

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

Interim Final

Date of Report December 31, 2020

Auditor Information

Name: Bruce Kuennen

Email: bruce@preaauditing.com

Company Name: PREA Auditors of America (PAOA)

Mailing Address: P. O. Box 1071

City, State, Zip: Cypress, TX 77410

Telephone: Auditor: 360.515.1134; PAOA:
713.818.9098

Dates of Facility Visit: November 16-18, 2020

Agency Information

Name of Agency:

Texas Department of Criminal Justice

Governing Authority or Parent Agency (If Applicable):

State of Texas

Physical Address: 861-B I-45 North

City, State, Zip: Huntsville, Texas 77320

Mailing Address: P. O. Box 99

City, State, Zip: Huntsville, Texas 77342

The Agency Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

Agency Website with PREA Information: https://www.tdcj.texas.gov/divisions/armm/rev_stan_prea.html

Agency Chief Executive Officer

Name: Bryan Collier

Email: Bryan.Collier@tdcj.texas.gov

Telephone: 936.437.2101

Agency-Wide PREA Coordinator

Name: Cassandra McGilbra

Email: Cassandra.Mcgilbra@tdcj.texas.gov

Telephone: 936.437.5570

PREA Coordinator Reports to:
Honorable Patrick O'Daniel, Chairman of the
Texas Board of Criminal Justice

Number of Compliance Managers who report to the PREA
Coordinator
6

Facility Information

Name of Facility: Skyview Hodge Complex

Physical Address: 379 FM 2972 West

City, State, Zip: Rusk, TX 75785

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

City, State, Zip: N/A

The Facility Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

Facility Type:

Prison

Jail

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

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

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

ACA

NCCHC

CALEA

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

N/A

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

Warden/Jail Administrator/Sheriff/Director

Name: John McDaniel

Email: John.McDaniel@tdcj.texas.gov

Telephone: 903.683.5781

Facility PREA Compliance Manager

Name: Barbara Delaney

Email: barbara.delaney@tdcj.texas.gov

Telephone: 903.683.5781

Facility Health Service Administrator N/A

Name: Christina Moore

Email: cjmoore@utmb.edu

Telephone: 903.683.5781

Facility Characteristics

Designated Facility Capacity:	Skyview 562 / Hodge 989 / Total 1,551	
Current Population of Facility:	500 / 840 – Total 1,340	
Average daily population for the past 12 months:	478 / 938 – Total 1,416	
Has the facility been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input type="checkbox"/> Males <input checked="" type="checkbox"/> Both Females and Males	
Age range of population:	18 – 78 / 18-77	
Average length of stay or time under supervision:	10 months / 3 years, 4 months	
Facility security levels/inmate custody levels:	MH / G1, G2, II	
Number of inmates admitted to facility during the past 12 months:	3,143 / 590 – Total 3,733	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	3,074 / 581 – Total 3,655	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	1,144 / 484 – Total 1,628	
Does the facility hold youthful inmates?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Skyview only (and rarely)	
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	Zero, last juvenile held turned 18 at the facility in August 2019 <input type="checkbox"/> N/A	
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	

Number of staff currently employed by the facility who may have contact with inmates:	290 / 274 – Total 564
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	25 / 84 – Total 109
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	2
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	Medical – 115 Windham – 11
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	155
Physical Plant	
<p>Number of buildings:</p> <p>Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	20 / 14 – Total 34
<p>Number of inmate housing units:</p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	12 / 12 – Total 24
Number of single cell housing units:	8 / 1 – Total 9
Number of multiple occupancy cell housing units:	0 / 11 – Total 11
Number of open bay/dorm housing units:	4 / 0 – Total 4
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	40 / 43 – Total 83
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Medical and Mental Health Services and Forensic Medical Exams	
Are medical services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are mental health services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.)
Investigations	
Criminal Investigations	
Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	143
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input checked="" type="checkbox"/> Other (please name or describe: Office of Inspector General (OIG)) <input type="checkbox"/> N/A
Administrative Investigations	
Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	45
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component

<input checked="" type="checkbox"/> Other (please name or describe: Office of Inspector General (OIG) conducts Administrative Investigations on staff)
<input type="checkbox"/> N/A

Audit Findings

Audit Narrative

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

Process

This audit of the Skyview / Hodge Complex (SH) of the Texas Department of Criminal Justice (TDCJ) was conducted in 2020 to determine the facility's compliance with the standards of the Prison Rape Elimination Act (PREA). The facility chose to use the paper audit instruments rather than the On-line Audit System (OAS). The audit methodology strictly followed the guidance of the PREA Auditor Handbook, issued August 2017.

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

A contract between the TDCJ and PREA Auditors of America (PAOA) to conduct this audit was approved on September 1, 2019. The PAOA contracted with Mr. Kuennen on September 7, 2019.

The scheduling of the audit was affected by the current COVID-19 pandemic. The on-site portion of the audit was originally scheduled for March 2020. Postponement resulted in a longer pre-onsite audit period. The four phases of the audit were conducted between the following dates:

- Pre-onsite – February 6, 2020 – November 15, 2020
- Onsite – November 16-18, 2020
- Post-onsite November 19 – December 16, 2020

A kickoff meeting was conducted via telephone on February 6, 2020. The auditor discussed the following points on that date and in email exchanges with the facility's primary point of contact (POC), Warden John McDaniel:

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

Audit - Pre-onsite Phase

Logistics for the audit were handled by the auditor. The primary point of contact (POC) for the facility was Warden John McDaniel.

The required Notice of Audit was posted in all housing units and common areas of the facility, in English and Spanish, on February 13, 2020, six weeks before the originally scheduled onsite audit. The notice was printed on orange paper, to stand out from the other posted notices, which were primarily white. It contained the audit purpose, the dates of the on-site review, and contact information for confidential communication with the auditor. A second notice was posted on October 2, 2020, six weeks prior to the rescheduled onsite audit dates. Photographic, date-stamped evidence of these notices was provided to auditor, who further verified the postings on November 16 onsite. Eight letters were received from inmates, and six inmates were interviewed on-site. (The other two inmates were no longer housed at the complex.) One of the interviewed letter-writers was transgender, one was LEP (Spanish-speaking), and one was apparently disabled (severe mental illness).

The facility provided information related to compliance with each of the standards by providing a thumb-drive to the auditor in the second week of February 2020. The responses included documents such as policies, procedures, forms, examples of completed forms and computer printouts, and statistical reports. The thumb-drive materials were reviewed by the auditor prior to the onsite visit.

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

- Complete inmate roster
- Inmates with disabilities
- Inmates who have Limited English Proficiency (LEP)
- LGBTI Inmates
- Transgender inmates
- Inmates in segregated housing or isolation
- Inmates who reported sexual abuse
- Inmates who reported sexual victimization during risk screening
- Staff rosters
- All volunteers and contractors who have contact with inmates

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

- Texas Association Against Sexual Assault (TAASA); 512.474.7190; 7700 Chevy Chase Dr Ste 230, Austin, TX, 78752, info@taasa.org
- Crisis Center of Anderson and Cherokee Counties; 903.586.9118; P.O. Box 8371, Jacksonville, TX 75766

Of these, the auditor identified Crisis Center of Anderson and Cherokee Counties as the most likely “community support agency responsible for education, intervention and outreach.” Further investigation indicated that the nearest SAFE/SANE providers were located at hospitals in Tyler, Palestine, and College Station.

The Executive Director was contacted via email on March 12, 2020. The executive director agreed to an interview, but it was not conducted in the period preceding the originally scheduled onsite audit. The center was again contacted in November 2020. The director of the center was a new person who began her duties in August 2020. She indicated that the agency had no MOU for advocacy and hotline services and no relationship with the TDCJ or Skyview Hodge.

An Internet search and an open Google Alert on “Skyview Hodge Prison” during the first two phases of the audit yielded no information concerning SH operations, except for an article regarding COVID-19 conditions and

response, and no news articles related to sexual safety. A review of the TDCJ's website, conducted November 9, 2020, revealed a link to PREA information.

The linked page contained general information about the purposes of the federal law, contact information for the PREA Ombudsman, and a link to the TDCJ annual report for 2019.

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

On November 8, the auditor provided a random letter of the alphabet to the facility to request personnel record copies which were only available from the TDCJ's Huntsville office. On November 15, the day before the on-site review, the auditor provided the random letters for the remaining categories of staff and inmates who would be interviewed and whose records would be reviewed. The auditor provided the methodology for choosing which inmates and staff would be interviewed.

On November 9, 12, and 20 the auditor conducted telephone interviews with the agency contract administrator, the agency head, Mr. Bobby Lumpkin, Director of Correctional Institutions Division, and the PREA Ombudsman (respectively).

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

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

On-site Audit Phase

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

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

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

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

- 6 inmates who had written the auditor during the pre-onsite review period (2 of the inmates who had written the auditor were no longer housed there)

Four inmates declined to be interviewed; three interviewed inmates (in the professional opinion of the auditor) were actively psychotic; they responded but did not answer the questions in a coherent manner. Their interviews are included in the numbers listed above, but additional interviews beyond the minimum were conducted to achieve meaningful interviews for the minimum number required by the PREA Auditor Handbook.

The facility reported that there were no inmates in residence who had reported sexual abuse at the facility.

Day Two of the onsite audit began at 4:15 a.m. The auditor interviewed randomly chosen staff whose shift ended at 5:00 a.m. that morning. Their numbers are included in the summary below.

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

- 12 randomly chosen correctional officers (all were also first responders)
- Two Lieutenants who were assigned to investigate incidents and allegations of sexual abuse or harassment
- Two correctional officers who were assigned to work on a unit which included restrictive housing
- Both Safe Prisons Program Managers (Skyview and Hodge)
- 1 contract program staff – education
- The medical business manager (University of Texas Medical Branch)
- 1 contract medical staff
- Three staff who served on sexual incident review teams
- Warden John McDaniel

No volunteers were currently active, for reasons of COVID-19 control, so none were interviewed.

Documents reviewed included:

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

Staff interviews indicated that intake for both facilities was conducted at Hodge on every weekday, and that intakes could occur at any time at Skyview. The auditor observed that intakes occurred at Skyview at various times throughout the onsite audit period. Inmate interviews supported the staff report that all had been screened on their first day on the unit. Document review confirmed the screening for all of the records reviewed.

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

Approximately once per week, and always within 30 days of arrival, the Safe Prisons Program Managers from Skyview and Hodge provide a training and orientation to PREA rights, responsibilities, and reporting procedures. This follow-up meeting includes watching a comprehensive training and education video produced by the TDCJ Prison Ombudsman's Office.

The auditor reviewed printed materials, including the inmate handbook, pamphlets, and posted signs prior to the onsite visit. While onsite, he confirmed that these materials were continuously available to inmates.

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

Inmates may report incidents of sexual abuse and harassment by a variety of methods, to include 1) notify a correctional officer orally, 2) notify a correctional officer or higher-ranking staff person via an inmate communication form called an "I-60", 3) notify the Safe Prisons Program Manager, 4) write the Office of Inspector General (OIG), 5) through the offender grievance program, or 6) write the PREA Ombudsman Office. The telephone system can be used to notify a family member or other approved contact to call the Warden, the OIG, or the PREA Ombudsman.

Interviewed inmates demonstrated a good understanding of these alternatives, with the exception of the Office of the Inspector General (OIG). Not one interviewed inmate appeared to understand the purpose and means of contacting the OIG. However, the auditor observed that this information was prominently posted in large letters, and in English and Spanish, in every housing unit and that it is available in the facility's law library.

During the site review (tour) female staff announced their presence every time they entered a male housing unit where female staff were not already present. Similarly, male staff announced their presence when they entered a female housing area. While inmate answers to this interview question ranged from "no", to "sometimes" to "yes, always", it appears from staff interviews that gender announcement by opposite sex staff is in regular practice.

The on-site phase of the audit concluded with an out-briefing for administrative staff on November 18, 2020.

Post On-site Audit Phase

In the week following the onsite visit, the auditor began the process of triangulating the evidence to arrive at the standards compliance findings below.

A draft final report was completed and provided to the facility on December 16, 2020. All 45 standards were found to be applicable and all were met. No standards were found to exceed the requirements of the standard and none were found to be non-compliant. No corrective action period was found to be necessary.

Facility Characteristics

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

The Skyview / Hodge Complex is located at 379 FM 2972 West, Rusk, Texas and is operated by the Texas Department of Criminal Justice. The Skyview and Hodge Units operate as separate adult correctional facilities and are overseen by a single warden and 2 deputy wardens. Together they have a designated capacity of 1,551 beds, housing 1,414 adult male inmates at the time the Pre-Audit Questionnaire was completed in January 30, 2020. On the first day of the onsite audit, the population of the Skyview Unit was 500 and the Hodge Unit was 840, for a total of 1,340. The population of Skyview included 80 women on the first day of the on-site audit.

The Skyview Unit serves as one of the TDCJ's inpatient psychiatric and mental health treatment facilities. Inmates with severe mental illness, and acute episodes of those disorders are referred from other prisons to Skyview.

The Hodge Unit serves inmates diagnosed as developmentally disabled, as well as general population inmates.

Housing at Skyview is both single cell and dormitory style; the Hodge Unit has both dormitory and cell block type housing. Separate buildings house dining, laundry, chapel, medical, and educational programming functions.

Educational program services are provided under contract with the Windham School District. Medical and Mental Health services are provided under contract with the University of Texas Medical Branch (UTMB). At the time of the facility's completion of the pre-audit questionnaire, 155 volunteers were approved to assist inmates at the complex, but due to COVID-19 restrictions, none of them were active between March and November 2020.

Summary of Audit Findings

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

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

Standards Exceeded

Number of Standards Exceeded: Zero

List of Standards Exceeded: Click or tap here to enter text.

Standards Met

Number of Standards Met: 45

List of Standards Met: 115.11, 115.12, 115.13, 115.14, 115.15, 115.16, 115.17, 115.18, 115.21, 115.22, 115.31, 115.32, 115.33, 115.34, 115.35, 115.41, 115.42, 115.43, 115.51, 115.52, 115.53, 115.54, 115.61, 115.62, 115.63, 115.64, 115.65, 115.66, 115.67, 115.68, 115.71, 115.72, 115.73, 115.76, 115.77, 115.78, 115.81, 115.82, 115.83, 115.86, 115.87, 115.88, 115.89, 115.401, 115.403

Standards Not Met

Number of Standards Not Met: None

List of Standards Not Met: Click or tap here to enter text.

PREVENTION PLANNING

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

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

115.11 (a)

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

115.11 (b)

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

115.11 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

Documents

- TDCJ Correctional Institutions Division Safe Prisons Plan
- TDCJ Executive Directive ED-03.03
- Agency Organizational Chart
- Facility Organizational Chart
- Posted signs
- Inmate handbooks
- PREA information packets

Interviews

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

Site Review Observations

- Interactions between staff and inmates
- Posted signs
- Discussions of staffing levels

Video

- Safe Prisons / PREA Offender Training, dated March 2018

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

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

The facility has two PREA coordinators, whose titles are Safe Prisons/PREA Program Managers. Although one is primarily assigned to Skyview and one to Hodge, they work together to support PREA compliance throughout the complex. They estimated that they devote 90 to 95% of their time to PREA-related activities; both indicated that they have sufficient time, resources, and authority to complete their assigned roles.

The primary evidence that the PREA coordinators have sufficient time and authority to complete their jobs is the achievement of 100% of the standards being found to meet the applicable standards in all material ways. The response from a majority of the interviewed inmates and staff that they felt safe being housed or working at Skyview Hodge is further evidence that the purpose and intent of the standards is being met.

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

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

115.12 (a)

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

115.12 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- Contract documents
- List of contacts for the "Private Facility Contract Oversight and Monitoring Division"
- Independently generated list of state contracts (Internet search)

Interviews

- Telephone interview with Agency Contract Administrator

The agency provided contract documents for 10 correctional centers, 1 multi-use facility, 8 residential reentry centers, and 19 transitional treatment centers (residential substance abuse facilities), which are operated by private agencies and companies under contract to the TDCJ. Each specified that PREA compliance was required and that compliance was to be reported to the TDCJ. One of the correctional center has been temporarily closed because of a decline in the inmate population due to COVID-19 prevention policies.

The interview with the agency contract administrator indicated that the TDCJ employs a full-time contract monitor at each private prison site and a group of contract monitors who are each responsible for no more than three of the smaller facilities.

Standard 115.13: Supervision and monitoring

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

115.13 (a)

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes
 No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated)? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the inmate population? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The number and placement of supervisory staff? Yes
 No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The institution programs occurring on a particular shift? Yes No NA
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any applicable State or local laws, regulations, or standards? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated

incidents of sexual abuse? Yes No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors? Yes No

115.13 (b)

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

115.13 (c)

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

115.13 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

Documents

- TDCJ Safe Prisons Plan
- TDCJ Hodge Unit Staffing Plan – System III – Medical / MROP
- TDCJ Skyview Unit Staffing Plan – System III – Medical / Psych
- Statements of Participation – Annual Staffing Plan Reviews for 2017, 2018, and 2019

Interviews

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

Site Review Observations

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

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

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

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

Evidence of the adequacy of supervisory staff includes the large number of unannounced supervisory rounds. The auditor chose two housing units at random, one from Skyview and one from Hodge, and a random day (in January 2020). The logs indicated five unannounced at the housing unit in Skyview, and three unannounced visits at the unit in Hodge. These visits covered all shifts. Interviews of supervisory staff indicated that staff are not forewarned of upcoming unannounced visits. As the standard does not specify a minimum number of such visits, these numbers indicate that the facility clearly meets standard 115.13 (d).

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

Standard 115.14: Youthful inmates

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

115.14 (a)

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

115.14 (b)

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

115.14 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Safe Prisons Plan

Interviews

- Staff interviews

Site Review Observations

- Observation of apparent age of inmates

The facility indicated in a group discussion that the last youthful inmate turned 18 at the Skyview unit in August 2019. She was housed in a single cell and was under direct staff supervision whenever she was outside the cell.

On the site review (tour) the auditor observed no inmates whose youthful appearance required him to ask for verification of age.

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

Standard 115.15: Limits to cross-gender viewing and searches

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

115.15 (a)

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

115.15 (b)

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

115.15 (c)

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

115.15 (d)

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

115.15 (e)

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

115.15 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Training curricula – Preservice and In-service

Interviews

- Staff interviews
- Inmate interviews

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

The TDCJ Safe Prisons Plan requires that correctional officers make their best efforts to allow offenders to shower, perform bodily functions, and change clothing without staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. The auditor observed physical barriers including fences (outdoors) and curtains in every toilet and shower facility and in areas where searches are conducted.

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

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

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

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

115.16 (a)

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

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

115.16 (b)

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

115.16 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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Documents

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

Interviews

- Agency head interview
- Staff interviews
- Inmate interviews

Site Review Observations

- Observations of Spanish versions of posted signs

Research Observations

- Spanish version of TDCJ PREA Video

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

The facility provided a list of Spanish-speaking inmates. An interpreter assisted the auditor in the interview of a Spanish-speaking inmate who had been chosen for a random interview. He also assisted with two additional targeted interviews with Spanish-speaking inmates. The assisted interviews went well; the inmates appeared to understand and respond appropriately to the interpreter. Interviews with supervisory and line staff indicated that the facility does not use inmate interpreters.

The following materials are available in Spanish: Inmate Handbook, PREA Pamphlets, posted signs, and the PREA Video. Staff interviews indicated that the facility does not rely solely on printed materials to communicate with inmates; intake, education, acceptance of complaints and reports of abuse or

harassment, and investigations all involve face-to-face staff/inmate contact so that an assessment can be made of the inmate's understanding of the communication.

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

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

115.17 (b)

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

115.17 (c)

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

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

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

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Full listings of all staff, including dates of hire
- New Hires Lists
- Email Correspondence from TDCJ Headquarters Human Resources
- Employee Acknowledgment Forms

Interviews

- Interviews with Safe Prisons / PREA Managers
- Staff interviews

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

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

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

In addition to the multiple examples provided by the TDCJ, the auditor chose twelve names at random to verify that these procedures had been followed. All were verified.

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

The five-year requirement of the standard is met by a continuous automated process by which existing state employees are compared to those with new criminal offenses. This process and practice was verified by interviews with the Safe Prisons / PREA Managers.

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition,

expansion, or modification upon the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.)

Yes No NA

115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)

Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Agency head interview
- Warden interview

The facility does not employ a video camera system at either the Skyview or the Hodge Unit. The interview with Warden John McDaniel indicated that there has not been any substantial expansion or modification of facilities or video monitoring equipment since the last PREA audit, approximately three years ago. Because the facility has a process in place to consider the need for video cameras and other factors related to the prevention of sexual abuse when undertaking such expansion or modification, the facility complies with this standard.

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

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

115.21 (a)

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

115.21 (b)

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

115.21 (c)

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

115.21 (d)

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

- Has the agency documented its efforts to secure services from rape crisis centers?
 Yes No

115.21 (e)

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

- Two completed Sexual Abuse Investigations
- Copies of electronic database information concerning investigations
- Completed Injury Treatment Reports (Health Care Staff)
- Completed Referral to Medical / Mental Health Services forms
- Completed Administrative Review Checklists

Interviews

- Staff interviews

External Interviews

- Interview with Director of the Crisis Center of Anderson and Cherokee Counties (Jacksonville)

TDCJ policy requires procedural steps required for an investigation. When followed, the form documents the steps required by this standard –

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

The auditor reviewed the documentation two recent investigations (one at Skyview and one at Hodge) in detail. In both cases, the documentation indicated that the inmate was offered access to a forensic medical examination.

The interview with the Director of the Crisis Center of Anderson and Cherokee Counties (Jacksonville) indicated that she has not had contact with the TDCJ or the Skyview – Hodge Complex in her short time as director (approximately 3 months). The facility documented correspondence with the center in 2018.

Standard 115.22: Policies to ensure referrals of allegations for investigations

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

115.22 (a)

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

115.22 (b)

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

- Does the agency document all such referrals? Yes No

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Board Policy BP-01.07
- TDCJ Safe Prisons Plan
- TDCJ Administrative Directive AD-02.15 & 16.20
- TDCJ Safe Prisons / PREA Operations Manual 5.01 & 5.05
- TDCJ Office of the Inspector General Operational Procedures Manual OIG -04.05
- TDCJ Executive Directive PD-29
- Agency responses to PREA Pre-Audit Questionnaire
- Email correspondence with OIG representative
- TDCJ OIG Website, https://oig.tdcj.texas.gov/divisions/oig/about_oig_depts.html
- Documentation of investigations for two recent allegations

Interviews

- Interview with two lieutenants and one other staff assigned to investigations
- Interview with Warden John McDaniel
- Agency head interview

The agency has the above-listed policy statements by the Texas Board of Criminal Justice, the executives of the department, and the OIG which require administrative and criminal investigations in the event of inmate or third-party allegations of sexual abuse or harassment. The facility provided documentation of the two randomly chosen investigations requested by the auditor. The auditor verified in documents and interviews that these two recent allegations were thoroughly investigated, and that the procedural steps required by the standard were met.

The policies clearly delineate the responsibilities of facility administrative staff and that of the investigative agency, the Office of the Inspector General. The role of the OIG is specified on its website, where it is available to the public. The auditor verified that the link functions as appropriate during the post-onsite phase of the audit.

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

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

- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?
 Yes No

115.31 (b)

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

115.31 (c)

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

115.31 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

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

Interviews

- Staff interviews

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

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

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

Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

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

115.32 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Warden interview

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

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

TDCJ policies require, and auditor interviews and document review indicate, that all volunteers, contractors, and interns receive this training and understand its content. No volunteers are currently providing services at the facility due to COVID-19 restrictions, so no one was available to interview.

Standard 115.33: Inmate education

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

115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? Yes No

- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? Yes No

115.33 (b)

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

115.33 (c)

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

115.33 (d)

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

115.33 (e)

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

115.33 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

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

Site Review Observations

- Posted signs
- Televisions showing PREA video in dayrooms

Video

- Safe Prisons / PREA Offender Training, dated March 2018

Inmates are received at the the Hodge Unit five days per week, Monday through Friday; Skyview inmates are received seven days per week, at any time of day. All incoming inmates are screened and provided written materials related to PREA at the Hodge Unit on the day of their arrival. Skyview inmates are screened and provided written materials within 72 hours of arrival.

Approximately once per week, and always within 30 days of arrival, the Safe Prisons / PREA Manager for the respective unit provides an individual inmate orientation to PREA rights, responsibilities, and reporting procedures. This orientation includes the inmate watching the comprehensive training video produced by the TDCJ Prison Ombudsman's Office. This watching of the video is documented.

The auditor interviewed twenty inmates chosen at random; approximately 60% indicated that they remembered receiving the required information upon intake. Approximately the same percentage indicated that they remembered the subsequent education sometime within the ensuing 30 days, with a typical response of “within a couple weeks”. Staff interviews also indicated that this is the normal process.

Documentation review of the same randomly chosen inmates indicated that 100% of the randomly chosen inmates initialed a form indicating that they had received the educational materials upon intake. Documentation further indicated that all but one of the randomly chosen inmates had received the subsequent education within 30 days. The Safe Prisons / PREA Manager responsible for the one that was missed corrected it and admitted that this one had “slipped through the cracks”. Clearly, the practice is institutionalized, and the staff normally conduct the subsequent education materials in virtually all cases within the 30-day period.

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

All inmates come to Skyview – Hodge from another TDCJ facility. Most of the interviewed inmates was able to articulate differences between Skyview – Hodge policies, procedures, and practices and those of the facility from which they had been transferred.

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

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

Targeted inmate interviews also included one inmate who was blind, one who was hard of hearing (but not deaf), and one who had a physical disability. All were able to understand the auditor’s questions without additional assistance and all verified that they had received and understood the required educational materials.

Standard 115.34: Specialized training: Investigations

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

115.34 (a)

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

115.34 (b)

- Does this specialized training include techniques for interviewing sexual abuse victims? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) Yes No NA

- Does this specialized training include proper use of Miranda and Garrity warnings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) Yes No NA

- Does this specialized training include sexual abuse evidence collection in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) Yes No NA

- Does this specialized training include the criteria and evidence required to substantiate a case for administrative action or prosecution referral? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) Yes No NA

115.34 (c)

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

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Board Policy BP-01.07
- TDCJ Safe Prisons Plan

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

Interviews

- Interview with lieutenant assigned to investigations
- Interviews with other staff assigned to investigations
- Other staff interviews

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

The lesson plans and PowerPoint presentations covered the following topics:

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

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

Standard 115.35: Specialized training: Medical and mental health care

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

115.35 (a)

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

professionally to victims of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) Yes No NA

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

115.35 (b)

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

115.35 (c)

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

115.35 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ PREA Training Video - "Safe Prisons / PREA in Texas"
- Administrative Directive AD-16.03, Evidence Handling
- Safe Prison / Sexual Assault Lesson Plans
- University of Texas Medical Branch (UTMB) medical employee training files

Interviews

- University of Texas Medical Branch (UTMB) Business Manager interview
- UTMB employee interview

Medical care is provided to Skyview - Hodge inmates through a contract with the University of Texas Medical Branch (UTMB). TDCJ and UTMB policies and procedures require that this specific training is mandated and provided to all employees at both New Employee Orientation and quarterly in-service training. The training includes:

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

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

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

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?
 Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?
 Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? Yes No

115.41 (e)

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

115.41 (f)

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

115.41 (g)

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

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Interviews with the Safe Prisons / PREA Managers
- Staff interviews
- Inmate interviews
- Interview with TDCJ PREA Ombudsman

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

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

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

Most interviewed inmates reported that they had been asked these questions on the first day of their arrival. Interviews with the Safe Prisons / PREA Managers also supported that the practice conforms with department policy and the standard.

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

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

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

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

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

Standard 115.42: Use of screening information

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

115.42 (a)

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

115.42 (b)

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

115.42 (c)

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

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

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

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Safe Prisons Plan
- TDCJ Classification Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Safe Prisons / PREA Operations Manual 03.01 Offender Assessment Screening
- Safe Prisons / PREA Operations Manual 03.02 Special Population Review
- Safe Prisons / PREA Operations Manual, Appendix E - Offender Assessment Screening Form
- TDCJ Administrative Directive 04-17 – Offender Housing
- TDCJ Administrative Directive 04-18 – Offender Jobs
- TDCJ Unit Classification Procedure 4.00
- Completed Offender Screening Forms
- Offender Files
- Electronic Information System Records

Interviews

- Staff interviews
- Inmate interviews
- Interview with TDCJ PREA Ombudsman

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

Six transgender inmates were housed at the facility at the time of the on-site audit. Three were chosen at random for an interview, and a fourth was interviewed to follow up on a letter written to the auditor during the pre-onsite portion of the audit. Their interviews indicated that the process was followed and

that they felt safe in their current housing and program assignments. They all indicated that they are allowed to shower separately from other inmates.

Standard 115.43: Protective Custody

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

115.43 (a)

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

115.43 (b)

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

115.43 (c)

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

115.43 (d)

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

115.43 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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Documents

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

Interviews

- Staff interviews
- Inmate interviews

Site Review Observations

- Observation of restrictive housing at Skyview
- Observation of restrictive housing unit at Hodge
- Observation of restraint chair / desk units in program area

A review of applicable TDCJ policies, plans, and procedures indicates that alternatives are considered for all at risk offenders, not just those at risk of sexual victimization, prior to involuntary placement in restrictive housing. Likewise, all inmates in segregation have access to programs to the extent that they can be adequately supervised in program areas, or where programs can be brought to them.

Restrictive housing logs and daily activity logs document the degree to which opportunities are limited and the duration of the limitation. The restrictive housing review process is conducted no less frequently than monthly. One area is equipped with restraint chair / desk units which allow for a potentially disruptive inmates to participate with other inmates receiving program services.

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

REPORTING

Standard 115.51: Inmate reporting

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

115.51 (a)

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

115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? Yes No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials? Yes No
- Does that private entity or office allow the inmate to remain anonymous upon request? Yes No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland

Security? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes)
 Yes No NA

115.51 (c)

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

115.51 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Staff interviews
- Inmate interviews
- Warden interview
- Agency head interview
- Interview with PREA Ombudsman

Site Review Observations

- Posted signs
- Mailboxes

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

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

The internal ways include:

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

The external ways include:

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

In the auditor's judgment, the PREA Ombudsman and the OIG can both be considered external because the ombudsman reports to the Board of Criminal Justice, not to the Executive Director of the TDCJ. Board policy states ". . . the Office of the Inspector General (OIG) is the primary investigative and law enforcement entity of the TBCJ. The OIG reports directly and only to the TBCJ." To verify the independence of the OIG, the auditor interviewed the Director of Correctional Institutions, Bobby Lumpkin and discussed the issue with Warden John McDaniel. Based on these discussions, the auditor believes that the OIG operates independently in its investigative role.

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

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

Standard 115.52: Exhaustion of administrative remedies

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

115.52 (a)

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

115.52 (b)

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

115.52 (c)

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

115.52 (d)

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

115.52 (e)

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

115.52 (f)

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

115.52 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Staff interviews
- Inmate interviews

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

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

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

Standard 115.53: Inmate access to outside confidential support services

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

115.53 (a)

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

115.53 (b)

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

115.53 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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Documents

- TDCJ Safe Prisons Plan
- Email from TDCJ dated April 3, 2018
- Inmate Handbook
- PREA Information Pamphlets
- Posted signs

Interviews

- Telephone interview with the Crisis Center of Jefferson and Cherokee Counties director conducted November 12, 2020
- Inmate interviews – Random
- Inmate interviews – Inmates who had reported prior sexual abuse
- Staff interviews
- Interview and discussion with Warden John McDaniel
- Discussion with Regional PREA Manager

Site Review Observations

- Posted signs

External Research

- Web site of Texas Association Against Sexual Abuse (TAASA), <https://taasa.org/>

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

During the pre-onsite phase of the audit the auditor interviewed the Executive Director of the Crisis Center of Jefferson and Cherokee Counties (CJCC), an outside victim advocacy organization located in Jacksonville, TX, the director indicated that she had not provided any services to the Skyview – Hodge Complex; she reported that she was not aware of any attempts by the prison or her agency to enter into an MOU for provision of rape crisis center services.

The TDCJ provided documentation that they wrote to the CJCC on April 3, 2018 to request collaboration in providing rape crisis services to provide. The documentation for 2019 did not include communication of such collaboration that further efforts had been made to complete this agreement prior to the on-site visit. In light of the turnover at the CJCC, it is the auditor's judgment that a good faith effort was made to establish advocacy services for Skyview – Hodge.

Standard 115.54: Third-party reporting

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

115.54 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Safe Prisons / PREA Operations Manual 04.02, Receiving Allegations of Sexual Abuse from an Outside Agency
- TDCJ Offender Orientation Handbook
- TDCJ Executive Directive 02.10, PREA Complaints and Inquiries
- TDCJ General Information Guide for Families of Offenders, accessed at https://www.tdcj.texas.gov/documents/General_Information_Guide_for_Families_of_Offenders.pdf
- TDCJ Board Policy 02.09, PREA Ombudsman Policy Statement
- TDCJ Executive Directive 02.03, Ombudsman Program

Interviews

- Staff interviews

Board and Executive Policy Directives require that the facility receive reports of sexual abuse and harassment from third parties, including other agencies, public officials, family members, or a member of the public. This policy is communicated to inmates by way of the inmate handbook and to these groups by way of a general information guide, which can be easily accessed on the TDCJ website. Staff interviews confirmed that grievances are handled in accordance with these policies. Inmate interviews also supported the conclusion that the facility complies with this standard.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (a)

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

115.61 (b)

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

115.61 (c)

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

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Office of the Inspector General Operations Manual 04.05
- TDCJ Administrative Directive 16.20 Reporting Incidents / Crimes to the Office of the Inspector General
- TDCJ Executive Directive PD-29, Sexual Misconduct with Offenders
- TDCJ Safe Prisons / PREA Operations Manual 5.01
- Employee Acknowledgement Forms
- Contract Employee Training Acknowledgment Forms

Interviews

- Staff interviews
- Contract staff interview (medical)
- Interview with TDCJ PREA Ombudsman

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

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

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

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

Standard 115.62: Agency protection duties

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

115.62 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Agency head interview
- Staff interviews

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

Standard 115.63: Reporting to other confinement facilities

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

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Staff interviews
- Agency head interview

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

- Reports to and from other facilities within the department are communicated immediately within the agency via the EAC. The report can be initiated in the system by the facility receiving the allegation, transmitted instantaneously to the facility where the abuse is alleged to have taken place and then completed by the investigative staff there.

- Allegations of abuse at facilities outside the TDCJ are telephonically reported to the head of that facility, no later than 72 hours after the receipt of the allegation.
- The EAC is used to document such notifications.

Supervisory staff interviews verified that these policies are carried out in practice.

Standard 115.64: Staff first responder duties

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

115.64 (a)

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

115.64 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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Documents

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

Interviews

- Staff interviews
- Contract staff interviews

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

Standard 115.65: Coordinated response

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

115.65 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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Documents

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

Interviews

- Investigative staff interviews
- Medical staff interview

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

The auditor reviewed the documentation of the last incident at each unit (Skyview and Hodge) which required this formal process. In his opinion, the process appears to be smoothly coordinated and well-documented. Investigative staff and contract medical staff interviews confirmed this opinion.

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

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

115.66 (a)

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

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Agency head interview
- Warden interview
- Staff interviews

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

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

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

115.67 (b)

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

115.67 (c)

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

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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Documents

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

Interviews

- Staff interviews
- Interview with Warden
- Agency head interview

Safe Prisons / PREA Operations Manual 5.08 outlines the plan to monitor an inmate's housing, program, and disciplinary status for 90 days following the investigation of an incident of sexual abuse. Policies dictate the prohibitions against retaliation and the disciplinary consequences for those who do so.

The auditor reviewed the documentation of the last two incidents which were investigated. Retaliation review was not documented for these incidents, but neither of the allegations was determined to have been founded, so retaliation review was not required by this standard. Safe Prisons staff and the Warden interviews confirmed that 90-day retaliation review is conducted when allegations are determined to be founded.

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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Documents

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

Interviews

- Staff interviews
- Inmate interviews

Site Review Observations

- Observation of restrictive housing unit at Hodge
- Observation of cells used for restrictive housing at Skyview

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

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

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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

115.71 (a)

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

115.71 (b)

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

115.71 (c)

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

115.71 (d)

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

115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff? Yes No

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

115.71 (f)

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

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

Auditor Overall Compliance Determination

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

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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Documents

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

Interviews

- Staff interviews
- Interview with TDCJ PREA Ombudsman

TDCJ policies and directives require the following:

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

Further, TDCJ policies and directives require

- Investigations performed by persons who have received specialized training to conduct such investigations
- Written reports which contain a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings
- That the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation

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

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

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

Standard 115.72: Evidentiary standard for administrative investigations

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

115.72 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Safe Prisons / PREA Operations Manual 5.05 Completing the Offender Protection Investigation
- TDCJ Correctional Training and Staff Development Lesson Plan –Sergeant’s Academy, September 1, 2019
- TDCJ PREA Ombudsman PowerPoint Presentation – Conducting a Thorough Investigation

Interviews

- Investigative staff interviews

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

Standard 115.73: Reporting to inmates

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

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

115.73 (d)

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

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Staff interviews

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

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

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

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

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

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

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

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

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

115.76 (a)

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

115.76 (b)

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

115.76 (c)

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

115.76 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Administrative Directive 16.20
- TDCJ Executive Directives PD-22 and PD-29

Interviews

- Supervisory staff interviews
- Safe Prisons / PREA Manager interviews

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

Standard 115.77: Corrective action for contractors and volunteers

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

115.77 (a)

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

115.77 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Executive Directive PD-29
- TDCJ Volunteer Services Plan
- Windham School District Board Policies 7.15 and 7.44
- TDCJ Rehabilitation Programs Division Lesson Plan – Volunteer Training Facilitators Guide

Interviews

- Staff interviews
- Contract staff interview

TDCJ policies, plans, and directives all require that contractors and volunteers who have been found to engage in sexual abuse be prohibited from contact with inmates. Likewise, they require that incidents of sexual abuse be reported to law enforcement and the appropriate licensing agencies. In the case of medical staff, the contractor, University of Texas Medical Branch (UTMB follows the requirements of the appropriate licensing agencies – the Texas Board of Nursing, the Texas Department of Aging and

Disability Services, and the Texas Board of Medicine. In the case of educational program staff, the Windham School District reports such incidents to the State Board for Educator Certification.

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

Staff and contract interviews indicate that these policies are followed in practice.

Standard 115.78: Disciplinary sanctions for inmates

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

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

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

115.78 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Staff interviews

TDCJ policies, plans, and directives all require that

- Offenders are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse, sexual harassment, extortion, substantiated acts of violence, or following a criminal finding of guilt for offender-on-offender sexual abuse.
- Sanctions are appropriate to the nature of abuse committed, the offender’s disciplinary history, and the sanction imposed for comparable offenses by other offenders with similar histories.
- The disciplinary process considers whether an offender’s mental disabilities or mental illness contributed to his behavior when determining what type of sanction, if any, should be imposed.
- The unit offers therapy, counseling, or other interventions designed to address and correct possible underlying reasons or motivations for the abuse, and consideration is made to determine if participation should be a requirement for access to programming or other benefits.
- An offender may be disciplined for sexual contact with staff only if it is determined the staff member did not consent to the contact.
- Disciplinary actions related to staff-on-offender sexual abuse or sexual harassment violations are handled in accordance with TDCJ Policy 22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees.”

- Sexual misconduct between offenders is prohibited and when discovered, it results in disciplinary sanctions in accordance with the TDCJ Disciplinary Rules and Procedures for Offenders. However, sexual misconduct between offenders is not considered sexual abuse if it is determined the activity is consensual.
- Engaging in consensual sexual acts with others, defined as “intentional contact between the genitals of one person and the genitals, mouth, anus, or hands of another person with the consent of both participants” is considered a lesser disciplinary violation.
- A report of sexual abuse made in good faith, based on a reasonable belief that the alleged conduct occurred, does not in itself constitute falsely reporting an incident of lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- When the preponderance of evidence exists supporting a false allegation, the offender involved in the false allegation shall be disciplined in accordance with the TDCJ Disciplinary Rules and Procedures for Offenders.

Special considerations are required for offenders charged with or suspected of a disciplinary infraction who are developmentally disabled or psychiatric patients. These procedures are followed when dealing with developmentally disabled offenders or psychiatric patients.

Staff and contractor interviews indicate that these policies are followed in practice.

MEDICAL AND MENTAL CARE

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

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

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

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- Safe Prisons / PREA Operations Manual 03.01 Offender Assessment Screening
- Review of completed Offender Assessment Screening forms

Interviews

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

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

TDCJ policy requires that the use of any information related to sexual victimization or abusiveness that

occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff, as necessary, who are assisting with making treatment plans and other management decisions, including those related to housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law.

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

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

Standard 115.82: Access to emergency medical and mental health services

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

115.82 (a)

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

115.82 (b)

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

115.82 (c)

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

115.82 (d)

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

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Safe Prisons Plan
- Agency responses to PREA Pre-Audit Questionnaire
- TDCJ Safe Prisons / PREA Operations Manual 5.01 Sexual Abuse Response and Investigation
- I-214 Form, Referral to Medical / Mental Health Services

Interviews

- Staff interviews
- Inmate interviews

TDCJ Policies require

- That offender victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment in accordance with CMHC policies.
- That if no qualified medical or mental health practitioners are on duty at the time a report of abuse is made, staff first responders take preliminary steps to protect the victim and immediately notify the appropriate on-call medical and mental health practitioners.
- That offenders who become victims of sexual abuse while incarcerated shall be offered timely information about and access to emergency sexually transmitted infections prophylaxis, according to professionally accepted standards of care, where medically appropriate, in accordance with CMHC policies.
- That treatment services are provided to the offender victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident.

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

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

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

115.83 (a)

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

115.83 (b)

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

115.83 (c)

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

115.83 (d)

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

115.83 (e)

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

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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Documents

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

Interviews

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

TDCJ Policies require

- All offenders who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile unit are offered medical and mental health evaluation and treatment, as appropriate.
- The evaluation and treatment of such offender victims include follow-up services, treatment plans, and, when necessary,
- Referrals for continued care following transfer to, or placement in other units in accordance with CMHC policies or their release from custody.
- Offender victims are provided medical and mental health services consistent with the community level of care.
- Offenders who become victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.
- A mental health evaluation of all known offender-on-offender abusers is attempted within 60 days of learning of the abuse and initial treatment.

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

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

115.86 (a)

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

115.86 (b)

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

115.86 (c)

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

115.86 (d)

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

115.86 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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Documents

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

Interviews

- Staff interviews

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

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

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

The review is required to be submitted with 20 days of notification of the Emergency Action Center. Although not specifically required by the policies cited, the reviews reviewed by the auditor included:

- Consideration of whether the allegation or investigation indicated a need to change policy or practice to better prevent, detect, or respond to sexual abuse
- Consideration of whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility
- Examination of the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse

- An assessment of the adequacy of staffing levels in that area
- An assessment of whether monitoring technology should be deployed or augmented to supplement supervision by staff

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

Standard 115.87: Data collection

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

115.87 (a)

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

115.87 (b)

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

115.87 (c)

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

115.87 (d)

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

115.87 (e)

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

115.87 (f)

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

Auditor Overall Compliance Determination

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

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

Instructions for Overall Compliance Determination Narrative

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Documents

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

Interviews

- Interview with agency contract administrator

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

https://www.tdcj.texas.gov/documents/PREA_SPP_Report_2018.pdf

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

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

Standard 115.88: Data review for corrective action

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

115.88 (a)

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

115.88 (b)

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

115.88 (c)

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

115.88 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

- TDCJ Safe Prisons Plan

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

Interviews

- Agency head interview
- Interview with TDCJ PREA Ombudsman

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

https://www.tdcj.texas.gov/documents/PREA_SPP_Report_2018.pdf

The report includes:

- Facility by facility comparisons from the previous year's reports
- Descriptions and statistical information of training programs designed to improve staff performance and inmate safety
- Description of the development of an "employee information card", which includes:
 - the agency's zero tolerance policy
 - steps to take if a sexual abuse occurs
 - definitions
 - sexual assault/abuse red flags providing staff with cues regarding victim, predator and staff behaviors
- Periodic updates to the "evolving" Safe Prisons / PREA plan
- Description and locations of newly installed security cameras
- Description of the Emergency Action Center role in documenting and addressing the causes of incidents
- Description of the administrative review process, including the statement "Any findings requiring recommendations or corrective action must have a follow-up report submitted within 90 days to the deputy director of Prison and Jail Operations."
- A section entitled "New Initiatives" which outlines:
 - A new TDCJ sexual predator and victim computer system application and database
 - An analysis of all alleged offender-on-offender sexual abuse incidents which identifies trends related to the time of day allegations are more likely to be made, physical location, and custody classes with a higher rate of alleged sexual abuse. (The report states that "This information is passed on to the units to enable them to make decisions related to their staffing plans, building schedules, physical plants, and housing assignments.")
 - The hiring at the Headquarters level of a sexual assault examination coordinator, who is a licensed registered nurse and a certified sexual assault nurse examiner (SANE)
 - The coordinator is responsible for planning and implementing training for unit level nurses, mid-level practitioners, physicians, and mental health care practitioners

No material is noted as redacted from the annual report.

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

Standard 115.89: Data storage, publication, and destruction

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

115.89 (a)

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

115.89 (b)

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

115.89 (c)

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

115.89 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

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

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

https://www.tdcj.texas.gov/documents/PREA_SPP_Report_2018.pdf

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

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

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

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note:*

The response here is purely informational. A "no" response does not impact overall compliance with this standard.) Yes No

115.401 (b)

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

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

Interviews

- Staff interviews
- Mail room staff interview
- Inmate interviews

Site Review Observations

- Auditor notes taken during the on-site review

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

https://www.tdcj.texas.gov/documents/prea_report/Formby_Wheeler_Units_2017-02-17.pdf

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

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

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

Standard 115.403: Audit contents and findings

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

115.403 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documents

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

https://www.tdcj.texas.gov/documents/prea_report/Formby_Wheeler_Units_2017-02-17.pdf

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

AUDITOR CERTIFICATION

I certify that:

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

Auditor Instructions:

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

Bruce Kuennen

December 31, 2020

Auditor Signature

Date

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

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