1 creates policy to ensure the offender's right to informed consent and requires obtaining informed consent for mental health assessment or treatment. Information collected during the Safe Prisons/PREA Interview is filed in the offender file which has restricted access by case managers and classification committee members, and a copy is maintained in the unit Safe Prisons/PREA manager's office in a locked filing cabinet. Officer Burt is the only person authorized a key to this filing cabinet. Information obtained from the screenings is used to inform security management decisions, housing, work, education, and program assignments according to interviews with unit Safe Prisons/PREA Manager, classification committee chief, HSA, and warden.

**115.81(e):** According to interview with HSA Harris, prior to the beginning of a mental health evaluation, the offender is informed of the limits of confidentiality and asked to consent to the interview. The inmate signs a consent form and documentation of the informed consent is made in the health record.

Based on interviews and policies described in above narrative and document review, Thomas R. Havins meets requirements of this standard.

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

### **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*)

**115.82(a):** Health care policy A-01.1 ensures offenders have access to care. Procedures include providing information to offenders on how to access health services and the grievance system, offsite specialty clinics, interpreter services for non-English speaking offenders, certified interpreter services for deaf offenders, hospital and emergency services and shall be developed to ensure there are no unreasonable barriers to an offender's access to health services. *Safe Prisons/PREA Plan* provides for medical and mental health services consistent with community level of care. SPPOM 05.01 requires the security supervisor to notify medical and mental health personnel of a sexual abuse allegation to initiate medical assessment of the offender. If medical staff is not on duty, offender will be transported to a local medical facility in coordination with on-call medical personnel. G-57.1 establishes guidelines for management of offenders with sexual assault/abuse and requires immediate evaluation and examination and referral for required services, regardless of the elapsed time between the assault and examination.

**115.82(b)(c):** *Safe Prisons/PREA Plan* establishes that if no qualified medical or mental health practitioners are on duty at the time a report of abuse is made, correctional staff first responders shall take preliminary steps to protect the victim and to notify the appropriate on-

call medical and mental health practitioners. Auditor's interviews with first responders and other random and informal security staff confirmed thorough understanding of this requirement. Review of the facility Coordinated Response Plan indicates immediate notification to the appropriate medical and mental health practitioners. Interviews with HSA and other medical personnel indicates prompt and immediate notification is made when medical incidents occur. No sexual abuse incident has occurred in the past 12 months at Thomas R. Havins.

**115.82(c):** Prophylactic treatment of certain venereal diseases will be offered to victim at the facility where offender is housed, and education and testing will be scheduled for HIV and Hepatitis B exposure. When indicated, prophylactic medications will be offered. *Safe Prisons/PREA Plan* provides for medical and mental health services consistent with community level of care. Interview with Infection Control Nurse confirmed that these services would be made available upon the inmate's return to the facility after the forensic examination, or first thing the next morning if the incident occurred after working hours.

**115.82(d):** The offender victim is not charged for services related to a sexual abuse/assault incident. Auditor's interview with HSA Harris confirmed inmates are not charged for these services.

There has been no sexual abuse incident in the past 12 months at Thomas R. Havins to review practice so the above procedures in narrative were verified through interviews with HSA Harris, Infection Control Nurse, Warden Rayford, and Shift Supervisors and First Responders. All staff are very knowledgeable of policy and able to articulate the procedures and protocols. Auditor's review of policies, interviews, and Coordinated Response Plan provide evidence Thomas R. Havins meets requirements of this standard.

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

### **115.83 (a)**

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all 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.)  Yes  No  NA

#### 115.83 (e)

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

#### 115.83 (f)

- Are 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*)

**115.83(a):** *Safe Prison/PREA* Plan directs ongoing medical and mental health care for offenders as appropriate and to include follow-up services, treatment plans, referrals for continued care following their transfer to, or placement in other units or their release from custody. E-44.1 and E32.1 provides guidelines to ensure continuity of healthcare for all offenders. Interviews with healthcare staff indicate services are at least consistent with community levels of service.

**115.83(c):** Policy establishes offender victims shall be provided medical and mental health services consistent with the community level of care. G-57.1 establishes guidelines for management of offenders with sexual assault/abuse and requires immediate evaluation and examination and referral for required medical and mental health services, regardless of the elapsed time between the assault and examination. Both the victim and abuser will be referred.

**115.83(d)(e):** Thomas R. Havins is a male facility so these provisions are not applicable.

**115.83(f):** Prophylactic treatment of certain venereal diseases will be offered to victim at the facility where offender is housed, and education and testing will be scheduled for HIV and Hepatitis B exposure. When indicated, prophylactic medications will be offered. These services are offered through the CID nurse immediately and then with regularly scheduled follow-up treatments, as indicated. If the incident occurs within 96 hours of reporting, the offender will be seen by mental health professional after the sexual assault medical exam is completed; if after 96 hours, the offender will be seen within 10 business days. Interview with Infection Control nurse confirms this procedure is in place although it has not been necessary to initiate these protocols in the last 12 months.

**115.83(g):** The offender victim is not charged for services related to a sexual abuse/assault incident.

**115.83(h):** Mental health evaluation of all known offender-on-offender abusers will be attempted within 60 days of learning of the abuse and treatment shall be offered when deemed appropriate.

Auditor's review of policy and interviews with health care staff and warden provide evidence Thomas R. Havins meets requirements of this standard.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

#### 115.86 (e)

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

#### Auditor Overall Compliance Determination

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

**115.86(a):** Thomas R. Havins conducts a sexual abuse incident review at the end of every sexual abuse investigation. Thomas R. Havins had one case in the past 12 months and an incident review was conducted, even though the investigation concluded an unfounded disposition. Interviews with Incident Review Team members indicated awareness of the requirements and purpose of conducting the incident review.

**115.86(b):** Policy requires that an administrative incident review is to be completed for all sexual abuse and staff sexual harassment incidents, unless determined unfounded, in accordance with *Safe Prisons/PREA Plan*, AD-02.15 (rev.12), SPPOM 08.01 and within 10 working days following notification of the incident which exceeds the standard requirement of 30 days.

115.86(c): The Incident Review Team consists of the warden, major, captain, head of classification, and the warden obtains input from security supervisors, investigators, and medical or mental health practitioners when completing the review as per policy review, personal observation of an Incident Review Report, interview with Warden Rayford, and interviews with Incident Review Team members.

115.86(d): Auditor's review of policy finds the incident review includes: 1) circumstances of the incident; 2) events leading up to and following the incident; 3) consideration of whether actions taken were consistent with TDCJ policies and procedures; 4) whether alternative means of managing the situation were available; 5) identification of actions that could be taken to avoid future incidents of a similar nature and identification of training needs; 6) determination of whether Incident Command System levels or response levels were used during the incident; 7) whether employee action or inaction was a factor in the incident; 8) any corrective action taken. The Administrative Review Form includes consideration as to whether the incident was motivated by race or ethnicity; gender identity; LGBTI status; gang affiliation; or other group dynamics at facility and as to whether an indication of a need to change policy or practice to better prevent, detect, or respond to sexual abuse is present. An examination of the area where the incident occurred to assess any physical barriers that enable abuse will be conducted and as assessment of the adequacy of staffing levels during different shifts is made. Consideration is given as to whether monitoring technology should be deployed or augmented to supplement supervision by staff. A written report is prepared of these findings with recommendations for improvements, where indicated. This auditor reviewed the Incident Review Form completed for the one incident referenced previously and found the information to be consistent with policy and standards requirements. Interviews with Warden and Incident Review Team members confirmed that the elements stated within this provision are evaluated during the Incident Review Team meeting.

115.86(e): Recommendations from the incident review will be implemented or reasons for not doing so must be documented. All Administrative Incident Reviews containing recommendations or corrective action require a written 90-day follow-up report prepared by the regional director, PFCMOD Deputy director of operations, or department head in accordance with policy AD-02.15(rev.12).

An Incident Review was conducted for the one incident reported during the audit period and was found by this auditor to include all the required provisions of this standard. This incident was determined to be unfounded during the investigation, but Thomas R. Havins elected to conduct the review in order to improve PREA policy and procedures at the facility. Because of these actions, and the agency requirement for the reviews to be conducted within 10 days instead of the required 30 days, this auditor finds Thomas R. Havins exceeds requirements of this standard.

## Standard 115.87: Data collection

### 115.87 (a)

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

### 115.87 (b)

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

### 115.87 (c)

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

### 115.87 (d)

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

### 115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its 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*)

**115.87(a):** Unit Safe Prison/PREA Manager completes the Monthly Safe Prisons/PREA Report (MSPPR) with assistance from the Unit Investigation Team (UIT) using the UIT Meeting

Flow Sheet. The MSPPR provides documentation of Safe Prisons/PREA activity related to offender sexual abuse training and frequency of Offender Protection Investigations, and disciplinary violations involving offender aggression and allows for analysis of patterns and trends associated with incident locations and times, as well as groups involved in incidents. This report is completed in a database by entering the appropriate data into specific information fields. Policy SPPOM 08.01 directs process and defines these fields and definitions of data entered so consistency in data collection exists among all facilities. The USPPM compares the level of activity for the reporting month with the previous month's activity and provides an explanation of differences in activity levels on the MSPPR and discusses and documents appropriate action plans as determined by the UIT on the MSPPR. Auditor interviews with the unit Safe Prisons manager and regional Safe Prison coordinator confirmed the data collection and analysis procedures. Auditor reviewed copies of reports submitted by the facility.

**115.87(b)(c):** The Safe Prisons/PREA Management Office (SPPOM 01.01) is the designated office for receipt of data, tracking, report preparation, providing technical assistance, reviewing subsequent data and reports and trends for the agency. Incident-based sexual abuse data is aggregated at least annually and includes information necessary to answer the DOJ SSV.

**115.87(d):** BP-02.09 (rev.1) provides for the PREA ombudsman to collect statistics regarding allegations of sexual abuse from each correctional facility in accordance with the national PREA standards and to make available to the public and appropriate state agencies. This office produces and submits an annual report.

**115.87(e):** TDCJ obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates and includes in its annual reports.

**115.87(f):** TDCJ provides this data from the previous calendar year annually to the Department of Justice when requested.

Analysis of this above information, published reports, observation of local data reporting process and interviews with staff indicate TDCJ/Thomas R. Havins meets provisions of this standard.

## Standard 115.88: Data review for corrective action

### 115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No

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

#### 115.88 (b)

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

#### 115.88 (c)

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

#### 115.88 (d)

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

#### Auditor Overall Compliance Determination

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

**115.88(a):** TDCJ PREA Coordinator, Lorie Davis is the designated agency respondent for reviewing data collected and aggregated to assess and improve the effectiveness of the agency's sexual abuse prevention, detection and response policies, practices, and training. Identification of problems areas based on data analysis is addressed through the efforts of the Safe Prisons/PREA Management Office whereas corrective actions are taken and monitored on an as needed, and perpetual basis. Oversight is provided by the respective regional Safe Prisons/PREA staff under the supervision of the Safe Prisons/PREA Manager. Interviews with regional and statewide staff and warden indicates this procedure is well-implemented. Interview with PREA Coordinator indicates she personally reviews aggregated data for purposes of identifying problem and areas and initiating corrective action. An annual report of findings and corrective actions is published and made available by the PREA Ombudsman according to policy BP02.09. In addition, this office prepares monthly and semiannual activity reports for distribution to the Texas Board of Criminal Justice and TDCJ executive management to inform of any problematic, systemic trends.

**115.88(b):** The Annual Report mentioned in above paragraph includes 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.

**115.88(c):** The Annual Report mentioned in the above two paragraphs is approved by the agency head and is made available on the public website. The latest report found on the TDCJ website was published July 2017 for Calendar Year 2016. This report contains all information required.

**115.88(d):** Only personal identifiers are redacted from the information and the Annual Report is designed for public release therefore no information is redacted.

Based on the information above, and interviews with PREA Coordinator, PREA Ombudsman, and Safe Prisons/PREA staff, TDCJ/Thomas R. Havins meets provisions of this standard.

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

#### **115.89 (a)**

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

#### **115.89 (b)**

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

#### **115.89 (c)**

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

#### **115.89 (d)**

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

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

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

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

**115.89(a):** Policies ED-02.29(rev.1), BP-02.09(rev.1), and *Safe Prisons/PREA Plan* directs data collection for each facility. Incident-based and aggregate data is collected, properly stored, and securely retained. Internal controls exist to limit access to information on a need to know basis.

**115.89(b):** The PREA Ombudsman publishes a comprehensive TDCJ Safe Prisons/PREA Plan annual report which is posted to the public website. Auditor reviewed reports found on website and found them to meet requirements of this standard.

**115.89(c):** A review of published reports containing aggregated sexual abuse data and interview with State Safe Prisons/PREA Manager indicates personal identifiers are removed prior to making public.

**115.89(d):** The agency maintains sexual abuse data collected after the date of initial collection for 10 years plus current year data in accordance with The State of Texas, SLR105, Records Retention Schedule and *Safe Prisons PREA Plan*.

No personal identifiers are contained in the published reports. Based on review of policy, review of reports published to public website, and interviews with SPP management staff, TDCJ/Thomas R. Havins meets requirements of this standard.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

#### 115.401 (a)

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (N/A before August 20, 2016.)  
 Yes  No  NA

#### 115.401 (b)

- During each one-year period starting on August 20, 2013, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited?  Yes  No

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

- Was the auditor permitted to conduct private interviews with 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*)

**115.401(a)(b):** As reported by the Statewide Safe Prisons/PREA Manager, the TDCJ did not complete a PREA audit of all the correctional facilities within the first cycle as required by the standard. The first cycle of PREA audits were conducted between August 2014 and September 2017. However, all TDCJ facilities, including private run facilities, have received at least their initial PREA audit since August 20, 2013. The agency is currently tracking with one-third of their facilities each year in the second cycle. Although the agency did not meet the standard for the first cycle, they are meeting the provisions of the standard for the second cycle based on a review of the Final Reports published to its website and interview with the PREA Coordinator and Safe Prisons/PREA Manager.

**115.401(h):** This auditor was allowed to observe and to have full access to all areas of Thomas R. Havins.

**115.401(i):** This auditor was permitted to request and receive copies of relevant documents (including electronically stored information). Some documents were locally obtained, others requested from headquarters. All documents requested were provided either in printed or electronic format.

**115.401(h):** This auditor was provided an appropriate and private area to conduct all interviews and received no intrusive or obstructive behavior regarding interviews from Thomas

R. Havins. This auditor found staff and leadership at Thomas R. Havins to be forthcoming and transparent about operations.

**115.401(n):** Audit notifications posted throughout the facility provided opportunity for inmates to send confidential letters to the auditor prior to the audit, although none were received. Interview with mailroom manager indicated letters to the auditor will be treated as special correspondence.

Based on the above information, TDCJ/Thomas R. Havins meets requirements of this standard.

### Standard 115.403: Audit contents and findings

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

A review of TDCJ website [https://www.tdcj.state.tx.us/divisions/arm/rev\\_stan\\_prea.html](https://www.tdcj.state.tx.us/divisions/arm/rev_stan_prea.html) confirms that the agency publishes PREA final reports making them available to the public. A total of 146 final reports are published as of the date of this report with the last posting of San Saba Unit report dated June 12, 2018 indicating it is within the 90-day requirement. Based on auditor observation and interview with Safe Prisons/PREA staff, TDCJ/Thomas R. Havins meets requirements of this standard.

## 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.

*Sharon R. Shaver*

September 6, 2018

**Auditor Signature**

**Date**