

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

Interim Final

Date of Report November 13, 2019

Auditor Information

Name: Thomas E. Greishaw	Email: tgreishaw@pa.gov
Company Name: Pennsylvania Department of Corrections	
Mailing Address: 1920 Technology Parkway	City, State, Zip: Mechanicsburg, PA 17050
Telephone: (717) 728-4057	Date of Facility Visit: May 22-23, 2019

Agency Information

Name of Agency: Michigan Department of Corrections		Governing Authority or Parent Agency (If Applicable): Click or tap here to enter text.	
Physical Address: 206 East Michigan Avenue		City, State, Zip: Lansing, MI 48909	
Mailing Address: Click or tap here to enter text.		City, State, Zip: Click or tap here to enter text.	
Telephone: (517) 335-1426		Is Agency accredited by any organization? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
The Agency is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Agency mission: Our mission is to create a safer Michigan through effective offender management and supervision in our facilities and communities while holding offenders accountable and promoting their rehabilitation.			
Agency Website with PREA Information: http://www.michigan.gov/corrections/0,4551,7-119-68854_70096---,00.html			

Agency Chief Executive Officer

Name: Heidi Washington	Title: Director
Email: washingtonm6@michigan.gov	Telephone: (517) 335-1426

Agency-Wide PREA Coordinator

Name: Charles Carlson	Title: PREA Manager
Email: carlsonc2@michigan.gov	Telephone: (517) 230-1464
PREA Coordinator Reports to: Julie Hamp, Administrator, Procurement Monitoring and Compliance Division	Number of Compliance Managers who report to the PREA Coordinator 32

Facility Information

Name of Facility: Oaks Correctional Facility (ECF)			
Physical Address: 1500 Caberfae Highway, Manistee, Michigan 49660			
Mailing Address (if different than above): Click or tap here to enter text.			
Telephone Number: (231) 723-8272			
The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Facility Type:	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	

Facility Mission: The mission of Oaks Correctional Facility follows the mission of the Michigan Department of Corrections as prescribed in the agency's Policy Directive 01.01.100. The mission is to create a safer Michigan through effective offender management and supervision in our facilities and communities while holding offenders accountable and promoting inmate rehabilitation.

This mission will be accomplished through the following vision principles:

1. Remain committed to the protection of the public, safety of our staff, and security of offenders.
2. Actively engage in the development of effective criminal justice policy.
3. Ensure sound management using proven fiscal practices and outcome-oriented strategies.
4. Hire, train, equip, support, and mentor a high quality staff and hold them to the highest professional standards.
5. Provide humane and protective custodial care, rehabilitative opportunities, and reentry assistance for offenders under our supervision.
6. Establish meaningful partnerships with public and private entities to assist us in successfully accomplishing our mission.
7. Conduct all of our duties and responsibilities with the highest degree of integrity, expectations for excellence, and respect for the value and dignity of human life.

Facility Website with PREA Information: http://www.michigan.gov/corrections/0,4551,7-119-68854_1381_1385-5161--,00.html

Warden/Superintendent			
Name: Les Parish		Title: Warden	
Email: parishl@michigan.gov		Telephone: (231) 723-8272	
Facility PREA Compliance Manager			
Name: Jeff Clouse		Title: PREA Coordinator/Assistant Deputy Warden	
Email: clousej1@michigan.gov		Telephone: (231) 723-8272	
Facility Health Service Administrator			
Name: Nicki Monroe		Title: Health Unit Manager	
Email: monroen@michigan.gov		Telephone: (231) 723-8272	
Facility Characteristics			
Designated Facility Capacity: 1108		Current Population of Facility: 1066	
Number of inmates admitted to facility during the past 12 months			539
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			539
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			539
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:			0
Age Range of Population:	Youthful Inmates Under 18: Not housed at this facility	Adults: 18 and older	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:			N/A
Average length of stay or time under supervision:			0-3 years
Facility security level/inmate custody levels:			Secure level II-IV and Segregation
Number of staff currently employed by the facility who may have contact with inmates:			302
Number of staff hired by the facility during the past 12 months who may have contact with inmates:			21
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:			15

Physical Plant

Number of Buildings: 16	Number of Single Cell Housing Units: 2
Number of Multiple Occupancy Cell Housing Units:	5
Number of Open Bay/Dorm Housing Units:	0
Number of Segregation Cells (Administrative and Disciplinary):	96 (5 Block)

Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):

The facility currently has 302 total cameras in-place throughout the facility and on the housing units. The facility utilizes designated, trained electronic monitor officers (EMOs) posted 24/7 in the facility's control center. Retention is approximately 30 days.

Medical

Type of Medical Facility:	General Care
Forensic sexual assault medical exams are conducted at:	Munson Healthcare Manistee Hospital

Other

Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:	41
Number of investigators the agency currently employs to investigate allegations of sexual abuse:	14 Trained Facility Staff

Audit Findings

Audit Narrative

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

A Prison Rape Elimination Act (PREA) audit of the Oaks Correctional Facility, located at 1500 Caberfae Highway, Manistee, Michigan, was conducted from May 22, 2019 to May 23, 2019, pursuant to an audit consortium formed between the Maryland Department of Public Safety and Correctional Services, the Michigan Department of Corrections (MDOC), the Pennsylvania Department of Corrections (PA DOC) and the Wisconsin Department of Corrections. The purpose of the audit was to determine compliance with the Prison Rape Elimination Act standards, which became effective August 20, 2012. I, Thomas E. Greishaw, was primary Auditor, assisted during this audit by DOJ-certified Auditor Traci Jacobson and PA DOC PREA Administrative Officer Veronica Gambill-Harden.

The audit team wishes to extend its appreciation to Warden Parish and his staff for the professionalism they demonstrated throughout the audit and their willingness to comply with all requests and recommendations made by this Auditor during the site visit. This Auditor would also like to recognize PREA Analyst Matthew Silsbury, PREA Coordinator/Assistant Deputy Warden (ADW) Jeff Clouse, Assistant PREA Coordinator/Sergeant Shane O'Brien and PREA Manager Charles Carlson, for their hard work and dedication to ensure the facility is compliant with all PREA standards.

The MDOC elected not to utilize the PREA Online Auditing System (OAS) for the audit of the ECF. As a result, prior to the audit, PREA Analyst Silsbury provided relevant policy and audit documentation for review in advance of the audit downloaded onto an external drive. This external drive contained applicable policies and limited sample documentation in support of compliance with the standards and their provisions. These materials will be maintained by this Auditor at the Pennsylvania Department of Corrections, Central Office. This Auditor created this PREA audit report utilizing the pre-audit documents, on-site materials, interview notes and physical plant audit notes. A review of pre-audit documentation took place in advance of the audit and supplemental document requests were made on-site as well as during the post-audit period.

The MDOC agency-level standards were to be reviewed during the 2016-2019 audit cycle by PA DOC consortium DOJ-certified PREA Auditor Carole Ann Mattis. Auditor Mattis was pending review of the agency standards once MDOC completes upload of the materials into the OAS, during the course of this PREA Audit of the ECF. Agency-level standards have also been reviewed during this audit cycle by PA DOC consortium DOJ-certified PREA Auditor David Radziewicz. The agency level standards are addressed in-part in the respective areas of this report.

The agency head's designee and agency PREA Administrator (Manager) was interviewed during an agency-level interview conducted by PA DOC consortium DOJ-certified PREA Auditor Grace Franks. The responses and interview notes following this interview were provided to this Auditor for review and consideration applicable to the completion of this audit.

This Auditor supplied PREA Analyst Silsbury with the audit notice on April 4, 2019, with written direction on the notice to send any correspondence concerning PREA to the PA DOC consortium post office box that is monitored by PA DOC DOJ-certified PREA Auditors. The posting was confirmed through the receipt of an email from PREA Analyst Silsbury that attached the notice, forwarded on April 4, 2019, instructing ECF of the need to post the notices, and subsequent correspondence from inmates. The notices were observed during the on-site audit in all housing units and other common areas.

A telephone interview, utilizing the National PREA Resource Center Interview Guide for Specialized Staff (SAFE and SANE staff), was conducted by this Auditor, pre-audit, with the Emergency Room Director of the Munson Healthcare Manistee Hospital (who provides SAFE/SANE services to the facility). This Auditor was informed by the Emergency Room Director that the Munson Healthcare Manistee Hospital does employ one SAFE/SANE-certified registered nurse, and has trained the emergency room staff regarding SAFE/SANE practices. There are no other viable medical facilities in the area where SAFE/SANE services can be provided, and as such is accepted as the provider of these services for the ECF. If the SAFE/SANE-certified nurse is not available, the exam will be performed by a qualified medical physician. The ECF reported not having a definitive agreement for local rape crisis services. Upon interview with the ECF Mental Health Outpatient (OPT) Unit Chief, and through review of training records that will be detailed more in the respective section §115.21 of this report, this Auditor determined that in lieu of an available community-based advocate the agency and facility has appropriately trained the ECF mental health staff to act as victim advocates.

The Auditors arrived on-site at approximately 1300 hours on May 22, 2019. An entrance meeting was held with key administrative staff beginning shortly after 1330 hours. Auditors were greeted by the facility's administrative team and the agency's PREA staff. Introductions were made and logistics for the audit were planned during this meeting. Following introductions and logistics discussions, Auditor Greishaw selected random samples of inmates for interview off a roster of the entire facility inmate population. The inmate roster Auditor Greishaw was provided also identified all inmates that would be categorized as targeted per the PREA Auditor Handbook and PREA Resource Center's interview templates. The selected list of inmates for random and targeted interviews was provided to the facility. At least two inmates were selected from each housing unit for formal interview, to supplement the informal interviews conducted during the tour. The total sample size for formally interviewed random inmates was 20 inmates, with an additional 22 inmates participating in targeted interviews.

PA DOC PREA Administrative Officer Gambill-Harden began interviews with the selected random inmate sampling. During this time, Auditor Greishaw and Auditor Jacobson began a tour of the facility, observing all areas where inmates may have access.

Auditor Jacobson began touring the outside areas of the ECF, including the Warehouse and Maintenance, prior to conducting physical tours of housing units. In total, Auditor Jacobson toured Housing Units 1, 2, 3 and 4. Auditor Greishaw began touring the Programming Building of the ECF, to include medical (intake and exam rooms), the kitchen/dining hall, the library and the treatment building (contained the multi-purpose rooms, classrooms, shops and Mental Health Services), Housing Units 4, 5, 6 and 7, respective inmate recreation areas, and visiting area. All areas of the facility where inmates are housed or may have access were toured by the Auditors. It is noted that in the Level II housing units (Housing Units 6 and 7), inmates had significantly greater freedom of movement. In the Level IV and V housing units, access to the cells was controlled via the officers, toileting facilities were in the cells, and movement was much more restricted. In the segregation unit, Unit 5, inmates were under constant staff control. Like the Level IV portion of the unit, toileting facilities were within the cell.

During the tour, informal interviews were conducted with at least one, but generally multiple, inmates and staff in each area toured throughout the facility. These informal and spontaneous interviews proved useful in determining facility culture and were used to supplement the formal random interviews in determining compliance with the standards. During the tour, this Auditor also informally interviewed the facility PREA Coordinator and housing unit management staff to determine operational procedures and to gain an overall sense of how the institution implements the PREA standards. These informal interviews were used to supplement formal interviews in determining that facility practice was in compliance with the standards. Additionally, during the audit tour, the Auditors sampled a minimum of two random inmate files on all toured housing units to verify inmate PREA education and PREA risk screening. While on the housing unit, staff who fulfilled the role of Prison Counselor, ARUS (Assistant Residential Unit Supervisor) or RUM (Residential Unit Manager) were asked to show movement dates of the inmates that were then compared against educational records and risk screening dates as a means of verifying the practice demonstrated in pre-audit documentation. It is noted that, prior to this audit, this Auditor completed two previous audits as the lead Auditor and assisted on two others, and was aware of an agency deficiency with risk screening procedures that was corrected through a policy change effective prior to the audit of the ECF. To the facility's credit, evidence was observed during the audit tour to demonstrate that the facility initially lacked appropriate risk screening procedures; however, following an internal MDOC review and education provided to the ECF risk screening staff, procedures were implemented and maintained throughout the end of 2018 into the date of this audit to validate that the facility had come into substantial compliance with the required provisions.

The audit tour and interview activities concluded at approximately 1730 hours on day one.

The Auditors arrived on-site at approximately 0500 hours on May 23, 2019, the second day of the audit. Auditor Greishaw was given a copy of the institution's shift rosters in order to select staff for random interviews. A minimum of one officer from each housing area within the facility was randomly selected, covering all three shifts, with a total sample size of 26 random staff interviews. Auditors Greishaw and Jacobson, and PA DOC PREA Administrative Officer Gambill-Harden began conducting random staff interviews in private rooms within the facility's administrative complex. The first group of random staff were third shift, followed by interviews of on-coming first shift staff. The Auditors interviewed second shift random staff in the afternoon of the second day. Upon completion of the third and first shift random staff interviews, Auditor Jacobson began interviews of targeted staff per the PREA Resource Center's interview templates, and PA DOC PREA Administrative Officer Gambill-Harden continued interviews of the randomly selected and targeted inmates. This Auditor reviewed the video camera system and resumed specialized staff interviews with Auditor Jacobson. Interviews with specialized staff included the facility administrator, Warden Les Parish, PREA Coordinator/ADW Jeff Clouse and Assistant PREA Coordinator/Sergeant Shane O'Brien, intermediate or higher level staff, incident review team staff, human resource staff, medical staff, mental health staff, retaliation monitoring staff, staff who perform risk screening, a contractor, and first responder staff.

This Auditor was unable to complete the following specialized interviews for inmates and staff due to the matters not being applicable or no such individual was housed at the facility: youthful inmates (youthful inmates are not housed at the facility), line staff who supervise youthful inmates, education and program staff who work with youthful inmates, an inmate in segregation for risk of sexual victimization (none were housed at the facility for this purpose), non-medical staff involved in cross gender searches (no such searches performed) and the agency contract administrator. Note that during the pre-audit and on-site course of this audit the agency reported that does not contract for the confinement of its inmates. However, post-audit, this Auditor was informed by Auditor Radziewicz that he had discovered a discrepancy and noncompliance at the agency level regarding contracts for the confinement of inmates that will be address in the respective sections §115.12, §115.87 and §115.89 of this report.

A total of 42 facility-based staff were interviewed (including random and specialized staff) with at least one staff member interviewed from each interview category specified by the PREA Resource Center's Interview Guide for Specialized staff, with the exception of the interviews noted in the preceding paragraph. The Auditors addressed each question on the template tools with the subjects of the interviews. Responses were later compared against the standards to assist this Auditor with determining compliance with the provisions of applicable standards.

A total of 22 targeted inmates were formally interviewed with at least one inmate interviewed from each interview category specified by the PREA Resource Center's Interview Guide for Inmate Interviews, with the exception of the interviews noted in the preceding paragraph.

Prior to resuming specialized staff interviews, Auditor Greishaw observed the facility's camera monitoring system within the control center to verify that cameras were positioned in such a way to adequately cover the housing units, yet afford privacy in bathroom/shower areas of the facility. The facility was found to have a modern and robust camera system that provided outstanding coverage of all common areas of the facility. This Auditor observed two camera-equipped observation cells that utilized software to digitally obscure the view of the toileting areas of these observation cells to prevent opposite gender viewing. A privacy notice was posted in each of the housing units, reminding inmates of the potential for opposite gender staff to view them. Inmates are required to be fully dressed when walking to and from the shower areas of the facility to limit the potential for opposite gender viewing. On the tour, the Auditors took notice to the "Knock and Announce" postings at the entrance to each housing unit, reminding opposite gender staff of the obligation to knock and verbally announce their presence before entering the housing unit. During the tour, it was observed that opposite gender announcements were consistently made.

Auditor Greishaw randomly selected sixteen (16) representative investigations for further review during the second day of the audit, and the facility provided electronic copies of those investigations via email to this Auditor for post-audit analysis. This Auditor did not select an additional post-audit random sample of PREA Risk Assessments due to the positive review of files observed by Auditors Greishaw and Jacobson during the physical tour that validated reception to the ECF and the date(s) of the assessments. This Auditor extensively reviewed the ECF PREA Assessment Tracker to verify that dates observed during the physical tour were consistent with the tracker, and ensured compliance with standards related to the PREA risk screening.

All interviews were completed and an exit debriefing was conducted with the ECF administration. The Auditors departed the ECF facility by 1745 hours on May 23, 2019. Auditor Greishaw explained that documentation would need to be reviewed further and any additional requests for information would be coordinated through the facility PREA Coordinator or agency PREA Analyst.

Throughout the pre-audit, on-site audit, and post audit, open and positive communication was established between this primary Auditor and both the agency and facility staff. During this time, this Auditor communicated observations with the facility PREA Coordinator and agency PREA Analyst who addressed needed clarifications. Through a coordinated effort by the PREA Analyst and key staff at the ECF, all facility-level informational requests of this Auditor were accommodated prior to the completion of the Interim Report.

This report will reflect updates to those standards requiring clarifications and action during the period between the audit and the generation of this Final PREA Audit Report.

Facility Characteristics

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

The Oaks Correctional Facility (ECF) sits on approximately 76 acres and is located in Manistee Township, Manistee County, MI on M-55. The prison was opened in 1992 and is a combination of administrative buildings and prototypical podular-style housing units.

The ECF is comprised of nine (9) main buildings inside the secure perimeter. There are two (2) Level II housing units, Units 6 and 7, with 96 double-bunked cells each for a capacity of 196 inmates per unit; four (4) Level IV housing units – Units 1 and 2 have 192 beds, Unit 3 has 144 beds and Unit 4 is single-bunked with a capacity of 96 beds; and one (1) Level V, Unit 5, 96-bed administrative segregation unit. The facility also includes an administration building, maintenance shop and warehouse that are located at/outside of the secure perimeter. There is a Health Care unit, Food Service unit and a Programs/School building location in what is identified as the “200 Building.” Inmates from different security levels generally never intermingle, and only under limited, controlled situations would they be in proximity of each other. All of the housing units are of a similar structure/design. Within the housing units, the entry point leads to the officer’s desk. From there, two linear blocks extend at diagonal angles creating “V” shaped housing unit buildings. There is inmate housing on the upper and lower tiers of each branch of the V. In the Level II units, behind the control station are several large multi-purpose rooms. The multi-purpose rooms have glass walls that permit viewing from the control center. Shower areas are located within view of the officer’s control station on each unit. The Auditor observed “PREA-compliant” shower curtains in all units to maintain reasonableness of privacy. All showers are single stalls. While officers cannot see in the cells from the control area, they can see virtually all common areas from that vantage point to ensure safety.

The education and programming building is set up in a fashion that all classrooms and areas where staff may be with inmates are visible through a series of windows, eliminating a number of potential isolated areas or blind spots. Additionally, this Auditor observed ample video camera coverage throughout the building and facility that virtually eliminated critical blind spots.

Security includes two 16-foot fences equipped with a shaker detection system, micro-shields and rolls of razor-ribbon wire. The entire inner perimeter fence is equipped with stun capabilities. There are five (5) perimeter towers manned as needed. A patrol road surrounds the perimeter of the facility, and an armed patrol vehicle responds to all detection system alarms. There are 302 cameras incorporated in the surveillance system located throughout the facility and on each housing unit.

Academic programs include Adult Basic Education and General Education Development. Employment Readiness Programming includes Digital Literacy and Financial Literacy classes, Work Keys testing, Career Scope testing with Vocational Counseling and qualification for state-wide Career Tech Education waiting lists. Blood Borne Pathogen training is provided for inmate porters. Other treatment programs include Substance Abuse Phase 1 (education) and Phase II (outpatient), Thinking for a Change, Violence Prevention Program, Alcoholics and Narcotics Anonymous, Anger Management, Life Skills, Leader Dogs for the Blind, Health and Hygiene and Houses of Healing program.

Mental Health Services are provided by a combination of MDOC staff and psychiatric services provided by a private contractor (Corizon Health). An outpatient Mental Health Team manages inmates requiring mental health services. Mental Health Services provides case management/medication services to inmates with serious mental illness/severe mental disorder. If an inmate requires a higher level of care, they will be referred out to the Adaptive Skills Residential Program, the Residential Treatment Program or the Crisis Stabilization Program. Mental Health Services also provides START NOW program in Units 3 and 4.

Inmates are provided on-site routine medical and dental care. Serious problems are treated at the department's Duane L. Waters Health Center in Jackson. Emergencies can be referred to a local hospital.

The facility is designed to operate a maximum capacity of 1,108 inmates. On day one and day two of the audit, there were 1,066 inmates present. The Auditors observed that the inmate population consisted predominately of Caucasian and African-American inmates. Other ethnic groups were not widely observed throughout the tour. From the Auditors' observations, the majority of the inmate population appeared to trend towards an age range of 30 or greater. The average length of stay for inmates varies significantly and depends on programming needs.

There are a total of 302 staff at the facility who may have contact with inmates, providing adequate supervision within the housing units. The command structure within the security ranks includes Corrections Officers, Sergeants, Lieutenants (shift supervisors), a Captain, Deputy Warden and Warden. The layout of the housing units permits the officer to have view of the unit from their designated workstations, with supplemental random roving movements taking place throughout the unit.

During the audit tour and through informal interviews with staff and inmates, the Auditors were left with the general sense that staff and inmates felt safe at the facility. All staff and most inmates were open and comfortable answering and articulating questions regarding PREA. The staff were all knowledgeable and appeared to take genuine pride in their profession and facility.

Summary of Audit Findings

*The summary should include the number of standards exceeded, number of standards met, and number of standards not met, **along with a list of each of the standards in each category.** If relevant, provide a summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the Auditor to reassess compliance.*

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

Number of Standards Exceeded: 1

§115.18

Number of Standards Met: 44

§115.11, §115.12, §115.13, §115.14, §115.15, §115.16, §115.17, §115.21, §115.22, §115.31, §115.32, §115.33, §115.34, §115.35, §115.41, §115.42, §115.43, §115.51, §115.52, §115.53, §115.54, §115.61, §115.62, §115.63, §115.64, §115.65, §115.66, §115.67, §115.68, §115.71, §115.72, §115.73, §115.76,

§115.77, §115.78, §115.81, §115.82, §115.83, §115.86, §115.87, §115.88, §115.89, §115.401, §115.403.

Number of Standards Not Met: 0

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Summary of Corrective Action (if any)

An interim audit report was issued to the facility on June 28, 2019. This interim report described areas of noncompliance and corrective action recommendations. It should be noted that the ECF was found to be in substantial compliance with the facility-level requirements; however, this audit entered a corrective action period to address agency requirements relative to contract monitoring and annual reporting including standards §115.12, §115.87 and §115.89. Due to the findings impacting several active MDOC PREA Audits at the agency-level, multiple conversations and email exchanges followed between PA DOC consortium DOJ-certified PREA Auditor David Radziewicz, the agency's PREA Administrator and Analysts, the National PREA Resource Center, and a conference call including this Auditor, to arrive at an agreed upon plan to demonstrate compliance with all provisions of each standard as applicable to the MDOC agency and inclusive of this audit.

Specific corrective action recommendations and actions included:

§115.12:

The agency is required to ensure any new contract or contract renewal signed on or after August 20, 2012 provides for agency contract monitoring to ensure that the contractor is complying with the PREA standards, specific to provision (b) of this standard.

Based upon a review of the Pre-Audit Questionnaire (PAQ), the PREA Manual, the interviews of the PREA Manager and PREA Coordinator, it was initially determined that neither the agency nor the facility currently contract with other entities or agencies for the confinement of its inmates. The absence of any contracts for the confinement of its inmates and policy provisions with the PREA Manual demonstrate the agency's intended compliance with provisions (a) and (b) should it contract for confinement of its inmates.

However, during the formation of the interim report, members of the auditing consortium who were conducting overlapping audits discovered that the agency has two active contracts with the Ingham and Clinton County Jails for the housing of parole violators under the auspice of the Intensive Detention Program. Following the request for evidence of compliance, the audit teams were advised that the agency contends these contracts are applicable to the community confinement standards and thus not subject to audit under §115.12 and §115.87(e) as the contracts are not for the housing of what the agency considers to be its "inmates". Specifically, the agency states the individuals are parole violators who are pending decision for return to an MDOC facility; thus, not officially an MDOC "inmate." The agency claimed to have received verbal guidance from the PREA Resource Center; stating their position of defining the contracts as community confinement was appropriate and that as such, the auditing of the standards would not be applicable to its prison audits. The audit team requested written direction from the PRC to affirm this guidance. As of the date of this interim report, the audit team has not received such written direction provided to the agency.

The audit team researched the agency's description of the program, which states that the individuals are housed pursuant to the program are likely to be returned to the community and are placed for technical violations of parole and arrests for new misdemeanor and felony charges. Thus, the audit teams contend that the individuals housed pursuant to the contract are detained in a jail, have no "non-residential time", and may be pending disposition for new criminal offenses to differentiate them from an individual who would otherwise be in a pre-trial detention status pursuant to an arrest in the community and unable to post bail in a similar jail scenario. Therefore, the audit team contends the individuals housed pursuant to the contract would be considered "inmates" who are subject to both the provisions of §115.12 and §115.87(e). In furtherance, Auditor Radziewicz submitted an auditor help request through the Auditor Portal for standards interpretation guidance.

A response to the auditor helpline request was received June 4, 2019. The guidance was that "the fact that people confined in Community Confinement Facilities are referred to as 'residents' does not exempt a jail or prison from any responsibilities in §115.12 because the Prison & Jail Standards say 'inmate'." This information was communicated to the agency on June 4, 2019 and a request for a phone conference on how to resolve the issues was requested. As of the date of the interim report, the agency had not responded to this request for a phone conference to resolve the issue.

When evaluating compliance with the provisions enumerated within the standard. The audit teams find compliance with provision (a) of the standard. Specifically, the agency has included in its contracts that the facilities adopt and comply with the PREA standards. However, the agency has no established contract monitoring system with respect to ensuring the contracted agencies are compliant with the PREA standards as required under provision (b) of the standard.

Although the contract has language for the PREA standards as a requirement, neither contracted facility has any publicly posted evidence of PREA compliance (i.e. an audit report or policies pertaining to PREA), with one facility's website simply stating they will strive to be PREA compliant. Considering that said contracts were entered into as of October 1, 2017 and remain in effect through September 30, 2019; each contracted facility has had ample time to establish PREA policies pursuant to its contract obligations and to generate sufficient evidence of compliance through an audit, with MDOC oversight and contract monitoring as required by the standard.

Due to the absence of contract monitoring and an established documented procedure to ensure the contracted entities are adhering to the PREA standards; the audit team finds that the agency has not met its obligations under provision (b) of the standard to effectively monitor its contracted agencies nor compelled compliance with the PREA standards.

Corrective Action Recommendation:

The MDOC will be required to establish a formal and documented means of ensuring the agency's contracted entities comply with each of the PREA standards, including audit obligations established under §115.401. Should the contracted entities not comply with its obligations to demonstrate compliance through an audit each cycle pursuant to §115.401; the agency will need to demonstrate its compliance by not renewing such contracts consistent with provision (b) of the standard.

Post Interim Report Corrective Action:

Following the issuing of the interim report, a discussion was held in conjunction with a debriefing from the agency's Richard A. Handlon audit on June 27, 2019. During that discussion with one of the agency's PREA Analysts, it was suggested that a facilitated discussion between the PA DOC audit teams, the

MDOC and the PREA Resource Center could be helpful in advancing the discussion. The audit team sent a request to the PREA Resource Center (PRC), requesting the phone conference and potential dates of availability. On July 18, 2019, a request for a phone conference and potential dates of availability was sent to the MDOC PREA Coordinator and Analysts and the discussion was ultimately scheduled for August 8, 2019.

During the phone conference, the audit team, MDOC PREA staff, and a representative of the PRC discussed the viewpoints of the audit team and the agency. Due to continued disagreement between the agency and the audit team over the applicability of the standard to MDOC prison audits; the PRC representative agreed to draft a summary of the conversation for review by the agency PREA Coordinator and the audit teams for submission to the PREA Management Office (PMO) for interpretive guidance. Between August 9, 2019 and August 13, 2019, the drafts circulated between the audit team and MDOC, before submission to the PMO.

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On August 26, 2019, the MDOC again asserted its reservations with the interpretive guidance and requested the original direction from the DOJ staff for their use and support moving forward within the agency.

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During the phone conference, the audit team, the MDOC PREA staff, and MDOC contract monitoring staff discussed the steps necessary to demonstrate evidence of contract monitoring. Through the discussion, the audit team learned that the contracts are legislatively earmarked and would be renewing automatically October 1, 2019. The audit team discussed the August 2, 2019 FAQ, which updated the previous February 19, 2014 FAQ, to require that any entity under contract for 3 years or more must be audited as PREA compliant by August 20, 2022. Within the FAQs, even though the contracted entity need not be required to be immediately compliant, the contracting agency is required to document its monitoring of the contracted entity's progress towards compliance.

The audit team learned that the contracted entities have no infrastructure to comply with PREA at this time, and have yet to develop so much as policy provisions to govern how they will implement the

standards. Given the starting point of the contracted entities, the audit team and the MDOC mutually agreed upon a monitoring tactic that would begin with the issuance of a formal contractual corrective action plan issued to the contracted entities, citing their failure to adhere to their contractual obligation to comply with the PREA standards. The corrective action plan must outline achievable and measurable milestones for the contracted entity to meet during various intervals throughout the one-year period of the October 1, 2019 contract. The audit team suggested that the corrective action plan include that the contracted entities be held accountable to implement the most critical components of developing compliance within that initial year, such as development of a policy within three months, completion of staff, contractor, volunteer, and inmate training and education requirements within six months, and implementation of risk screening procedures prior to the end of the contractual year so that the contracted entities would be on target to achieve full compliance and be prepared for audit by the August 20, 2022 date established within the FAQ. To fulfill their portion of contract monitoring required by the standards, the MDOC would be responsible to gather tangible evidence of compliance through documentation exchanges, hold the contracted facility accountable to the deadlines imposed within the corrective action plan, and to enforce compliance with the plan through its available contractual remedies. The MDOC's PREA staff would be consulted by the agency's contract monitors to assess whether the contracted entity's evidence of compliance was consistent with the PREA standards.

The audit team and the MDOC mutually agreed that the provision of the corrective action plan to the contracted entities, and an acknowledgement of the obligations of the corrective action plan requirement by the contracted entities would suffice as evidence that the MDOC has engaged in contract monitoring as required by provision (b) of the standard. The MDOC's enforcement of the contractual corrective action plan is deemed to be most appropriately assessed during future third cycle audits to ensure the MDOC has continued with those obligations initiated through the second cycle audits where the issue was first identified.

On September 24, 2019, the MDOC provided the audit team with the contractual corrective action plans developed for each of the contracted entities and provided email correspondence verifying that each had been formally sent to each of the contracted facilities. The corrective action plans included the following milestones:

1. No later than 12/26/2019, your organization must have PREA policies in place, and provide to Contract Monitor, that will bring your organization into compliance with the following sections of the Prison Rape Elimination Act, Prisons and Jail Standards:
 - a. §115.11 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.
 - b. §115.13 Supervision and monitoring.
 - c. §115.15 Limits to cross-gender viewing and searches.
 - d. §115.22 Policies to ensure referrals of allegations for investigations.
 - e. §115.61 Staff and agency reporting duties.
 - f. §115.67 Agency protection against retaliation.
2. No later than 3/24/2020, your organization must develop, and provide to Contract Monitor, PREA training for employees, volunteers, contractors, and offenders, that will bring your organization into compliance with the following sections of the Prison Rape Elimination Act, Prisons and Jail Standards:
 - a. §115.31 Employee training.
 - b. §115.32 Volunteer and contractor training.
 - c. §115.33 Inmate education.
 - d. §115.34 Specialized training: Investigations.
 - e. §115.35 Specialized training: Medical and mental health care.

3. No later than 6/24/2020, your organization must develop, and provide to Contract Monitor, a risk screening process that will bring your organization into compliance with the following sections of the Prison Rape Elimination Act, Prisons and Jail Standards:
 - a. §115.41 Screening for risk of victimization and abusiveness.
 - b. §115.42 Use of risk of victimization and abusiveness.
4. You must have a certified PREA audit completed on your organization no later than 8/19/2022, and once within each three-year PREA cycle thereafter. Subsequent contract renewals will require continued PREA implementation.
 - a. §115.93 Audits of standards.
 - b. §115.401-§115.405 Auditing and Corrective Action.

The contracted entities were given until October 8, 2019 to respond to the corrective action plan.

The audit team was provided with the contracted entity response on October 8, 2019. Both contracted entities agreed to abide by the corrective action plan and agreed to the deadlines the MDOC imposed via the contract corrective action plan. The audit team finds this formal demand for compliance by the MDOC and acknowledgement of the need for corrective action by the contracted entities acceptable to satisfy requirements of provision (b) for the agency to monitor and enforce compliance with PREA provisions of its contracts.

§115.87:

The agency is required to obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.

During the formation of the interim report, members of the auditing consortium who were conducting overlapping audits discovered that the agency has two active contracts with the Ingham and Clinton County Jails for the housing of parole violators under the auspice of the Intensive Detention Program. These contracts were not reported under §115.12, nor were the facilities' incident based and aggregate data included in its 2017 annual report; despite the fact that the contracted entities were under contract in 2017.

During the evaluation of §115.12, it was determined that there is insufficient evidence that the agency completes contract monitoring required by §115.12. Without established contract monitoring, it also appears that the agency does not have documented evidence of collecting data required by §115.87(e); evidenced by the exclusion of such data in its 2017 annual report. Based upon the absence of evidence of data collection for each of its contracted entities; there is insufficient evidence to support compliance with provision (e) of this standard.

Corrective Action Recommendation:

It is recommended that the agency establish procedures for contract monitoring, which includes data collection to capture incident based and aggregate data for its contracted facilities.

Post Interim Report Corrective Actions Taken:

As described in §115.12, the agency's contracted entities have significant ground to cover in achieving PREA compliance. Therefore, the contracted entities did not have data collection procedures in place to capture the requisite data for the MDOC to aggregate in accordance with provision (e) of the standard. The MDOC issued a corrective action plan to its contracted entities to develop compliant policies and as

part of its contract monitoring, the MDOC will be collecting incident based and aggregate data from the contracted entities once methods have been established by the contracted entities. Until then, the MDOC will track incident based data for its populations housed within the facility through its AIM system that it uses to track all allegations for inmates confined in the MDOC. Specifically, any allegations involving MDOC inmates will be entered into the AIM system for statistical reporting. Consistent with the August 2, 2019 and February 19, 2014 contract monitoring FAQs, the contracting agency will not be held in non-compliance, so long as the contracting agency is documenting the contracted agency's progress towards achieving compliance, which would include the development of procedures to collect data consistent with the standard.

The agency issued a formal corrective action plan to its contracted facilities and received responses on October 8, 2019, that both will be implementing procedures to comply with the PREA standards, which will eventually bring the agency into compliance with this standard's obligation to collect incident based and aggregate data from its contracted facilities.

§115.89:

The agency is required to make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means. The MDOC maintains aggregate sexual abuse data for facilities under its direct control available on its website.

However, as noted under §115.87(e), the agency contracts with the Ingham and Clinton County Jails for the housing of parole violators under the auspice of the Intensive Detention Program. The facilities' aggregate data was not included in the agency's 2017 annual report; despite the fact that the contracted entities were under contract in 2017. Absent evidence that the agency collects and publishes aggregate data for its contracted facilities, the audit team does not find compliance with provision (b) of the standard.

Corrective Action Recommendation:

It is recommended that the agency establish procedures for contract monitoring, which includes data collection to capture aggregate data for its contracted facilities, which is subsequently published within its annual report.

Post Interim Report Corrective Actions Taken:

As described in §115.12, the agency's contracted entities have significant ground to cover in achieving PREA compliance. Therefore, the contracted entities did not have data collection procedures in place to capture the requisite data for the MDOC to aggregate in accordance with provision (e) of §115.87, therefore, such information is not included in the MDOC's annual report consistent with provision (b) of the standard. The MDOC issued a corrective action plan to its contracted entities to develop compliant policies and as part of its contract monitoring, the MDOC will be collecting incident based and aggregate data from the contracted entities once methods have been established by the contracted entities. Until then, the MDOC will track incident based data for its populations housed within the facility through its AIM system that it uses to track all allegations for inmates confined in the MDOC. Specifically, any allegations involving MDOC inmates will be entered into the AIM system for statistical reporting and inclusion in future annual reports. Consistent with the August 2, 2019 and February 19, 2014 contract monitoring FAQs, the contracting agency will not be held in non-compliance, so long as the contracting agency is documenting the contracted agency's progress towards achieving compliance, which would include the

development of procedures to collect data for publication within an annual report consistent with the standard.

The agency issued a formal corrective action plan to its contracted facilities and received responses on October 8, 2019, that both will be implementing procedures to comply with the PREA standards, which will eventually bring the agency into compliance with this standard's obligation to collect incident based and aggregate data from its contracted facilities.

PREVENTION PLANNING

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

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

§115.11 (a)

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

§115.11 (b)

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

§115.11 (c)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Instructions for Overall Compliance Determination Narrative

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

Agency policy, Policy Directive (PD) 03.03.140 *PRISON RAPE ELIMINATION ACT (PREA) AND PROHIBITED SEXUAL CONDUCT INVOLVING PRISONERS* serves to establish the agency's zero-tolerance policy and outline the agency's approach to implementing the PREA standards. PD 03.03.140 and the PREA Manual outline the agency approach to implementing the zero-tolerance policy. Local Operating Procedures (OP ECF) 03.03.140 outlines the facility's approach to implementing practices covered by the agency policy and the agency PREA Manual. This Auditor reviewed these documents in their entirety to determine compliance with provision (a)

The agency PREA Manual is a document that serves to unify the agency's approach to implementing the PREA standards, in detail, that were previously covered by a network of policies relative to such areas as segregation, employee training, inmate placement, health care, etc. The agency PREA Manual supersedes all policies that were issued prior to its initial issue in September 2015 and supersedes any conflicting policies at the time of its latest re-issue April 24, 2017. The agency PREA Manual addresses relevant topics such as definitions, prevention, planning, training, placement screening, medical and mental health screenings, cross-gender viewing, searches of inmates, protective custody, protection from retaliation, disabled and limited English proficiency inmates, human resource decision making processes, staffing plans, management rounds, facility and technological upgrades, contracting for the confinement of inmates, collective bargaining, reporting sexual abuse and sexual harassment, inmate grievances, response procedures to reports of sexual abuse and harassment, medical and mental health services following an allegation of sexual abuse, victim advocates, confidential support services, sexual abuse and sexual harassment investigations, disciplinary sanctions and corrective action, sexual abuse incident reviews, data collection, data review and data storage, auditing and compliance.

According to PD 03.03.140 and the PREA Manual, the position of PREA Manager (formerly referred to as the PREA Administrator) fulfills the role of an Agency PREA Coordinator. This position is four layers removed from the agency Director with sufficient authority to implement agency efforts to comply with the PREA standards. A position description and organization chart were provided to this Auditor for validation of the duties and level of authority in the agency. During an agency-level interview by PA DOC consortium DOJ-certified PREA Auditor Franks, with PREA Manager Charles J. Carlson, it was explained that this position has sufficient time and authority to implement PREA standards throughout the agency.

According to the PREA Manual, the position of PREA Coordinator at the facility oversees the duties of a facility PREA Compliance Manager (as defined by the PREA regulations). PA DOC consortium DOJ-certified Auditor David Radziewicz was previously informed during an interview with the agency PREA Manager that the agency titles were modified to accommodate existing Civil Service title rules within the state of Michigan. The PREA Coordinator for the ECF is the facility's Assistant Deputy Warden. The

position of Assistant Deputy Warden within the MDOC is an upper-level management position who acts under the authority of the Warden to investigate staff misconduct. Through an interview with the PREA Coordinator, the position provides adequate time and authority to coordinate the facility's efforts to comply with PREA standards. The PREA Coordinator is also aided by an Assistant PREA Coordinator, who is critical in maintaining compliance with the PREA regulations at the ECF.

Based on a review of the PREA Manual, an interview between Auditor Franks and the PREA Manager, and an interview with the facility PREA Coordinator, this Auditor determined compliance with provision (c).

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

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

§115.12 (a)

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

§115.12 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates OR the response to §115.12(a)-1 is "NO".) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
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Based upon a review of the Pre-Audit Questionnaire (PAQ), the PREA Manual, the interviews of the PREA Manager and PREA Coordinator, it was initially determined that neither the agency nor the facility currently contract with other entities or agencies for the confinement of its inmates. The absence of any contracts for the confinement of its inmates and policy provisions with the PREA Manual demonstrate the agency's intended compliance with provisions (a) and (b) should it contract for confinement of its inmates.

However, during the formation of the interim report, members of the auditing consortium who were conducting overlapping audits discovered that the agency has two active contracts with the Ingham and Clinton County Jails for the housing of parole violators under the auspice of the Intensive Detention Program. Following the request for evidence of compliance, the audit teams were advised that the agency contends these contracts are applicable to the community confinement standards and thus not subject to audit under §115.12 and §115.87(e) as the contracts are not for the housing of what the agency considers to be its "inmates". Specifically, the agency states the individuals are parole violators who are pending decision for return to an MDOC facility; thus, not officially an MDOC "inmate." The agency claimed to have received verbal guidance from the PREA Resource Center; stating their position of defining the contracts as community confinement was appropriate and that as such, the auditing of the standards would not be applicable to its prison audits. The audit team requested written direction from the PRC to affirm this guidance. As of the date of this interim report, the audit team has not received such written direction provided to the agency.

The audit team researched the agency's description of the program, which states that the individuals are housed pursuant to the program are likely to be returned to the community and are placed for technical violations of parole and arrests for new misdemeanor and felony charges. Thus, the audit teams contend that the individuals housed pursuant to the contract are detained in a jail, have no "non-residential time", and may be pending disposition for new criminal offenses to differentiate them from an individual who would otherwise be in a pre-trial detention status pursuant to an arrest in the community and unable to post bail in a similar jail scenario. Therefore, the audit team contends the individuals housed pursuant to the contract would be considered "inmates" who are subject to both the provisions of §115.12 and §115.87(e). In furtherance, Auditor Radziewicz submitted an auditor help request through the Auditor Portal for standards interpretation guidance.

A response to the auditor helpline request was received June 4, 2019. The guidance was that "the fact that people confined in Community Confinement Facilities are referred to as 'residents' does not exempt a jail or prison from any responsibilities in §115.12 because the Prison & Jail Standards say 'inmate'." This information was communicated to the agency on June 4, 2019 and a request for a phone conference on how to resolve the issues was requested. As of the date of the interim report, the agency had not responded to this request for a phone conference to resolve the issue.

When evaluating compliance with the provisions enumerated within the standard. The audit teams find compliance with provision (a) of the standard. Specifically, the agency has included in its contracts that the facilities adopt and comply with the PREA standards. However, the agency has no established contract monitoring system with respect to ensuring the contracted agencies are compliant with the PREA standards as required under provision (b) of the standard.

Although the contract has language for the PREA standards as a requirement, neither contracted facility has any publicly posted evidence of PREA compliance (i.e. an audit report or policies pertaining to PREA), with one facility's website simply stating they will strive to be PREA compliant. Considering that said contracts were entered into as of October 1, 2017 and remain in effect through September 30, 2019; each contracted facility has had ample time to establish PREA policies pursuant to its contract obligations

and to generate sufficient evidence of compliance through an audit, with MDOC oversight and contract monitoring as required by the standard.

Due to the absence of contract monitoring and an established documented procedure to ensure the contracted entities are adhering to the PREA standards; the audit team finds that the agency has not met its obligations under provision (b) of the standard to effectively monitor its contracted agencies nor compelled compliance with the PREA standards.

Corrective Action Recommendation:

The MDOC will be required to establish a formal and documented means of ensuring the agency's contracted entities comply with each of the PREA standards, including audit obligations established under §115.401. Should the contracted entities not comply with its obligations to demonstrate compliance through an audit each cycle pursuant to §115.401; the agency will need to demonstrate its compliance by not renewing such contracts consistent with provision (b) of the standard.

Post Interim Report Corrective Action:

Following the issuing of the interim report, a discussion was held in conjunction with a debriefing from the agency's Richard A. Handlon audit on June 27, 2019. During that discussion with one of the agency's PREA Analysts, it was suggested that a facilitated discussion between the PA DOC audit teams, the MDOC and the PREA Resource Center could be helpful in advancing the discussion. The audit team sent a request to the PREA Resource Center (PRC), requesting the phone conference and potential dates of availability. On July 18, 2019, a request for a phone conference and potential dates of availability was sent to the MDOC PREA Coordinator and Analysts and the discussion was ultimately scheduled for August 8, 2019.

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The audit team learned that the contracted entities have no infrastructure to comply with PREA at this time, and have yet to develop so much as policy provisions to govern how they will implement the standards. Given the starting point of the contracted entities, the audit team and the MDOC mutually agreed upon a monitoring tactic that would begin with the issuance of a formal contractual corrective action plan issued to the contracted entities, citing their failure to adhere to their contractual obligation to comply with the PREA standards. The corrective action plan must outline achievable and measurable milestones for the contracted entity to meet during various intervals throughout the one-year period of the October 1, 2019 contract. The audit team suggested that the corrective action plan include that the contracted entities be held accountable to implement the most critical components of developing compliance within that initial year, such as development of a policy within three months, completion of staff, contractor, volunteer, and inmate training and education requirements within six months, and implementation of risk screening procedures prior to the end of the contractual year so that the contracted entities would be on target to achieve full compliance and be prepared for audit by the August 20, 2022 date established within the FAQ. To fulfill their portion of contract monitoring required by the standards, the MDOC would be responsible to gather tangible evidence of compliance through documentation exchanges, hold the contracted facility accountable to the deadlines imposed within the corrective action plan, and to enforce compliance with the plan through its available contractual remedies. The MDOC's PREA staff would be consulted by the agency's contract monitors to assess whether the contracted entity's evidence of compliance was consistent with the PREA standards.

The audit team and the MDOC mutually agreed that the provision of the corrective action plan to the contracted entities, and an acknowledgement of the obligations of the corrective action plan requirement by the contracted entities would suffice as evidence that the MDOC has engaged in contract monitoring as required by provision (b) of the standard. The MDOC's enforcement of the contractual corrective action plan is deemed to be most appropriately assessed during future third cycle audits to ensure the MDOC has continued with those obligations initiated through the second cycle audits where the issue was first identified.

On September 24, 2019, the MDOC provided the audit team with the contractual corrective action plans developed for each of the contracted entities and provided email correspondence verifying that each had

been formally sent to each of the contracted facilities. The corrective action plans included the following milestones:

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 - a. §115.41 Screening for risk of victimization and abusiveness.
 - b. §115.42 Use of risk of victimization and abusiveness.
4. You must have a certified PREA audit completed on your organization no later than 8/19/2022, and once within each three-year PREA cycle thereafter. Subsequent contract renewals will require continued PREA implementation.
 - a. §115.93 Audits of standards.
 - b. §115.401-§115.405 Auditing and Corrective Action.

The contracted entities were given until October 8, 2019 to respond to the corrective action plan.

The audit team was provided with the contracted entity response on October 8, 2019. Both contracted entities agreed to abide by the corrective action plan and agreed to the deadlines the MDOC imposed via the contract corrective action plan. The audit team finds this formal demand for compliance by the MDOC and acknowledgement of the need for corrective action by the contracted entities acceptable to satisfy requirements of provision (b) for the agency to monitor and enforce compliance with PREA provisions of its contracts.

Standard §115.13: Supervision and monitoring

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

§115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for

adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes No

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

- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? Yes No

§115.13 (b)

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

§115.13 (c)

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

§115.13 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The PREA Manual specifies the eleven factors enumerated within provision (a) of the standard are taken into account when developing the staffing plan for MDOC prisons. The facility staffing plan, with a completion date of March 21, 2019, verifies that all eleven factors within provision (a) of the standard were used to formulate the facility staffing plan. The plan contains a narrative description relative to each of the eleven enumerated factors and the facility's findings.

An interview with the Warden revealed that no recent modifications were made to the staffing plan. The Warden also noted that the facility staffing is monitored constantly through a daily reconciliation report and that the administration has the authority to close posts and reassign staff based on needs. The total number of authorized staff for the facility is determined at the agency level; however, the facility administration has the authority to reassign staff posts as needed. This Auditor notes that the facility completed significant enhancements of its camera system in 2014 and 2016, which provides facility staff with an exceptional support tool to augment existing officer presence. A review of the facility's staffing plan and an interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the PREA Manager revealed that, although the agency no longer participates in audits by the American Correctional Association (ACA), its staffing levels are predicated on these standards and are audited by the state's Auditor General. According to the PAQ, the operational staffing plan was originally predicated on 1108 inmates, and the facility's average daily population has averaged 1086 inmates.

According to an interview between Auditor Franks and the PREA Manager, the agency does not ordinarily deviate from its staffing plan. The PREA Manager reported that all posts are filled either through voluntary overtime or mandated overtime. An interview with the Warden revealed that staff either volunteer or are mandated to remain at their posts on overtime to fulfill the facility's staffing plan. The PREA Coordinator provided in a memorandum to this Auditor that essential posts (i.e. housing units, etc.) that listed reasons for deviations including: medical emergencies, critical incidents, sick leave and inmate transports. Daily shift rosters document facility absences and how essential posts are filled. During the audit, this Auditor observed the use of overtime to ensure posts were filled. Interviews with the Warden, this Auditor's observations of staffing coverage, and interviews with staff who worked overtime confirm adherence to the facility staffing plan were considered to demonstrate compliance with provision (b).

The PREA Manual states that the Warden and PREA Coordinator are involved in the review of the facility staffing plan. This plan is subsequently forwarded to the agency PREA Manager for review. The PREA Manager reports involvement in the staffing plan process for each facility within the agency.

This Auditor was provided a copy of the most current Annual Staffing Plan for the ECF dated March 21, 2019. The documents included a thorough review of the facility staffing plan based on internal agency operational audit reports to determine operational compliance with factors similar to an ACA standards audit. There was no identified need to change current operations based on the eleven factors denoted within provision (a) of the standard. A PREA Annual Staffing Plan Review, agency form CAJ-1027, dated January 4, 2019 was provided to validate an annual review of the staffing plan with the Warden, PREA Coordinator and the agency PREA Manager. This form indicates that no adjustments are needed to the video monitoring system, other monitoring technologies, or resources available to the facility to better protect inmates from sexual abuse and ensure adherence to the staffing plan. The ECF also provided

sample copies of this form completed for the 2017 and 2018 staffing plan reviews to validate that they are conducted annually.

Interviews with the Warden, PREA Coordinator and an interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the PREA Manager, as well as a review of the agency policy, confirm that the staffing plan is reviewed annually by the facility and the agency PREA Manager to demonstrate compliance with provision (c).

PD 04.04.100 *CUSTODY, SECURITY AND SAFETY SYSTEMS*, ECF OP 04.04.100 and the PREA Manual establish policy for unannounced supervisory rounds. Facility supervisory staff document unannounced rounds in the unit logbook in green ink or utilizing the Guard 1 electronic round recording program/device. On the first day of the audit, the facility provided Guard 1 reports documenting the Warden's and other supervisory rounds taking place within the facility during all three shifts. During the on-site portion of the audit, this Auditor observed logbook entries on the housing units to demonstrate compliance with provision (d) of the standard with sufficient rounds in each unit to cover each shift.

Through review of the Guard 1 electronic round records and logbook activity, it was determined that facility Lieutenants complete rounds on a daily basis on all shifts. Shift Commanders and the Deputy Wardens complete weekly rounds within the housing units, with those rounds covering all three shifts on a monthly basis. The facility Deputy Warden for Custody Operations was interviewed and reported that rounds are conducted regularly, staff are not permitted to notify others of occurring rounds and that he routinely changes his patterns to ensure rounds are not predictable. Radio traffic is not permitted to ensure rounds are not announced. Rounds are documented using the Guard 1 electronic round recorder. During the tour, informal interviews with line staff reported that supervisory staff make regular rounds throughout the housing units and confirmed the daily presence of supervisors during each shift on the housing units. A review of agency policy, interviews with the facility administration, informal interviews with line staff and a review of review of the Guard 1 electronic round records and logbook activity allowed this Auditor to find compliance with provision (d).

Standard §115.14: Youthful inmates

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

§115.14 (a)

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

§115.14 (b)

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

§115.14 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PD 05.01.140, *Prisoner Placement and Transfer*, outlines that agency's approach to housing youthful inmates and were reviewed in determining compliance. Agency policy dictates that male youthful inmates are housed at the Thumb Correctional Facility (TCF) and female youthful inmates are housed at Women's Huron Valley Correctional Facility (WHV). If a youthful inmate must be placed at another facility for the purposes of medical or mental health care, the placement must be approved by an agency Deputy Director and accommodations for sight, sound and physical contact separation must be made.

During the audit tour and through interviews with the Warden and PREA Coordinator, and an interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the PREA Manager, it was observed that the ECF does not house youthful offenders and is therefore compliant with provisions (a) (b) and (c) of the standard.

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

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

§115.15 (a)

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

§115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.) Yes No NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A here for facilities with less than 50 inmates before August 20, 2017.) Yes No NA

§115.15 (c)

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

§115.15 (d)

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

§115.15 (e)

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

§115.15 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PD 04.04.140 *SEARCH AND ARREST IN CORRECTIONAL FACILITIES*, OP ECF 04.04.110 and the PREA Manual establish procedures to limit cross gender viewing and were reviewed in determining compliance with provision (a) of the standard

PD 04.04.110 and OP ECF 04.04.100 permit a supervisor of the opposite gender to be present during a strip search if a supervisor of the searched inmate's gender is not readily available. Readily available is not consistent with exigent circumstances as defined in the standards. These policies require that a full written report be submitted to the Warden by the end of the shift for each strip search, which is not routine in nature. PD 04.04.110 and OP ECF 04.04.100 also do not specify who may view recorded body cavity searches (Z-4), only noting that the Warden may authorize release or viewing of the recording. According to the PREA Resource Center's FAQ's, a facility should use a privacy screen or other similar device to obstruct viewing of an inmate breast, buttocks or genitalia in cases where supervisors of the opposite gender are present with the inmate being strip searched.

An informal interview between Auditor Greishaw and the ECF's PREA Coordinator, confirms that privacy screens are to be used when an opposite gender supervisor must be present during a strip/body cavity search. The documentation provided in the PAQ and an interview with the facility PREA Coordinator confirm that no cross-gender strip searches or visual body cavity searches were conducted to demonstrate compliance with provision (a) of the standard and clarified the ambiguity in agency policy.

PD 04.04.110 and the PREA Manual, which were reviewed in determining compliance with provision (b) of the standard. The PREA Manual directs that pat-searches of female inmates be conducted by female

staff only, except where searches of inmates when staff of the same gender are not readily available to conduct a search in an emergency or where there is a reasonable suspicion that the inmate is in possession of contraband. Reasonable suspicion that the inmate is in possession of contraband is not consistent with the definition of exigent circumstances. Although PD 04.04.110 provides an exception to cross-gender pat-search procedures for female inmates that are not clearly defined to specify what type of contraband could be considered an exigent circumstance that could trigger the permission of a cross-gender pat search of a female inmate; this Auditor also notes that the ECF does not house female inmates.

Through the PAQ, a review of PD 04.04.110, the PREA Manual, a memorandum from the PREA Analyst, the facility tour, an interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the PREA Manager, and interviews with the PREA Coordinator and Warden, this Auditor observed that the facility does not house female inmates. Therefore, the facility demonstrates that it does not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with provision (b).

PD 04.04.110, OP ECF 04.04.110 and the PREA Manual establish policy for provision (c) of the standard and were reviewed in determining compliance. PD 04.04.110 requires that a report be authored to the Warden of the facility by the end of shift when a strip search was conducted by or in the presence of an opposite gender employee. These policies require that visual body cavity searches be completed by licensed medical professionals. Body cavity searches are only performed by appropriate medical personnel upon authorization of the Warden or designee. It is recommended within policy that an additional staff be present during the course of such a search and that staff person must be of the same gender as the person receiving the visual body cavity search.

Documentation in the PAQ and an interview with the facility PREA Coordinator confirmed there were no reported cross gender strip, visual body cavity or pat-searches conducted by the facility. Random staff interviews confirmed that line staff are well aware of the prohibition against cross-gender strip searches and this Auditor notes that the facility does not house female inmates, allowing this Auditor to determine compliance with provision (c) of the standard.

PD 03.03.140, OP ECF 03.03.140, the PREA Manual, the ECF Inmate Guidebook, Privacy Notice signs, and Knock and Announce signs were reviewed pre-audit in determining compliance with provision (d) of the standard.

During the audit tour, this Auditor observed that the facility has numerous Privacy Notice signs, Knock and Announce signs displayed at entrances to the housing units. Opposite gender staff announcements were made on all housing unit tours to ensure privacy.

Twenty-one (21) of the 33 inmates participating in formal random interviews, who responded to the question about opposite gender staff announcements, stated that the practice of opposite gender announcements was routine. Additionally, this Auditor notes that during informal interviews with inmates and staff during the audit tour, most inmates and staff throughout the facility affirmed this practice was routine. With multiple informal interviews in each housing unit throughout the tour, this Auditor is satisfied that there is substantial compliance with provision (d)'s requirement of opposite gender announcements. Formal random interviews and numerous informal interviews during the audit tour with both staff and inmates confirm this Auditor's observation that inmates were able to dress, shower or toilet without being viewed by staff of the opposite gender, consistent with provision (d) of the standard.

The PREA Manual and PD 04.06.184 *GENDER DYSPHORIA* establish policy prohibitions against searching transgender inmates for the sole purpose of determining genital status and were reviewed pre-audit when determining compliance with provision (e) of the standard. Additionally, pre-audit documentation included the MDOC Computer-Based Training Module *Sexual Abuse and Sexual Harassment in Confinement* that instructs staff shall not search or physically examine an inmate for the sole purpose of determining genital/sex status. Random and informal interviews during the audit tour lead this Auditor to the conclusion that staff are aware of the prohibition against searching transgender inmates for the sole purpose of determining genital status. Every formal, randomly interviewed staff could identify a specific policy related to this subject, they described practices consistent with the knowledge that it is not part of their duties to search an inmate to determine genital status, furthering that such determinations are made prior to their interactions with the inmates. A transgender inmate housed at the facility was formal interviewed by audit-assistant, PREA Administrative Officer Gambill-Harden, during the on-site portion of the audit. This individual confirmed that they have not been searched for the sole purpose of determining their genital status. Through formal and informal interviews with multiple ranks of staff, this Auditor is confident that transgender and intersex inmates are not examined or strip searched for the sole purpose of determining genital status to find compliance with provision (e) of the standard.

Custody and Security in Corrections Part 2, Personal Searches: The Application of Search Procedures for GID and Transgender Prisoners is the training curriculum for the MDOC reviewed in determining compliance with provision (f). Staff were able to articulate proper cross gender search techniques during random interviews and stated that they received this training through the MDOC training academy and as part of their annual training. Through past audits in the MDOC, this Auditor is aware that it has been a long-standing practice for cross-gender search training to be delivered to staff through the training academy process. The facility reported that 100% of security staff have been provided training to conduct professional cross-gender and transgender pat searches. The facility provided adequate documentation, in the form of five pages of computer based training record course history as part of its pre-audit sample training records relative to transgender/intersex searches. A review of the training materials, random interviews with staff and a review of training records demonstrates compliance with provision (f) of the standard.

While the facility is found compliant with this standard due to its absence of a female population, as a means to remove any potential ambiguity, it is recommended that an agency-wide memorandum be issued similar to a Director's Office Memorandum (DOM), specifying that if a supervisor of opposite gender is overseeing a strip or body cavity search that appropriate barriers be utilized to block viewing of breasts, buttocks and genitalia. Additionally, this memorandum should include direction that female inmates may only be pat searched under exigent circumstance and should specify what types of contraband would be considered exigent circumstances to trigger a cross-gender pat-search of a female inmate.

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

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

§115.16 (a)

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

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

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

§115.16 (b)

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

§115.16 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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The agency PREA Manual requires that the Department provide inmate education in formats understandable by the entire inmate population. PD 03.03.140 specifies that the agency PREA Manager is responsible for the creation and distribution of standardized training materials, and the agency will contract with any interpreters as necessary to reach disabled or limited English proficiency (LEP) inmates. The PREA Manual, along with training materials, were reviewed by this Auditor in determining compliance with provision (a) of the standard.

This Auditor observed, through a review of agency educational materials, that the agency makes significant efforts to reach LEP inmates and those who may be deaf by captioning PREA inmate training videos in English and Spanish. The agency also produces a PREA specific brochure in Spanish, as well as publishing its Prisoner Guidebooks in Spanish. A braille version of the PREA pamphlet was created for blind inmates and a sign language interpreting service is available.

An interview with PA DOC consortium DOJ-certified PREA Auditor Franks and the agency head's designee confirmed that the agency takes significant steps to ensure that materials are provided in various formats to include captioning of the PREA inmate video in multiple languages, including Spanish.

There were no limited English proficient inmates that required the use of an interpreter housed at the ECF during the on-site portion of the audit. Additional interviews were conducted of disabled and cognitively disabled inmates to supplement the requirement for targeted interviews with disabled and limited English proficient inmates. The ECF does have the availability of a sign language interpreter, a TTY machine, and tele-interpreter services for use with varying languages.

Posters displaying PREA reporting information were observed to be posted in each housing unit in English and Spanish. The facility provides its Prisoner Guidebook in both English and Spanish. The agency publishes a Spanish version of its PREA brochure. Privacy signs are translated in Spanish and were observed during the audit tour. This Auditor reviewed translation invoices from the facility to confirm that the facility has an active interpretation services account to reach LEP inmates. The facility provided a Purchase Order for interpretation services with Global Interpreting Services, LLC dated November of 2018 that this Auditor reviewed in determining compliance with provisions (a) and (b) of the standard.

PD 03.03.140 and PREA Manual prohibits the use of inmate interpreters and were reviewed in deterring compliance with provision (c). During random interviews with custody staff and informal interviews with line staff during the audit tour, staff appeared to understand that the use of an inmate interpreter for complaints of sexual abuse was only acceptable under the circumstances where a delay could compromise an effective response. Twenty-one (21) out of 25 randomly interviewed staff were able to effectively articulate that inmate interpreters could only be used under those circumstances where a delay could negatively impact the ability to respond to a report of sexual abuse or sexual harassment to aid in determination of compliance with provision (c).

Standard §115.17: Hiring and promotion decisions

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

§115.17 (a)

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

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

§115.17 (b)

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

§115.17 (c)

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

§115.17 (d)

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

§115.17 (e)

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

§115.17 (f)

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions? Yes No

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

§115.17 (g)

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

§115.17 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PD 02.06.111 *EMPLOYMENT SCREENING* (updated effective 03/13/2017) and the PREA Manual establish procedures for hiring and were reviewed in determining compliance with provision (a). The employment screening policy and PREA Manual clearly prohibit hiring and promoting staff who have engaged in all of the elements denoted within provision (a) of the standard.

Corrections Officer job postings, application questions and a promotional application for Sergeant were reviewed and provided as proof to demonstrate the agency and facility considers these factors for hiring and promotional decisions. The facility is not responsible for conducting initial background checks of correctional officer staff, which are hired by the agency. These background screenings are conducted by the agency central office. The facility is, however, responsible for directly hiring non-officer personnel. The facility conducts checks on those staff directly hired and those staff transferring into the facility.

A review of policy and the interview with HR staff confirms that the facility is not responsible for conducting initial background checks of newly hired custody staff. This function is completed at the agency level by central office staff where candidates are centrally hired and allocated to facilities. Sample applications for a new hire and promotion were reviewed. Both employment application materials demonstrate consideration of incidents of sexual harassment in the hiring process to find compliance with provision (b).

A review of facility hiring records, agency application materials, an interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the agency PREA Manager, and an interview with the facility Human Resource (HR) staff confirm that the ECF is compliant with provision (b) of the standard.

PD 02.06.111, the PREA Manual and example applications for employment were reviewed in determining compliance with provision (c). Adequate screening for incidents of sexual harassment are present within the materials. Example applications for a new hires, contractors and volunteers were reviewed. The employment application and clearance check materials demonstrate consideration of incidents of sexual harassment in the hiring process. Logs validating the LIEN check completion dates were provided to this Auditor. The HR staff person interviewed for the specialized staff interviews explained that any prior incidents of sexual harassment are considered when determining whether to hire or promote a candidate for a job change or promotion. Any applicants with a history of engaging in sexual abuse would not be hired.

PD 02.06.111 and the PREA Manual establish procedures for hiring and were reviewed in determining compliance with provision (c). A review of policy and the interview with HR staff confirms that the facility is not responsible for conducting initial background checks of custody staff. This function is completed at the agency level by central office staff. Furthermore, pre-audit sample documentation supported this function through email exchanges between the facility HR and the agency's central office regarding the completion of background checks that were issued from the central office.

During an interview with HR staff, this Auditor was informed that the facility is responsible for direct hiring and background checks for non-inmate contact positions, promotions and transfers into the facility. The facility provided background check documentation for 26 of these new hires or potential new-hires pre-audit to demonstrate compliance with provision (c).

PD 02.06.111 and the PREA Manual were reviewed in determining compliance with provision (d). The facility provided adequate sample documentation of background checks for contractors as proof of this provision of the standard. In the pre-audit materials, the facility provided a secondary dissemination log of LEIN check information for contractors, volunteers and visitors that listed the date on which individual clearances expired. This list included clearance on 431 individuals or visiting groups who applied for access to the facility as contractors, volunteers or visitors as of March 6, 2019, with indication of LEIN expiration one year from date cleared, in support of finding compliance for provision (d).

According to PD 02.06.111, the PREA Manual and staff interviews, LEIN checks are completed through the Deputy Warden's office in June of designated years for agency employees. As a result of the recent update in PD 02.06.111, an in-depth criminal history check will be completed every three years for all employees. This policy formerly required such checks every five years.

Agency policy dictates that background checks be conducted in June of specified years, the facility's formal documentation of its five-year (now three-year) background checks demonstrates these screenings were conducted in June of 2018. This Auditor did review LEIN logs relative to contractors and

volunteers for other background screening provisions under this standard and did notice that contract employees are required to have an annual LEIN clearance completed, as each one has an expiration date of one year from the prior screening. The review of PD 02.06.111, the PREA Manual, staff interviews and documentation supporting required criminal background record checks support the finding of compliance for provision (e).

This Auditor reviewed pre-audit documentation example applications for hires of new corrections officers and a promotional application to demonstrate that the agency requires all applicants to provide information regarding the misconduct described in provision (a) of the standard when applying for employment or promotion and during any self-evaluations. In addition to application materials, the employee work rules, specified in the employee handbook that this Auditor reviewed, require that employees have an ongoing obligation to disclose any sexual misconduct. There are no self-evaluation procedures in place. The facility demonstrates compliance with provision (f) of the standard.

PD 02.06.111 and the PREA Manual, which were reviewed by this Auditor, affirmatively state that material omissions regarding such misconduct or the provision of materially false information are grounds for termination. The agency policy and work rules within the employee handbook sufficiently cover provision (g) of the standard.

PD 02.01.140 *HUMAN RESOURCE FILES*, PD 02.06.111 and the PREA Manual establish procedures for provision (h) of the standard and were reviewed by this Auditor. As part of its pre-audit documentation, the ECF provided four samples of the agency responding to requests from an outside agency that were reviewed by this Auditor to establish compliance with provision (h). Although the facility had no specific examples, the requests that were processed at the agency level demonstrates that sufficient procedures are in place to ensure information on substantiated allegations of sexual abuse or sexual harassment are provided to requesting agencies regarding former MDOC employees in compliance with provision (h) of the standard.

Standard §115.18: Upgrades to facilities and technologies

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

§115.18 (a)

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

§115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring

technology since August 20, 2012, or since the last PREA audit, whichever is later.)

Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The PREA Manual, which was reviewed in determining compliance with provision (a), states that when acquiring a new facility and when modifying or expanding existing facilities, to include the expansion of video or other monitoring technology, the agency and facility must consider the ability to protect inmates from sexual abuse within the plans. An interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the agency head's designee confirm that neither the agency nor the facility have substantially expanded or altered existing facilities since August 20, 2012. No new facilities were reportedly acquired by the agency. The interview did confirm that the agency modified a portion of the physical plant at the women's correctional facility at Huron Valley to accommodate youthful female inmates at the facility. Additional cameras with audio capabilities were added to that facility to ensure inmate safety and PREA compliance. The agency has equipped staff with Tasers that record audio, which can be used without deployment to capture incidents where pertinent to PREA compliance. The ECF provided pre-audit documentation regarding upgrades to the video management and perimeter surveillance systems during 2014 and 2016, all of which enhance the security of the facility; however, none of the plan documents included a rationale for consideration of how the upgrades could affect the facility's ability to protect inmates from sexual abuse. The upgrade plan documents included a MDOC form (CAH-135) that was dated last revision 5/09. A blank example copy of this form with a revision date of 7/15 was provided in the pre-audit documentation, the 2015 revision has a specific requirement for PREA Consideration. The Warden confirmed that there has been no other expansion or modifications to the facility. During the tour, there were no areas of the facility that appear to have undergone expansion or modification, to further substantiate compliance with provision (a) of the standard.

The agency head's designee reported during an interview with Auditor Franks that the agency has approved expansion of camera coverage at all facilities and deployed electronic round readers at each facility to ensure adequate management tours of the facility that will be used in part, to prevent sexual abuse and sexual harassment. The facility Warden stated in an interview that the facility's camera system was recently expanded in 2016. The facility's camera system is extraordinarily advanced. This Auditor observed a digital screening technology to digitally block viewing of two toileting areas identified in camera-cells during the on-site audit tour. The Auditors did not observe any concerns with the showering or strip search areas throughout the facility. The placement of cameras was strategically aimed to

enhance sexual safety within the facility, while still affording privacy to dwelling, showering and toileting facilities within the housing units. It was noted in a sexual abuse incident review (AIPAS #26239) that the upgrade to the camera system allowed the facility to substantiate the non-sexual components of an allegation made against a staff member regarding an alleged inappropriate pat-search, proving the value of the system. The facility currently has 302 total cameras in place. The facility also installed a Guard 1 electronic tour scan verification system that was observed during the tour. The reader points are located throughout each housing area to verify that security rounds are conducted at all points within the housing unit at required intervals. The strategic deployment of video monitoring technology and round reading technology demonstrates the agency and facility dedication to compliance with provision (b) of the standard.

RESPONSIVE PLANNING

Standard §115.21: Evidence protocol and forensic medical examinations

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

§115.21 (a)

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

§115.21 (b)

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

§115.21 (c)

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

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

§115.21 (d)

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

§115.21 (e)

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

§115.21 (f)

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

§115.21 (g)

- Auditor is not required to audit this provision.

§115.21 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

According to the agency's *Crime Scene Management and Preservation Trainers Manual* and an interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the agency PREA Manager, the agency's crime scene preservation is predicated upon the United States Army Criminal Investigation Command.

During interviews with facility medical staff and an investigator (Sergeant), it was reported that the facility is not responsible for collecting forensic evidence from those involved in criminal sexual abuse investigations. Inmates are transported to SAFE/SANE examiners in the/any clothing worn during an alleged incident of sexual abuse. The agency's protocol, which is outlined in the PREA Manual and Crime Scene Management and Preservation Trainers Manual, demonstrates that agency and facility have procedures in place for preserving evidence and maintaining the integrity of any crime scene. These procedures allow for the criminal investigative agency, Michigan State Police (MSP), to maximize the collection of available evidence within the crime scene.

Through random staff interviews and informal interviews during the audit tour, it was apparent to this Auditor that security staff are aware of their responsibility to secure any potential crime scene and their duty to ensure those involved do not take actions that could destroy evidence. Crime Scene Management and Preservation training materials cover the necessary technical detail to aid first responders in preserving available evidence to demonstrate compliance with provision (a) of the standard.

Uniform evidence protocol is covered in Crime Scene Preservation and Management and Preservation Trainers Manual. The manual was reviewed by this Auditor in determining compliance with provision (b) of the standard. Training materials cover the necessary technical detail to aid first responders in preserving available evidence. Youthful inmates are not housed at this facility; however, staff are adequately prepared to address the needs of this population through training materials and the PREA Manual's guidance. Random staff interviews confirm that potential first responder security staff are aware of their responsibilities to protect any applicable crime scene and ensure that those involved take no action to destroy physical evidence. According to the agency's Crime Scene Management and Preservation Trainers Manual, the agency's crime scene preservation is predicated upon the United States Army Criminal Investigation Command, which demonstrates compliance with provision (b) of the standard.

PD 03.04.100 and the PREA Manual, reviewed by this Auditor in determining compliance with provision (c) of the standard, specify that forensic examinations are provided without cost to victims of sexual abuse. Through a review of the PAQ and pre-audit documentation, this Auditor found evidence of one forensic examination during the audit review period. This Auditor called the Munson Healthcare Manistee Hospital and confirmed that the hospital may receive inmates from the ECF for the purposes of conducting forensic examinations. During an interview of the Emergency Room Director at the Munson Healthcare Manistee Hospital, it was confirmed that inmates from the ECF are provided with this service as its outside medical provider. While no formal agreement for SAFE/SANE services is in place, an interview with the Munson Healthcare Manistee Hospital confirms that SAFE/SANE trained staff are employed and available on all shifts. The Munson Healthcare Manistee Hospital confirmed that only one currently employed registered nurse is SAFE/SANE "certified", while the rest of the emergency department nursing and physician staff are qualified medical practitioners who are SAFE/SANE trained.

Through a review of agency policy, documentation of facility communication with the Munson Healthcare Manistee Hospital, this Auditor determined that the facility is in compliance with provision (c) of the standard.

Documented attempt to seek advocacy services with Communities Overcoming Violent Encounters (COVE) at the facility level were provided and reviewed by this Auditor in determining compliance with provision (d). Additionally, pre-audit documentation was reviewed by this Auditor from the MDOC Deputy Director, dated November 28, 2016, indicating that in the absence of a formal agreement with a victim advocacy organization or local rape crisis center, the facility's medical and/or mental health staff shall be trained and act as advocates. This Auditor was provided with a list of nineteen (19) medical and mental health ECF staff who have completed advocacy training through the Office for Victims of Crime, Training and Technical Assistance Center (a component of the US Department of Justice). Through previous audits, this Auditor was provided the series of training materials that the agency adopted from the Office for Victims of Crime Training and Technical Assistance Center to train its staff to act in the capacity of a qualified staff member and found the curriculum to be sufficient. The ECF only had one (1) instance (AIPAS #26369) of an allegation that occurred within the timeframe when forensic evidence could be collected during the 12 months preceding this audit. The MDOC form CAJ-1020 accompanying this investigation did not support that the victim was offered victim advocate services during the forensic medical examination, and indicates that the hospital did not have a victim advocate available. A referral to mental health services at the ECF was completed on the same date of the allegation and forensic examination.

The facility PREA Coordinator confirmed during an informal interview that qualified facility staff members have been identified and trained to provide advocacy services in the event of unavailability of formal rape crisis services. Specifically, to ensure the availability of a qualified staff member on all shifts, the facility has designated and trained all medical and mental health providers to serve as victim advocates. While all medical and mental health staff have been trained in this function, the facility has designated its chief psychologist as the primary individual who would serve in the capacity of a victim advocate. The facility also provides access to "An End to Silence" for state organizational contact information within the facility library. This Auditor observed that there were three (3) copies of this publication available to the inmate population, and in fact, one was signed out during the audit. During targeted interviews with the inmates at the facility who reported sexual abuse, they reported prompt follow-up from the facility regarding mental health and in-house advocate services. The Mental Health Services Outpatient Unit Chief confirmed with this Auditor that he is designating as the individual responsible to ensure the coordinated effort of offering victim advocate services to the victim. He further stated during informal questioning that he may be called-in after hours to serve as a victim advocate for forensic examination, if requested. Through an interview with the PREA Coordinator, an interview between Auditor Franks and PREA Manager, a review of agency

correspondence with outside advocacy agencies, documentation of attempted correspondence with the advocacy service provider COVE, and confirmation with the Munson Healthcare Manistee Hospital and the facility's documented training of 19 medical and mental health staff members to serve as a qualified agency staff member under this standard, demonstrates that the facility is in substantial compliance with provision (d). This Auditor determined that the one (1) instance during the 12 months preceding this audit, that did not support compliance with this provision, was not sufficient to determine noncompliance.

The PREA Manual and a memorandum with the Michigan State Police (MSP), which were reviewed by this Auditor, confirm that both the agency, the criminal investigative unit and the facility will permit a victim advocate to accompany a victim through the forensic medical examination and investigatory interviews. The facility provided a copy of form CAJ-1020 related to AIPAS #26369, for an inmate who received a forensic examination during the 12 months prior to this audit. The form indicates that a victim advocate was not available and provides no further explanation or indication if the inmate victim was offered victim advocate services and whether the victim accepted or declined these services. It is noted that victim advocate services were offered and initiated by the ECF mental health services staff on the same date as the allegation and forensic medical examination.

The facility and agency have identified medical and mental health staff to serve as qualified staff members to provide advocacy services during any investigatory interviews in the event that a community-based rape crisis advocate is not available. The facility provided documentation of nineteen (19) medical and mental health staff having completed this training. The MSP memorandum confirms that the investigative agency has agreed to allow these individuals access during forensic medical examinations and interviews consistent with standard §115.21. The facility has adequate measures in place to provide advocacy services during a forensic examination and investigatory interviews, if requested, to demonstrate compliance with provision (e) of the standard.

The memorandum between the MDOC and MSP that this Auditor reviewed, confirm that MSP will abide by the provisions set forth under §115.21 (a)-(e) in order to demonstrate compliance with provision (f) of the standard.

Provision (g) of the standard is not required to be audited by this Auditor.

The facility attempts to make a rape crisis advocate available; however, has yet to enter into a formal agreement. Evidence was provided regarding a request with COVE to provide advocacy services to victims of sexual abuse, including the inmates in the ECF. In the event, such services are necessary, the ECF may use qualified medical or mental health from the facility who have received training in trauma informed care and are generally educated in the forensic examination procedures if an outside advocate is not available. The facility provided documentation of 19 medical and mental health staff having completed this training, compliant with provision (h) of the standard.

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

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

§115.22 (a)

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

§115.22 (b)

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

§115.22 (c)

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

§115.22 (d)

- Auditor is not required to audit this provision.

§115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

This Auditor reviewed PD 03.03.140, PD 01.01.140, OP ECF 03.03.140 and the PREA Manual when assessing compliance with provision (a) of the standard. While Section G of PD 01.01.140 requires that the allegations must contain facts, rather than mere assertions or rumor to be entered into the internal affairs division investigation database the PREA Manual (which supersedes all prior policies) confirms that all allegations are entered into the database for investigation. An interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the agency head's designee confirms that all allegations of sexual abuse and sexual harassment are investigated. A review of agency policy, interviews between Auditor Franks and the agency head's designee and agency PREA Manager confirm that a referral process is in place to both notify and receive allegations of sexual abuse reported at or from other facilities. The facility provided multiple examples of investigation referrals included in this Auditor's requested sample of 16 investigation files, to include allegations verbally reported by inmates, referrals from request slips, suspicions reported by inmates, staff reports, and grievance referrals. During and following the on-site portion of the audit, investigations were reviewed with multiple methods of reporting evident in the predication of these investigations. The MSP are responsible for conducting criminal investigations should criminal behavior be observed during the facility's administrative response. Agency policies, interviews and a review of facility investigations demonstrates that the facility is in compliance with provision (a) of the standard.

The MSP investigate criminal allegations involving staff as specified under the reviewed PD 01.01.140. The investigation is monitored and coordinated by the Internal Affairs Division. PD 03.03.140 and OP ECF 03.03.140, which were reviewed by this Auditor, address referrals to MSP of inmate on inmate non-consensual sexual acts and staff sexual misconduct/harassment that would constitute a criminal act. Both agency policies are published on the agency's website. The PREA Manual, which supersedes all prior policies is not published on the agency's website; however, is not necessary to meet provision (b) of the standard. An interview with a facility investigator (Sergeant) confirmed they are aware of their obligations to refer allegations of a criminal nature to MSP. During a review of facility investigations, there was sufficient evidence to support that the facility does refer potential criminal allegations to MSP, allowing this Auditor to determine compliance with provision (b) of this standard.

This Auditor reviewed and verified that PD 01.01.014 and PD 03.03.140 are available on the agency website. The policies outline the specific responsibilities of the agency and the MSP when conducting criminal investigations to demonstrate compliance with provision (c) of the standard.

This Auditor is not required to audit provisions (d) and (e) of the standard to determine facility compliance.

TRAINING AND EDUCATION

Standard §115.31: Employee training

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

§115.31 (a)

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

§115.31 (b)

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

§115.31 (c)

- Have all current employees who may have contact with inmates received such training? Yes No

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

§115.31 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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The agency's PREA Manual, PREA training curriculum "PREA: Sexual Abuse and Sexual Harassment in Confinement", computer based training modules for PREA and training reports were reviewed in determining compliance with provision (a) of the standard. A review of these materials provides a robust explanation of all 10 points required by the standards. The training curriculum is provided as part of an employee's initial 320 Hour Corrections Training Program, which is completed prior to an employee assuming duty. Computer based training is provided for existing employees and contractors through two detailed training modules. This training is also repeated annually as part of the facility's in-service training requirements. A facility training record sample from January 1, 2017 to March 7, 2019 demonstrates that 510 facility staff have completed the required training modules during this period. Informal interviews with staff during the audit tour confirm that individuals are well informed of all ten factors required by the employee training standard. All staff who were randomly interviewed were able to clearly describe elements from the training to demonstrate knowledge of the factors required by the standards in compliance with provision (a).

The ECF does not house female inmates. The agency training materials that were provided to and reviewed by this Auditor adequately cover the dynamics of sexual abuse for male and female inmates as required by provision (b) of the standard. Additional training materials are provided to employees that house female inmates, these materials were provided to this Auditor and included: *Collaborative Case Management for Women, Module 3: What is Gender Responsive?* and *The Prison Rape Elimination Act:*

Implications for Women and Girls by Andie Moss (handout). The specific module of training on collaborative case management for women that is not just specific to PREA, but an overall gender inclusive training. This training supplements those working with female offenders on a regular basis; however, it is again noted that female inmates are not housed at the ECF. Based on a review of PREA training materials and a sampling of training records; the facility demonstrates compliance with provision (b).

The ECF provided ample documentation that was reviewed by this Auditor to verify that staff at the facility have completed the agency's computer based training on sexual abuse and sexual harassment in confinement settings. Employees are required to complete this training at a minimum of every two years as noted within the agency PREA Manual; however, the training is available annually to aid in fulfillment of annual training requirements. As part of the facility's pre-audit documentation, it provided records of 423 staff completing this training as part of its annual in-service training requirements. Training records and the agency training plans demonstrate compliance with provision (c) of the standard.

Employees are required to complete a comprehension knowledge test relative to the training materials to verify their understanding of the materials at the end of the agency's computer based training modules. This comprehension test comes with electronic verification by employee ID number to signify individual comprehension of the training, demonstrating compliance with provision (d) of the standard.

Standard §115.32: Volunteer and contractor training

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

§115.32 (a)

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

§115.32 (b)

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

§115.32 (c)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Instructions for Overall Compliance Determination Narrative

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

PD 03.02.105 addresses the need for service providers to be trained according to their level of contact with inmates. According to PD 03.03.140 and the PREA Manual, the MDOC treats all contractors and volunteers as an employee and therefore trains these individuals with the same computer based training materials available to directly hired employees. The agency's training curriculum for contractors and volunteers sufficiently addresses the concepts of sexual abuse, sexual harassment, reporting and response procedures. In addition to this Auditor's review of the training materials, this Auditor reviewed a sampling of 41 training records across multiple contractor and volunteer disciplines provided with the pre-audit documentation to determine compliance with provision (a) of the standard.

PD 03.02.105 and OP ECF 03.02.105 address the need for service providers to be trained according to their level of contact with inmates. According to PD 03.03.140 and the PREA Manual, the MDOC treats all contractors and volunteers as an employee and therefore trains these individuals with the same computer based training materials available to directly hired employees. Just as employees, contractors and volunteers receive a PREA reference guide and are required to sign a form to acknowledge they could be a first responder. This Auditor reviewed the *Oaks Correctional Facility Volunteer Orientation Manual* (revised 10-04-2016) during review of the pre-audit documentation. This volunteer manual includes a section of information regarding PREA and the MDOC zero tolerance policy for any sexual violence, abuse or harassment, with an affirmative requirement for volunteers to immediately report information to staff. A formal interview with one contracted healthcare personnel verified that they were provided the employee training module for MDOC employees. The training procedures enumerated within policy are applied in practice with facility volunteers, and in addition to the zero-tolerance policy and reporting procedures, volunteers are given information about respectful interactions with transgender inmates, physical boundaries and overfamiliarity. Informal interviews during the audit tour with contractors demonstrated that they were aware of their responsibilities to both report incidences of sexual abuse and sexual harassment, as well as how to act as a first responder to preserve potential evidence. The review of policy, training materials, training records and both formal and informal interviews demonstrate compliance with provision (b) of the standard.

The agency PREA Manual requires that the Department maintain documentation confirming that volunteers and contractors receive and understand the agency's PREA training. The facility provided ample, 41, volunteer training records, pre-audit, to confirm training of volunteers to demonstrate compliance with provision (c) of the standard.

Standard §115.33: Inmate education

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

§115.33 (a)

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

§115.33 (b)

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

§115.33 (c)

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

§115.33 (d)

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

- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills? Yes No

§115.33 (e)

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

§115.33 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PD 03.03.140, PD 04.01.105, PD 04.01.140, OP ECF 04.01.140, OP RGC 04.01.140, the PREA Manual and the ECF Prisoner Orientation Guidebook, which were reviewed by this Auditor, address the standard's requirements to train inmates during the intake process regarding the agency's zero-tolerance policy, how to report sexual abuse and sexual harassment, as well as available services. Through interviews with the PREA Coordinator and random inmates, this education is reportedly completed on the assigned housing unit for newly received inmates through the Prison Counselor or other unit management staff, and is accompanied by a brochure that specifically covers the zero-tolerance policy, the definitions of sexual abuse, sexual harassment, retaliation, how to report sexual abuse, the process following a report, available services to victims and how to avoid sexual abuse. A review of these materials by this Auditor satisfies compliance with this element of provision (a).

Through an interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the PREA Manager, it was reported that the agency provides comprehensive inmate education at the Charles E. Egeler Reception & Guidance Center (RGC). All inmates that are received at the ECF will have passed through this facility for classification. Inmates who are transferred from that facility to the ECF, will have received comprehensive education at RGC. During intake processing, each counselor is required to complete an immediate file review to ensure that documentation of this education session is located within. If documentation of this education is missing, the inmate is immediately scheduled for a repeat of

this education at the facility. During the audit tour, this Auditor and Auditor Jacobson randomly sampled inmate files on every housing unit and requested that MDOC staff show movement records to verify that education was provided in a timely manner to demonstrate compliance with provision (a) of the standard.

PD 03.03.140, PD 04.01.105, PD 04.01.140, OP ECF 04.01.140, OP RGC 04.01.140 and the PREA Manual address the standard's requirements to train inmates during the intake process regarding the agency's zero-tolerance policy, how to report sexual abuse and sexual harassment, as well as available services. This education is completed through a video-based presentation accompanied by a brochure that specifically covers the zero-tolerance policy, the definitions of sexual abuse, sexual harassment, retaliation, how to report sexual abuse, the process following a report, available services to victims and how to avoid sexual abuse. Additionally, information is available in the Prisoner Guidebook. Through an interview between Auditor Franks, and the PREA Manager, and interviews with the Warden and PREA Coordinator, it was reported that the MDOC has an intake facility, the RGC, where intake and PREA education are completed for inmates who will be assigned to other MDOC facilities, including the ECF.

Eleven (11) out of 33 interviewed inmates could not confirm that education materials and the PREA video (Taking Action) are shown during the intake process at RGC or the ECF. However, it was noted that multiple inmates affirming, yes, could articulate that they were provided the information during orientation that every inmate is required to attend. Additionally, these inmates also report that information is continuously displayed throughout the housing units on posters, is available in handbooks and displays on the inmate JPay accounts. During the audit tour, this Auditor and Auditor Jacobson randomly sampled inmate files on the housing units comparing movement records accompanied by inmate training receipts to verify that education was provided in a timely manner to demonstrate compliance with provision (b) of the standard.

Through a review of agency materials, it is clear that PREA policies and reporting mechanisms are universal throughout the agency, negating the need to retrain inmates upon transfer from the RGC to the ECF. A memorandum provided by PREA Analyst Silsbury to the Auditor indicates that all "current inmates" received PREA education in 2013, with efforts recorded in the inmate file. A random sampling of inmate training records observed by the Auditors during the audit tour demonstrates the facility is in substantial compliance with the standard, and has procedures in place to ensure corrective action when records do not exist within inmates' files, thus satisfying that the facility has procedures in place to ensure that all inmates at the ECF have been provided training consistent with provision (c) of the standard.

The agency publishes written educational materials, such as the PREA brochure, PREA posters and Prisoner Guidebook in both English and Spanish. The agency has a braille version of the PREA brochure available for visually impaired inmates. The PREA video, Taking Action, has been closed captioned for the deaf and hard of hearing population. Each facility within the agency is responsible for maintaining an interpretation service contract for communication purposes. The ECF submitted a braille trifold PREA education brochure and purchase order for Global Interpreting Services, LLC. as proof of its provision of interpretative services for disabled or LEP inmates during the intake education process. The facility also maintains copies of PREA training materials, The PREA Resource Center's "An End to Silence", agency PREA publications and the PREA standards in the law library that are available for check-out to the inmate population. Moreover, the facility also advertises the availability of these documents on housing unit bulletin boards to ensure that the inmate population is aware of their availability. This Auditor reviewed these training materials, the library inventory and interpretation invoices to determine compliance with provision (d) of the standard.

The agency and facility maintain documentation of inmate education via MDOC form CAJ-1036. As part of the facility's intake and receptions procedures, each new reception's file is reviewed and it is verified

that the inmate has documented receipt of training within the file. This Auditor and Auditor Jacobson randomly selected inmate files from housing unit counselor offices during the audit tour to verify that agency PREA training records met timeliness requirements. For random selections, this Auditor selected the file and requested that the counselor pull up transfer movement reports, where sample records were matched against reception records, PREA training records and PREA risk assessment dates to confirm that the agency and the facility document timely inmate participation in education sessions, consistent with provision (e) of the standard.

The agency publishes posters that contain record of the agency's zero-tolerance policy and methods to report allegations of sexual abuse and sexual harassment. During a tour of the ECF, these posters were visible throughout the housing units, common areas of the facility, and work locations. Inmates receive a tri-fold PREA brochure that is published in both English and Spanish during the intake process and these materials were observed to be available to inmates during the audit tour. The facility library holds a copy of the PREA Resource Center's "An End to Silence" handbook, the PREA Standards, the agency PREA Manual, training materials and Prisoner Guidebooks that are available for the inmate population to check out. Moreover, the facility also advertises the availability of these documents on housing unit bulletin boards to ensure that the inmate population is aware of their availability. Based on the efforts of the facility to actively advertise and promote PREA resources throughout all areas of the facility, this Auditor determines compliance with provision (f) of the standard.

Standard §115.34: Specialized training: Investigations

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

§115.34 (a)

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

§115.34 (b)

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

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

§115.34 (c)

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

§115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency has a Basic Investigator Training Manual that was reviewed by this Auditor. This manual provides additional, specialized training for agency investigators to conduct all forms of administrative investigations, including PREA administrative investigations. This investigative course covers a PREA specific module that includes the dynamics of sexual abuse within confinement settings, interview techniques for victims of sexual abuse and also contains modules specific to the preservation of evidence, interview techniques and employee rights, such as Garrity and Miranda warnings. The evidentiary standard of preponderance of the evidence is noted within the training on administrative investigations. Training records were provided to confirm that 14 active staff at the ECF completed the agency's training. In addition to the agency's Basic Investigator Training, training records confirm that these 14 staff completed the NIC specialized investigator's training in satisfaction of provision (a) of the standard.

The agency's investigative course covers a PREA specific module that includes the dynamics of sexual abuse within confinement settings, interview techniques for victims of sexual abuse and also contains modules specific to the preservation of evidence, interview techniques and employee rights, such as Garrity and Miranda warnings. The evidentiary standard of preponderance of the evidence is noted within the training on administrative investigations. The training informs participants on the requirements and procedures for referring potentially criminal acts for criminal investigation/prosecution. In addition to the

agency's Basic Investigator Training, 14 staff have participated in the NIC specialized investigator's training to provide additional information on the required standard topics. A review of training materials and training records for facility investigators demonstrates compliance with provision (b) of the standard.

The agency maintains documentation of investigator training in the employee's training file. The facility provided documentation that was reviewed by this Auditor to verify that 14 active employees have completed the Basic Investigator Training and also completed the NIC specialized investigator training in satisfaction of provision (c) of the standard.

The Auditor is not responsible for auditing provision (d) of the standard.

Standard §115.35: Specialized training: Medical and mental health care

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

§115.35 (a)

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

§115.35 (b)

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

§115.35 (c)

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

§115.35 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PD 02.05.101 and the PREA Manual establish procedures for ensuring staff, including contract staff, are adequately trained based on their positions within the agency. The agency has developed a training curricula specific to medical and mental health staff that were reviewed by this Auditor. These materials expand upon the Basic Training Module 2 to cover the four points required by the standards. Training materials cover the detection of sexual abuse and harassment, preservation of evidence specific to facility responsibility (forensic examinations are conducted at an outside medical provider and no evidence is collected by medical or mental health practitioners), how to respond to victims of sexual abuse and sexual harassment and facility reporting responsibilities for allegations of sexual abuse and sexual harassment. The MDOC also provides training to its entire medical and mental health staff to serve as a qualified agency staff member, with respect to providing victim advocacy services in the event an individual needs such support. As such, medical and mental health practitioners with the MDOC receive training beyond the standard's minimal requirements.

The facility provided documentation of medical and mental health practitioners having completed the training modules related to their specific disciplines that were reviewed by this Auditor. Through formal and informal interviews during the audit tour, both medical and mental health staff confirmed that they have received computer-based training that covers the standard requirements in satisfaction of provision (a).

Neither the facility nor its staff conduct forensic examinations, therefore, training records consistent with provision (b) of the standard are not required to be reviewed by this Auditor.

The facility provided documentation of medical and mental health practitioners' completion of the specialized training modules that was reviewed by this Auditor. These training records are kept in the computerized training records for employees and demonstrate compliance with provision (c) of the standard.

The agency has developed a training curricula specific to medical and mental health staff that includes and expands upon the Basic Training Module 2 to cover the key points required by the standards. Employees must complete the traditional Module 1 and 2 training required of all employees as part of accessing this expanded training specific to each discipline. This Auditor's review of these training materials and corresponding completion records demonstrates compliance with provision (d) of the standard.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard §115.41: Screening for risk of victimization and abusiveness

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

§115.41 (a)

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

§115.41 (b)

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

§115.41 (c)

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

§115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? Yes No

§115.41 (e)

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

§115.41 (f)

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

§115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral?
 Yes No
- Does the facility reassess an inmate's risk level when warranted due to a: Request?
 Yes No
- Does the facility reassess an inmate's risk level when warranted due to a: Incident of sexual abuse? Yes No
- Does the facility reassess an inmate's risk level when warranted due to a: Receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness?
 Yes No

§115.41 (h)

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

§115.41 (i)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PD 03.03.140, OP ECF 03.03.140, PD 05.01.140, the PREA Manual and the PREA Risk Assessment Manual, which were reviewed by this Auditor, state that an intake screening shall be conducted at reception centers during intake. This Auditor notes that the agency policies governing risk screening (PD 03.03.140 and the PREA Manual) changed due to prior audits within the MDOC. The updates to these policies now require that intake risk screening be completed within 72-hours for all inmates upon transfer to another facility and now comes into compliance with provision (a) of the standard. This Auditor notes that per MDOC policy the PREA Manual supersedes all other directives on PREA related requirements. The existing PREA Risk Assessment Manual still contains inaccurate information regarding requirements of the screenings that were corrected through the prior audits within the MDOC and revisions to the PREA Manual. It was apparent that at the beginning of the 12 months prior to this audit, ECF staff were still following the outdated direction that has not been revised in the PREA Risk Assessment Manual. The 72-hour full-assessment was not being conducted consistent with this standard and the MDOC PREA Manual. This was identified through internal MDOC audits and corrective action was implemented including instruction to the staff completing the PREA risk screening and re-screening of inmates who only initially received the review. The ECF utilizes the facility's automated program that tracks and documents the completion of the intake risk screening and any required referrals to mental health practitioners, based upon the data reported during the risk screening process. The ECF PREA Coordinator was able to query an Excel spreadsheet report to review the risk screening status of all inmates at the ECF, by arrival date. Through review of random sample PREA risk screenings and the Excel spreadsheet used to track the screenings, it was apparent that the pre-audit corrective actions sufficiently corrected the observation for substantial compliance with this provision. It is recommended that revisions to the PREA Risk Assessment Manual be completed to eliminate inconsistencies and potential staff error. Additionally, provisions were implemented to also conduct annual screenings of existing inmates.

This Auditor received and reviewed the facility's Excel spreadsheet that tracks intake PREA risk screenings and any required referrals to mental health practitioners, based upon the data reported during the risk screening process. This spreadsheet also tracks the 30-day follow up screening and the annual review date. The facility demonstrated its understanding of requirements outlined by standard §115.41 and tracked its timely completion of those responsibility.

A formal interview with a staff person responsible for risk screening stated in an interview that initial assessments are usually completed within 24 hours, but no less than 72 hours of arrival at the facility. During the audit tour, this Auditor and Auditor Jacobson randomly sampled 12 inmate files on the housing units and requested that MDOC staff show movement records to verify that education was provided in a timely manner to demonstrate compliance with provision (a) of the standard.

PD 03.03.140, PD 05.01.140, the PREA Manual and the PREA Risk Assessment Manual state that an intake screening shall be conducted at reception centers during intake. This Auditor notes that the agency policies governing risk screening (PD 03.03.140 and the PREA Manual) changed due to prior audits within the MDOC. The updates to these policies now require that intake risk screening be completed for all inmates upon transfer to another facility. These updates also include the requirement of completing this screening within 72 hours, in compliance with provision (b) of the standard.

This Auditor received and reviewed the facility's Excel spreadsheet that tracks intake PREA risk screenings and any required referrals to mental health practitioners, based upon the data reported during the risk screening process. A formal interview with a staff person responsible for risk screening stated in an interview that initial screenings are usually completed within 24 hours, but no less than 72 hours of arrival at the facility. Some randomly sampled inmates were able to confirm the practice in interviews, dependent upon when they were transferred/arrived to the ECF. Inmates who have been housed at the

ECF prior to mid-2018 were unable to confirm the practice due to their transfer before implementation of the changes to PD 03.03.140 and the PREA Manual.

The facility demonstrated its understanding of requirements outlined by standard §115.41 and tracked its timely completion of those responsibilities. Additionally, as this Auditor and Auditor Jacobson toured the facility, and randomly sampled 12 inmate files on the housing units to confirm the PREA intake risk screening procedures. All sampled files of inmates received after the facility's implementation date demonstrated that risk screening was completed within 72 hours.

Based upon the formal interview with a staff person responsible for conducting risk screening, review of the Excel spreadsheet for tracking, and review of risk screening samples, this Auditor determines that the ECF meets the requirements of provision (b).

The PREA Risk Assessment Worksheet that was reviewed by this Auditor meets objective criteria as required by provision (c) of the standard. The screening is an objective set of instruments that measures both an inmate's risk of victimization and risk for predatory behavior. The tool generates a numerical score based on weighted factors to determine an inmate's classification as either an Aggressor, Potential Aggressor, No Score, Potential Victim or Victim.

Based on a review of the PREA Manual and the PREA Risk Assessment Manual, as well as through a discussion between PA DOC consortium DOJ-certified PREA Auditor Franks and the agency PREA Manager, this Auditor is satisfied that the intake screening instrument meets the 10 criteria set forth in provision (d) of the standard. While the tool does not affirmatively address criteria 10, neither the agency nor the ECF house inmates solely for civil immigration purposes. An affirmative assessment of a risk factor that does not exist within the agency (civil immigration) was determined unnecessary. The PREA Risk Assessment Manual, which outlines the procedures for the use of the intake screening tool, clarifies that the remaining nine elements of the standard are affirmatively addressed within the intake screening process to demonstrate compliance with provision (d) of the standard.

Based on a review of the PREA Manual and the PREA Risk Assessment Manual this Auditor is satisfied that the intake screening instrument meets the requirements of provision (e) of the standard. The PREA Risk Assessment Manual's reference to documented history of sexual abuse, violent convictions and a history of institutional violence (including sexual) demonstrates that the risk factors enumerated under provision (e) of the standard is adequately inclusive of both convictions and known institutional behavior.

The PREA Manual and the PREA Risk Assessment Manual, which were reviewed by this Auditor, clearly specify applicable timeframes for screening completion. The facility's reassessment process consists of three questions, two of which are certification by the assessor that the original victim and aggressor instruments are accurate. During the tour, inmate files for recent receptions were randomly sampled on the housing units to ensure that reviews of risk screening were conducted within 30-days. Furthermore, this Auditor and Auditor Jacobson randomly sampled 12 inmate files on the housing units and requested that MDOC staff show movement records to verify that PREA risk screening 30-day reviews were conducted timely to demonstrate compliance with provision (f) of the standard. All randomly sampled files of inmates who had arrived after the implementation of the new risk screening procedures and who were due for review demonstrated that 30-day reviews were conducted timely.

A formal interview with an individual responsible for PREA risk screenings confirms that reviews of the required risk screenings are completed within 15 to 30 days of the initial screening process for all new receptions under the revised agency policy.

Based upon the formal interview with a staff person responsible for conducting risk screening, and a review of risk screening samples observed by this Auditor and Auditor Jacobson during the audit tour, it was confirmed that the intake risk screening review is completed within 30 days of arrival at the facility. All randomly sampled files of inmates who had arrived after the implementation of the new risk screening procedures and who were due for review demonstrated that 30-day reviews were conducted timely. This Auditor determines that the ECF demonstrates compliance with provision (f) of the standard.

PD 03.03.140, the PREA Manual and the PREA Risk Assessment Manual specify that screenings shall be conducted when warranted due to the factors enumerated by the standard. During a formal interview with a staff person responsible for conducting risk screening, it was stated that an inmate's risk level is reassessed for reasons including referral, request, incident of sexual abuse, or receipt of additional information affecting an inmate's risk of sexual victimization or abusiveness. Additionally, this Auditor observed documentation in the PREA risk screening tracker Excel spreadsheet that indicated inmates being reassessed due to inter-facility transfers between custody security levels, and returns from authorized temporary absences such as court, to demonstrate compliance with provision (g) of the standard.

The PREA Manual, which was reviewed by this Auditor, specifically states "Prisoners may not be disciplined for refusing to answer or not disclosing complete information in response to questions relating to mental, physical, or developmental disabilities, whether they are, or are perceived to be, gay, lesbian, bisexual, transgender, intersex, or gender nonconforming, previous victimization, or their own perception of vulnerability." This Auditor confirmed through an interview with a staff person responsible for conducting screenings that the screening is voluntary and that there are no disciplinary consequences for failing to participate, consistent with provision (h) of the standard.

The PREA Manual, which was reviewed by this Auditor, confirms that information obtained during the risk screening process shall be treated as confidential information and only shared with designated staff in accordance with Department policy. PREA risk screening information shall not be shared with inmates. During the audit tour, this Auditor was confronted by multiple inmates who had questions regarding their assessment scores. These inmates all articulated what each of their risk designation was, produced by the PREA risk screening tool, and each indicated that the information was shared with them by their Prison Counselor. There was no indication that the counselors shared the risk screening tool or weighted scores in their entirety, nor that the counselors shared any individual inmate's risk designation with other inmates. However, there is concern that openly discussing specific risk designations with the inmate population has created a scenario where inmates readily know each other's designation, and may create a scenario for predatory aggressors to prey on potential victims. The facility PREA Coordinator promptly responded to this observation by providing a memorandum to all staff at the ECF, which reiterated a reminder that all PREA information related to screening and placement is confidential. PREA scores are for department facility use in order to make decisions on placement of inmates for their safety. This information is not to be shared with the inmate. Through an interview with a staff person responsible for conducting screenings, interview with the PREA Coordinator, and through an interview between Auditor Franks and the PREA Manager, it is determined that only those staff with a role in the risk screening process within the facility have access to the electronic screening system. This Auditor observed that access to this system is governed by the individual user's log-on information to demonstrate compliance with provision (i) of the standard.

Standard §115.42: Use of screening information

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

§115.42 (a)

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

§115.42 (b)

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

§115.42 (c)

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

§115.42 (d)

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

§115.42 (e)

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

§115.42 (f)

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

§115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? Yes No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? Yes No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

This Auditor reviewed the PREA Manual, PD 05.01.140 and OP ECF 03.03.140 and found that the agency policies are compliant and mirror the language set forth in provision (a) of the standard. The agency uses a computerized assessment process to arrive at an inmate classification for risk. The results generated from the assessment preclude housing potential victims with potential abusers within the computerized bed assignment program. The facility provided a copy of their count sheets that identifies housing assignments along with assessed risk, which this Auditor believed was a great tool to demonstrate use of the screening information for housing decisions. The agency also issued an agency-wide memorandum to prohibit the pairing of identified Aggressors and Potential Aggressors with Victims or Potential Victims in isolated work assignments or those work areas with any blind spots that could enable sexual abuse. Recent agency wide revisions to PD 03.03.140 and the PREA Manual now ensure that a 72-hour intake screening process for all incoming inmates is in place and negates the opportunity for key aspects of vulnerability to go undetected consistent with the intent of provision (a). The demonstrated practice of the facility conducting these intake assessments provides evidence that key aspects of vulnerability or predatory behavior are considered for each inmate.

The PREA Coordinator at the facility stated that the risk screening tool is used to identify factors required by the standards to prevent housing high-risk abusers with high-risk victims and concurrent placement of these inmates in vulnerable work assignments. This Auditor is satisfied with the high level of supervision and camera coverage in the programming, education, food service and most work site buildings to ensure that any risk identified by the screening tool is outweighed by the intensive staff to inmate ratio, direct observation and monitoring technology.

PD 05.01.140, OP ECF 05.01.140, OP ECF 05.01.100B, OP ECF 05.01.103 *SECURITY CLASSIFICATION* and the PREA Manual, which were reviewed by this Auditor, establish agency policy regarding individualized safety determinations. Policy and a formal interview with a transgender inmate demonstrates that the facility makes individualized determinations to ensure the safety of each inmate, consistent with provision (b) of the standard. In addition to the risk screening process and its use to determine proper housing assignments, there is a degree of flexibility to make individual accommodations. During the audit tour, housing unit staff stated that they have the ability to move those individuals they perceive to be vulnerable or aggressive within the housing units to areas where they are within close proximity of the officer's station for an additional level of monitoring. Through informal interviews during the audit tour, staff charged with risk screening and making housing decisions were well aware of the proper use of screening information for bed assignments. Moreover, the facility and the agency have a practice in place to review those individuals whose risk screening scores are not consistent with staff observations. The facility reviews an individual's existing risk screening transferring into the ECF for possible placement prior to the formal PREA risk screening to ensure that newly received inmates are appropriately managed. The facility demonstrates that it meets the requirements of provision (b) within its practices.

The PREA Manual and PD 04.06.184 *GENDER DYSPHORIA*, were reviewed by this Auditor. Both contained language and provisions to satisfy the standard requirements that the agency make case by case determinations for transgender and intersex housing and programming assignments consistent with

provision (c). The facility provided samples of the facility's health care services review of a transgender inmate's placement on form CHJ-339 (Prisoner Health Record). This Auditor notes this review appears to be from a medical/mental health perspective and considers the inmate's health and safety. The PREA Coordinator at the facility states that transgender inmates are reviewed twice per year. Through a formal interview with a transgender inmate this Auditor was informed that ongoing assessment of her individualized needs takes place consistent with provision (c).

PD 04.06.184 and the PREA Manual were reviewed by this Auditor. Policy indicates that placement and programming assignments for transgender, intersex and Gender Dysphoric inmates will be reassessed twice yearly by facility medical or mental health staff; the facility's sample documentation included one (1) example where an individual was reviewed and provided with updated Gender Dysphoric management plan that altered from single-cell housing status to housing with another inmate diagnosed with gender dysphoria.

This Auditor is satisfied, through a formal interview with the transgender woman that regular contact is maintained with her and there is ongoing assessment of her individualized needs consistent with provision (d).

The PREA Manual, PD 04.06.184 and OP ECF 05.01.184 were reviewed by this Auditor. These policies provide for a transgender or intersex inmate's own views to be considered in the placement process. The policies indicate that these decisions are made by the Gender Dysphoria Collaborative Review Committee, chaired by the agency's chief medical and psychiatric directors. The transgender inmate that was interviewed reported their views regarding their safety were considered. An informal interview with the facility PREA Coordinator reveals that any necessary accommodations are approved by medical and mental health providers, then communicated back to the Residential Unit Manager (RUM).

Based upon the formal interview with the transgender inmate, the facility PREA Coordinator and policy, it appears that the transgender inmate's views were considered when making determinations for housing and other programming determinations consistent with provision (e) of the standard.

PD 04.06.184 and the PREA Manual, reviewed by this Auditor, specify that transgender inmates are given the opportunity to shower separately. A review of documentation that the facility provided confirms that the facility permits transgender inmates to shower separately if determined necessary. Specifically, the Health Care Services medical visit notes indicating that the inmate is provided "special provisions" for showering in "relative privacy". It should also be noted that all of the showers throughout the ECF are single-stall with a "PREA curtain" that supports a reasonableness of privacy. In the sampled documentation, there was also notation that an individual was single-celled (or celled alone) for additional privacy. This documentation was on the MDOC form CHJ-339 Individual Management Plan for GENDER DYSPHORIA. During the audit tour, informal interviews with staff at the facility indicate that transgender inmates can shower during count time when all other inmates are locked in their cells to demonstrate compliance with provision (f).

PD 05.01.140 and the PREA Manual, reviewed by this Auditor, address provision (g) of the standard; however, the PREA Manual provides a unique exception to place inmates in a dedicated unit when it is in the interest of the safety and security of the inmate. This provision of the policy is open for interpretation and is contrary to the PREA Resource Center FAQ's in that the reader is led to believe that the facility has the sole right, without taking the inmate's own views with respect to safety, to determine placement. A previous interview between PA DOC consortium DOJ-certified PREA Auditor Radziewicz and the agency's PREA Manager clarified this point to indicate that the agency considers some of its facilities with open bay style housing to be an unsafe environment for individuals who identify as transgender or

intersex; thus, placing them in facilities with a high level of security and medical care to meet their transitional needs.

The PREA Manager stated in a previous interview with Auditor Radziewicz that the agency does not have dedicated facilities or housing units that are specific to LGBT populations. There are facilities within the agency that are not conducive to the safety and privacy needs of transgender and intersex inmates, such as those with open bay or dormitory housing, that the agency attempts to avoid placing such inmates within to ensure safety and privacy. An interview with the PREA Coordinator at the ECF confirmed the facility takes no steps to house LGBT inmates in dedicated units or facilities. An interview with a transgender inmate revealed that she has not been placed in a dedicated unit by the agency during her incarceration.

The facility and the agency practice demonstrate compliance with provision (g) of the standard allowing this Auditor to make the determination that the ECF is in compliance with this provision of the standard.

Standard §115.43: Protective Custody

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

§115.43 (a)

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

§115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? Yes No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited? Yes No

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

§115.43 (c)

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

§115.43 (d)

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

§115.43 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency PREA Manual, PD 04.05.120 and OP ECF 04.05.120 were reviewed by this Auditor in determining compliance with provision (a) of the standard. The PREA Manual contains language that mirrors provision (a) of the standard. This Auditor observed on-site and through documentation that the facility has a robust computerized assessment and bed management system in place to ensure that inmates at high risk of victimization are not housed with inmates at high risk of predatory behavior. As evidenced during the tour and through informal interviews with inmates, the facility takes adequate measures to ensure individualized safety needs are considered.

Through pre-audit materials, the facility reports that there were no instances of inmates being placed into involuntary segregation for risk of victimization. The Warden stated in an interview that segregation is not used to protect inmates at high risk of sexual victimization unless it is the only means of keeping an individual safe. In those circumstances, such placement is limited to a very short period (less than 24 hours), before the inmate can be reviewed by the security housing committee for appropriate housing within the facility or transferred to another location that can afford safety. This Auditor is satisfied that the facility refrains from placing inmates at high risk of victimization in segregated housing consistent with provision (a) of the standard.

PD 04.05.120, OP ECF 04.05.120 and the PREA Manual, which were reviewed by this Auditor, specify that inmates shall maintain access to recreation, educational programming, and religious programming to the extent they are administratively feasible and can be safely afforded. In the event such things are restricted, the facility is required to document the nature of the restrictions according to standard language. Reportedly, the facility has not placed any victims into involuntary segregation. The ECF indicated on that PAQ that no inmate victims were held in involuntary segregation during the 12 months preceding the audit.

During a tour of the segregated unit, it was clear to this Auditor that once an inmate is placed into segregation that opportunities are limited regardless of the reason for placement into segregation. The facility reports that no inmates have been placed into involuntary segregation for protection from victimization or following a report of sexual abuse. Absent evidence of non-compliance specific to inmates segregated due to high risk of victimization, the facility will be considered compliant with provision (b) of standard.

The facility reports, through interviews with the Warden and PREA Coordinator, and documentation in the PAQ that no inmates have been placed into involuntary segregation due to risk of victimization. In an interview with the Warden, he stated that the facility has a number of options to consider prior to the use of involuntary segregation. The Warden stated that involuntary segregation would be an option of last resort; however, if an inmate were placed into involuntary segregation due to risk of victimization, the inmate would be moved the very next day (less than 24 hours) and get them out to another area or facility.

Absent evidence of non-compliance specific to inmates involuntarily segregated due to high risk of victimization, the facility will be considered compliant with provision (c) of the standard.

The facility reports through the PAQ and interviews with the Warden and PREA Coordinator that no inmates have been placed into involuntary segregation during the 12 months preceding the audit due to risk of victimization. Absent evidence of non-compliance specific to inmates involuntarily segregated due to high risk of victimization, the facility will be considered compliant with provision (d) of the standard.

The pre-audit materials reviewed by this Auditor indicate that no inmates were housed in involuntary segregation during the past 12 months, which negates the need to conduct a 30-day review for the continuance of segregation in demonstration of compliance with provision (e) of the standard.

REPORTING

Standard §115.51: Inmate reporting

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

§115.51 (a)

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

§115.51 (b)

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

§115.51 (c)

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

§115.51 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PD 03.03.140, the PREA Manual, Prisoner Guidebook, Sexual Abuse Poster (advertising the sexual abuse hotline) and the PREA brochure were reviewed by this Auditor in determining compliance with provision (a). All provide information to advise inmates of reporting options. The agency permits PREA allegations to be reported verbally to staff, reported via message to the PREA hotline, in writing via grievance, in writing to the Correctional Legislative Ombudsman, in writing via the kite system and directly to the Michigan State Police.

The facility provided multiple examples of investigation referrals post-audit, to include referrals from request slips, allegations reported by medical staff members and housing unit staff, grievance referrals, and verbally reported incidents. Following the on-site portion of the audit, investigations were reviewed with multiple methods of reporting evident in the predication of these investigations. During formal and informal interviews during the audit tour, staff were able to identify the hotline, the kite (inmate request) and grievance systems and third party reporting mechanisms if an inmate were unwilling to report such allegations directly to staff at the facility. All random inmates were well aware of their abilities to report within the facility. The majority of the inmates interviewed identified a primary method of reporting would be to a staff member at the facility, indicating a reporting culture has been established at the facility. Inmates were able to identify the hotline, the grievance system, as well as the ability for third parties to make a report on their behalf.

During the tour, adequate reporting hotline posters were prominently displayed throughout the facility. During audit tour informal interviews, staff were aware of their obligations to accept reports from inmates and most inmates who were informally interviewed stated they were comfortable making a report to a staff member. Staff and inmates were aware of the ability to make written reports through the various available means and were aware of the hotline. This Auditor reviewed facility investigations randomly selected for post-audit review, and noticed that multiple forms of inmate reporting were evident demonstrating compliance with provision (a) of the standard.

PD 03.03.140, the PREA manual and the Prisoner Guidebook, which were reviewed by this Auditor, confirm that reports of sexual abuse and harassment may be reported outside the agency to the Legislative Corrections Ombudsman. Such reports can be made anonymously. The Memorandum of Understanding (MOU) between the two agencies specifies that reports must be forwarded immediately.

Neither the facility nor the agency hold individuals for civil immigration purposes to require information with this section of provision (b) of the standard.

Randomly sampled inmates demonstrated difficulty identifying the Legislative Ombudsman as a reporting mechanism. None of the randomly interviewed inmates were affirmatively able to identify this option without prompting when asked; however, it is noted within the Prisoner Guidebook that this resource is available. Inmates were also aware of a phone number to make reports outside the facility. Inmates were aware of their ability to make anonymous reports. During the tour, inmates who were informally interviewed were well aware of the reporting hotline and their ability to make anonymous written reports. Again, the Legislative Ombudsman was not regularly identified during formal and informal inmate interviews; however, it is published within the Prisoner Guidebook to sufficiently demonstrate compliance with provision (b) of the standard.

PD 03.03.140 and the PREA Manual, which were reviewed by this Auditor, require staff to accept verbal, written, anonymous and third-party reports. Any verbal reports are required to be forwarded to a supervisor and documented as soon as possible. This Auditor reviewed facility investigations post-audit that demonstrated the facility accepts reports that were made verbally, in writing (via grievance or other note) and from third parties. Through informal interviews during the audit tour, this Auditor determined that both staff and inmates were well aware of the need for staff to accept and immediately act upon verbal, written, anonymous and third-party reports consistent with provision (c) of the standard.

During formal interviews with randomly selected staff, all staff interviewed were well aware of their obligation to accept all forms of reports required by the standards and immediately document verbal reports. Inmates that were randomly interviewed were aware of their ability to make reports to staff and most were confident that action would be taken on said reports. Randomly interviewed inmates were also aware of the ability of family members or other third parties to make reports on their behalf consistent with provision (c) of the standard.

PD 03.03.140, the PREA Manual and Module 2 of the PREA training educates staff on their reporting options. These materials were reviewed by this Auditor. Staff may make a private report to a supervisor, via the hotline and via the agency's website reporting form. The agency provides multiple methods for staff to make private reports of sexual abuse and sexual harassment of inmates. While policy and training materials provide multiple options for private reports, most staff reported during formal and informal interviews that they were comfortable making reports directly through the chain of command, to the facility Assistant PREA Coordinator or the facility PREA Coordinator.

During a review of facility investigations, this Auditor noted ample documentation to confirm that staff did act upon reports received from inmates and reported PREA allegations through the facility's chain of command. Random interviews of staff confirmed they were aware of private means to report and identified the hotline, direct reports to the Assistant PREA Coordinator, PREA Coordinator, or administrative staff at the facility as their methods to privately report sexual abuse and sexual harassment of inmates consistent with provision (d) of the standard.

Standard §115.52: Exhaustion of administrative remedies

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

§115.52 (a)

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

§115.52 (b)

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

§115.52 (c)

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

§115.52 (d)

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

§115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies

relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)

Yes No NA

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

§115.52 (f)

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

§115.52 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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The agency utilizes administrative procedures to address sexual abuse and is not exempt as specified in provision (a) of the standard.

PD 03.03.140, the PREA Manual and the ECF Prisoner Guidebook, which were reviewed by this Auditor in determining compliance with provision (b), allow for an inmate's grievance to be submitted at any time to the facility staff identified by the Warden. Inmates are not required to informally resolve the alleged incident prior to filing a PREA grievance. The PREA grievance will address the elements of the grievance dealing with sexual abuse; however, will require the inmate to resubmit non-PREA related items in accordance with PD 03.02.130 Prisoner/Parolee Grievances.

PD 03.03.140, the PREA Manual and the ECF Prisoner Guidebook, which were reviewed by this Auditor in determining compliance with provision (c), allow for an inmate's grievance to be submitted at any time to the facility staff identified by the Warden. PD 03.03.140 specifies that the grievances will not be referred to the staff member subject to the complaint within. Grievances may also be submitted in locked boxes throughout the facility. During the course of the post-audit review of investigations, this Auditor observed that many were initiated by inmate grievance forms.

PD 03.03.140, OP ECF 03.03.140 and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (d), state the facility shall ensure a written response is provided to the inmate within 60 calendar days of receipt of the Step I PREA grievance unless an extension has been approved by the Internal Affairs Division in order to conduct an appropriate investigation. An extension of up to 70 calendar days may be approved by Internal Affairs if 60 calendar days is insufficient to make an appropriate decision. The inmate shall be informed in writing of any extension and provided a date by which a decision will be made. The inmate may submit an appeal after receiving the Step I response, or if a response was not received by the date the response was due, including any extension. A final agency determination on the merits of a PREA grievance shall be provided by the PREA Manager within 90 calendar days from the original filing of the Step I grievance. Computation of the 90 days does not include the time consumed for the inmate to file an administrative appeal.

Sample documentation contained in the random investigation files that this Auditor requested post-audit validate the receipt of and required responses to routine grievances containing PREA related allegations.

A review of PD 03.03.140, the PREA Manual and facility investigations demonstrates that facility practice is in compliance with provision (d) of the standard, absent any evidence that the facility has not complied with the emergency PREA grievance provisions.

PD 03.03.140 and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (e) of the standard, permit that third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, may file a PREA grievance on behalf of an inmate. A third party may also assist an inmate in filing the inmate's PREA grievance in accordance with policy. If a third party files a PREA grievance on behalf of an inmate, the inmate must sign the PREA grievance in the area provided indicating the inmate authorizes the grievance to be filed on his/her behalf for the grievance to be processed. If the inmate refuses to sign, the PREA grievance shall be immediately dismissed. All Department responses to a PREA grievance filed by a third party will be provided only to the inmate on whose behalf the grievance was filed. PREA grievance form CAJ-1038A has a section to identify if the grievance is submitted via third party and if the victim consents to the filing of the grievance on their behalf. If consent is not given, the grievance is denied and documented. A sample of a PREA grievance was provided in the post-audit investigation file documentation, which this Auditor reviewed. Through review of PD 03.03.140 and the PREA Manual, this Auditor is satisfied that the agency and facility have adequate procedures in place to ensure compliance with provision (e) of the standard.

PD 03.04.140 and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (f), establish procedure for the processing of any emergency grievance in accordance with the standards requirements. PD 03.04.140 and the PREA Manual state an inmate may file an emergency PREA grievance if she or he believes that they are subject to substantial risk of imminent sexual abuse. The Prison Rape Elimination Act (PREA) Prisoner Grievance Form (STEP I) (CAJ-1038A) must clearly indicate that the grievance is an emergency PREA grievance and the nature of the risk. Upon receipt of an emergency PREA grievance, the receiving staff member shall immediately forward the emergency PREA grievance, or any portion of the emergency PREA grievance that alleges the substantial risk of imminent sexual abuse, to the Warden. The Warden shall take immediate action to remove the inmate from any identified real or potential harm and ensure an initial response is provided to the inmate within 48 hours. A final agency decision from the PREA Manager regarding whether the inmate is in substantial risk of imminent sexual abuse shall be provided to the inmate within five calendar days. The initial response and final agency decision shall document the agency's determination of whether the inmate was in substantial risk of imminent sexual abuse and the action taken in response to the emergency PREA grievance.

The facility did not provide sample documentation to confirm the receipt of an emergency PREA grievance, with notice of investigation on the same date a grievance was received, prior to October 2018 due to challenges related to a change in the facility's tracking of these grievances. The ECF was able to confirm that no emergency PREA grievances were received during the eight (8) months between October 2018 and the date of this audit. Sample documentation contained in the random investigation files that this Auditor requested post-audit validate the required responses to routine grievances containing PREA related allegations. This Auditor found no evidence of the facility's failure to promptly respond to PREA grievances.

PD 03.04.140 and the PREA Manual establish procedure for the processing of any emergency grievance in accordance with the requirements of provision (f) of the standard and facility documentation absent evidence of the facility's failure to respond satisfy this Auditor's determination of compliance.

PD 03.04.140 the PREA Manual and the Prisoner Guidebook, which were reviewed by this Auditor in determining compliance with provision (g), direct that staff shall not retaliate against an inmate for using

the PREA grievance process to report sexual abuse in good faith; and that if an inmate intentionally files a PREA grievance, which is investigated and determined to be unfounded and, if proven true, may have caused an employee or an inmate to be disciplined or an employee to receive corrective action, the inmate may be issued a misconduct report if approved by the Warden. The review of policy demonstrates the facility's ability to discipline inmates in accordance with the requirements of provision (g) of the standard to satisfy this Auditor's determination of compliance.

Standard §115.53: Inmate access to outside confidential support services

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

§115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? Yes No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? Yes No
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? Yes No

§115.53 (b)

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

§115.53 (c)

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

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

Through an interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the PREA Manager, and an interview with the facility PREA Coordinator, it was determined by this Auditor that the agency and facility work collaboratively to establish relationships with outside support services. This Auditor notes during previous PREA audits of other MDOC facilities, reviewing documented attempts to reach an agreement with the Detroit Rescue Mission Ministries and the Michigan Coalition to End Domestic and Sexual Violence at the agency level. The ECF posts information accessible to the inmates for the Rape, Abuse & Incest National Network (RAINN) to provide telephone sexual abuse counseling/advocacy services. This Auditor participated in a pre-audit interview with Just Detention International (JDI) and confirmed that they would provide supplemental victim advocate services to inmates of the ECF in the form of referral to survivor outreach services and provide limited immediate emotional support services. Information for inmates to contact JDI was readily available on the inmate housing units. As confirmation of the inmates' knowledge of this resource and effectiveness as an advocacy service, this Auditor noted receiving a correspondence pre-audit from an inmate of the ECF through JDI.

While no agreement is in place with a local rape crisis center, the facility and the agency maintain a copy of the "An End to Silence" handbook published by the PREA Resource Center, and utilizes telephone sexual abuse counseling/advocacy services through RAINN. The MDOC has established a Memorandum of Understanding with JDI to institute a statewide crisis sexual abuse support line for survivors of sexual abuse and sexual harassment housed within the MDOC. JDI shall engage the Michigan Coalition to End Domestic and Sexual Violence and local rape crisis centers, with the goal of building the capacity of Michigan service providers and ensuring that referrals are made to MDOC inmates are as effective as possible. Three (3) copies of An End to Silence are maintained in the facility library and are accessible to inmates. Neither the agency nor the facility house civil immigration detainees; therefore, resources under this element of provision (a) are not applicable. Inmates are aware of monitoring procedures when contacting any agency listed within the An End to Silence publication, RAINN, or JDI.

Randomly sampled inmates struggled to affirmatively identify the An End to Silence resource guide within the facility library or affirm knowledge of RAINN and where to locate the telephone number. However, this Auditor observed that the facility advertises the availability of these resource on inmate bulletin boards within the housing units, ensuring that the inmate population is meaningfully informed of the availability of these resources. In fact, during the audit tour this Auditor observed that one (1) of the three (3) copies of An End to Silence was signed-out to an inmate in segregated housing. The facility is determined compliant with the language within provision (a) of the standard by substantial efforts to provide services through JDI, RAINN, and the An End to Silence resource guide in the absence of a formal agreement with adequate advocacy services.

Through PD 05.03.118 *PRISONER MAIL*, PD 05.03.130 *PRISONER TELEPHONE USE*, the PREA Manual and the Prisoner Guidebook, which were reviewed by this Auditor in determining compliance with

provision (b) of the standard, inmates are adequately made aware of how communications are monitored and which lines of communication are unmonitored for confidentiality purposes. Signs posted on the inmate housing units for JDI included statements that the calls may be anonymous and are unmonitored.

Documented attempts to reach an agreement with the Detroit Rescue Mission Ministries and the Michigan Coalition to End Domestic and Sexual Violence at the agency level were reviewed by this Auditor during prior PREA audits of MDOC facilities. This Auditor was provided a Memorandum of Understanding between the MDOC and JDI to institute a statewide crisis sexual abuse support line for survivors of sexual abuse and sexual harassment housed within the MDOC. Additionally, the agency also utilizes the Rape, Abuse & Incest National Network (RAINN) to provide telephone sexual abuse counseling/advocacy services. The facility has not been able to provide proof that it secured an agreement with adequate victim advocacy services from an outside community service provider; however, has documented substantial attempts to do so. The facility also provides access to "An End to Silence" for state organizational contact information within the facility library.

The facility PREA Coordinator confirms in an interview that efforts have been made to secure rape crisis services and that qualified facility staff members have been identified and trained to provide advocacy services during forensic exams and investigatory interviews in the absence of an outside community service provider.

Standard §115.54: Third-party reporting

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

§115.54 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Through a review of PD 03.03.140, the Ombudsman MOU, the Sexual Abuse reporting poster, the online reporting form and multiple investigatory examples that were predicated upon a 3rd party report; this Auditor is satisfied that the agency and the facility permit third party reports of sexual abuse and sexual harassment via all methods that are accessible to an inmate directly reporting sexual abuse and sexual harassment, with the additional option of utilizing the agency's website to make a report. Third parties may use the internal kite system, call the reporting hotline, contact the Legislative Ombudsman, access the agency's on-line reporting form, contact facility staff directly and file PREA grievances. Based on a review of the aforementioned, compliance with provision (a) of the standard was determined.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard §115.61: Staff and agency reporting duties

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

§115.61 (a)

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

§115.61 (b)

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

§115.61 (c)

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

§115.61 (d)

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

§115.61 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PD 03.03.140, the PREA Manual and work rules published within the Employee Handbook, which were reviewed by this Auditor, confirm that staff are required to report all elements denoted within provision (a) of the standard. OP ECF 03.03.140 dictates that staff at the ECF are responsible for making reports to their immediate supervisor and documenting their actions as soon as possible. This Auditor reviewed a post-audit random sampling of investigation files that validated staff took reports of sexual abuse from inmates used to initiate investigations. Formal and informal interviews during the audit tour indicate that staff are aware of their need to take immediate action with any reports of sexual abuse, sexual harassment or retaliation that comes to their attention, complaint with provision (a) of the standard.

PD 03.03.140, OP ECF 03.03.140 and the PREA Manual, which were reviewed by this Auditor, contain distinct prohibitions against sharing any information received from a sexual abuse report, consistent with provision (b) of the standard. The only acceptable disclosures are relative to investigative, treatment, security and management decisions. Agency policy and random interviews with selected staff confirm that individuals within the facility are aware of their obligations to protect the confidentiality of the information they obtained from a report of sexual abuse to demonstrate compliance with provision (b) of the standard.

PD 03.03.140, OP ECF 03.03.140 and the PREA Manual, which were reviewed by this Auditor, clearly require medical and mental health care staff to report any knowledge of sexual abuse within an institutional setting. Clinicians are required to disclose their duties to report. Through formal and informal interviews with medical and mental health care staff, both classes of staff affirmed their obligation to

disclose their limits of confidentiality before each encounter and both articulated their obligations to convey any reports of facility based sexual abuse to the PREA Coordinator at the facility consistent with provision (c) of standard to demonstrate compliance.

PD 03.03.140, OP ECF 03.03.140 and the PREA Manual, which were reviewed by this Auditor, require the facility staff to report any allegation involving a victim under the age of 18 to the agency PREA Manager for forwarding to the proper state authorities under mandatory reporting laws. The facility does not house inmates under the age of 18 and has not had to make such reports during the audit period identified by provision (d) of the standard.

The Warden stated in an interview that juvenile inmates are not housed at this facility and there has been no experience reporting such an allegation. The agency PREA Manager confirms in an interview with PA DOC consortium DOJ-certified PREA Auditor Franks that mandatory reports are forwarded to his attention and he is responsible for making the report to the mandated agency.

Through agency policy and an interview between Auditor Franks and the PREA Manager, the agency has sufficiently demonstrated that it has procedures in place for making necessary mandatory reports in compliance with provision (d) of the standard. Such reports have not come from the ECF; however, the agency has experience forwarding such reports to applicable state agencies.

PD 03.03.140 and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (e), direct that all reports of sexual abuse and sexual harassment are brought to the attention of the appropriate supervisory staff and subsequently referred for investigation. A post-audit review of sample investigations randomly selected by this Auditor confirms that this practice is carried out by the ECF. Investigative file reviews provided adequate examples of written, verbal, staff report, grievance and 3rd party allegations that were immediately forwarded to the attention of investigatory staff. An interview with the Warden confirms that investigations are conducted for all reports of sexual abuse and sexual harassment, regardless of how they were reported. Based on the foregoing, this Auditor determined compliance with provision (e).

Standard §115.62: Agency protection duties

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

§115.62 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PD 05.01.140 and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (a), state whenever an inmate is subject to imminent risk of sexual abuse or is the alleged victim of sexual abuse, the facility shall take immediate action to protect the inmate by preventing contact between the alleged abuser and alleged victim. Action to protect the inmate may include, but is not limited to, changes in housing units and/or assignments, transfers, and stop orders.

The agency head's designee confirms in an interview with PA DOC consortium DOJ-certified PREA Auditor Franks that action is taken immediately by the facility to protect inmates. The facility head is required to review the actions within 48 hours to ensure appropriate measures have been taken to protect potential victims. An interview with the Warden confirms that the facility takes immediate action on a case-by-case basis to determine what measures are required to ensure the safety of each inmate.

The ECF indicated on that PAQ that no inmate victims were held in involuntary segregation following an allegation of sexual abuse during the 12 months preceding the audit. Moreover, alleged abusers are placed into administrative custody to ensure victims' safety, demonstrating that the facility does take immediate action to protect inmates from substantial risk of sexual abuse. This Auditor determines compliance with provision (a) of the standard based on the facility's immediate action in response to perceived threats of sexual abuse.

Standard §115.63: Reporting to other confinement facilities

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

§115.63 (a)

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

§115.63 (b)

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

§115.63 (c)

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

§115.63 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PD 03.03.140 and the PREA Manual, which were reviewed by this Auditor, establish procedures for notifying other facilities of allegations of sexual abuse that did not occur in the receiving institution. The updated 03.03.140 corrected a previous policy deficit and now specifies that allegations must be forwarded by the facility head to facilities outside of the Department. Post-audit sample documentation of random investigation files selected by this Auditor confirmed that notifications were made and investigation promptly initiated (AIPAS #27188), supporting adherence to the agency policy and compliance with provision (a) of the standard.

PD 03.03.140 and the PREA Manual, which were reviewed by this Auditor, establish procedures for notifying other facilities of allegations of sexual abuse that did not occur in the receiving institution within 72 hours. The random sample investigation files reviewed post-audit by this Auditor were sufficient to determine compliance with provision (b) of the standard.

The PREA Manual and PD 03.03.140, which were reviewed by this Auditor, require that such notifications are made within 72 hours. Following post-audit review of the random sample investigation files this Auditor observed allegations forwarded via email to demonstrate compliance with provision (c) of the standard.

PD 03.03.140 and the PREA Manual, which were reviewed in determining compliance with provision (d) of the standard, establish procedures for ensuring that any allegations received from other confinement facilities are investigated. The facility receiving the allegation must ensure the allegation was not previously investigated. If the allegation was not investigated, the facility shall conduct an investigation of the allegations. Both the agency head's designee and the Warden both confirm that allegations received from other confinement facilities are properly investigated. Post-audit sample documentation of investigation files randomly selected by this Auditor confirmed that notifications were made from facility head to facility head and promptly forwarded to the appropriate investigative office to be investigated in accordance with the PREA standards and agency policy.

Through an interview between the agency head's designee and PA DOC consortium DOJ-certified PREA Auditor Franks, interviews with the Warden and the facility PREA Coordinator, and review of sample documentation, this Auditor is satisfied that sufficient procedures are in place to address allegations consistent with provision (d) of the standard should they be reported.

Standard §115.64: Staff first responder duties

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

§115.64 (a)

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

§115.64 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The PREA Manual, which was reviewed by this Auditor, requires the first responding security staff member to take the four actions specified by provision (a) of the standard to ensure the safety of the victim and preservation of any forensic evidence should the allegation have taken place within a period of time for the collection of such evidence from the victim and the abuser.

During a review of a facility investigation, AIPAS #23580, the alleged sexual abuse involved anal penetration and occurred within 24-hours prior to the report. The facility took immediate action to separate the alleged victim and the alleged abuser. The alleged abuser was placed in administrative segregation pending outcome of the investigation. Simultaneously, the cell that the alleged incident occurred in was quarantined as a crime scene. The ECF promptly reviewed the alleged victim in medical and transported him for a forensic examination at the Munson Healthcare Manistee Hospital. MSP was notified for initiation of a criminal investigation including appropriate interviews and evidence collection.

An interview with a first responder indicated that as soon as the allegation was known, immediate action was taken to separate the alleged victim and abuser, and information was immediately relayed to seal off the scene where the alleged abuse occurred until MSP cleared the area from evidence collection. The alleged victim was requested not to take any actions that could destroy physical evidence.

Based on a formal interview with a first responder, a review of policies and informal interviews with staff during the audit tour, this Auditor was satisfied that the ECF staff are well aware of their first responder obligations under provision (a) of the standard and has executed these obligations when necessary. It should also be noted that the MDOC has developed a pocket-sized quick reference guide that staff can use in the event of receiving an allegation, to ensure that proper protocols for first responder responsibilities are followed.

The PREA Manual, which was reviewed by this Auditor, requires that a non-custody first responder staff immediately notify a supervisor in their chain of command for a referral to the facility Inspector. Non-custody staff are directed to request that the alleged victim not take any actions that could destroy physical evidence. There were no non-security first responders during the audit period. During the audit tour, staff were informally interviewed and demonstrated that they were well aware of their responsibilities to request that the alleged victim not take any actions that could destroy physical evidence to demonstrate compliance with provision (b) of the standard.

Standard §115.65: Coordinated response

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

§115.65 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The facility has developed its own operating procedures for PD 03.03.140. The document titled OP ECF 03.03.140 and the PREA Manual, which were reviewed by this Auditor, describe the procedures employed by the facility when responding to allegations of sexual abuse among supervisory, investigative staff and facility leadership. The interview with the Warden outlined the facility's preparation to employ first responder procedures involving key facility staff in coordinated manner to find compliance with provision (a) of the standard.

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

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

§115.66 (a)

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

§115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The MDOC's PREA Manual's language, which was reviewed by this Auditor, mirrors the language of provision (a) of the standard. A review of the seven collective bargaining agreements entered into on behalf of the agency since the effective date of the PREA standards, includes agreements with the Michigan State Employee's Association (MSEA), American Federation of State, County, Municipal Employees (AFSCME), Michigan Corrections Organization (MCO), Service Employee's International Union (SEIU)-Scientific and Engineering bargaining unit, Service Employee's International Union (SEIU)-Technical bargaining unit, Service Employee's International Union (SEIU)-Human Services Support Bargaining Unit and United Auto Workers (UAW)-Administrative Support Unit and Human Services Unit. This Auditor was satisfied that all agreements preserve the ability of the employer to remove alleged staff abusers from contact with inmates, consistent with provision (a) of the standard. Specifically, when warranted, the employer may take actions that include suspension of an employee during the course of an investigation. This suspension may continue until the time where disciplinary actions are determined.

An interview between the agency head's designee and PA DOC consortium DOJ-certified PREA Auditor Franks confirms that the agency maintains the right to assign staff, even in the case of such employee winning a bid position. There are no terms within the bargaining contracts that prevent the employer from removing staff for cause during an investigation to demonstrate compliance with provision (a) of the standard.

This Auditor is not required to audit provision (b) of the standard.

Standard §115.67: Agency protection against retaliation

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

§115.67 (a)

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

- Has the agency designated which staff members or departments are charged with monitoring retaliation? Yes No

§115.67 (b)

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

§115.67 (c)

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

§115.67 (d)

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

§115.67 (e)

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

§115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PD 03.03.140 and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (a) of the standard, articulate that both staff and inmates who cooperate with sexual abuse and sexual harassment investigations shall be protected from retaliation from staff and inmates. The agency designates that supervisory staff, other than the direct supervisor, shall monitor for retaliatory performance reviews, reassignments and other retaliatory action not substantiated as legitimate discipline or performance matter for staff. Supervisory staff shall also monitor inmates for disciplinary sanctions, housing/program changes and also conduct periodic status checks for inmates who report or have reported alleged victimization. An interview between the agency head's designee and PA DOC consortium DOJ-certified PREA Auditor Franks confirmed that retaliation is not tolerated and there are procedures to ensure that both staff and inmates are monitored at each facility. At the ECF, the Resident Unit Manager (RUM), Assistant Residential Unit Supervisor (ARUS) and Prison Counselor (PC) positions are responsible for inmate retaliation monitoring. The Warden acknowledged in an interview with this Auditor that the Assistant Deputy Warden, facility PREA Coordinator or Assistant PREA Coordinator would typically monitor for retaliation against staff. During the course of the onsite audit, through interviews with the ECF management staff, this Auditor observed that management staff of the ECF could articulate how retaliation monitoring for staff and inmates would occur and who would be responsible for the monitoring. Reportedly, no staff at the ECF have requested retaliation monitoring. Interviews of the

random staff selection revealed that the majority of staff are aware that they may request retaliation monitoring; however, most indicated that they likely would not request this because reporting allegations of sexual abuse and sexual harassment is their job responsibility. These responses from the interviews with random staff emphasized the reporting culture that has been established at the ECF. Absent any staff retaliation monitoring examples, this Auditor relied upon the review of policy, established protocols, and staff interviews to determine compliance with provision (a) of the standard.

Through interviews between Auditor Franks and the agency head's designee and the PREA Manager, as well as Auditor Jacobson's interview with the facility PREA Coordinator and this Auditor's interview with the Warden of the facility, it was determined that both the agency and the facility employ multiple measures to ensure that inmates and staff who report sexual abuse and sexual harassment or cooperate with investigations into such actions are protected from retaliation consistent with provision (b) of the standard. This Auditor determines compliance with provision (b) of the standard based on the cited interviews, policy provisions to ensure multiple monitoring measures are employed and facility protection measures it demonstrated following allegations of sexual abuse and sexual harassment.

PD 03.03.140 and the PREA Manual, which was reviewed by this Auditor in determining compliance with provision (c), articulate that both staff and inmates who cooperate with sexual abuse and sexual harassment investigations shall be protected from retaliation from staff and inmates. The PREA Manual states that individuals who report sexual abuse are monitored for at least 90 days. The agency and the facility monitor for 90 days unless the allegation is unfounded, at which time, retaliation monitoring would cease. In the event retaliation is observed, policies ensure that it is remedied promptly and that monitoring can be extended beyond 90 calendar days if necessary. An interview with the Warden and staff charged with retaliation monitoring confirm that if retaliation is noticed, it is referred for investigation. During the course of the onsite audit, through interviews with the ECF management staff, this Auditor observed that management staff of the ECF could articulate how retaliation monitoring for staff and inmates would occur and who would be responsible for the monitoring. The aforementioned allows this Auditor to determine compliance with provision (c) of this standard.

The facility reported no instances of retaliation during the 12 months preceding this audit on the PAQ. Investigatory files were reviewed for documentation of retaliation monitoring. Through the review of the sexual abuse investigations, it was evident that the facility monitors those who have alleged sexual abuse in compliance with provision (c) of the standards.

The PREA Coordinator at the facility stated a RUM, ARUS, or PC is generally charged with inmate retaliation monitoring. He stated in an interview that retaliation monitoring takes place for 90 days and considers a wide array of factors, such as work assignment changes and discipline. Monitoring is conducted by a review of these activities and face-to-face meetings. Investigatory files were reviewed and it was discovered that facility practice includes face-to-face contacts with applicable parties during the monitoring period. The facility monitors each individual on a weekly basis for a total of thirteen weeks, consistent with provision (d) of the standard.

The PREA Manual, which was reviewed by this Auditor, specifies that if any other individual who cooperates with an investigation expresses a fear of retaliation, the Department shall take appropriate measures to protect that individual against retaliation, including 90 calendar day retaliation monitoring if deemed necessary. The agency head's designee in an interview with Auditor Franks, and the Warden in an interview with this Auditor, both confirm that allegations of retaliation are taken seriously and investigated when reported by anybody who cooperates with sexual abuse and sexual harassment allegations to determine compliance with provision (e) of the standard.

The PREA Manual, which was reviewed by this Auditor, specifies that retaliation monitoring ceases when an allegation is unfounded. A review of investigations confirmed that the facility has a routine practice of discontinuing the monitoring of individuals following unfounded findings. Actions taken by the facility are consistent with provision (f) of the standard.

Standard §115.68: Post-allegation protective custody

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

§115.68 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

This Auditor reviewed the PREA Manual in determining compliance with this standard. The PREA Manual contains language consistent with conditions enumerated under standard §115.43. The facility reports, through interviews with the Warden and PREA Coordinator, and documentation in the PAQ that no inmates have been placed into involuntary segregation due to risk of victimization in the 12 months preceding this audit. During a tour of the segregated unit, it was clear to this Auditor that once an inmate is placed into segregation that opportunities are limited regardless of the reason for placement into segregation. The observation implies that if the circumstances where involuntary, limitations to opportunities noted within provision (b) of standard §115.43 are possible, though no cases or documentation exist to validate this assertion.

The review of sampled investigations did not reveal that individuals who reported sexual abuse were involuntarily placed into post-allegation protective custody. Based on a review of investigations, it appears that the facility used post-allegation protective custody consistent with the requirements of §115.68 and §115.43.

INVESTIGATIONS

Standard §115.71: Criminal and administrative agency investigations

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

§115.71 (a)

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

§115.71 (b)

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

§115.71 (c)

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

§115.71 (d)

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

§115.71 (e)

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

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

§115.71 (f)

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

§115.71 (g)

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

§115.71 (h)

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

§115.71 (i)

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

§115.71 (j)

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

§115.71 (k)

- Auditor is not required to audit this provision.

§115.71 (l)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PD 03.03.140 and the PREA Manual were reviewed by this Auditor in determining compliance with provision (a). These documents indicate that when an allegation of sexual abuse or sexual harassment is received, whether reported verbally or in writing, it shall be investigated. Staff shall ensure all allegations are referred to the appropriate law enforcement agency, the Michigan State Police, in accordance with policy and law for criminal investigation in conjunction with the Department's administrative investigation. Referrals to law enforcement shall be documented in the Department's investigative report, PREA investigation worksheet(s) and pertinent computerized database entry(ies). A warden's or administrator's designee will refer the allegation no later than 72 hours after the report was made to the Internal Affairs Division by creating the AIPAS entry for each alleged incident. Agency policy requires that all reports, regardless of their source of origination, be taken and referred for investigation.

An interview with a facility investigator (Sergeant) acknowledged that investigations are required to be initiated within 72 hours of report; however, facility practice is generally no less than 24 hours. All reports of sexual abuse and sexual harassment, including anonymous or third party reports are investigated in the same manner as those allegations that have been directly reported by an alleged victim. A review of investigatory files demonstrates that the facility responds promptly to allegations and initiates investigations after an allegation is made.

This Auditor reviewed a total of 16 investigation files, observing that the facility routinely identified and interviewed applicable witnesses, reviewed and saved any pertinent video surveillance, reviewed the Guard 1 electronic round records and sought physical evidence in its pursuit of thoroughness. An interview with a facility investigator (Sergeant) confirmed that it is practice for all parties to be interviewed in-person. Additionally, all inmate interviews are video/audio recorded. This Auditor is satisfied that the ECF conducts investigations consistent with the intended requirements of provision (a) of the standard and its practice demonstrate substantial compliance.

PD 03.03.140 and the PREA Manual, which were reviewed by this Auditor, requires that Department investigators receive specialized training from the Training Division to be able to conduct sexual abuse investigations in confinement settings. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The ECF provided records, reviewed by this Auditor in determining compliance with provision (b) of the standard, to demonstrate that it has 14 current investigators on staff who completed both the MDOC's Basic Investigator Training course and the NIC Specialized Investigator's course.

An interview with a facility investigator (Sergeant) demonstrated knowledge of Miranda and Garrity warnings. He articulated considerations for interviewing sexual abuse victims, evidence collection techniques to preserve forensic evidence and knowledge of the preponderance of the evidence standard. His knowledge was indicative that he understood the essentials of the training required under provision (b) of the standard.

The MDOC's Basic Investigator Training course, which was reviewed by this Auditor in determining compliance with provision (c) provides sufficient background training to enable investigators to fulfill the elements set forth within the standards. PD 03.03.140, OP ECF 03.03.140 and the PREA Manual outline the agency and facility's goal to comply with the all elements noted in provision (c), facility practice and a review of investigations demonstrates substantial compliance with this provision of the standard.

Through a review of investigations, this Auditor observed two (2) separate cases in the 12 months preceding the audit where sexual abuse was alleged within the timeframe for the opportunity to collect forensic evidence. The incidents were alleged to have occurred in shared cells within the maximum recommended timeframe to collect forensic evidence; the facility sealed off the cells, transported the victims for a forensic examination and notified Michigan State Police (MSP). Through a review of additional investigations, the facility demonstrates that it makes its best efforts to preserve evidence, whether that be in the form of video, shift rosters, log books, Guard 1 electronic round records, etc. The facility routinely demonstrated that it reviewed video evidence to disprove those allegations that did not occur and to substantiate elements of allegations that it could. Moreover, the facility used shift rosters and Guard 1 electronic round records to confirm the presence of staff in areas of the facility during the dates and times pertaining to alleged staff misconduct.

A review of facility investigations revealed ample evidence of pertinent parties being interviewed as required by the standard. While there was some evidence of reliance on investigative questionnaires, these questionnaires are supplement oral interviews and serve to provide written record of specific responses. An interview with a facility investigator (Sergeant) confirmed that it is practice for all parties to be interviewed in-person. The investigator also explained and conveyed evidence that all inmate interviews are video recorded with audio, and preserved with the investigation file. This Auditor is satisfied that the ECF makes adequate efforts to preserve direct and circumstantial evidence, reviews prior complaints and reports of sexual abuse during the investigation, and conducts interviews as required in substantial compliance with provision (c) of the standard.

The Basic Investigator Training and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (d), specify that when the evidence appears to support criminal prosecution, the assigned investigator shall coordinate interviews with law enforcement to avoid obstacles to subsequent criminal prosecution. In a review of investigations, there was no evidence of compelled interviews and multiple investigations were referred to the MSP for review and of appropriateness for prosecution. This Auditor finds compliance with provision (d).

The PREA Manual, which was reviewed by this Auditor, states that an alleged victim's credibility will be assessed on an individual basis and not determined by the person's status as an inmate or staff member. An interview with a facility investigator (Sergeant) confirmed that he "makes a determination on an assessment of their credibility," referring to review of facts and preponderance of evidence. He also

indicated that truth-telling devices are not used in the investigatory process. A review of facility investigations revealed no use of truth-telling devices and individual credibility assessments were made consistent with the facts elicited, allowing this Auditor to find compliance with provision (e).

This Auditor finds compliance with provision (f) based on a review of facility investigations. These investigations demonstrated the consideration of physical and testimonial evidence, described investigative findings and facts and rationalized credibility in arriving at its conclusion.

A review of facility investigations by this Auditor confirms that the facility has an outstanding working relationship with its local MSP. The ECF actually houses the MSP Manistee Detachment Unit in the administrative building effectively embedding MSP at the facility. There was no evidence to support that the MSP provides its criminal investigation reports to the Inspectors at the ECF for inclusion in the facility's investigative file; however, given the proximity of the MSP Unit embedded at the ECF and through interviews with the Deputy Warden, PREA Coordinator and Assistant PREA Coordinator it was reiterated that the MSP and ECF Inspectors routinely communicate the status of the investigations. Examples of this routine correspondence were made available to the Auditors and observed in multiple sample investigation files (example AIPAS #26982). A review of the ECF investigations confirms that the factors specified by provision (g) are evident within the facility's reports, absent documentation provided by MSP's criminal investigation.

According to an interview between PA DOC consortium DOJ-certified PREA Auditor Franks and the PREA Manager, the Michigan State Police conduct criminal investigations and there was a request that the agency comply with applicable PREA standards. This Auditor reviewed the PREA Manual, which also requires that investigative reports are generated to outline both physical and testimonial evidence, credibility assessments and investigative facts. Supporting documentation is also referenced that either proves or disproves the investigative outcome, allowing this Auditor to find compliance with provision (g).

Through interviews with the PREA Coordinator and Assistant PREA Coordinator, a standing memorandum from the former MDOC PREA Administrator dated July 21, 2016, and a review of PD 03.03.140, OP ECF 03.03.140, the PREA Manual and investigations, this Auditor observes that MSP review referred substantiated investigations for prosecution as required by provision (h) of the standard. This Auditor notes that the MDOC does not refer cases directly to a prosecutor's office for prosecution. Such responsibility lies solely with the law enforcement agency (MSP) investigating the criminal aspects of a particular allegation. Based on review of applicable policy, interviews and evidence of MSP response regarding referral for prosecution, this Auditor is satisfied that the ECF has sufficient procedures in place and has exercised those procedures to refer substantiated allegations of criminal conduct through the MSP for prosecution consistent with provision (h) of this standard.

The PREA Manual, which was reviewed by this Auditor, specifies that all investigative reports are retained for as long as the alleged abuser is incarcerated or employed by the Department plus an additional five (5) years in compliance with provision (i) of the standard.

The PREA Manual, which was reviewed by this Auditor in determining compliance with provision (j), specifies that investigations will continue despite the departure of any alleged victim or abuser. A review of facility investigations produced no evidence that investigations were terminated due to the departure of a victim or an abuser.

This Auditor is not required to audit provision (k).

Interviews with the Warden, PREA Coordinator, a facility Inspector, and an interview between Auditor Franks and PREA Manager, support the fact that facility staff are required to comply with outside investigators. The facility Inspector is the responsible party for ensuring coordination with the MSP. A review of requirements in PD 03.03.140, OP ECF 03.03.140 and the PREA Manual, coupled with investigatory documentation that revealed email correspondence between the facility investigator and MSP to demonstrate that the facility attempted to remain informed of a forensic examination status relative to an investigation and that the forensic examination results were provided to the ECF, allow this Auditor to find compliance with provision (l).

Standard §115.72: Evidentiary standard for administrative investigations

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

§115.72 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The PREA Manual and the Basic Investigator Training Manual, which were reviewed by this Auditor in determining compliance with provision (a), specify that the agency's standard of proof is to be the preponderance of the evidence. Investigators could articulate their knowledge of the evidentiary standard in investigations. Through a review of investigations, there appears to be sufficient application of this standard to find compliance.

Standard §115.73: Reporting to inmates

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

§115.73 (a)

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

§115.73 (b)

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

§115.73 (c)

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

§115.73 (d)

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

§115.73 (e)

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

§115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PD 03.03.140 and the PREA Manual, which were reviewed by this Auditor, dictate that the victim in alleged incidents of sexual abuse will be notified of the investigatory outcome. Both the Warden and a facility investigator (Sergeant) confirm that inmate victims are notified of the investigatory results. This Auditor reviewed a post-audit sample of randomly selected facility investigations and found evidence that victims of sexual abuse were notified of investigatory outcomes in each case. Moreover, the facility exceeds this provision of the standard's requirements by also notifying alleged victims of sexual harassment investigatory findings, allowing this Auditor to determine compliance with provision (a) of the standard.

PD 03.03.140, OP ECF 03.03.140 and the PREA Manual, which were reviewed by this Auditor, dictate that the assigned investigator shall remain informed about the progress of the criminal investigation and disposition. Auditor Jacobson interviewed the PREA Coordinator at the facility and this Auditor reviewed facility investigations to determine there were multiple investigations conducted by MSP during the audit period and observed that notifications were provided consistent with provision (b) of the standard.

PD 03.03.140, OP ECF 03.03.140 and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (c), indicate that the victim in alleged incidents of sexual abuse will be notified of the investigatory outcome. Agency policy was observed to require that notification of the factors enumerated in provision (c) of the standard are provided for Substantiated/Sufficient Evidence and Insufficient Evidence/Unsubstantiated allegations that a staff member sexually abused an inmate. The inmate victims are notified in writing using a Department form CAJ-1021.

PD 03.03.140, OP ECF 03.03.140 and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (d), indicates that the victim in alleged incidents of sexual abuse

will be notified of criminal indictments and convictions in compliance with provision (d). The ECF had no such instances, thus, could produce no facility specific examples in support of this standard.

A review of facility investigations yielded ample documentation of its notification of investigatory results. The facility exceeds provision (e) of the standard by also providing documented notification of sexual harassment investigatory results. Within all sampled investigations, a completed CAJ-1021 notification form was located as proof of inmate notification to demonstrate compliance with provision (e) of the standard.

The PREA Manual specifies that an obligation to notify an inmate of investigatory results terminates if the inmate is discharged from the facility's custody, consistent with provision (f) of the standard.

DISCIPLINE

Standard §115.76: Disciplinary sanctions for staff

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

§115.76 (a)

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

§115.76 (b)

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

§115.76 (c)

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

§115.76 (d)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Instructions for Overall Compliance Determination Narrative

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

PD 02.03.100 *EMPLOYEE DISCIPLINE*, PD 02.03.100A, PD 03.03.140, OP ECF 03.03.140, the PREA Manual and the Employee Handbook work rules were reviewed by this Auditor in determining compliance with provision (a) of the standard. The agency clearly establishes through existing policies that staff are subject to disciplinary action, up to and including termination for violating agency sexual abuse and sexual harassment policies, in compliance with provision (a) of the standard.

The staff sanctioning matrix provided to and reviewed by this Auditor in PD 02.03.100A verifies that termination is the presumptive disciplinary action for staff who engage in sexual abuse in compliance with provision (b) of the standard. There have been no substantiated instances of sexual abuse within the audit period. Based on policy provisions and absent any instances to validate this provision during this audit period, the facility demonstrates it is in substantial compliance with provision (b) of the standard.

The PREA Manual and staff sanctioning matrix PD 02.03.100A provided to and reviewed by this Auditor verify that violations of sexual abuse and sexual harassment policies, other than engaging in sexual abuse, will be disciplined commensurate with the nature and circumstances of the acts, discipline history and comparable disciplinary actions consistent with provision (c). According to PD 02.03.100A, the Chief Deputy Director or designee is responsible in determining the sanctions for these violations. There were no official acts of discipline issued by the facility during the course of the audit period for violations of sexual abuse and sexual harassment policies to confirm agency practice with respect to provision (c) of the standard. Based on policy provisions and absent any instances to validate this provision during the current 12-month auditing period, this Auditor determines substantial compliance with provision (c).

Through this Auditor's review of the PREA Manual, policy provisions exist to ensure that all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies, consistent with provision (d) of the standard. A review of the facility's investigations revealed no substantiated allegations of sexual abuse or sexual harassment against a staff member during the current 12-month audit period. There were no terminations or resignations in lieu of termination to demonstrate facility practice with respect to provision (d) standard. Based on policy provisions, this Auditor determines compliance with provision (d).

Standard §115.77: Corrective action for contractors and volunteers

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

§115.77 (a)

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

§115.77 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PD 03.03.140 and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (a) of the standard, both contractors and volunteers are held to the same standards as employees directly hired by the agency when it comes to disciplinary action for engaging in sexual abuse and sexual harassment. Therefore, any contractor or volunteer engaging in these behaviors would presumptively be terminated or prohibited from entering a MDOC facility. The PREA Manual contains specific language to provide consideration for terminating contracts and prohibiting further contact with inmates in the case of any other violation of Department sexual abuse and sexual harassment policies. Finally, the PREA Manual requires reporting of such conduct to law enforcement and relevant licensing bodies consistent with provision (a) of the standard. Based upon policy provisions, this Auditor determines compliance with provision (a).

The PREA Manual contains specific language to provide consideration for terminating contracts and prohibiting further contact with inmates in the case of any other violation of Department sexual abuse and

sexual harassment policies, consistent with provision (b) of the standard. An interview with the Warden confirmed that any contractor or volunteer who violated sexual abuse or sexual harassment policies would be removed from inmate contact or the facility depending on substantiation of the allegations. He further commented that a STOP Order could be issued, prohibiting entry to MDOC facilities. There were no examples of a contractor being disciplined for violation of PREA during the 12 months preceding this audit. Based upon policy provisions and the Warden's interview, this Auditor determines compliance with provision (b).

Standard §115.78: Disciplinary sanctions for inmates

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

§115.78 (a)

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

§115.78 (b)

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

§115.78 (c)

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

§115.78 (d)

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

§115.78 (e)

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

§115.78 (f)

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

§115.78 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

This Auditor reviewed PD 03.03.105 *PRISONER DISCIPLINE* and the PREA Manual when determining compliance with provision (a). These documents pair to confirm that inmates are only subjected to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that sexual abuse occurred. At the time of the audit, there were no substantiated allegations of sexual abuse upon which this Auditor could gauge facility practice. Based upon policy requirements of a formal hearing process prior to the imposition of discipline, this Auditor determines compliance with provision (a).

This Auditor reviewed PD 03.03.105A and 03.03.105D, which were determined to establish a consistent sanctioning matrix for all substantiated allegations of sexual abuse and sexual harassment consistent with provision (b) of the standard. An interview with the Warden confirms that the facility would follow the inmate sanctions procedure for those who violate sexual abuse and sexual harassment policies. In addition to potential disciplinary segregation, inmates may have their custody levels raised or may be transferred to another location. There were no substantiated allegations of sexual abuse upon which this Auditor could gauge facility practice at the time of the audit. Based upon the established sanctioning matrix relative to the imposition of discipline and an interview with the Warden, this Auditor determines compliance with provision (b).

This Auditor reviewed PD 03.03.105, and the PREA Manual, which establishes procedures for the consideration of mental disabilities and mental illness when considering the appropriate type of sanction to be imposed, consistent with provision (c) of the standard. An interview with the Warden confirms that facility hearing examiners, who are administrative law judges, consider the mental status of an inmate when determining sanctions. There were no substantiated allegations of sexual abuse upon which this Auditor could gauge facility practice at the time of the audit. Based upon an interview with the Warden

and the agency's policies for the consideration of mental health status prior to the imposition of discipline, this Auditor determines compliance with provision (c).

This Auditor reviewed the agency PREA Manual, which directs that facilities offering relevant treatment modalities to address the underlying reasons or motivations for abuse consider placing offending inmates into such programs. During an interview with facility mental health staff who would deliver any applicable sex offender treatment, the facility reports no direct experience placing inmates into programming for sexual offenders following a substantiated act of sexual abuse between inmates consistent with provision (d) of the standard. Facility mental health staff referenced an evaluation procedure that would be utilized if an inmate were found to have engaged in sexual abuse. The evaluation procedures would consist of the administration of the MDOC's assessment tools (Static 99 and Stable) to determine any relevant treatment need. If there were a criminal conviction, the SORA would be used in the assessment process. There were no substantiated allegations of sexual abuse upon which this Auditor could gauge facility practice at the time of the audit. Based upon an interview with facility mental health staff and policy requirements, this Auditor determines compliance with provision (d) of the standard.

This Auditor reviewed PD 03.03.140, PD 03.03.105 and the PREA Manual in determining compliance with provision (e) of the standard. These policies contain language that is consistent with provision (e) of the standard to verify that inmates may only be disciplined for sexual contact with staff when there is a finding that staff did not consent to such contact. There were no examples at the ECF of inmates being disciplined for sexual contact with staff, allowing this Auditor to determine compliance with provision (e) of the standard.

This Auditor reviewed the PREA Manual when determining compliance with provision (f). This document prohibits disciplinary action against an inmate for making a report in good faith based upon a reasonable belief that an alleged act occurred. A review of facility investigations demonstrate that inmates are not subjected to disciplinary action for making reports of sexual abuse that are unsubstantiated or lack sufficient evidence to establish, allowing this Auditor to find compliance with provision (f).

Through a review of the PREA Manual, the Prisoner Guidebook, an interview between the PREA Administrator and PA DOC consortium DOJ-certified PREA Auditor Franks, and an interview with the PREA Coordinator, this Auditor was informed that the agency prohibits sexual activity between all inmates. The PREA Manual indicates that inmates who engage in consensual sexual activity may be disciplined and sanctioned according to PD 03.03.105; however, the activity will not be considered sexual abuse unless it is determined that the sexual contact was the result of coerced consent or protective pairing. Based upon interviews and policy directives, this Auditor determines compliance with provision (g).

MEDICAL AND MENTAL CARE

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

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

§115.81 (a)

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

§115.81 (b)

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

§115.81 (c)

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

§115.81 (d)

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

§115.81 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

PD 03.04.100, PD 03.04.140, PD 04.01.105, OP ECF 03.03.140 and the PREA Manual, which were reviewed by this Auditor in determining compliance with provision (a), combine to form the agency and facility's approach to providing the required medical and mental health services for victims of sexual abuse. The MDOC has established intake risk screening procedures across the agency to include risk assessments within 72-hours of intake, within 30 days of reception and an annual review. Regarding partial applicability of §115.41 to this standard, it was apparent to this Auditor that at the beginning of the 12 months prior to this audit, ECF staff were still following the outdated direction that has not been revised in the PREA Risk Assessment Manual. The 72-hour full-assessment was not being conducted; newly received inmates only had an abbreviated review completed. This was identified through internal MDOC audits and corrective action was implemented including instruction to the staff completing the PREA risk screening and re-screening of inmates who only initially received the review. The ECF utilizes the facility's automated program that tracks and documents the completion of the intake risk screening and any required referrals to medical and mental health practitioners, based upon the data reported during the risk screening process. The ECF PREA Coordinator was able to query an Excel spreadsheet report to review the risk screening status and medical and/or mental health referral dates of all inmates at the ECF, by arrival date. This Auditor and Auditor Jacobson reviewed 12 random samples of PREA risk screenings during the audit tour of the ECF. Through review of the random sample PREA risk screenings and the Excel spreadsheet used to track the screenings, it was apparent that the pre-audit corrective actions sufficiently corrected the observation for substantial compliance with this provision.

The ECF utilizes the facility's automated program that tracks and documents the completion of the intake PREA risk screening and any required referrals to mental health practitioners, based upon the data reported during the risk screening process. This automated program also tracks the 30-day follow up screening and the annual review date.

This Auditor observed examples of inmates being referred for mental health services pursuant to completion of the PREA risk screenings to demonstrate compliance with provision (a) of the standard. Most of the sample inmates who reported sexual victimization during the risk screening process declined mental health services, were referred via email the same day as the screening, or a corresponding mental health referral form (ROBERTA-R) was provided. The inmates are typically seen by mental health services the same day or by the next day of the referral. The nexus between reported victimization uncovered through risk screening associated with §115.41 and the referral were clearly evident. This Auditor finds sufficient evidence that the facility has established practice to demonstrate compliance with provision (a) of the standard.

PD 03.04.140, PD 04.01.105, PD 04.06.180, OP ECF 03.03.140 and the PREA Manual, which were reviewed by this Auditor to determine compliance with provision (b) of the standard, combine to form the agency and facility's approach to providing the required medical and mental health services for perpetrators of sexual abuse. As described under provision (a) of this standard, the facility implemented intake risk screening procedures in compliance with §115.41. This Auditor was provided examples of inmates being referred for mental health services pursuant to completion of the PREA risk screenings. The sample inmates who reported sexual perpetration were referred via email the same day as the screening, or a corresponding mental health referral form (ROBERTA-R) was provided. The inmates are typically seen by mental health services the same day or by the next day of the referral. The nexus between perpetration uncovered through risk screening associated with §115.41 and the referral were clearly evident demonstrating compliance with provision (b) of the standard.

The ECF operates under the definition of a prison; therefore, compliance for provision (c) is measured under provision (a).

PD 03.03.140 and the PREA Manual, which were reviewed by this Auditor, as well as interviews with random staff, confirm that information pertaining to sexual victimization occurring in an institutional setting is treated confidentially. All staff who were either formally or informally interviewed during the audit tour were aware that information pertaining to sexual abuse is only shared with those who are required to know, to inform security and management decisions in compliance with provision (d) of the standard.

This Auditor reviewed PD 03.03.140 and the PREA Manual when determining compliance with provision (e) of the standard. These policies require any victimization that did not occur in an institutional setting to be accompanied by an informed consent prior to disclosure. Interviews with facility medical and mental health providers affirmed that the provider must obtain consent prior to disclosure of this information, allowing this Auditor to determine compliance with provision (e) of the standard.

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

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

§115.82 (a)

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

§115.82 (b)

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

§115.82 (c)

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

§115.82 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

This Auditor reviewed PD 03.03.140, PD 03.04.125, PD 04.06.180, OP 03.04.100H, OP ECF 03.04.125 and the PREA Manual, which combine to form the agency and facility's policy to ensure victims of sexual abuse are provided timely and unimpeded access to medical, mental health care and crisis intervention services at no expense. The standard of care is required to be consistent with community standards and is determined by the judgement of the practitioner. Interviews with mental health staff confirm that a response occurs within 24 hours of an allegation of sexual abuse and that services are delivered according to the clinical judgment of the practitioner. Medical staff confirmed that responses are conducted immediately and that services are delivered according to the clinical judgment of the practitioner.

Through a review of post-audit sample documentation of random investigation files selected by this Auditor, it was evident that the facility has an established practice of providing timely and unimpeded access to emergency medical and crisis intervention services according to the professional judgement of clinicians when emergency responses were required. The investigations confirm that it is the routine practice of the ECF to promptly escort an inmates alleging sexual abuse victimization to medical, and refer all alleged victims for mental health services. Specific evidence relied upon to determine compliance was found in sampled investigation AIPAS #26369, which occurred during the 12 months preceding this audit. In this investigation, an alleged incident of anal penetration was reported that occurred within the timeframe when forensic evidence could be collected. After a brief visit with facility medical personnel, the alleged victim was immediately transported to the facility's outside hospital, Munson Healthcare Manistee Hospital, for a qualified forensic medical examination.

Based upon evidence of emergency services being provided according to the clinical judgement of healthcare professionals, this Auditor finds compliance with provision (a) of the standard.

The PREA Manual, PD 03.04.125, and OP ECF 03.04.125, which were reviewed by this Auditor, contain language that mirrors the standard's language to demonstrate compliance with this provision (b) of the standard. Random staff interviews and informal interviews during the audit tour confirm that security staff are aware of their need to contact medical providers upon learning of a sexual abuse allegation, allowing this Auditor to determine compliance with provision (b) of the standard.

The PREA Manual, PD 03.04.100 and agency PREA brochure were reviewed by this Auditor in determining compliance with provision (c) of the standard. The PREA Manual contains language that mirrors the standard and the brochure provides instructions for inmates to access such services. No instances have occurred in the 12 months preceding this audit that could validated the facility providing sexually transmitted infection (STI) testing and prophylaxis.

Based on the review of investigations and availability of access to prophylaxis where clinically appropriate, this Auditor is satisfied that the ECF is in substantial compliance with provision (c) of the standard.

This Auditor reviewed PD 03.03.100 and the PREA Manual, which ensure victims of sexual abuse are provided timely and unimpeded access to medical, mental health care and crisis intervention services at no expense. Based on policy provisions, this Auditor determines compliance with provision (d) of the standard.

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

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

§115.83 (a)

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

§115.83 (b)

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

§115.83 (c)

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

§115.83 (d)

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.) Yes No NA

§115.83 (e)

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

§115.83 (f)

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

§115.83 (g)

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

§115.83 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

This Auditor reviewed PD 03.04.140, PD 03.04.125, PD 04.06.180, OP ECF 03.04.125D and the PREA Manual, which combine to form the agency and facility's approach to providing required medical and mental health services for victims of sexual abuse. Revisions to PD 03.04.140 and the PREA Manual have established intake PREA risk screening procedures to assist in the identification of individuals qualifying for services under provision (a) of the standard.

Through a review of randomly sampled facility investigations, evidence in favor of determining compliance with provision (a) was identified. The investigations confirm that it is the routine practice of the ECF to promptly escort an inmate alleging sexual abuse victimization to medical, and refer all alleged victims for mental health services.

This Auditor reviewed PD 03.04.100, PD 04.06.180, OP ECF 03.04.125D and the PREA Manual, which combine to adequately outline the agency and facility's approach to providing appropriate medical and

mental health services to victims of sexual abuse. An interview with a facility medical provider confirmed that a physician would examine an alleged victim and make appropriate decisions to treat injuries, sexually transmitted infections, etc. An interview with facility mental health staff confirmed that an assessment would be made within 24 hours of the initial referral, and applicable referrals for psychiatric medication and crisis stabilization would occur.

Medical and mental health care providers articulate what is required by provision (b) of the standard and the facility is found to be compliant based upon the actions employed when such cases have been referred to medical and mental health staff's attention.

This Auditor reviewed PD 03.03.140, PD 03.04.100, OP ECF 03.04.125 and the PREA Manual, which combine to form the agency and facility's policy to ensure victims of sexual abuse are provided timely and unimpeded access to medical and mental health care. The standard of care is required to be consistent with community standards and is determined by the judgment of the practitioner.

Interviews with mental health staff confirm that services are delivered according to the clinical judgment of the practitioner. Both, medical and mental health staff stated that their belief that services each specialty provided at the facility exceeds community levels of care. Each cited the immediate availability of services and a broad range of available services that are typically wait-listed in the community, allowing this Auditor to determine compliance with provision (c) of the standard.

This Auditor reviewed the PREA Manual, which specifies that victims of vaginal penetration are offered pregnancy tests. If the test is positive, the victim will receive timely and comprehensive information and access to all lawful pregnancy related services. The ECF does not house female inmates. Based on policy provisions and the absence of evidence of non-compliance, this Auditor determines compliance with provision (d) of the standard.

This Auditor reviewed PD 03.04.100 and the PREA Manual, which specify that victims of vaginal penetration are offered pregnancy tests. If the test is positive, the victim will receive timely and comprehensive information and access to all lawful pregnancy related services. The ECF does not house female inmates. Based on policy provisions and the absence of evidence of non-compliance, this Auditor determines compliance with provision (e) of the standard.

This Auditor reviewed PD 03.04.100 and the PREA Manual, which state that victims of sexual abuse will be offered testing for sexually transmitted infections as medically appropriate with respect to provision (f) of this standard. No instances have occurred in the 12 months preceding this audit that could validated the facility providing STI testing and prophylaxis.

Based on the review of investigations and availability of access to prophylaxis where clinically appropriate, this Auditor is satisfied that the ECF is in substantial compliance with provision (f) of the standard.

This Auditor reviewed PD 03.04.100 and the PREA Manual, which specify that treatment is provided to victims of sexual abuse, free of charge, regardless of their cooperation with any ensuing investigation. Based on policy provisions, this Auditor determines compliance with provision (g) of the standard.

The PREA Manual and OP ECF 03.03.140, which were reviewed by this Auditor, outline that within 60 days of learning of inmate on inmate abuser, the facility mental health staff will conduct a mental health evaluation of the abuser's history and offer treatment as deemed appropriate. Mental health staff reported during an interview that evaluative procedures are in place to address known inmate-on-inmate abusers

for applicable treatment modalities. As of the time of the audit, there were no substantiated investigations at the ECF where an inmate engaged in sexual abuse of another inmate. Based on policy provisions and absent a sample of an evaluation consistent with this provision of §115.83, this Auditor determines compliance with provision (h).

DATA COLLECTION AND REVIEW

Standard §115.86: Sexual abuse incident reviews

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

§115.86 (a)

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

§115.86 (b)

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

§115.86 (c)

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

§115.86 (d)

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

improvement and submit such report to the facility head and PREA compliance manager?

Yes No

§115.86 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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This Auditor reviewed the PREA Manual, which establishes the requirement that form CAJ-1025 be completed to document the Sexual Abuse Incident Review for allegations of sexual abuse that are substantiated or unsubstantiated. In a review of investigations that the ECF determined to be unsubstantiated, a sexual abuse incident review was completed in all sampled investigative files to demonstrate substantial compliance with provision (a) of the standard.

Through this Auditor's review of post-audit random sample investigation files selected by this Auditor, it was observed that incident reviews for investigations of sexual abuse included in the materials occurred within the 30-day period required by the standard. This Auditor finds that the facility is compliant with provision (b) of the standard.

In sampled incident reviews, this Auditor notes that the facility did involve upper-level managers, generally including the Warden, Deputy Warden, facility Inspector(s) and Assistant PREA Coordinator. This Auditor did not observe evidence that a medical manager was part of the review team; however, a mental health manager was included and absent additional evidence it is perceived that medical or mental health practitioners' input is considered. Interviews with the Warden, Deputy Warden and facility PREA Coordinator confirm that upper level managers are part of the review team and input is considered from multiple disciplines, to include medical and mental health practitioners. Although individuals may not be present, input is considered. Based on interviews and incident review documentation, this Auditor finds compliance with provision (c) of the standard.

The PREA Manual and agency form CAJ-1025, which were reviewed by this Auditor, mirror the standard language to confirm that the facility must consider the six factors required by provision (d) of the standard

in order to complete the agency review form. Interviews with the Warden, Deputy Warden and facility PREA Coordinator confirm that the ECF's review team considers the six factors enumerated under provision (d) of the standard in its review process. The Warden, facility PREA Coordinator, and a facility investigator (Sergeant) stated that any recommendation would be considered for implementation and cited examples such as staff presence or any period when supervision in an area could be improved. No examples of recommendations were available for the 12 months preceding this audit. It is noted that the ECF underwent a significant video surveillance upgrade in 2014 and 2016 that has substantially eliminated blind spots throughout the facility. Based on interviews and policy, this Auditor determines compliance with provision (d) of the standard.

This Auditor reviewed the agency PREA Manual and observed language that mirrors the standard. As noted under provision (d) of the standard, the facility's review committee considered staffing needs and how certain times of the day have less staffing than others. Based on policy provision, example documentation and an interview with the Warden, facility PREA Coordinator, and an Inspector, this Auditor determines compliance with provision (e) of the standard.

Standard §115.87: Data collection

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

§115.87 (a)

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

§115.87 (b)

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

§115.87 (c)

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

§115.87 (d)

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

§115.87 (e)

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

§115.87 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

This standard was audited at the agency level; however, will be addressed in part within this report.

The PREA Manual states that the Department PREA Administrator gathers data on each reported incident to aggregate an annual incident report. Through an interview with the PREA Administrator, all allegations are entered into the Department's investigative database so that uniform data can be obtained. The agency has a standard definition of sexual abuse and sexual harassment contained within its PREA Manual that guides data collection consistent with provision (a) of the standard.

As noted within the agency audit, the agency prepares an annual statistical report that is published on the agency's public website consistent with provision (b). This report aggregates information collected through the investigatory database and provides comparative summaries to the previous year's data. The agency began its commitment to PREA compliance in 2014, therefore, statistical information only exists for 2014 and 2015 at the time of this audit.

As noted within the agency audit, the agency's annual PREA statistical report for 2015 and its surveys of sexual violence for 2013 through 2015 are posted on the agency's website to demonstrate compliance with provision (c) of the standard. The data collected allowed for the answering of all questions required by the Department of Justice's surveys.

As noted within the agency audit, the agency's investigation database is utilized to collect data. Additionally, the agency PREA Administrator receives a courtesy copy of all facility based sexual abuse incident reviews to collect data consistent with provision (d) of the standard.

During the formation of the interim report, members of the auditing consortium who were conducting overlapping audits discovered that the agency has two active contracts with the Ingham and Clinton County Jails for the housing of parole violators under the auspice of the Intensive Detention

Program. These contracts were not reported under §115.12, nor were the facilities' incident based and aggregate data included in its 2017 annual report; despite the fact that the contracted entities were under contract in 2017.

During the evaluation of §115.12, it was determined that there is insufficient evidence that the agency completes contract monitoring required by §115.12. Without established contract monitoring, it also appears that the agency does not have documented evidence of collecting data required by §115.87(e); evidenced by the exclusion of such data in its 2017 annual report. Based upon the absence of evidence of data collection for each of its contracted entities; there is insufficient evidence to support compliance with provision (e) of the standard at the time of this PREA Audit.

As noted in the agency audit, the agency prepares its annual PREA report prior to June 30th so that it may have such information available to the Department of Justice upon request in compliance with provision (f).

Post Interim Report Corrective Actions Taken:

As described in §115.12, the agency's contracted entities have significant ground to cover in achieving PREA compliance. Therefore, the contracted entities did not have data collection procedures in place to capture the requisite data for the MDOC to aggregate in accordance with provision (e) of the standard. The MDOC issued a corrective action plan to its contracted entities to develop compliant policies and as part of its contract monitoring, the MDOC will be collecting incident based and aggregate data from the contracted entities once methods have been established by the contracted entities. Until then, the MDOC will track incident based data for its populations housed within the facility through its AIM system that it uses to track all allegations for inmates confined in the MDOC. Specifically, any allegations involving MDOC inmates will be entered into the AIM system for statistical reporting. Consistent with the August 2, 2019 and February 19, 2014 contract monitoring FAQs, the contracting agency will not be held in non-compliance, so long as the contracting agency is documenting the contracted agency's progress towards achieving compliance, which would include the development of procedures to collect data consistent with the standard.

The agency issued a formal corrective action plan to its contracted facilities and received responses on October 8, 2019, that both will be implementing procedures to comply with the PREA standards, which will eventually bring the agency into compliance with this standard's obligation to collect incident based and aggregate data from its contracted facilities.

Standard §115.88: Data review for corrective action

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

§115.88 (a)

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

policies, practices, and training, including by: Taking corrective action on an ongoing basis?
 Yes No

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

§115.88 (b)

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

§115.88 (c)

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

§115.88 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

As noted within the agency audit, the agency prepares an annual PREA statistical report to assess and improve its effectiveness of preventing and detecting sexual abuse. The agency's 2017 report identified additional processes needed for the PREA Risk Assessment, its efforts to comply with cross-gender viewing and availability of victim advocate services due to analysis of audit results, allegations and investigations. The agency reported that it began conducting PREA audits of its facilities during 2015,

with the goal of enhancing compliance until all facilities in the agency have been audited, consistent with provision (a) of the standard.

As noted within the agency audit, the agency's 2017 annual PREA report compares data from 2015-2017. This Auditor notes that the agency committed to PREA compliance in 2014; therefore, limited comparative data exists at the time of this audit. The 2017 annual report does summarize the agency's progress with achieving PREA compliance at its facilities consistent with provision (b).

As noted within the agency audit, the audit report is approved by the agency head and this Auditor confirmed that the annual report is published on the agency's website consistent with provision (c).

As noted within the agency audit, the agency does not redact information from its annual report consistent with provision (d).

Standard §115.89: Data storage, publication, and destruction

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

§115.89 (a)

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

§115.89 (b)

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

§115.89 (c)

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

§115.89 (d)

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

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

As noted within the agency audit, the MDOC establishes procedures within its PREA Manual to direct that data must be securely retained. The agency PREA Administrator reported that he alone has access to the agency's overall data pool for PREA. There are a limited number of upper agency administrators above the PREA Administrator's rank who would have access to the agency investigation database. These procedures are consistent with provision (a) of the standard.

As noted under §115.87(e), the agency contracts with the Ingham and Clinton County Jails for the housing of parole violators under the auspice of the Intensive Detention Program. The facilities' aggregate data was not included in the agency's 2017 annual report; despite the fact that the contracted entities were under contract in 2017. Absent evidence that the agency collects and publishes aggregate data for its contracted facilities, the audit team does not find compliance with provision (b) of the standard at the time of this PREA Audit.

As noted within the agency audit, the agency's reports that are published on the agency website do not contain personally identifying information, consistent with provision (c) of the standard.

The agency's PREA Manual specifies that data collected pursuant to §115.87 is retained for at least 10 years. The agency maintains its Surveys of Sexual Violence and annual PREA reports on its website. The SSV reports cover the three most recent years since the MDOC committed to PREA compliance and its most recent annual statistical reports since committing to PREA compliance in 2014 consistent with provision (d).

Post Interim Report Corrective Actions Taken:

As described in §115.12, the agency's contracted entities have significant ground to cover in achieving PREA compliance. Therefore, the contracted entities did not have data collection procedures in place to capture the requisite data for the MDOC to aggregate in accordance with provision (e) of §115.87, therefore, such information is not included in the MDOC's annual report consistent with provision (b) of the standard. The MDOC issued a corrective action plan to its contracted entities to develop compliant policies and as part of its contract monitoring, the MDOC will be collecting incident based and aggregate data from the contracted entities once methods have been established by the contracted entities. Until then, the MDOC will track incident based data for its populations housed within the facility through its AIM system that it uses to track all allegations for inmates confined in the MDOC. Specifically, any allegations involving MDOC inmates will be entered into the AIM system for statistical reporting and inclusion in future annual reports. Consistent with the August 2, 2019 and February 19, 2014 contract monitoring FAQs, the contracting agency will not be held in non-compliance, so long as the contracting agency is documenting the contracted agency's progress towards achieving compliance, which would include the development of procedures to collect data for publication within an annual report consistent with the standard.

The agency issued a formal corrective action plan to its contracted facilities and received responses on October 8, 2019, that both will be implementing procedures to comply with the PREA standards, which will eventually bring the agency into compliance with this standard's obligation to collect incident based and aggregate data from its contracted facilities.

AUDITING AND CORRECTIVE ACTION

Standard §115.401: Frequency and scope of audits

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

§115.401 (a)

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

§115.401 (b)

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

§115.401 (h)

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

§115.401 (i)

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

§115.401 (m)

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

§115.401 (n)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

This Auditor was able to tour all areas of the facility, correspond with inmate and interview inmates privately. This Auditor was able to observe all computerized and paper records requested. Copies of requested documentation were provided as requested. Interviews were permitted to take place in a private setting. It is noted that the MDOC did not have its all of its facilities audited during the first audit cycle; however, the agency entered into a consortium to conduct all audits in all of its facilities during the second audit cycle. Since the audit is performed under a consortium, where the PA DOC consortium Auditor David Radziewicz is responsible for coordinating the scheduling of audits within the agency; this Auditor is able to confirm that one third of the MDOC's facilities are being scheduled for and audited each year of the cycle.

Standard §115.403: Audit contents and findings

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

§115.403 (f)

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

Auditor Overall Compliance Determination

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

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

Instructions for Overall Compliance Determination Narrative

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

This Auditor visited the agency website and observed a final reports completed by this Auditor and other consortium Auditors during the second audit cycle. Final reports from the first audit cycle were also present.

AUDITOR CERTIFICATION

I certify that:

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

Auditor Instructions:

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

Thomas E. Greishaw

November 13, 2019

Auditor Signature

Date

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

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