

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

**Date of report:** August 23, 2015

<b>Auditor Information</b>			
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<b>Date of facility visit:</b> 7/15/15-7/16/15			
<b>Facility Information</b>			
<b>Facility name:</b> James River Correctional Center			
<b>Facility physical address:</b> 2521 Circle Drive Jamestown ND 58401			
<b>Facility mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Facility telephone number:</b> 701-253-3660			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Chad Pringle			
<b>Number of staff assigned to the facility in the last 12 months:</b> 192			
<b>Designed facility capacity:</b> 410			
<b>Current population of facility:</b> 432			
<b>Facility security levels/inmate custody levels:</b> Med/SAU			
<b>Age range of the population:</b> 18+			
<b>Name of PREA Compliance Manager:</b> Connie Hackman		<b>Title:</b> Deputy Warden	
<b>Email address:</b> chackman@nd.gov		<b>Telephone number:</b> 701-253-3609	
<b>Agency Information</b>			
<b>Name of agency:</b> North Dakota Department of Corrections and Rehabilitation			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> <a href="#">Click here to enter text.</a>			
<b>Physical address:</b> 3100 Railroad Avenue Bismarck, ND 58506			
<b>Mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Telephone number:</b> 701-328-6100			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Leann Bertsch		<b>Title:</b> Director	
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<b>Agency-Wide PREA Coordinator</b>			
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## AUDIT FINDINGS

### NARRATIVE

A PREA audit was conducted of the James River Correctional Center (JRCC) on July 15-16, 2015. Audits of both JRCC and North Dakota State Penitentiary (NDSP) occurred the week of July 13<sup>th</sup>. Both facilities are adult state-run prison facilities and audits were conducted by 360 Correctional Consulting, LLC, led by certified PREA auditors, Talia Huff and Ray Reno.

At least six weeks prior to the audit, JRCC posted an Auditor Notice provided by the auditors. This notice was posted in all living units and common areas in abundance, which was noted throughout the site review. In addition, documentation was provided via thumb drive to the auditors prior to the audit in a very organized fashion, to include the Pre-Audit Questionnaire and standard-by-standard files. Correspondence between the auditors and the PREA Coordinator occurred throughout the pre-audit phase. The auditors submitted a tentative audit schedule to the facility prior to arrival to outline audit activities for the onsite portion. On July 13, 2015, auditors reported to the North Dakota Department of Corrections and Rehabilitation (NDDOCR) central office to initiate the audit, hold an opening meeting with administration, and conduct agency-level interviews. Staff from NDSP, JRCC, and the central office were present for the opening meeting to include: Leann Bertsch, Director of NDDOCR; Colby Braun, Warden of NDSP; Steve Engen, PREA Coordinator; PREA Compliance Managers from NDSP and JRCC; as well as other administrative and support staff.

After completing the onsite audit of NDSP, auditors reported to JRCC on July 15, 2015, and the PREA team accompanied the auditors on the facility site review. The site review spanned ten buildings and included three single-cell housing units and five multi-occupancy units; the SAU (Special Assistance Unit) and five multi-occupancy living units in a six-story building (each consisting of one floor), industry buildings, kitchen and dining hall, amusement hall and recreation areas, and all other facility grounds in which there was inmate access or potential inmate access. PREA signage was abundantly evident throughout the facility, ensuring that reporting information was adequately visible for all inmates and staff. Auditors noted some physical barrier issues throughout the site review and discussed those with the PREA team. Many of those were corrected on the spot, such as unnecessary curtains and blinds. Video monitoring is used in the hallways and common areas of the living units (not in the dorm rooms themselves or in the bathrooms).

Following the site review, interviews of specialized staff, as well as random staff and inmates, were conducted on July 15 and 16, 2015. Agency-level interviews (Director, PREA Coordinator, and Human Resources Director) occurred at the central office on July 13, 2015. A PREA team member was available at all times for auditor clarification and consultation.

Random inmates and random staff (from all three shifts) were interviewed, in addition to 13 specialized staff interviews and six targeted inmate interviews. Overwhelmingly, staff and inmates were very familiar with PREA. In fact, the level and depth of PREA knowledge and awareness was advanced; they knew how to report and respond, and were aware of inmates' rights to be free from sexual abuse and sexual harassment. Staff confidently knew reporting and response, dynamics of sexual abuse and sexual harassment in confinement, effective communication and policy regarding LGBT inmates, and first responder duties, etc. Inmates appeared to have a high level of trust and confidence in the staff, administration, and reporting process.

JRCC and the agency conducts administrative investigations, while criminal investigations are referred to the Highway Patrol. There were 30 reports of sexual abuse and sexual harassment, which resulted in two being referred for prosecution; allegations are addressed promptly and appropriately. The agency seems to have a very strong and beneficial relationship with the Highway Patrol, which was commended.

Knowledge of and investment in the implementation of PREA was evident throughout administration and management of the DOCR, and such reflected support from the top down. Auditors were very impressed with the level of genuine investment in and dedication to PREA at both the facility and agency level.

At JRCC, the biggest area of risk in terms of sexual safety was physical plant/physical barrier issues. While JRCC is an older facility and encompasses former state hospital buildings, auditors felt there were still measures of corrective action within the facility's control that could be taken to improve this aspect of sexual safety. While auditors were still onsite, JRCC sent a team of staff throughout the facility to assess and eliminate any removable barriers (such as curtains, blinds, boxes, or stacked items similar to what auditors had noted during the site review). In addition, within the 30-day period following the site review and audit, JRCC completed a full assessment of physical plant/physical barrier issues, noting where mirrors, lighting, or door locks could be used and/or removable barriers could be eliminated. JRCC submitted to auditors a full review of the physical plant assessment; motion sensor lighting to enhance supervision in those noted areas had been ordered, and bids were being received for the purchase of mirrors. The DOCR has made a multitude of budget requests to rectify these issues with additional staff and cameras. Auditors suggested using some other supervision aids such as mirrors, lighting, door locks and/or removing barriers where possible.

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

James River Correctional Center is a medium security adult male prison with a capacity for 410 inmates; the inmate population at the time of the onsite audit was 432. The facility opened in June of 1998 and is the result of renovating buildings of the former North Dakota State Hospital, which was built in 1936. The main building is a six-floor structure. The first floor consists of offices, medical, and five detention/isolation cells. The second, third, fourth, fifth, and sixth floors comprise the inmate units in two, five, and seven-man dorm settings. The dorms have their own bathrooms. There is no camera coverage in the dorm rooms themselves or in any bathrooms. Being an older facility, JRCC is faced with physical plant challenges that decrease the level of sexual safety and would benefit greatly from physical plant renovations and additional camera coverage in blind spots and isolated areas.

The SAU (Special Assistance Unit) houses up to 24 inmates who are seriously mentally ill inmates; the unit provides special treatment and programming to fit their needs.

The rest of the grounds consist of Rough Riders Industries, which comprises three large buildings that house maintenance, metal shop, and welding. There is a large outdoor recreation yard, as well as a tunnel that connects some of the buildings; this tunnel is used for inmate movement to Laundry, Property, Commissary, and Food Services.

## **SUMMARY OF AUDIT FINDINGS**

It was clear that inmate safety is of utmost importance at JRCC and for the DOCR agency. Auditors were very impressed with the efforts and accomplishments made to achieve PREA compliance. Twenty-eight (28) standards were met, 13 standards were exceeded, 2 were not applicable, and 0 were not met.

Number of standards exceeded: 13

Number of standards met: 28

Number of standards not met: 0

Number of standards not applicable: 2

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

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

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

#### **Policy Review:**

The agency has written policy 3C-4 mandating zero tolerance toward all forms of sexual abuse and sexual harassment. The policy outlines prevention, detection, and responding to allegations/incidents throughout this policy. Policy cites the standards mostly verbatim, but also incorporates agency- and facility-specific methods of compliance.

#### **Interviews, Document Review, and Site Review:**

The PREA Coordinator (PC) and PREA Compliance Manager (PCM) stated they have sufficient time and authority to develop and oversee compliance. The PREA Coordinator reports directly to the Director of NDDOCR, and the PREA Compliance Manager reports directly to the Warden, which indicates sufficient authority. The DOCR has three adult prisons, and each has a designated PREA Compliance Manager.

Auditors were provided the agency organizational chart which corroborated the positions of the PC and PCM.

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

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

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#### **Policy Review:**

Policy 3C-4 p6 states that the PREA Coordinator is charged to “Oversee monitoring of PREA compliance with private and non-department public entities contracted for offender and inmate confinement.”

#### **Interviews, Document Review, and Site Review:**

NDDOCR contracts for the confinement of inmates. Eight different contracts were provided for auditor review: DUI Centre; Centre, Inc.; HACTC (Heartland of America Correctional and Treatment Center); CCCS (Community, Counseling, and Correctional Services); LRRRC (Lake Region Residential Reentry Center); Teen Challenge; DWCR (Dakota Women’s Correctional and Rehabilitation Center); and TRCC (Tompkins Rehabilitation and Corrections Center). All contracts do include the required PREA language, and that the DOCR will conduct announced and unannounced compliance monitoring. Auditors were provided completed audit reports for all except two, for which PREA audits are reportedly scheduled.

In terms of monitoring compliance, the DOCR has several measures in place. Information obtained from the PREA Coordinator and others in the DOCR’s central office added that a monthly reminder is mailed out that directs contract facilities to report all PREA incidents in their monthly reports to the Warden. DOCR has a contract monitoring form that documents their oversight. This form includes PREA compliance measures and is currently being integrated into an electronic system. Auditors were provided all of this documentation to review, to include

completed forms and monthly reports to demonstrate actual institutionalization.

The DOCR goes above and beyond in monitoring their contracts and ensuring PREA compliance. This demonstrated practice has exceeded this standard.

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

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

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#### **Policy Review:**

Policy 3C-4 p8 addresses requirements, per PREA, of developing and complying with a staffing plan. It also defers to DOCR policy 1C-5 for the DOCR Staffing Requirements. A staffing plan and staffing review was provided, indicating a thorough review of the required provisions and, moreover, the intent of the standard.

Policy 3C-4 p8 mandates unannounced rounds by supervisory staff.

#### **Interviews, Document and Site Review:**

Auditors were provided with the JRCC Staffing Plan document for review. This staffing plan is a thorough account of staffing levels and what is required for adequate staffing and monitoring of video surveillance. It does not specifically account for any findings of inadequacy, though; that information was obtained through conversations and interviews.

One auditor spoke with the roster administrator, who explained the daily rostering and how positions and “holes” are filled. He was able to adequately explain the minimum number of staff required for each shift and the options that are available for their use to ensure they never go below that number.

115.13(b) is not applicable because there were no deviations from the staffing plan during the review period. If needed, non-essential posts are collapsed in order to maintain adequate levels of staff and to ensure inmate safety. This was corroborated through interviews with the PREA Coordinator, Warden, PREA Compliance Manager, and other staff.

Auditors were provided with a “Staffing Plan Review for JRCC 2014-2015” completed by the PC, and was a review of JRCC in accordance with DOCR Policy 1C-5, Staffing Requirements, and PREA Standard 115.13. This review elaborated on the staffing plan, DOCR’s ability to fill positions, the completion of unannounced rounds, etc. The review could be strengthened by focusing on and outlining where adjustments are needed in the staffing plan.

Unannounced rounds were confirmed through staff interviews and are documented electronically in the ELITE system, titled “Supervisor’s Round.” Auditor review of entries confirmed that they occur on each shift and are conducted sporadically.

### **Standard 115.14 Youthful inmates**

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

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This standard is not applicable. JRCC does not house youthful inmates, as evidenced by policy 3C-4 p9 and the Directive 4B-5. Any inmate under the age of 18 shall not be placed in any North Dakota DOCR adult institution.

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

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

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

#### **Policy Review:**

Policy 3C-4 p9 asserts that cross-gender searches are only conducted in exigent circumstances and generally with the Warden's approval. This policy also mandates that any cross-gender searches are electronically logged.

3C-4 p9 addresses provision (d) and (e).

#### **Interviews, Document and Site Review:**

Staff and inmates consistently corroborated that cross-gender strip and body cavity searches are not conducted at JRCC, and auditors were alerted of no instances when this may have occurred. Therefore, there were no logs or records of cross-gender searches to review.

115.15(b) is not applicable as JRCC houses only male inmates.

Auditors were provided with a memo dated 06/18/15 from the Deputy Warden to All Staff directing the procedure for logging cross-gender viewing pursuant to exigent circumstances, should it occur.

Pursuant to 115.15(d), throughout the tour and any time auditors came onto living units, opposite gender announcements were consistently made. Inmates and staff alike consistently reported that the opposite gender announcements are made when female staff enter the units. In addition, all inmates felt they had adequate privacy when using the toilet or were in a state of undress. Auditors were informed of the presence of cameras inside cells 101 and 102 of the SAU. These cells are sometimes used as observation cells, and sometimes they house inmates for general purposes and not for observation. Cameras in these cells view the toilet, thus creating the potential for cross-gender viewing. Auditors were provided documentation of a directive and procedure for the use of the cameras in these cells. The directive dated 04/22/15 states, "The cameras for cells 101 and 102 have now been disconnected. These have been disconnected to be in compliance with PREA. These cells will be intended to be used as 100 unit level 1 cells/holding cells for detention/investigative purposes. The cameras will remain disconnected in all these situations. If one or both of these cells should be needed for OBS the camera may be reconnected with the authorization of the on-duty Captain..." Post orders were updated to reflect this order, as well as the procedure for the Captain to manually reconnect the camera(s). Security and Control Policy (revised June 30, 2015) mandates this practice and procedure as well.

As far as physically examining transgender or intersex inmates, all staff reported that it was not allowed by non-medical staff for the purpose of determining genital status.

Auditors were provided with training curriculum for pat/strip/body cavity searches, which provided for the method of female staff-on-male inmate pat searches.

Training records of staff having received training on conducting cross-gender searches were provided for auditor review. All security staff

had received this training.

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

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

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

#### **Policy Review:**

Policy 3C-4 outlines the procedure for disabled/LEP inmates to benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. The procedure includes how to access interpretive services for deaf, blind, hard-of-hearing, or non-English speaking inmates. In addition, this policy asserts that inmates with “intellectual, psychiatric, or speech disabilities will review materials with staff to ensure comprehension.”

#### **Interviews, Document and Site Review:**

Auditors noted on the site tour that there was ample signage posted throughout the facility that was in both English and Spanish. In addition, the agency utilizes interpretive services for deaf, blind, hard-of-hearing, or non-English speaking inmates, the procedure for which is specifically outlined in policy 3C-4. Throughout interviews, it was evident that staff were aware of these services, and they consistently relayed that information to auditors. For inmate education, a series of videos is utilized, and there are English subtitles which would serve deaf and hard-of-hearing inmates. If the need arises, staff will assist individual inmates who have intellectual, psychiatric, or speech impairments, to ensure their comprehension of the material. The agency has contracted with a translation service for any limited-English-proficient inmates. Auditors were provided with an invoice as evidence of the service’s use, though it was dated prior to the review period. In addition, the auditor called the service to verify. It appeared to be user-friendly and covered a wide range of language services that were available in a very prompt manner.

The inmate handbook is also available in Spanish. Agency policy prohibits the use of inmate interpreters, and this was also corroborated through staff and inmate interviews.

Staff at JRCC were aware that interpretive services are available, if needed. Auditors were not alerted to any LEP inmates. However, auditors did interview a low-functioning, mentally-disabled inmate to ensure he was able to understand the concept of PREA; this inmate appeared to understand the basic material.

Due to the many resources available for disabled and LEP inmates that have been implemented, staff awareness of the existence and utilization of the resources, and the effort given to individual inmates when needed to ensure their comprehension, auditors feel JRCC has exceeded this standard.

### **Standard 115.17 Hiring and promotion decisions**

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

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**Policy Review:**

The agency and facility (3C-4 and 1C-11) prohibits the hiring of anyone who (1) has engaged in sexual abuse of inmates in an institutional setting; (2) has been convicted of engaging in sexual activity in the community facilitated by force, the threat of force, or coercion, or (3) has been civilly or administratively adjudicated to have engaged in such activity.

1C-11 also states that criminal background checks will be performed by NCIC-trained staff at least every five years.

**Interviews, Document and Site Review:**

JRCC does not hire or promote anyone who has engaged in the conduct described in 115.17(a). The facility reported that there 53 persons hired during the review period who received criminal records background checks, and 57 contractors.

HR staff stated that incidents of sexual harassment would be considered, though it would be through an informal practice by which an investigation would be conducted, and she would be aware of such an incident. She also stated that a promotion triggers a background check.

JRCC conducts criminal background checks through NCIC on all applicants regardless of inmate contact. Auditors interviewed HR staff who explained the process of hiring and promotions as it relates to PREA. Auditors also reviewed a sample of documentation and background checks (to include contractors and volunteers) while onsite, which showed that all had received appropriate background checks. In the event that an applicant has prior institutional employers, there is a form letter with which to request the information. HR staff was not confident about the use of the form, they had not used it, and reported that there had been no such applicants. However, upon review of the HR files, there were, in fact, two applicants who had prior institutional employers. No requests were made for information regarding involvement in substantiated sexual abuse. Auditors learned that the directive had been passed down from the central office (where the practice of requesting this information was well institutionalized, as evidenced by the audit of NDSP earlier the same week). In the week following the onsite audit, new applicant files for JRCC were reviewed since January 2015. JRCC provided a chart for auditor review which showed there were a total of three applicants in that time period who had prior institutional employers, and those employers were immediately sent letters requesting that information.

JRCC conducts criminal background checks on all contractors. Auditors reviewed a sample of those checks and interviewed staff who explained this process.

By reviewing HR files, facility practice seemed to be congruent with policy which requires criminal background checks at least every five years.

Regarding 115.17(f), auditors reviewed the facility/agency employment application which is an online application that includes these required questions. Policy upholds an affirmative action for employees to disclose sexual misconduct, and omissions of such are grounds for termination.

HR staff reported that in the instance of a request from another institution about the release of former employee involvement of sexual abuse, it would be referred to the agency attorney to determine what would be released.

**Standard 115.18 Upgrades to facilities and technologies**

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

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

### **Policy Review:**

3C-4 p12 addresses Upgrades to Facilities and Technologies and specifies that the PREA Coordinator and architect/engineer would consult during the planning and construction phase.

### **Interviews, Document and Site Review:**

One auditor interviewed the Director, who spoke knowledgeably about the requirements of PREA and the consideration that would be given to any expansion or facility modification, to include such aspects as: clean site lines, fewer nooks and crannies, numerous cameras, and no group showering. Currently, the basement area of JRCC is being renovated to include inmate education and facility programming rooms, such as a carpentry construction classroom. One auditor interviewed the Deputy Warden, who explained how the need for video monitoring and adequacy of staffing was being considered to account for blind spots and other pertinent areas.

In addition, the PREA Coordinator asserted that he would be involved with any expansion or modification, and such changes would also undergo a review process.

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

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

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### **Policy Review:**

Policies 3A-12 and 3C-4 specifically outline a uniform evidence protocol. 3A-12 is specific to preservation of physical evidence.

### **Interviews, Document and Site Review:**

DOCR/JRCC conducts administrative investigations, and they collaborate with the Highway Patrol for criminal investigations. Auditors were very impressed with staff's ability to articulate their responsibilities per this policy. Staff knowledge was at an advanced level. Auditors were also provided with the protocol used by the Highway Patrol, the North Dakota Sexual Assault Evidence Collection Protocol, which was impressively thorough and detailed and covered the scope of all types of victims (i.e., child, adolescent, male, "GLBT" – gay, lesbian, bisexual, transgender). Auditors were also provided with a Memorandum Of Understanding with the Highway Patrol.

Alleged victims of sexual abuse are offered forensic exams at no cost from Jamestown Medical Center by a Sexual Assault Nurse Examiner (SANE). Auditors reviewed correspondence between the PREA Coordinator and the SANE. In this reporting period, there were no forensic examinations warranted.

In the event that an inmate arrives for a forensic exam, a victim advocate is automatically offered to the victim through AARC (Abused Adult Resource Center). Beyond advocacy secondary to a SANE, the agency's efforts to secure further victim services from a community-based organization have been futile thus far in terms of establishing an MOU, though documentation of the attempt to secure these services was provided to the auditor. The correspondence showed that multiple communications and ultimately the local provider reported that their current funding would not allow them to offer the service. Nevertheless, the PREA Coordinator has a good working relationship with them and, once funds or other means allow, these services seem to be within reach. Absent the advocate from the local provider, the facility provides a qualified staff member.

Not only has the agency requested that the Highway Patrol follow the requirements of this standard, the agency has included them in training provided by the Moss Group, and they offered those training records for auditor review, also.

The effort that has been made to collaborate with these external stakeholders (Highway Patrol, SANE, rape crisis center) exceeds expectations and has truly been valuable and beneficial to the agency and thus, the inmate population. Although further work can be done to secure

services from the local rape crisis provider, this effort, along with the policy and practice for uniform evidence protocol, exceeds this standard.

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

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

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#### **Policy Review:**

Policy 3C-4 ensures that an investigation is completed for all allegations of sexual abuse and sexual harassment. This policy is published on the DOCR's website at the following link: <http://www.nd.gov/doctr/>

#### **Interviews, Document and Site Review:**

The agency and facility ensures that an investigation is completed for all allegations of sexual abuse and sexual harassment. The facility conducts administrative investigations, while the Highway Patrol conducts criminal investigations.

There were 30 reports of sexual abuse and sexual harassment during the reporting period; two were referred for criminal prosecution. Through conversations and interviews, auditors were very comfortable that all allegations are taken extremely seriously, and inmates reported the same. The DOCR and JRCC carry the genuine intent of ensuring sexual safety in their facility.

The policy is published on the DOCR's website; it describes the responsibilities of both entities. Auditors were provided with the Highway Patrol's Manual that guides their investigative process; it was very thorough and detailed. Again, the relationship between these two entities is strong and very beneficial.

### **Standard 115.31 Employee training**

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

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#### **Policy Review:**

Policy 3C-4 contains the language of this standard.

#### **Interviews, Document and Site Review:**

Auditors were provided the training curriculum for review. All required training elements of 115.31(a) were reviewed by auditors in agency policy 3C-4, as well as in the training curriculum. Overwhelmingly, staff were able to articulate the zero-tolerance policy for sexual abuse and harassment, their responsibilities under the agency policy, and all other required training elements. Staff knowledge was advanced and exceeds this standard.

Training records were provided and reviewed. All staff had received the training. The training is provided via classroom and online. This occurs at orientation and every year thereafter. At the end of the online training, and in order to complete the course and receive credit, staff must check a box which states they have received and understand the training they just completed. In orientation, new hires receive and sign an Acknowledgement Form that states they have received and understand the PREA training. All files reviewed contained this form.

The training is tailored to the gender of the facility. DOCR facilities are all male.

Records and superb documentation, along with demonstrated staff knowledge, exceed this standard.

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

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

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

#### **Policy Review:**

DOCR policy directive 1G-1 Volunteer Program Coordination, Selection, and Orientation, states that in addition to orientation, all volunteers, “Will also complete the DOCR approved PREA training and acknowledge that they understand and agree to comply with all PREA requirements prior to inmate exposure.”

Per policy 3C-4 the PREA Compliance Manager is charged with ensuring that all contractors and volunteers are trained on the agency’s zero-tolerance policy.

#### **Interviews, Document and Site Review:**

Agency policy mandates that unescorted contractors and volunteers must receive classroom PREA training, while escorted contractors and volunteers must review and understand the zero-tolerance policy and how to report. They then sign an acknowledgement form. Auditors were provided the lesson plan used for all staff, contractors, and volunteers. Auditors reviewed training records for volunteers and contractors, which revealed that all had received PREA training. JRCC reported 23 volunteers and contractors during the review period had been trained.

The auditor conducted a phone interview of a chosen contractor, who was able to articulate his responsibilities pursuant to DOCR policy in regard to sexual abuse and sexual harassment.

### **Standard 115.33 Inmate education**

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

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

#### **Policy Review:**

Policy 3C-4 p16 outlines inmate education upon orientation, and comprehensive education within 30 days of intake.

**Interviews, Document and Site Review:**

Prior to arrival at JRCC and pursuant to policy, inmates receive initial PREA orientation at the reception facility, North Dakota State Penitentiary (NDSP). Upon transfer to JRCC, they receive an Inmate Orientation PREA Information sheet in their property bag during orientation which contains information on definitions and how to report. Within 30 days, a comprehensive education is provided by showing a PREA video titled, “PREA: What You Need to Know.” A verbal explanation of the video follows, as well as additional education on the following topics: zero-tolerance policy; inmates’ right to be free from sexual abuse, harassment, and retaliation; how to report incidents; and, the agency’s policies and procedures for responding.

JRCC reported that during the review period, 524 inmates were provided information at intake, and of those, 177 received comprehensive education within 30 days. Thus, 347 did not receive comprehensive education within 30 days of intake; however, as of 06/15/15, it was provided to all inmates.

As explained in full in the comments of 115.16 above, inmate education is provided in formats accessible by LEP, disabled, deaf or hard of hearing, blind or visually impaired, as well as those with limited reading skills. There is audio available for blind inmates and subtitles for deaf inmates. If the need arises, staff will assist individual inmates to ensure their comprehension of the material. The agency employs a translation service, with which they have a contract, for any limited English proficient inmates. Auditors were provided with an invoice as evidence of the service’s use. In addition, the auditor called the service to verify. It appeared to be user-friendly and covered a wide range of language services that were available in a very prompt manner. The Inmate Handbook is also available in Spanish. The Inmate Handbook contains a PREA section, which outlines the definitions of sexual abuse and sexual harassment, as well as inmates’ rights to be free from sexual abuse, sexual harassment, and retaliation. It also contains grievance procedures, which specifically outline sexual abuse grievances.

Auditors were provided with the videos and lesson plans to review, as well as the rosters for 347 inmates who were provided the comprehensive education. Inmates and intake staff were able to corroborate policy and practice. Inmates were versed in PREA; they knew how to report incidents of sexual abuse and sexual harassment, and they overwhelmingly asserted they would go to staff to report. Inmate interviews were indicative of trust and confidence in the staff and reporting system. There was no evidence that reports were being made and not investigated. All inmates interviewed felt like it was a sexually safe environment.

Inmates sign an acknowledgement form for their PREA orientation; the agency maintains that documentation electronically. The auditor requested that random inmates records be retrieved electronically for review. All inmate files reviewed contained the PREA acknowledgement form.

PREA information posters in both Spanish and English are placed throughout the facility in abundance.

The inmates’ advanced knowledge of PREA information and reporting, in addition to the trust and confidence they have in reporting, is indicative of an ideal reporting culture and exceeds this standard. The agency and facility ensure that inmates receive an abundance of PREA information, and they provide it in many different formats.

**Standard 115.34 Specialized training: Investigations**

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

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

**Policy Review:**

Policy 3C-4 p17 and Professional Standards Directive 1A-9 addresses this standard and mandates specialized training for investigators.

**Interviews, Document and Site Review:**

Agency investigators have completed the online NIC specialized training for investigators. The agency also hired The Moss Group to deliver additional specialized training for agency investigators, as well as the Highway Patrol investigators. The agency has built a valuable relationship with the Highway Patrol, which has resulted in the Highway Patrol being very receptive to agency needs and sharing of resources. Auditors reviewed training materials and documentation which addressed all required training elements. This training and the investigators' ability to articulate the training exceeds this standard.

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

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

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

#### **Policy Review:**

Policy 3C-4 mandates specialized training for medical and mental health staff.

#### **Interviews, Document and Site Review:**

Medical and mental health staff attend the general agency PREA training course as well as the respective online NIC course. There were 24 medical and mental health staff; 100% of whom had received this training. Auditors reviewed NIC certificates of completion for this training.

Medical staff employed by the agency do not conduct forensic exams.

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

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

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

#### **Policy Review:**

Policy 3C-4 p18 & 19 speaks to screening for victimization and abusiveness; the intake and reassessment procedures.

#### **Interviews, Document and Site Review:**

The screening procedure follows a specific and detailed process that is outlined in the DOCR PREA Rating Manual.

A PREA Intake/Admission Screening is completed within 24 hours of intake to assess risk of sexual victimization or abusiveness, which then guides the housing assignment. This screening considers 9 of the 10 required elements of 115.41(d) & (e). Civil immigration is not considered since DOCR does not house for that purpose. This Intake/Admission Screening is completed electronically in iTAG, and results in an inmate being categorized as one of the following: KA (Known Aggressor), PA (Potential Aggressor), UN (Unrestricted), PV (Potential Victim), or KV (Known Victim). The staff completing the screening will relay the screening information to the unit staff charged with determining housing placement in order for it to be considered in that process. A PREA Assessment/Reassessment is then completed by transitional

planning staff (or designee) within 30 days of intake into the Orientation Unit (ORU) and/or before the inmate is transferred from the ORU, whichever comes first. Like the Intake/Admission Screening, the PREA Assessment/Reassessment considers all required elements of 115.41(d) & (e) except civil immigration. Reassessments are completed annually thereafter by case management staff and/or when there is a triggering event, such as a substantiated allegation of sexual abuse or sexual harassment. Transgender or intersex inmates are reassessed at least every 6 months, per policy and the PREA Rating Manual. There is also an override process that can be used to request a PREA Rating that is a higher or lower level, in the event that it does not seem to reflect an inmate's risk accurately. The case manager staffs the override request with the unit team to determine whether it is warranted. Lastly, in the event of a temporary leave or transfer, a Temporary Leave/Transfer Screening Form is utilized, which contains two questions asked of the inmate; "Do you have a history of sexual predatory or aggressive actions since your last PREA Assessment?" and "Do you have a history of institutional predatory behavior since your last PREA Assessment?" This form is completed prior to the inmate returning to his assigned housing. If one or both of these questions is marked 'yes,' the facility's coordinated response is activated.

Policy prohibits inmates from being disciplined for refusing to answer the screening questions. This also was reiterated consistently in staff interviews. Policy 3C-4 also asserts, "DOCR maintains information within ELITE and FileNet that limits access to DOCR staff and ensures information is not exploited to the inmate's detriment by staff or other inmates. Staff are required to follow the DOCR confidentiality agreement."

Auditors reviewed PREA Screenings on the electronic system, retrieving inmate records at random. Each screening viewed had been completed within the 24-hour and 30-day time frame. It was very evident not only that staff who completed the screenings were knowledgeable about its process and purpose, but also that PREA ratings were a focal point of many conversations with staff across the facility and in different positions and posts. JRCC reported that 143 inmates during the review period were given the Intake/Admission Screening Form, as well as the Assessment/Reassessment Screening Form.

The PREA Rating process is very detailed, thorough, guided by policy and manual, and is well-institutionalized. Auditors feel this exceeds this standard.

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

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

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

#### **Policy Review:**

Policy 3C-4 p20 & 21 addresses Use of Screening Information and speaks to each provision of this standard.

#### **Interviews, Document and Site Review:**

JRCC has solid policy and practice in place to use screening information to inform housing, bed, program, and work assignments. The main area that could be strengthened is in common areas such as the yard, dining, amusement hall, and restrooms in some areas.

Secondary to being given a PREA rating, inmates identified as high risk (with a history of sexually assaultive behavior) are assessed by a qualified staff member, monitored, and counseled. When an inmate has a charge or conviction of a sexual offense, a Sexual Risk Notification is completed and reviewed by mental health. A multi-disciplinary team then reviews the case to determine sexual aggressiveness and potentially create an alert in iTAG, flagging the inmate as such. On the contrary, in the event there are concerns regarding an inmate's ability to protect himself against sexual victimization, a Vulnerable Risk Notification is completed and reviewed by mental health. A multi-disciplinary team then reviews the case to determine sexual vulnerability and potentially create an alert in iTAG, flagging the inmate as such. Auditors were provided a printout of the PREA Rating Alerts generated from iTAG. This list identified all inmates by their PREA rating. At the auditors' request, the report was run again, identified by living unit and PREA rating; this list indicated that those inmates at high risk for victimization were in fact being kept separate from those inmates at high risk for being sexually aggressive.

It was evident through staff interviews that individualized determinations are made for inmate safety. The Alert system in ELITE is a key resource for doing so.

For the placement and programming of transgender and intersex inmates, 3C-4 provides a detailed procedure for doing so. In deciding male or female facility, as well as housing and programming, a multi-disciplinary team consisting of staff from security, medical, unit management, behavioral health, and administration would make those determinations on a case-by-case basis. It is also mandated that reassessments will be completed at least twice per year by case management staff and documented in the case contact notes. Both policy and practice (indicated by staff interviews) supported this language and that an inmate's own views would be taken into consideration.

Except for a few areas in the living units, showers are individual showers with curtains; thus, inmates can shower separately regardless of their gender identity or status. It was consistently reported by staff, in the event of the admittance of a transgender/intersex inmate, that a separate shower and/or shower time would be implemented.

By touring the living units and reviewing rosters and PREA ratings and other documentation, along with staff and inmate interviews, auditors concluded that gay, bisexual, or transgender inmates are not housed on a dedicated wing or unit. Auditors interviewed gay inmates, but did not observe any potential transgender or gender-nonconforming inmates, nor were any reported by the facility or throughout the interviews.

Auditors felt like the facility does consider the screening information in housing, bed, program, education, and work assignments. Inmates are housed by tier according to their PREA rating. Auditors do recommend strengthening this practice, however, by extending this consideration more in common places throughout the facility.

For work assignments, JRCC utilizes an Inmate Employment-Security Risk Assessment to determine the appropriateness of work assignments. This form considers many factors, one being sexual vulnerability. JRCC has a practice in place that also assigns a rating to each job assignment indicating which inmates, by their PREA rating, are allowed to hold which jobs. Auditors discussed this process of rating and assigning work assignments with the facility and agency administration. Upon review and consideration of the rating of the job assignments, auditors felt they needed to be re-classified, since most of the jobs were unrestricted, and inmates could be isolated with one another or with staff. Further, it was possible that victims/potential victims could be assigned with abusers/potential abusers and be isolated. Directly following the onsite audit, the PREA Coordinator reported that a team had met to discuss work assignments to ensure the goal that at no time will known victims and known abusers be allowed to work, or receive educational, behavioral or medical services together, unless direct supervision as defined by PREA is in place (in same room and within hearing distance).

### **Standard 115.43 Protective custody**

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

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

#### **Policy Review:**

Policy 3C-4 addresses provision of this standard on p 20 & 21 addresses protective custody as it relates to PREA.

Policy 3A-18 addresses segregation in general. This policy outlines programs, services, and privileges afforded to inmates in segregation.

#### **Interviews, Document and Site Review:**

Through interviews of staff, administration, and inmates, auditors felt confident that it would be a rare occasion for JRCC to place an inmate at high risk of sexual victimization into isolation. During the review period, no inmates were placed in PC for risk of sexual victimization. If an inmate were to be placed into PC, a review period as outlined in policy would ensue.

PC inmates are afforded opportunities for programs, services, and privileges as outlined in policy 3A-18. There were no instances to review, but staff and inmates reported that these are available to inmates in isolation.

Inmates in administrative segregation or PC are reviewed every seven days for the first two months, and every 30 days thereafter. DOCR implements an Administrative Segregation/Hearing/Review form on which this is documented. Inmates on PC still have opportunities for their programming, at least in some capacity.

It was evident to auditors that JRCC goes to great lengths to explore every alternative placement before placing an alleged victim in involuntary isolation. In the rare instance this is done, an inmate is placed there for the shortest time possible.

### Standard 115.51 Inmate reporting

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

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

#### Policy Review:

Policy 3C-4 p 21 & 22 cites 5 ways of inmate reporting of sexual abuse or sexual harassment.

#### Interviews, Document and Site Review:

Auditors noted multiple methods for inmates to report sexual abuse or sexual harassment. Inmates and staff were also well-versed in the different methods available to inmates. These ways include: reporting to any staff member, third party reporting, inmate request forms, inmate grievance forms, and an internal hotline with a toll-free number.

The Inmate Handbook also cites these methods, as well as external methods of reporting, and contact information to Just Detention International, the National Sexual Assault Hotline, and the Highway Patrol Administrative Services division.

All staff interviewed were able to articulate inmate and staff reporting options, accepting all verbal reports including third-party and anonymous reports. Staff are able to report privately to their supervisor or any facility supervisor. Staff were familiar with who serves as the PREA Coordinator and PREA Compliance Manager, and they also knew that to be a reporting option.

The inmates’ advanced knowledge of PREA information and reporting, in addition to the trust and confidence they have in reporting, is indicative of an ideal reporting culture and exceeds this standard. The agency and facility ensure that inmates receive an abundance of PREA information, and they provide it in many different formats.

### Standard 115.52 Exhaustion of administrative remedies

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

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

**Policy Review:**

Policy 3C-4 p22 & 23 addresses all the provisions of this standard.

**Interviews, Document and Site Review:**

In addition to policy language outlining the grievance procedures, the Inmate Handbook does as well. It is available in English, available in Spanish, and includes a PREA section with the definitions of sexual abuse and sexual harassment, as well as inmates’ rights to be free from sexual abuse, sexual harassment, and retaliation. It contains grievance procedures which specifically outline sexual abuse grievances and emergency grievances. The timelines and verbiage is congruent with this standard.

Inmate interviews revealed that inmates were clearly aware of the grievance procedures and that it can be used for reporting sexual abuse or sexual harassment.

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

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

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

**Policy Review:**

Policy 3C-4 addresses clearly that outside confidential support services are available, and how to access them.

**Interviews, Document Review, and Site Tour:**

Auditors confirmed what policy says; that inmates are provided with access to outside victim advocates for emotional support services related to sexual abuse through mailing addresses and telephone numbers, including toll-free hotline numbers to the organizations listed below.

In the event of sexual abuse, a trained behavioral health staff member will be available to provide support services. JRCC enables reasonable communication between inmates and these organizations and agencies in as confidential a manner as possible. Policy and the Inmate Handbook provide the following avenues of outside support:

- 1.) Write to Just Detention International, 3325 Wilshire Blvd., Suite 340, Los Angeles, CA 90010
- 2.) National Sexual Abuse Hotline – 1-800-656-4673 (toll free, non-recorded line).

Staff shall inform inmates, prior to giving them access to outside victim advocates, 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.

Inmates and staff were aware of this service, and almost all commented on the posters hung in the living unit areas which contained the instructions on how to make contact. During the facility tour, the auditors saw many signs posted throughout which outlined how to contact outside support services. The facility has documented their attempts to enter into a MOU with Abused Adult Resource Center (AARC), who is a community resource provider. Even though there has been no MOU signed at this time, the AARC has agreed to provide a staff member to provide emotional support to an inmate victim, if needed.

**Standard 115.54 Third-party reporting**

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

relevant review period)

- Does Not Meet Standard (requires corrective action)

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

**Policy Review:**

Policy 3C-4 clearly outlines how to report sexual harassment or sexual abuse on behalf of an inmate.

**Interviews, Document Review, and Site Tour:**

Interviews with staff and inmates revealed good knowledge about how a person can make a report on someone else’s behalf. Signs and posters are mounted throughout the facility and in the inmate visiting areas. These “Family and Friends” posters are in English as well as Spanish. The posters provide contact information for the Warden, PCM, and PC. Additionally, information on third-party reporting is available on the DOCR’s public website.

**Standard 115.61 Staff and agency reporting duties**

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

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

**Policy Review:**

Policy 3C-4, clearly outlines that all staff are required to report immediately to their supervisor any knowledge, suspicion, or information regarding instances of sexual harassment or sexual abuse, and any cases of retaliation against staff or inmates who report. This includes any third-party or anonymous reports. The policy also prohibits staff from revealing information about such cases to anyone other than those with a need to know.

**Interviews, Document Review, and Site Tour:**

All staff interviewed were aware of the facility policy, their duty to report, and of the many ways available to report. Staff were aware that they are obligated to keep information about cases of sexual harassment and sexual abuse confidential. Mental Health and Medical staff interviewed said they informed inmates of their duty to report and the limitations of confidentiality. Inmates are provided with limitations to confidentiality upon intake, and the information is posted as well.

**Standard 115.62 Agency protection duties**

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

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

**Policy Review:**

Policy 3C-4 requires that staff take immediate action when it is learned that an inmate may be in imminent danger of sexual abuse, and initiate their coordinated response, if needed.

**Interviews, Document Review, and Site Tour:**

During interviews with staff including the Warden, shift supervisor, and the PCM, it was evident that sexual safety for inmates is a high priority. Staff were able to articulate numerous options available that could be implemented to ensure inmate safety, up to and including immediate transfer of either the potential victim or the perpetrator. Other options included movement to another housing unit, or if needed, separation or segregation, if no other options were available. It was clear that the use of segregation is not the first option, and when it is necessary, it is for the shortest period of time possible.

**Standard 115.63 Reporting to other confinement facilities**

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

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

**Policy Review:**

Policy 3C-4 outlines clearly the steps to be taken upon receipt of an allegation that an inmate was sexually abused at another facility, including notifying the facility head where the alleged abuse occurred within 72 hours.

**Interviews, Document Review, and Site Tour:**

An interview with the Warden revealed that he was fully aware of the requirements set forth by the PREA standards and their policy, though there were no reports made or received during the past year. The Warden reported that if such a report was received from another facility, it would be referred immediately to an agency investigator.

Interview with the Agency indicated knowledge and practice was in place as well.

**Standard 115.64 Staff first responder duties**

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

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

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

**Policy Review:**

Policy 3C-4 does an exceptional job of outlining the duties of first responders, including the expectations for security staff, medical staff, behavioral health staff, the shift supervisor, the investigator, and PCM.

**Interviews, Document Review, and Site Tour:**

The facility has developed a flow chart that does a great job of illustrating what actions are required, and who is responsible to complete each task. Through interviews with security staff and the shift supervisors, it was evident that they were well aware of their duties as first responders. Staff understood not just the needed actions, but why the actions were important. Again, it was evident that staff take inmate sexual safety seriously, and that they have been well trained to ensure victims and perpetrators are separated and kept safe, and to preserve evidence. Documentation that staff were trained on their duties as first responders was provided. Auditors felt like staff knowledge and their ability to articulate first responder duties exceeded this standard.

**Standard 115.65 Coordinated response**

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

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

**Policy Review:**

Policy 3C-4 does an exceptional job of outlining the duties of first responders, including the expectations for security staff, medical staff, behavioral health staff, the shift supervisor, the investigator, and PCM.

**Interviews, Document Review, and Site Tour:**

The facility has developed a flow chart that does a great job of illustrating what actions are required and who is responsible to complete each task. Through interviews with security staff and the shift supervisors, it was evident that they were well aware of their duties as first responders. Staff understood not just the needed actions, but why the actions were important. Again, it was evident that staff take inmate sexual safety seriously, and that they have been well trained to insure victims and perpetrators are separated and kept safe, and to preserve evidence. Documentation that staff were trained on their duties as first responders was provided. Auditors felt like staff knowledge and ability to articulate the coordinated response exceeded this standard.

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

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

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

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

This standard is not applicable since DOCR is involved with no collective bargaining.

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

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

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

#### **Policy Review:**

Policy number 3C-4 reads in part as follows:

The DOCR PREA compliance manager at each DOCR facility protects 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. The PREA compliance manager in conjunction with the warden of the facility shall ensure multiple protection measures are available, including 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 that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. For at least 90 days following a report of sexual abuse or sexual harassment, the PREA compliance manager shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse or sexual harassment of inmates who were reported to have suffered sexual abuse or sexual harassment to determine if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. Items the facility should monitor include inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The DOCR shall continue monitoring beyond 90 days if the initial monitoring indicates a continuing need. In the case of inmates, monitoring shall also include monthly status checks documented in case notes in ELITE. If any other individual who cooperates with an investigation expresses a fear of retaliation, the warden shall take appropriate measures to protect that individual against retaliation. DOCR's obligation to monitor terminates if the DOCR determines that the allegation is unfounded.

#### **Interviews, Document Review, and Site Tour:**

Auditors reviewed investigative files which contained documentation for monitoring retaliation.

Additionally, there is an investigative log on an Excel spreadsheet which denotes whether or not retaliation is being monitored, though it does not go into as much depth or detailed information that was given at NDSP. Auditors noted that the retaliation monitoring could be strengthened by including additional information regarding what items were monitored and when the inmate was met with in person. It was also noted that unsubstantiated cases did not seem to be monitored via the formal process using the form. While onsite, the PCM ensured that those unsubstantiated cases during the review period were followed up on, and has now been given the directive to do so moving forward.

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

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

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance**

**determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

**Policy Review:**

Policy 3C-4 reads in part as follows:

Inmates at high-risk for sexual victimization may not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made there is no available alternative means of separation from likely abusers. If assessment can’t be completed immediately, the inmate may be held in involuntary segregated housing for less than 24 hours while assigned staff completes the assessment. Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: 1.) The opportunities that have been limited; 2.) The duration of the limitation; and 3.) The reasons for any limitations. Inmates will only be assigned to involuntary segregated housing until an alternative means of separation from likely abusers can be arranged. The assignment may not ordinarily exceed a period of 30 days. Every effort shall be made to keep the victim in the victim’s normal housing unit to prevent re-traumatization. If an involuntary segregated housing assignment is made pursuant to substandard [115.43 (a)-1] of this section, the case manager shall clearly document: 1.) the basis for the concern for the inmate’s safety; and 2.) The reason why no alternative means of separation can be arranged. 3.) Every seven days for the first two months and then 30 days thereafter, the Administrative Segregation review team shall afford each inmate a review to determine whether there is a continuing need for separation from the general population.

**Interviews, Document Review, and Site Tour:**

Interviews with staff, including shift supervisors and the Warden, revealed very good understanding of the use of segregation as a tool for protection, but only as a last resort and if no other options are available. Documentation was provided that showed that there were no segregation placements to protect an inmate who was at high-risk for sexual victimization during the current review period.

Inmate interviews also consistently supported that segregation is not used as a means of separation if an inmate reports.

A segregation review form has been implemented to document reviews of inmates in segregation, though again, no inmates were involuntarily isolated due to reporting an allegation of sexual abuse.

**Standard 115.71 Criminal and administrative agency investigations**

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

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

**Policy Review:**

Policy 3C-4 reads in part as follows:

Criminal and Administrative Agency Investigations: When the DOCR conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall initiate a thorough and objective investigation for all allegations within 24 hours or as circumstances dictate, including third-party and anonymous reports. Where sexual abuse is alleged, the DOCR shall utilize investigators who have received Department of Justice approved sexual abuse investigation training. Investigators shall gather and preserve direct and circumstantial evidence, including available physical and DNA evidence and available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. When the quality of evidence appears to support criminal prosecution, the DOCR investigator will stop the administrative investigation while the criminal investigation is being conducted, unless otherwise directed by the Director of the DOCR. Information obtained during the

investigation will not be shared between the criminal and administrative investigators. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. The DOCR may not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. Administrative investigations: 1.) Must include an effort to determine whether staff actions or failures to act contributed to the abuse; and 2.) Must be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Criminal investigations must be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. The DOCR shall retain all administrative and criminal written reports referenced for as long as the alleged abuser is incarcerated or employed by the agency, plus five years or in accordance with state statute. 1.) For additional information refer to DOCR directive 1E-2, Case Records. Investigations are completed regardless of employee status or inmate custody status. When the North Dakota Highway Patrol investigates sexual abuse, DOCR investigators shall cooperate with outside investigators and shall remain informed about the progress of the investigation. For more information see Directive 1A-9, Professional Standards.

**Interviews, Document Review, and Site Tour:**

Investigators have been properly trained and complete thorough and competent investigations of all reported cases of sexual harassment or sexual abuse. Interviews with staff at all levels reveal a solid understanding of the need to protect and preserve potential evidence and crime scenes. Criminal cases are referred to the North Dakota Highway Patrol for investigation. There appears to be a very good working relationship between the two agencies, with good communication and cooperation in the course of completing investigations. Auditors were provided access to the PREA investigation log and investigative reports. Both reports were outstanding, providing extremely well organized, thorough, and professional documentation of all investigative outcomes. All criminal cases that meet the requirements are referred to the county prosecutor for disposition. There were two referred for prosecution during the review period.

**Standard 115.72 Evidentiary standard for administrative investigations**

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

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

**Policy Review:**

Policy 3C-4 reads in part as follows:

The DOCR may not impose a standard higher than a preponderance (more than 50 percent) of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

**Interviews, Document Review, and Site Tour:**

Interviews with staff at all levels knew and understood the evidentiary standard. Information about the disciplinary process and the evidentiary standard is given to inmates during their orientation period at the facility.

**Standard 115.73 Reporting to inmates**

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

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

**Policy Review:**

Policy 3C-4 addresses each provision of this standard.

**Interviews, Document Review, and Site Tour:**

The facility provided a form titled, Notice of Prison Rape Elimination Act (PREA) Investigation Status, which is used to document how the outcome of an allegation of sexual harassment or sex abuse is provided to the reporting inmate.

There was documentation to show an inmate was given the form at the conclusion of an investigation, as noted by his signature on the form. Interviews with inmates who had made a report indicated that they were aware of the requirement to be notified, and that they were notified of the outcome of their allegation. All notifications or attempted notifications of the final determination of the allegation are documented and stored in FileNet.

**Standard 115.76 Disciplinary sanctions for staff**

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

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

**Policy Review:**

Policy 3C-4 contains each provision of this standard.

**Interviews, Document Review, and Site Tour:**

Interviews with HR staff and the Warden outlined the disciplinary process for staff.

Documentation was provided to show that staff discipline for actions, other than actually engaging in sexual abuse, were handled based on the individual’s disciplinary history and the facts of the case. There were no staff terminations for sexual abuse or sexual harassment during this review period.

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

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

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

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

**Policy Review:**

Policy 3C-4 reads in part as follows:

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The deputy warden shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of DOCR sexual abuse or sexual harassment policies by a contractor or volunteer.

Additionally, policy 1G-1 reads in part as follows:

All DOCR institutions, departments and divisions shall have procedures in place to secure volunteers for involvement in programs which may include service as advisors, faith based interpreters and other similar direct service roles. Directive and expectations shall also govern the recruitment, screening, selection, orientation, training, official registration, identification and supervision of volunteers and interns that allows recruitment from all cultural and socioeconomic parts of the community.

**Interviews, Document Review, and Site Tour:**

During interviews with the PCM and Deputy Warden, it was learned that all volunteers and contractors who have contact with inmates are given training on appropriate interaction and proper boundaries. It was also reported that there were no incidents that would require corrective action with a volunteer or contractor during the current review period.

**Standard 115.78 Disciplinary sanctions for inmates**

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

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

**Policy Review:**

Policy 3C-4 reads in part as follows:

Inmates shall be subject to disciplinary sanctions pursuant to the DOCR disciplinary process following an administrative or criminal finding of guilt that the inmate engaged in inmate-on-inmate sexual abuse. Sanctions must be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. Behavior health staff shall consider, as a condition of access to programming or other benefits, whether to require the offending inmate to participate in therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse. The DOCR may discipline an inmate for sexual contact with staff only upon a finding the staff member did not consent to the contact.

**Interviews, Document Review, and Site Tour:**

Inmates are subject to discipline following a formal process. This process is outlined in policy as well as in the Inmate Handbook and is commensurate with the nature of the abuse committed. The Inmate Handbook prohibits all sexual activity between inmates.

Interviews with staff indicated that sanctions are determined based on the severity of the violation and the inmate's disciplinary history. In cases where the inmate has mental health issues, his disability is considered in determining his penalty.

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

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

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

**Policy Review:**

Policy 3C-4 requires all inmates to be assessed for risk of being sexually victimized or being sexually aggressive within 24 hours of admission. The policy goes on to say, in part:

If the screening indicates an inmate has experienced prior sexual victimization or perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the inmate is offered a follow-up meeting with a medical or behavioral health practitioner within 14 days of the intake screening. Disclosure of information related to sexual victimization or abuse that occurred in an institutional setting must be strictly limited to staff, as necessary, to make security and management decisions, including treatment plans, housing, bed, work, education, and program assignments, or as required by federal, state, or local law. Medical and behavioral health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting.

**Interviews, Document Review, and Site Tour:**

Auditors interviewed an inmate who had reported previous sexual victimization upon admission, and auditors were provided documentation of several inmates’ follow-up meetings.

An authorization form was provided for auditor review which is used for inmate disclosures.

Information related to sexual victimization and/or abusiveness seemed to be limited to staff with a need to know.

Inmates are requested to sign an informed consent document.

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

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

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

**Policy Review:**

Policy 3C-4 reads in part as follows:

Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope determined by medical and behavioral health practitioners according to their professional judgment. If qualified medical or behavioral health practitioners are not on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and behavioral health practitioners. Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis in accordance with professionally accepted standards of care where medically appropriate. Medical and behavioral health services shall be provided to the victim and abuser without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

**Interviews, Document Review, and Site Tour:**

Medical and mental health staff were aware of the provisions of this standard, indicated through medical and mental health staff interviews. Training staff were able to provide documentation that medical and mental health staff had been given training on this topic. Staff interviewed were generally knowledgeable about this standard.

It was clear that inmates would be offered timely and unimpeded access to emergency medical and mental health. Staff clearly articulated their first responder duties, and auditors were able to confirm that these services are cost-free to inmates. Documentation was provided by the PCM which indicated that although services were available, there were no known instances of sexual abuse reported during this review period.

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

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

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

**Policy Review:**

Policy 3C-4 reads in part as follows:

The facility shall offer medical and behavioral health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The evaluation and treatment of such victims must 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. The facility shall provide such victims with medical and behavioral health services consistent with the community level of care. Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from the conduct described in (4) above in this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. Behavioral health staff will complete an evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when appropriate.

**Interviews, Document Review, and Site Tour:**

Interviews with medical and mental health staff indicated that inmates who report sexual abuse are treated and evaluated very quickly once staff become aware of the report. Staff reported that inmates receive the same level of service one would receive in the community, only they are seen much sooner than one would normally be seen by a community provider. Inmates who reported being sexually abused reported that they were seen right away by both medical and mental health staff. JRCC does not house female inmates, so there were no instances of inmate pregnancy.

**Standard 115.86 Sexual abuse incident reviews**

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

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

**Policy Review:**

Policy 3C-4 mandates sexual abuse incident reviews for all substantiated and unsubstantiated investigations. This policy specifies, “The review team may include PREA Coordinator, facility PREA compliance manager, behavioral health staff, investigator, and assigned facility staff. The results of the review will be provided to the warden.” It also requires that the review consider that required elements of 115.86(d) and the facility warden shall provide a written response to the Director of DOCR within 60 days of receiving the findings report of the review team. The warden’s response must include an implementation plan of recommendations and the justification for not implementing recommendations. The report and response will be stored in FileNet.

**Interviews, Document Review, and Site Tour:**

JRCC has a standing review committee (SAIRT) consisting of senior facility leadership, behavioral health staff, and the investigators. The facility conducts more than one review of each incident. Documentation provided showed that each incident was reviewed within 30 days after the completion of the investigation. Additionally, all six of the review requirements from the standard are considered during the review. Even though a review is required only for sexual abuse cases, the facility conducts reviews on sexual harassment cases also that were not determined to be unfounded. It is recommended that there be a signature line for the Warden, in addition to the PREA Coordinator, to ensure his/her receipt of the review and recommendations therein.

**Standard 115.87 Data collection**

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

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

**Policy Review:**

Policy 3C4 reads in part as follows:

The DOCR shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The DOCR utilizes the Department of Justice, Bureau of Justice Statistics form SSV-2, Survey of Sexual Violence for State Prison Systems. In addition, data is collected in the State Risk Management Incident Report Data system. The DOCR PREA Coordinator shall aggregate the incident-based sexual abuse data at least annually. The DOCR shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. The PREA compliance manager will forward all completed PREA investigations to the PREA Coordinator. The FileNet Administrator will upload all documents into FileNet. The PREA Coordinator will compile data and statistics on the number of sexual abuse and sexual harassment incidents that occurred the prior calendar year. These statistics will be forwarded to the Department of Justice annually, upon request. The DOCR contract managers obtain incident-based and aggregated data from every contract facility with which it contracts for the confinement of its inmates. Contract facilities are to comply with SSV-2 reporting regarding content. Upon request, the DOCR shall provide the data from

the previous calendar year to the DOJ no later than June thirtieth.

**Interviews, Document Review, and Site Tour:**

The facility does have a written set of standardized definitions that are copied from the PREA standards. The department PREA Coordinator is responsible for collecting and aggregating department data on an annual basis. Documentation was provided to show the data collection from the previous reporting period. Each of the contracted facilities who house inmates for the department also are required to collect and report PREA data. A monthly email remind is sent out to the contract facilities, and it is reported on a specific form. Auditors reviewed the form, as well as examples of data that had been reported.

**Standard 115.88 Data review for corrective action**

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

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

**Policy Review:**

Policy 3C4 reads in part as follows:

The PREA Coordinator in conjunction with the facility wardens shall review data collected and aggregated pursuant to PREA Standard 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training to include: Identifying problem areas; Taking corrective action on an ongoing basis; and preparing an annual report of its findings and corrective actions for each facility and the agency as a whole. The report must 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. The DOCR’s report shall be approved by the Director of DOCR and made readily available to the public through its website or other means. The DOCR may redact specific material from the reports when publication presents a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

**Interviews, Document Review, and Site Tour:**

The auditors were provided with a document titled, “2014 Annual PREA Report.” The report documents the department’s aggregated PREA data and has graphs that illustrate comparative data from previous years. The report also identifies problem areas and proposed corrective actions at the agency level and at the facility level. The report was written by the department PREA Coordinator, and was reviewed and approved by the agency director. This report is posted on the department’s public website.

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

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

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

**corrective actions taken by the facility.**

**Policy Review:**

Policy 3C4 reads in part as follows:

The DOCR ensures that data collected pursuant to § 115.87 are securely retained by the FileNet Administrator. The DOCR shall 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. Before making aggregated sexual abuse data publicly available, the DOCR shall remove all personal identifiers. The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise. All case records associated with claims of sexual abuse, including incident reports, investigation reports, inmate information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and counseling will be retained in accordance with North Dakota statute. (4-4281-8M).

**Interviews, Document Review, and Site Tour:**

Interviews with the PREA Coordinator outlined how the data that is collected is stored, and also what data is authorized by policy for display on the DOCR public website. A review of the website was completed to ensure that no staff or inmate personal identifiers were posted. The website address is <http://www.nd.gov/docr/prea/>

**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.

Talia Huff

8/23/2015

Auditor Signature

Date