

PREA AUDIT REPORT Interim Final
ADULT PRISONS & JAILS

Date of report: August 24, 2015

Auditor Information			
Auditor name: Ray Reno			
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Telephone number: 620-285-1405			
Date of facility visit: 07/13/2015 and 07/14/2015			
Facility Information			
Facility name: North Dakota State Penitentiary (NDSP)			
Facility physical address: 3100 Railroad Avenue, Bismarck, ND 58506			
Facility mailing address: <i>(if different from above)</i> P.O. Box 5521 Bismarck, ND. 58506			
Facility telephone number: (701) 328-6100			
The facility is:	<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		
Facility type:	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
Name of facility's Chief Executive Officer: Warden Colby Braun			
Number of staff assigned to the facility in the last 12 months: 273			
Designed facility capacity: 796			
Current population of facility: 749			
Facility security levels/inmate custody levels: Maximum Custody			
Age range of the population: Click here to enter text.			
Name of PREA Compliance Manager: Maren Arbach		Title: Director of Training	
Email address: marbach@nd.gov		Telephone number: 701-328-6186	
Agency Information			
Name of agency: North Dakota Department of Corrections and Rehabilitation			
Governing authority or parent agency: <i>(if applicable)</i> Click here to enter text.			
Physical address: 3100 Railroad Ave. Bismarck, ND. 58506			
Mailing address: <i>(if different from above)</i> P.O. Box 5521 Bismarck, ND. 58506			
Telephone number: 701-328-6616			
Agency Chief Executive Officer			
Name: Leann Bertsch		Title: Director	
Email address: lebertsc@nd.gov		Telephone number: 701-328-6616	
Agency-Wide PREA Coordinator			
Name: Steve Engen		Title: Director of Staff Development	
Email address: sengen@nd.gov		Telephone number: 701-328-6652	

AUDIT FINDINGS

NARRATIVE

A PREA audit was conducted of the North Dakota State Penitentiary (NDSP) on July 13-14, 2015. Audits of both NDSP and James River Correctional Center (JRCC) occurred the week of July 13th. 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, NDSP 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 to the auditors via thumb drive 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. Prior to arrival, the auditors submitted a tentative audit schedule to the facility 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. Attendees included: 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.

Auditors began agency level interviews, and then conducted the site review of NDSP on the afternoon of July 13, 2015, accompanied by the PREA team. The site review spanned seven buildings and included three single-cell housing units and four multi-occupancy units, and one open bay/dorm style unit. Auditors toured all other areas in which inmates have access, including industry buildings, kitchen and dining hall, 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. Some issues were corrected on the spot, such as an unnecessary door lock, stacked boxes, etc. Video monitoring is used in the hallways and common areas of the living units, but not in the dorm rooms or in the bathrooms.

Following the site review, interviews of specialized staff, as well as random staff and inmates, were conducted on July 13 and 14, 2015. A PREA team member was available at all times for auditor clarification and consultation.

Fifteen (15) random inmates and 13 random staff (from all three shifts) were interviewed; in addition, 15 specialized staff interviews and three targeted inmate interviews were conducted. Overwhelmingly, staff and inmates were very familiar with PREA. In fact, the level and depth of PREA knowledge and awareness was advanced; those interviewed were well aware of how to report and respond, and 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.

NDSP and the agency conducts administrative investigations, while criminal investigations are referred to the Highway Patrol. There were 35 reports of sexual abuse and sexual harassment, which resulted in 32 investigations (none 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 reflected support from the top down. Auditors were very impressed with the level of genuine investment and dedication of PREA at the facility and agency level.

The biggest area of risk in terms of sexual safety at NDSP was physical plant/physical barrier issues. While NDSP is an older facility, 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. This could be accomplished through additional staffing in certain areas, as well as with additional cameras, particularly in high risk areas of the facility. For instance, the kitchen area is a common high risk area, and NDSP's kitchen offers a number of isolated rooms, places, and nooks that have limited staff supervision; further, there is no camera coverage to bolster that supervision or to deter that behavior. Similarly, the North Unit has its own kitchen area with a storage/hall area where inmates could be isolated with other inmates or with staff. The MTU Unit was of significant concern also, in terms of sexual safety. It only provides camera coverage viewing the phones, while there are bathrooms that different tiers share. These bathrooms are isolated, have physical barriers within them, and have the potential for inmates at high risk for victimization to be isolated with inmates at high risk for abusiveness. 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

North Dakota State Penitentiary is the original prison complex for the state and houses minimum to maximum custody adult male inmates, with a capacity of 796 inmates. The inmate population at the time of the onsite audit was 749.

The North Dakota State Penitentiary was established in Bismarck in 1885. The goal of the prison is to “keep the public safe, while also offering rehabilitative work, treatment, and educational programs that will effect change in the inmates’ behavior.”

The administration building is newer construction and leads into the secure perimeter of the prison. There is a newer section and an older section of the facility that houses minimum to maximum custody inmates. The AS (administrative segregation) Unit has five wings, including 10 supermax cells which have cameras.

The older part of the facility is faced with physical plant challenges that decrease the level of sexual safety; this area would benefit greatly from physical plant renovations and additional camera coverage in blind spots and isolated areas.

Aside from the living units, the rest of the grounds consist of Rough Riders Industries, which comprises three large buildings that house upholstery, furniture, the tag plant, and the metal shop. There is little to no camera coverage in the industries buildings.

There is a large outdoor recreation yard.

SUMMARY OF AUDIT FINDINGS

It was clear that inmate safety is of upmost importance at NDSP and for the DOCR agency. Auditors were very impressed with the efforts and accomplishments made to achieve PREA compliance. Twenty-five (25) standards were met, 16 standards were exceeded, 2 were not applicable, and 0 were not met.

Number of standards exceeded: 16

Number of standards met: 25

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. They have outlined 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)

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 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, DWCRC (Dakota Women’s’ Correctional and Rehabilitation Center), and TRCC (Tompkins Rehabilitation and Corrections Center). All contracts do include language the required PREA language and that the DOCR will conduct announced and unannounced compliance monitoring. Auditors were able to provide 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 within 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 NDSP 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 throughout interviews with the PREA Coordinator, Warden, PREA Compliance Manager, and other staff.

Auditors were provided with a “Staffing Plan Review for NDSP 2014-2015” completed by the PREA Coordinator and was a review of NDSP 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)

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. NDSP 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 and policy 3A-6 p3 asserts that cross-gender searches are only conducted in exigent circumstances and generally with 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 NDSP, and auditors were alerted of no instances when this may have occurred. Therefore, there were no logs or records of cross-gender searched to review.

115.15(b) is not applicable as NDSP 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 were had adequate privacy when using the toilet or were in a state of undress.

Auditors noted the presence of cameras inside certain cells; administrative segregation MAX and OBS (observation) cells, and Infirmary OBS. Male-only posts have been dedicated in these areas in order restrict cross-gender viewing. This was verified during the site review and reported by staff as well. Auditors were also provided documentation which supported this change. Auditors reviewed a memo written by the Deputy Warden dated 05/12/15 informing Security of this change in procedure.

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 or heard 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 or heard of hearing, or non-English speaking inmate, 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. There were no such instances that occurred during the review period.

Staff were aware of the interpretive services. Auditors were not alerted to any LEP inmates. However, a low-functioning inmate was interviewed to assess his level of comprehension of the PREA material. The information appeared to have been delivered in a way that ensured his comprehension.

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 NDSP 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)

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 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:

NDSP does not hire or promote anyone who has engaged in the conduct described in 115.17(a). The facility reported that there were 76 persons hired during the review period who received criminal records background checks, and 22 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 he would be aware of such an incident. He also stated that a promotion triggers a background check.

NDSP 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 very knowledgeable about the process and requirements and was able to provide documentation of this practice. Auditors reviewed files which all contained the required background checks, requests to prior institutional employers (when necessary), and their employment application that contained the required three questions of 115.17(f).

NDSP conducts criminal background checks on all contractors. Auditors reviewed a sample of those checks and interviewed staff that 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 a former employee's involvement in sexual abuse, information regarding a former staff's involvement in substantiated sexual abuse would be disclosed unless prohibited by law.

All the procedures in place, demonstration of practice, and the knowledge of the HR staff exceeds this standard.

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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Policy Review:

3C-4 p12 addresses Upgrades to Facilities and Technologies and specifies that the PREA Coordinator and architect/engineer would consult PREA Audit Report

during the planning and construction phase.

Interviews, Document and Site Review:

There have been no substantial expansions or facility modifications during this review period. As explained by the Director (Agency Head), there was an expansion in June 2013. The Director further spoke of things to consider such as: clean site lines, fewer nooks and crannies, many cameras, no group showering. She spoke knowledgeably about the requirements of PREA and the consideration that would be given to any expansion or facility modification. 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/NDSP conducts administrative investigations, while they have collaborated 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 an MOU with the Highway Patrol.

Alleged victims of sexual abuse are offered forensic exams at no cost from Sanford Health in Bismarck by a Sexual Assault Nurse Examiner. Auditors reviewed correspondence between the PREA Coordinator and the SANE Coordinator. In this reporting period, there were no forensic exams 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 was provided to the auditor of the correspondence to try and secure these services. The correspondence showed 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 allows, these services seem to be in 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; the agency 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)

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 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/docr/>.

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 35 reports of sexual abuse and sexual harassment during the reporting period; 32 of those resulted in an administrative investigation, and 0 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 NDSP 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)

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:

3C-4 contains all the language of this standard and mandates this PREA training during orientation and every two years thereafter. It also lists four methods by which DOCR staff are provided with policy information and changes related to PREA.

Interviews, Document and Site Review:

Auditors were provided the training curriculum and lesson plan for review, which is provided annually. All required training elements of 115.31(a) were reviewed by auditors in agency policy 3C-4, as well as in the training curriculum. Different PREA topics are also covered regularly in shift briefings. This consists of PREA questions and dialogue with staff, and auditors reviewed the question and answer key used in these briefings. 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 that training they just took. 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 a sample of training records at random for volunteers and contractors, which revealed that all had received PREA training. NDSP reported 21 volunteers, 55 unescorted contractors, and 713 escorted contractors during the review period had been trained.

An auditor conducted a phone interview of a chosen contractor and volunteer, 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)

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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:

Inmates receive initial PREA orientation at NDSP. 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, 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 and harassment as well as retaliation, how to report incidents, and the agency's policies and procedures for responding.

NDSP reported that during the review period, 1385 inmates were provided information at intake, and of those, 1055 received comprehensive education within 30 days. Thus, 330 did not receive comprehensive education within 30 days of intake, although, as of 06/04/15, it was provided to all inmates. Auditors noted several inmates reported that the video that was shown to these inmates was projected, but that they could not hear it. Facility and agency staff assured that it would be re-shown in a way that everyone could hear it.

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 a 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 330 inmates that 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 stated they 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 random inmates, which were pulled up electronically for review. All inmates reviewed contained the PREA acknowledgement form.

PREA information via posters in both Spanish and English are posted 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 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 41 medical and mental health staff; 100% of which 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 speak to screening for victimization and abusiveness; the intake and reassessment procedures.

Interviews, Document and Site Review:

This screening process 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 for their risk of sexual victimization or abusiveness which then guide housing assignments. 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 they are 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. For transgender or intersex inmates, they shall be reassessed at least every six 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 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 consistently reiterated 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, pulling inmates up at random. Each screening viewed had been completed within the 24-hour and 30-day time frame. It was very evident not only that the staff who complete the screening were knowledgeable about its process and purpose, but also the PREA ratings were a focal point of many conversations with staff across the facility and in different positions and posts. NDSP reported 1385 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:

NDSP 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, 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 auditor's request, the report was run again by living unit and PREA rating, which 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. 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 indicate 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, reviewing rosters, 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. This particularly would include the bathrooms in the MTU unit, as well as in other common areas where staff supervision is limited. The bathrooms in MTU have no camera coverage, physical barriers exist, and inmates from different tiers have the ability to meet in this area, which could foster sexual abuse and sexual harassment.

For work assignments, NDSP utilizes an Inmate Employment-Security Risk Assessment to determine the appropriateness of work assignments. This form considers many factors, one being sexual vulnerability. NDSP has a practice in place that also assigns a rating to each job assignment that indicates 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 when there was possibility of inmates to be isolated with one another or staff. Thus, 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 and 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 NDSP 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 NDSP 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 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 very 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 to their supervisor or to any facility supervisor. Staff were familiar with who serves as the PREA Coordinator and PREA Compliance Manager, and also knew that to be an option to report.

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 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 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.

115.53 Inmate access to outside confidential support services: 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. The facility shall enable reasonable communication between inmates and these organizations and agencies in as confidential a manner as possible.

- 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.

Interviews, Document Review, and Site Tour:

Information on how to contact outside support services is also provided in the inmate handbook, which is given to each inmate as part of their inmate orientation. 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 sex 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. 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 immediately report 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 sex abuse confidential. Mental Health and Medical staff interviewed said they informed inmates of their duty to report and the limitations of confidentiality.

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 by 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 the DOCR policy. One auditor was informed of an incident reported at NDSP that occurred at another facility. NDSP documented referring this to the other institution. These referrals are logged on the Investigation Log under a tab called, “Referrals to Other Institutions.” The log indicated that the PCM referred it the day after the report was made.

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.

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.

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 who 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 the notes in the ELITE system for two inmates who were currently being monitored. Additionally, there is a tab embedded in an excel spreadsheet, which contains information such as, who was doing the monitoring, and when the monitoring period would be completed, on those inmates who were transferred during the period they were being monitored. The interview with the Warden revealed there was one substantiated case of staff retaliation during this review period which resulted in the termination of the involved staff member.

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 cannot 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.

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 are 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.

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 revealed 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), and Site Tour:
- 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 PREA Audit Report

outcome of an allegation of sexual harassment or sex abuse is provided to the reporting inmate.

There was documentation to show an inmate is 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 is 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 reads in part as follows:

Staff are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Employees shall cooperate fully by providing all pertinent information during the investigation. Failure of an employee to answer any inquiry fully will be grounds for disciplinary action. Employees may not make any attempt to contact the inmate victim from the time the allegation is first made, until the completion of the investigation. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse with an inmate or ward of the state of North Dakota. Disciplinary sanctions for violations of DOCR policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) must be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. All terminations for violations of DOCR sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

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, though, there was one staff member terminated for retaliation.

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 also was 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 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. He remembered that he was seen by a mental health person, but did not remember if it was within 14 days. A review of the inmate’s mental health record verified that he was seen within 14 days of making the report for follow-up services.

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 that 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. NDSP 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:

NDSP 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 also conducts reviews on sexual harassment cases 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 reminder 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.

Ray Reno

09/03/2015

Auditor Signature

Date